

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

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<b>Complainant:</b>	William Hill
<b>Licensee:</b>	William Hill
<b>Proceedings:</b>	Pursuant to Section 85(4) of the <i>Racing And Betting Act</i> – Referral of Dispute to Racing Commission for Determination - Mr Y.
<b>Heard Before:</b>	John McBride
<b>(on papers)</b>	John Boneham Andrew Maloney
<b>Date of Decision:</b>	12 October 2016

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### Background

1. On 24 March 2016, Mr Mark Pinfold, Client Account Manager, of William Hill Australia Pty Ltd lodged a dispute with the Racing Commission in relation to lawful betting pursuant to s85(2) of the Racing and Betting Act (the Act).
2. The bookmaker is seeking a determination from the Racing Commission (the Commission) to declare a series of wagers lawful. These wagers allegedly relate to a client of the bookmaker.
3. The bookmaker seeks the dispute be determined by the Commission pursuant to s85(4) of the Act.
4. This matter came before the Commission on papers presented to the Commission at its June 2016 meeting by its Manager of Compliance, Gambling and Racing Mr Travis Te Whata. The Commission accepted the referral of the dispute and determined to conduct a hearing based on the papers. It delegated the hearing to a panel of three members including the Chairman for determination.

### Consideration of the Issues

#### Mr Y Account

5. On 10 February 2004, Account XXXXX, was opened under the name of Mr Y with Sportingbet Australia (Sportingbet).
6. Both Sportingbet and William Hill are Australian wholly owned subsidiaries of William Hill Plc, and held at all material times, a licence under Section 90 of the Act to conduct business as a sports bookmaker in the Northern Territory. Sportingbet and William Hill at all material times carried on such business in the Northern Territory under the name "Sportingbet Australia" and/or "William Hill" respectively.
7. A printout of account XXXXX shows wagers between 6 April 2015 and 23 March 2016.
8. The bookmaker alleges Mr Y owes the amount of \$9,974.85 being unpaid wagers.
9. In support of their claim the bookmaker has provided detailed financial transactions for Account XXXXX for the period of 6 April 2015 and 23 March 2016.

10. The records show that Mr Y withdrew a balance of \$7,934.00 from his Sportingbet account on 28 April 2015. This resulted in Mr Y's account having a balance of \$0.
11. From 1 May 2015 to 20 June 2015, Mr Y made 21 wagers resulting in an account balance of -\$9,974.85.
12. An email Letter of Demand to recover \$9,974.85 was issued to Mr Y on 15 September 2015.
13. Subsequently a Notice of Assignment pursuant to section 182 of the Law of Property Act 2000 (NT) was sent to Mr Y and was attached to the papers for the Commission's perusal. The Commission is satisfied that this notice signed under the hand of the Company Secretary of the Assignee and dated 23 March 2016 constitutes express written notice of assignment of debt to Mr Y as debtor.

#### Correspondence

14. *There is correspondence between the bookmaker's representatives, and Mr Y and the bookmaker in relation to non-payment of the balance of the account. It would appear from Mr Y's responses that he disputes the debt, stating on 15 September 2015 "...your Company changed the conditions of my Account with no consultation. I am a long term client and agreed to certain conditions with the previous owner of Sportingbet. I will pass onto my lawyer as I believe you (Sportingbet) have acted illegally and without proper disclosure".*

#### Submission from Mr Y disputing debit

15. On 6 April 2016, Ms Natasha Brazier, Solicitor of DW Legal, on behalf of Mr Y lodged a submission with Licensing NT in response to the Notice of Assignment.
16. The submission disputes the amount payable to Sportingbet by Mr Y. The reasons outlined in the submission include.
  - No Agreement;
  - No proof of assignment; and
  - No notice of assignment.
17. On 24 April 2016, Senior Compliance Officer Mark Wood, emailed Ms Brazier wishing to clarify Mr Y's submission. Ms Brazier has provided no additional comments in relation to the request for clarification.
18. The Commission is bound by the Legislative provisions in dealing with lawful betting disputes. Section 85(4) of the Act requires the Commission on being referred any such dispute to hear and determine same.
19. The *Racing and Betting Act* provides for:

#### **85 Legal proceedings in respect of bets**

- (1A) *For the purposes of this section, a bet is not lawful if it is declared by the Commission, after an investigation in accordance with this section, to be not lawful.*
- (1) *Subject to this section, a person may take proceedings for the recovery of moneys payable on a winning lawful bet, or for the recovery of moneys payable by a bettor on account of a lawful bet made and accepted.*

- (2) *Where a dispute relating to lawful betting occurs between a bookmaker and a person, the dispute shall be referred by the bookmaker, and may be referred by the other party to the dispute, to the Commission.*
- (2A) *Where it appears to the Commission, on the complaint of a person or of its own motion, that a sporting event (other than a horse race, trotting race or greyhound race) may not have been fairly or lawfully conducted or for any other reason the result of the event, either generally or in relation to a particular bet or class of bets, is not what would be legitimately expected if all steps in the proceedings of the event or the declaration of its result were honestly and fairly conducted or declared, the Commission may declare the event to constitute a dispute for the purposes of this section and declare any person to be a party to the dispute.*
- (3) *Where a dispute has been referred under subsection (1) to the Commission or declared under subsection (2A), the Commission may:*
- (a) *summon the parties to the dispute to appear and to give evidence before it;*
- (b) *take evidence relating to the dispute from other persons; and*
- (c) *require a party to the dispute to produce any books, accounts, tickets or other documents which, in the opinion of the Commission, ought to be examined in order to determine the dispute.*
- (4) *The Commission shall hear and determine all disputes referred to it under this section.*

#### Civil proceedings

20. As noted this referred dispute has its genesis in a civil action commenced or indicated to be taken by the bookmaker through its assignee William Hill Australia Wagering Pty Limited ACN 106 487 736 for recovery of the assigned debt.

#### Decision findings

21. The Northern Territory Racing Commission is given as a matter of policy, a jurisdiction over Sports Bookmakers. A Sports Bookmaker is a person to whom a licence is granted under section 90 of the Act and, where the person is a corporation, includes the nominee whose name is endorsed on the licence document as required by section 90(5A). In addition a lawful bookmaker is defined in section 3 of the Unlawful Betting Act 1989 (NT) to mean a person licensed or registered as a bookmaker under the Racing and Betting Act which Act defines under section 4(1) a bookmaker to mean a person who is a sports bookmaker, a registered bookmaker or a country bookmaker.
22. William Hill and Sportingbet Australia carried on businesses as licenced Sports Bookmakers in Australia under licences granted under the provisions of Section 90 of the Act and as such were authorised to accept lawful bets. Mr Y opened and operated account number XXXXX from 10 February 2004 with Sportingbet Australia and later William Hill with the same allocated account number throughout. Numerous bets were placed over time by Mr Y on his account and winning and losing bets accounted for in the running balances identified. A number of account holder withdrawals are identified in the form of outgoing bank transfers on this account holder's transaction history between 6 April 2015 and 23 June 2016 (particulars submitted with the papers provided to this dispute).
23. The submission put forward on behalf of Mr Y by his Counsel of there being no agreement between the Sports bookmaker and Mr Y obliging Mr Y to pay any amount to the bookmaker (in circumstances of settling bets between the parties to account number

XXXXX) is noted but rejected. The Commission is satisfied that the procedures and terms of placing lawful bets with the licenced bookmaker are published on its website. Procedures followed enabled Mr Y to lawfully place bets with each bet forming a contract with Sportingbet and William Hill, entities licenced to accept bets in the Northern Territory.

24. The Commission accepts as evidence of express notice of assignment of debt being given to Mr Y, the copy notice dated 23 March 2016 addressed to Mr Y and placed before this Commission. It further accepts that all rights with respect to Mr Y's debt to the bookmaker on account XXXXX were lawfully assigned by a Sale of Assets agreement made on the 17 September 2015 to William Hill Australia Wagering Pty Limited (the assignee).

### **Decision**

25. Having fully considered all matters put before it, this Racing Commission determines that all bets placed as recorded by the Bookmaker with Mr Y on account number XXXXX were bets placed that were lawful pursuant to Section 85(1A) of the Racing and Betting Act.



John McBride  
Chairperson

12 October 2016