

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr J
Licensee:	Unibet
Proceedings:	Gambling Dispute for determination by Racing Commission Pursuant to section 85(2) of the <i>Racing and Betting Act</i>
Heard Before: (on papers)	Mr Alastair Shields (Chairperson) Ms Amy Corcoran Mr Allan McGill
Date of Decision:	30 June 2020

Background:

1. On 7 March 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**) against Unibet (**the bookmaker**) disputing the payout of a winning Quinella bet.
2. The Complainant submits that he had placed a \$713.00 Quinella bet on Race 8 at Randwick on 6 March 2019 which was successful and that the winnings based on the declared dividend of \$39.60 on the bookmaker's website being \$28,234.80 was credited into his account. However, roughly 6 minutes later, the bookmaker reversed this payment and replaced it with winnings of \$14,591.30.
3. Both parties have agreed the bet was a winning bet and that the declared dividend on the bookmaker's website was in fact \$39.60. The only matter in dispute is the amount of the winnings paid to the Complainant by the bookmaker. The Complainant is seeking payment of \$13,643.50 being the difference between the amount he claims he should have been paid out (which was initially credited to his account and was based on the bookmaker's declared dividend but later reversed) and what he in fact has been paid out by the bookmaker.
4. 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

5. 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.

6. 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 bet struck on 6 March 2019 was lawful.
7. 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 as amended by time to time.
8. Although the Complainant submits that he did not accept any such terms and conditions, it is a matter of course that when opening an account a client must accept a bookmaker's terms and conditions otherwise the betting account would not be opened. There is no reason or evidence provided as to why this wouldn't have occurred when the Complainant opened his account and accordingly, it must be assumed this in fact occurred.
9. Of relevance to this matter is the following clauses of the bookmaker's terms and conditions (Terms and Conditions) which state:
 - 1.14 At the discretion of Unibet management, payouts may be restricted to a maximum of the size of the tote pool for that particular race and bet type they are based on.
 - 1.15 Major Australian TABS shall be defined as the Victorian, the NSW TAB and the QLD TAB.
 - 1.17 For all Unibet Exotics, Unibet pays winning combinations declared by the Victorian TAB, and all dividends equal to the Victorian TAB.
10. The bookmaker submitted that:
 - a. the Complainant held an account with the bookmaker and placed a Quinella bet for \$713.00 on 6 March 2019;
 - b. the bet was successful;
 - c. the declared dividend for this Quinella was \$39.60;
 - d. the dividend was "processed" through the bookmaker's system as part of the settlement process which resulted in a payout of \$28,234.80 being credited into the Complainant's account;
 - e. the payout of \$28,234.80 was manually reversed 6 minutes later by the bookmaker's trader who identified that the total payout was larger than the Victorian TAB quinella pool;
 - f. the payout totalling the amount of money in the Victorian TAB tote pool, being \$14,591.30, was then credited into the Complainant's account; and
 - g. it was "entitled" to do this in accordance with clause 1.14 of their Terms and Conditions which allows the bookmaker to restrict payouts to a maximum of the size of the tote pool for that particular race and bet type they are based on

noting that all exotics are paid based on the Victorian TAB tote in accordance with clause 1.17.

11. The Complainant submits:

- a. any discretion under clause 1.14 may only be exercised prior to the payment of the dividend;
- b. once a dividend is declared, the discretion has been exercised and cannot be re-exercised;
- c. once payment is made pursuant to a published dividend, the contract is performed and at an end;
- d. the bookmaker has no right to re-exercise a contractual discretion;
- e. the bookmaker has no right to pay different dividends to different clients in respect of the same race;
- f. the bookmaker had no right to withdraw the sum of \$28,234.80 and purport to replace it with the lesser sum of \$14,591.30; and
- g. the bookmaker must properly pay him the difference of \$13,643.50.

12. The bookmaker has confirmed that the Complainant was the only winner in that quinella pool and the only customer treated this way for the particular event, however, did provide evidence of where they have implemented the same rule for other events in the past.

13. In the Commission's view, notwithstanding any declaration of a dividend, clauses 1.14 and 1.17 of the Terms and Conditions clearly permit the bookmaker to cap any payout to the maximum of Victorian TAB tote pool. The fact that a dividend was declared and that their system automatically generated the payout at the declared dividend does not of itself establish that the bookmaker did not wish to exercise its discretion under clause 1.14. The bookmaker, after realising that the payout using the declared dividend was in fact much higher than the total Victorian TAB tote pool, then used its discretion to cap the total payout to the Complainant in accordance with its Terms and Conditions. This occurred promptly, just 6 minutes after the original payout, after the bookmaker's manual review of the computer generated payouts. Had the wager been for a much lesser amount, say \$350.00, the bookmaker would not have needed to exercise its discretion as the total payout would have come under that tote pool.

14. The contractual arguments submitted by the Complainant are not accepted by the Commission. The Commission is of the view that the bookmaker exercised its discretion just once after it realised that the total payment exceeded the Victorian TAB tote pool which it was permitted to do under their Terms and Conditions.

Decision

15. On the weight of the evidence before it, the Commission is of the view that the boxed Quinella wager in dispute was a lawful bet made and accepted.

16. It is the view of the Commission that the bookmaker's action in using its discretion to reduce the winning payout from \$28,234.80 to \$14,591.35 being the Victorian TAB's

total tote pool size was done properly in accordance with clauses 1.14 and 1.17 of its Terms and Conditions and accordingly, no further monies are owing to the Complainant.

Review of Decision

20. 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.



Alastair Shields
Chairperson
Northern Territory Racing Commission

30 June 2020