

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr G
Licensee:	PlayUp Interactive Pty Ltd
Proceedings:	Referral of dispute to Racing Commission for determination (pursuant to section 85(2) of the <i>Racing and Betting Act</i>)
Heard Before: (on papers)	Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr Allan McGill
Date of Decision:	29 January 2020

Background

1. On 25 July 2019 pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) relating to the actions of PlayUp Interactive Pty Ltd (PlayUp Interactive) through its ClassicBet betting platform.
2. PlayUp Interactive is licensed as a sports bookmaker by the Commission and previously had approval to operate a number of individual betting platforms under its licence being BestBet, ClassicBet, Mad Bookie, Betting Club, PlayUp and Draftstars. In December 2019, PlayUp Interactive decommissioned a number of the betting platforms with the result that it is now authorised to operate the Draftstars and PlayUp betting platforms under its licence only.
3. While the ClassicBet betting platform has now been decommissioned, this was not the case at the time the complainant lodged his gambling dispute and as it is PlayUp Interactive who holds the sports bookmaker licence and not ClassicBet, it remains appropriate that this matter be heard by the Commission.
4. The substance of the complainant's dispute is that a withdrawal request he made on 22 July 2019 for the balance of his betting account which at that time was \$35,850.05, was not processed due to PlayUp Interactive seeking information from him regarding his source of funds. As a result, the complainant was able to continue to use these funds to place bets which ultimately led to the complainant's betting account having a value of zero. Prior to this, the complainant had set up a daily deposit limit on his account of \$10,000. As the withdrawal request of \$35,850.05 was not processed, he was able to continually amend the withdrawal request by reducing and increasing the amount of the withdrawal request. On 23 July 2019, this led to the complainant reducing the withdrawal request three times with a total of \$15,000 and on 24 July 2019, seven times with a total of \$30,000. Each time he did so, he was able to access these funds in his betting account to place bets. The complainant is of the view that these withdrawal reductions amount to deposits to his account and PlayUp Interactive therefore did not impose the \$10,000 daily deposit limit that he had previously put in place on his betting account.

5. In response to the dispute, PlayUp Interactive advised a Licensing NT officer who is appointed as a betting inspector by the Commission under the Act, that it is of the view that PlayUp Interactive has acted within its terms and conditions by requesting further information from the complainant, following a significant change in deposit behaviour. PlayUp Interactive also advised that the deposit limit requested by the complainant was applied correctly to the betting account and that at no time was the complainant able to deposit more than \$10,000 on one day into his betting account.
6. Information was gathered from both parties by the Commission's betting inspector and provided to the Commission which determined there was sufficient information before it, to consider the gambling dispute on the papers.

Consideration of the Issues

7. Section 85 of the Act provides the Commission with the jurisdiction to determine disputes between a sports bookmaker and its customer regarding lawful betting. In this respect, section 85 sets out the decision making regime for the making of a determination by the Commission as to whether the disputed bet is lawful and provides that a person may take legal proceedings to recover monies payable on a winning lawful bet or for the recovery of monies owed by a bettor on account of a lawful bet made and accepted.
8. The clear purpose of section 85 is to authorise the Commission following an investigation, to determine whether or not the impugned bet or bets were lawful. As such, the issue before the Commission in this matter is whether the bets struck on and after 22 July 2019 were lawful.
9. In this respect it is relevant to note that all sports bookmakers licensed in the Northern Territory are required by the Commission to promulgate a detailed set of terms and conditions for wagering which both parties are bound by when an account is opened and each time a wager is struck. By opening an account with a sports bookmaker, the person opening the account is accepting the sports bookmaker's terms and conditions as particularised on its betting platform website.
10. Of relevance to this matter is that PlayUp Interactive's ClassicBet's terms and conditions which were in place on 22 July 2019 set out that:

5. Deposits and Withdrawals

- a) Deposits into Your Account may be made via BPay, Poli, direct deposit or credit/debit card. Payment methods may be restricted if you reside overseas. All transactions are processed in Australia Dollars (AUD).
- b) If an Account is funded using a credit/debit card, the same amount deposited must be refunded to the card from any future winnings.
- c) You may be charged a fee by your own banking institution when depositing funds with us however we will not charge you any bank fees on your deposit.
- d) Amounts deposited into Your Account must be turned over at least once prior to withdrawing, unless bonus bets have been attached to the deposit.

e) Deposits and withdrawals must be made by the Account holder. Should deposit be made by another party without prior written approval, we may suspend the Account and void bets placed using those monies. Proof of deposit and source of funds may be required before any withdrawal is made. A maximum of one withdrawal per day is permitted.

8. Fraud

a) We reserve the right to withhold deposited funds and/or winnings from resulted bets should we determine the Account has been misused or used fraudulently. Any matters of inappropriate or fraudulent use may be reported to the relevant authorities. Your Account may also be permanently closed.

b) We may employ third party technologies to track and store technical information on the device that You choose to use. You agree and accept that this data may be used in investigating Accounts where We believe have not been operated in good faith, including but not limited to Account takeover, bonus or betting abuse, multiple Account operations, payment method abuse etc.

c) We reserve the right to close the Accounts, and void any or all bets made by any person, group of people or corporation who has attempted to defraud Us; has not acted honestly or in good faith; or has breached these Rules.

d) We may periodically review Accounts to monitor any activity that it might consider unusual. In this instance, We reserve the right to suspend an Account pending a full investigation, without notice.

e) If You deliberately alter any ID or any other details for any purpose associated with applying for an Account or transacting on an Account, We reserve the right to suspend that Account and close it without prior notification to You. We may in Our absolute discretion, void any bets, regardless of whether the bet is resulted or still pending, and refund the bet to your Account. We will not be obliged to pay any winnings that may have otherwise been payable to you or reimburse you for any loss incurred.

f) We may require You to provide any additional information that is necessary for Us to conduct an investigation and/or verify Your compliance with the Terms and Conditions (including statutory declaration, identification documentation, or authority to verify information with Your financial institution) even if You have provided this previously.

g) We reserve the right to pay monies upon a fair and true marketplace. Should We believe a tote manipulation or other manipulation has taken place, we also reserve the right to void any bets placed and close Accounts.

11. As such and in accordance with ClassicBet Rule 5 and 8, when the complainant opened the betting account on the ClassicBet betting platform, the complainant accepted that proof of his source of funds may be required. When requested to provide a copy of his bank statement so that PlayUp Interactive could verify the source of his deposit funds, the complainant provided screenshots of his online banking records which did not contain the necessary information requested by PlayUp Interactive. The complainant was again requested to provide his bank statement, but he did not do so.

12. Through active monitoring of its customers' betting accounts, PlayUp Interactive identified that there had been a number of unusual transactions for the betting account, principally that there had been a significant change to regular deposit amounts into the account prior to a withdrawal request. On 18 July 2019, the complainant made a credit card deposit to the account in the amount of \$5,000 which was followed later the same day with a credit card deposit of \$3,000. This was followed by a \$5000 deposit and two \$500 deposits on 20 July 2019 and a further two \$5,000 deposits on 22 July 2019. Prior to this activity occurring over four days, the two previous deposits occurred in May 2019 and were for \$10 each. While the complainant's betting account had been opened in 2015, no deposit amount larger than \$2,000 has ever been made into the account.
13. In the afternoon of 22 July 2019, the complainant had an account balance of \$16,500.05 and then made a withdrawal request for \$10,000 which he then cancelled. The complainant then placed a number of bets resulting in the complainant's betting account balance being \$35,850.05 which he requested to withdraw at 6:02 pm. In this respect, PlayUp Interactive has advised that the withdrawal cut off time is 11:00 am eastern standard time Monday through to Friday. Any withdrawal request made after this time, is sent for processing the following day.
14. On 23 July 2019 at 3:43 pm, PlayUp Interactive sent an email to the complainant requesting a copy of his bank account statement. In response, the complainant provided PlayUp Interactive screenshots of his online banking records at 6:26pm.
15. After providing PlayUp Interactive with the screenshots, the complainant stated to the Commission's betting inspector that, *"[a]t this point, I was furious and noticed on the account that I was able to reduce the make deposits (sic) by reducing the requested withdrawal amount."*
16. The complainant then took the following actions:
 - (i) at 7:20 pm - reduced the withdrawal request by \$5,000;
 - (ii) at 7:47 pm - reduced the withdrawal request by \$5,000;
 - (iii) at 8:02 pm - reduced the withdrawal request by \$5,000; and
 - (iv) at 11:14 pm - increased the withdrawal request by \$10,000.
17. During this period, the complainant placed numerous winning and losing bets using the funds that were now available in his account due to the amendments to his withdrawal request. Ultimately at 11:14pm, the withdrawal request now sat at \$30,850.05
18. On 24 July 2019 at 8:35 am, PlayUp Interactive advised the complainant that screenshot were not sufficient and again request him to provide his bank statement.
19. Following this, the complainant continued to bet by using the funds made available in his betting account by his action in:
 - (i) reducing the withdrawal request by \$5,000 at 9:18 am on 24 July 2019;
 - (ii) reducing the withdrawal request by \$5,000 at 10:25 am on 24 July 2019;
 - (iii) reducing the withdrawal request by \$5,000 at 10:33 am on 24 July 2019;

- (iv) reducing the withdrawal request by \$5,000 at 12:27 pm on 24 July 2019;
- (v) reducing the withdrawal request by \$5,000 at 12:35 pm on 24 July 2019;
- (vi) reducing the withdrawal request by \$5,000 at 3:31 pm on 24 July 2019; and
- (vii) reducing the withdrawal request by \$5,000 at 9:18 am on 25 July 2019.

At the end of these actions, the complainant's betting account now had a balance of zero with no active withdrawal request.

20. All Northern Territory licensed sports bookmakers' licence conditions and the Act require licensees to comply with the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the 2019 Code) which provides guidance to online gambling providers on responsible gambling practices so as to minimise the harm that may be caused by online gambling. Amongst other things, the Code required that licensees must make available to their customers, the option of setting deposit limits on their account.
21. The complainant in this matter availed himself of the option to set a deposit limit of \$10,000 per day and the Commission notes having reviewed the complainant's betting records, that no deposit or deposits over \$10,000 have been made into the account on the same day.
22. With respect to the complainant's view that the withdrawal request amendments that enabled him to access funds in his betting account were deposits, the Commission notes that PlayUp Interactive's terms and condition 5(a) as detailed at paragraph 10 above states that deposits into accounts may be made via BPay, Poli, direct deposit or credit card or debit card. As can be seen there is no mention of withdrawal request amendment releasing funds being considered a deposit and the Commission is not of the view that they should be treated as such. A sports bookmaker customer is entitled to make decisions about how much he or she wishes to withdraw from the betting account and should be able to change these amounts prior to the request being processed, however any changes such as this cannot be considered to be a deposit.
23. The inability of PlayUp Interactive to identify the source of the funds used by its customers when suspicions are raised through their betting activity does not in itself provide evidence that a betting account has been used in breach of the terms and conditions that apply to it, but it is the view of the Commission that it does pose at the very least, an unacceptable money laundering risk. In that respect, the Commission requires and actively encourages sports bookmakers licensed by it to comply with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)* which is aimed to prevent money laundering and the financing of terrorism.
24. As such, it is the view of the Commission that PlayUp Interactive's actions in requesting proof from the complainant as to the source of funds used to make the deposits into the complainant's betting account was appropriate and was also done in accordance with its terms and conditions to which the complainant had agreed to at the time of opening his account.
25. Having said that, the Commission notes that in a recent matter before the Commission involving the same sports bookmaker and relating to actions taken in November 2018 (B v PlayUp Interactive), when concerns were identified with that

customer's betting account and probity checks were initiated, the betting account was initially suspended whilst the investigation occurred. In that matter, the Commission found that the bets made on the account were lawful bets and that PlayUp Interactive's actions in requesting proof from the complainant as to the source of funds was done in accordance with its terms and conditions. In that matter the Commission agreed with PlayUp Interactive's intended approach to close the complainant's betting account, return the initial deposit to the complainant and void all bets made through the account.

26. PlayUp Interactive's terms and conditions, specifically 8(d) as detailed in paragraph 10 above state that PlayUp Interactive may review accounts to monitor any activity that it may consider unusual and that it reserves the right to suspend an account pending a full investigation, without notice. In the Commission's view, these are entirely appropriate actions to take and is somewhat surprised that the complainant's account in this matter was not suspended whilst PlayUp Interactive undertook the necessary probity checks to verify the complainant's source of income.
27. It is the Commission's view that the same practice of suspending the complainant's betting account as occurred in the matter of B v PlayUp Interactive should have occurred and if the complainant was unable to or unwilling to provide evidence to PlayUp Interactive of the source of his funds, then PlayUp Interactive should have closed the account, returned the deposits which caused the suspicions to be raised and voided all bets made through the account.

Decision

28. On the basis of the evidence before it, the Commission is satisfied that the bets made by the complainant through the ClassicBet betting account were lawful bets pursuant to the Act.
29. The Commission is also satisfied that the withdrawal request amendments that enabled the complainant to access funds in his betting account cannot be defined as deposits and as there have been no deposit or deposits over \$10,000 made into the complainant's betting account on any one day, PlayUp Interactive has not committed a breach of its licence conditions.
30. The Commission is of the view that PlayUp Interactive's actions in requesting proof from the complainant as to the source of funds used to make the deposits between 18 and 22 July 2019 into the complainant's betting account was done in accordance with its terms and conditions to which the complainant had agreed to at the time of opening his account.
31. Given that the complainant has refused to provide evidence to PlayUp Interactive of the source of the funds for these deposits, the Commission considers PlayUp Interactive's approach to the matter given the circumstances should be to close the complainant's betting account, return the deposits made between 18 and 22 July 2019 in the amount of \$24,000 to the complainant and void all bets made through the account.

Review of Decision

32. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to it pursuant to section 85 of the Act shall be final and conclusive as to the matter in dispute.

A handwritten signature in blue ink, appearing to read 'Cindy Bravos', with a stylized flourish at the end.

Cindy Bravos
Presiding Member
Northern Territory Racing Commission

29 January 2020