

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant/Applicant: Mr W

Licensee: CrownBet Pty Ltd

Proceedings: Pursuant to Section 85(4) of the *Racing and Betting Act* – Referral of dispute to Racing Commission for determination

**Heard Before:
(on papers)** Mr David Loy (presiding member)
Mr Andrew Maloney
Mr Jim McNally

Date of Decision: 10 May 2018

Background

1. The dispute is between Mr W (the Client) and CrownBet (the Bookmaker).
2. CrownBet is a holder of a license issued by the Northern Territory Racing Commission to conduct the business of a sports bookmaker in the Northern Territory.
3. On the 10th October the client lodged a gambling dispute against the bookmaker and the client's initial dispute stated:

I rang up tried to withdraw 10005.00 (sic)

Ask account had been block asked to speak to manger said same thing..

After phone call lost 60000.00

Put 50000.00 on eels and storm

Rang up at Least 2/3 times telling them had passive gambling problems Even had to ring up asking what bet I put on with that 50000.00..

Told them I was in hospital and had gambling problem and was all my money I had twice and that I was going into a clinic for gambling and drinking problems. I'm still here now Lauren was who I spoke with To be honest I was on valium was chasing a high I have severe ptsd and depression Thanks Mr W

4. On 12 October 2017, an email was sent to the client acknowledging receipt of the dispute and requesting the client provide all relevant materials in support of his claim.
5. Additional to the dispute the client provided the following documents in support of his claim:
 - a. Letter dated 25 October 2017, from Shaun Dempsey PhD, Clinical Psychologist, Townsville Clinical Psychology Services
 - b. Letter submitted 2 November 2017, dated 24 October 2017, from Dr Graham Altman, Consultant Psychiatrist
 - c. Letter submitted 10 November 2017, dated 9 November 2017 Dr Michael Likely, Consultant Psychiatrist

- d. Letter submitted 13 November 2017, written by Mr W (brother of Mr W) on behalf of the client
 - e. Client betting statement from 14 July 2016, to 5 October 2017
 - f.
6. On 12 October 2017, an email was sent to the bookmaker, noting the dispute as a problem gambling matter and requested a response.
 7. On 27 October 2017, the bookmaker provided their response to the dispute
 8. In response to the dispute the bookmaker provided their submission including nine (9) telephone recordings. The bookmaker's submission is reproduced in part below:

'... On the 26/9/2017 CrownBet invoked the following Rule and requested Mr W verify the card used to deposit. As part of the verification process, the withdrawal functionality is disabled pending the satisfaction of this requirement.

General Rules

12. Payment Verification

If You use any of our Deposit options you accept that We may request a bank statement to verify where funds have originated from prior to any withdrawal being approved.

9. Mr W provided verification of the card on the 28/9/2017.
10. On the 30/9/2017 at 10PM, Mr W contacted CrownBet via telephone to request a withdrawal. It was at this time that Mr W notified CrownBet that he was unable to process the withdrawal himself.

Whilst Mr W had completed the verification process, CrownBet acknowledges that, in error the withdrawal functionality had not been re-enabled. Due to Mr W contacting outside of business hours, he was asked to contact the following morning at 9AM when the Customer Security Team would be available to assist further.

At 8.46AM on the 1/10/2017 Mr W contacted via telephone. However, this contact was again outside of the department's hours.

Mr W contacted at 12.29PM requesting to speak to a supervisor. During this call, Mr W indicated that he was experiencing gambling issues. Prior to this, Mr W had not made mention of such issues, and Mr W acknowledges that he had not made this known previously.

At the time of the call, there was a pending of \$50,000 placed that had been accepted. The account was immediately suspended.

11. During this call, however, CrownBet offered to cancel the \$50,000 pending bet.
Mr W rejected the offer to cancel the bet.
12. CrownBet considers that whilst the withdrawal functionality should have been enabled at the time the verification was processed, Mr W elected to continue to place bets.
13. Despite his attempt to reactivate his account, no further bets were taken once Mr W identified he was gambling outside of his means.

Consideration of the Issues

14. The Racing Commission considers problem gambling to be the most serious of issues and holds all bookmakers to a high standard with regards to any breaches.
15. All bookmakers' licence conditions and the *Racing and Betting Act*, require the bookmakers to comply with the *Northern Territory Code of Practice For Responsible Online Gambling* (the Code). The Code places requirements on the bookmaker:
16. The Northern Territory community expects gambling services to be provided in a responsible manner and in harmony with community expectations. This Code sets out certain practices to be adopted by Northern Territory gambling providers in the provision of their services, so as to minimise the harm to consumers that may be adversely affected by gambling.
17. The Code is also in line with established common law principles of autonomy of the individual in that: 4.1 Patron Responsibility. Gambling patrons will be encouraged to take responsibility for their gambling activity. Gambling providers are to provide patrons who feel they are developing a problem with gambling with the option of excluding themselves from the gambling venue or site
18. "Responsible gambling" is a broad concept and involves the conduct of gambling in a manner whereby the potential for harm associated with gambling is minimised. It respects the responsibility of individuals for their own actions, but also acknowledges a responsibility on the part of the service providers.
19. Responsible gambling has regard to the context in which gambling occurs, the inducements made to gamble, the way the gambling service operates and the integrity of the gambling operator. The aim is to enable persons to make informed decisions about their participation in gambling and, if harm has occurred, to provide access to gambling help services.
20. The bookmaker identified in this dispute has easily accessible and specific sections on their website dedicated to responsible gambling and has dedicated personnel trained in this area.
21. It is well established that the Courts have set a very high threshold of responsibility for the gambler as to their own actions. It is suggested that only in the most extreme cases of deliberate and gross conduct by the operator who has knowledge of the vulnerability of the problem gambler, that there would be any duty owed to prevent loss.
22. On review of all submissions there is no evidence of the client advising the bookmaker of his problem gambling prior to the telephone call on 1 October 2017 and therefore on the balance of probabilities it is reasonable to conclude that the bookmaker had no such knowledge until the aforementioned call.
23. This position is confirmed by the bookmaker's submission that the first time the client provided them with the requisite knowledge of problem gambling was in the telephone call referred to above. That said and upon receiving the notification the bookmaker immediately advised the client of their decision to close his account.

24. The bookmaker has provided no evidence of providing the client with links to their gambling policy, support agencies or information on how to self-exclude from other operators.
25. Evidence suggests that the client was afforded the ability to cancel the \$50,000 pending bet, after the decision had already been made to close his account. The client rejected the offer to cancel the bet. The bet went on to lose and the client did not contact the trading team to request a cash-out value at any time during the match. As a result the bet was settled as a losing bet.
26. Evidence suggests that whilst the withdrawal functionality should have been enabled on the clients account at the time of the verification process, the client elected to continue to place bets up until the closure on 1 October 2017.
27. Evidence provided by the bookmaker supports that prior to 26 September 2017, the client had not gambled with the bookmaker since 17 July 2016 (14 months earlier). The betting history from 15 July 2016 to 17 July 2016, showed the clients bets range between \$3.50 to \$700, 8 bets with a total of \$1,843.50 over that period.
28. The evidence to be considered is whether the number and amount of bets placed by the client from the 26 September 2017 to 1 October 2017, should have been identified by the bookmaker as problem gambling red flag behaviours. The client placed 143 bets ranging from \$10.00 to \$63,172.00. Total stakes bet throughout this period equaled to \$493,603.09 (including \$3,025 Freebets).

Decision

29. The Commission accepts the bookmaker closure of the account was appropriate by the bookmaker and that they have not failed in their adhering to the Code.
30. The Commission does however consider that as soon as the bookmaker became aware of the problem gambling issue it should have voided all pending wagers not simply offered to void leaving the decision with an already vulnerable individual and therefore the Commission directs the bookmaker to return the \$50,000 to the client.

Review of Decision

31. Section 85(6) of the Act provides that a determination by the commission of a dispute referred to under subsection (1) shall be final and conclusive as to the matter in dispute.



David Loy
Presiding Member
Racing Commission

10 May 2018