

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

---

<b>Complainant:</b>	Mr H
<b>Licensee:</b>	PointsBet Australia Pty Ltd
<b>Proceedings:</b>	Gambling Dispute for determination by Northern Territory Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i> )
<b>Heard Before: (on papers)</b>	Mr Alastair Shields (Presiding Member) Ms Amy Corcoran Mr Kris Evans
<b>Date of Decision:</b>	5 August 2022

---

### Background

1. On 1 March 2021, pursuant to section 85(2) of the *Racing and Betting Act 1983* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against the Northern Territory licensed sports bookmaker, PointsBet Australia Pty Ltd (PointsBet).
2. The dispute centres on a four leg multi bet on the scorer of the first basket in four separate NBA games. This type of multi bet involves selecting the players who will score the first goal in four separate basketball games. The first three legs of the bet in question had won and are not in dispute. The bet was cashed out after the first three legs had won, and the fourth leg subsequently won and would have resulted in a pay out of a substantially greater amount.
3. As a result of taking a 'cash out', the complainant received a winning payment of \$3,114.12. The complainant is seeking a further payment of \$51,795.88, which is the additional amount he would have been paid if PointsBet had not cashed out the bet.
4. The complainant stated in his initial complaint that the bookmaker paid a 'cash out' on a suspended/closed market, and that the 'cash out' should be reversed and the original bet should stand.
5. The complainant subsequently added another ground to the complaint, namely that PointsBet failed to comply with their terms and conditions regarding 'cash outs' and the requirement for a cash out made over the telephone to be read back to the customer, in particular condition 3.11 "Cash Out", clause 5(b), which states that PointsBet will be deemed to have accepted a cash out request:

*'If you have made the request via the telephone, once you indicate your agreement with the confirmation of PointsBets acceptance of your request as read back to you by the PointsBet representative.'*
6. PointsBet's response to the two elements of the complaint is that firstly the cash out took place prior to the commencement of the fourth game, and that secondly the purpose of a read back is to clearly identify the requested wager and confirm the amounts and acceptance of the wager. PointsBet submits that these elements were

present on the telephone call in question, and there is no argument mounted by the complainant that there is confusion as to which bet was cashed out or the payment amount. PointsBet stated that they “understand the customer’s heartbreak as the final leg has gone on to win, but we have processed the cash out as per the client’s request”.

7. Information was gathered from the parties involved by Licensing NT officers appointed as betting inspectors by the Commission and provided to the Commission, which determined that there was sufficient information before it to consider the gambling dispute on the papers.

## Consideration of the Issues

8. The objects of the Act are the promotion of probity and integrity in racing and betting in the Northern Territory; maintaining the probity and integrity of persons engaged in betting in the Northern Territory; promoting the fairness, integrity and efficiency in the operations of persons engaged in racing and betting in the Northern Territory; and reducing any adverse social impact of betting.
9. In furtherance of those objects, section 85 of the Act provides the Commission with the jurisdiction to determine all gambling 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.
10. In order to further the objects of the Act, the Act provides for the Commission to make rules for the control and regulation of sports bookmakers and in order to do so, the Commission approves the conditions attached to sports bookmaker licenses as well as reviewing and approving the terms and conditions of agreements entered into between sports bookmakers and their customers.
11. Both the sports bookmaker and its customers are bound by the sports bookmaker’s terms and conditions when an account is opened and each time a bet is struck.
12. The terms and conditions of sports bookmakers often include a “cash out” feature as part of in-play betting that allows a sports bookmaker customer to get money back on their bet before the event they are betting on is complete. The amount of money that a sports bookmaker customer will get back is determined at the time of cashing out and will depend upon the likelihood of the bet winning at the time of cashing out and as a result, the amount could be greater or less than the initial stake.
13. PointsBet’s terms and conditions that are relevant to this gambling dispute are set out below:

### **Cash Out Terms and Conditions**

#### **3.11 Cash Out**

1. *PointsBet may, in its absolute discretion, offer the ‘Cash Out’ feature for selected products or bet types. By entering into a bet, you acknowledge that:*
  - a. *You may not be able to Cash Out your bet at any particular time, or at all; and*

- b. PointsBet may deny your request to Cash Out your bet for any reason whatsoever.*
- 2. Any request to Cash Out may not be recalled or cancelled.*
- 3. PointsBet may choose to accept or deny your request to Cash Out in its absolute discretion and without providing a reason or advance notification.*
- 4. If PointsBet accepts your request, your original bet will immediately come to an end (will be 'Cashed Out'). The acceptance of a Cash Out request is an agreement to end the original bet early and does not represent a new bet.*
- 5. PointsBet will be deemed to have accepted your request:*
  - a. If you have made to request via the internet, once the bet is marked as 'Cashed Out' in the Settled Bets section of your account; or*
  - b. If you have made the request via the telephone, once you indicate your agreement with the confirmation of PointsBet's acceptance of your request as read back to you by the PointsBet representative.*
- 6. Once you have Cashed Out your bet it is final and you may not reverse it.*
- 7. The Cash Out feature is not available on bets where a Bonus Bet has been used.*
- 8. The Cash Out feature cannot be used in conjunction with any other promotions or specials. No refunds or payouts will be redeemable or creditable on a cashed out bet.*
- 9. All requests are considered to be placed and received in the NT, Australia. PointsBet does not represent or warrant that any request made by you on your account or the acceptance by PointsBet of a request complies with the legal requirements for any state or country other than the NT. You must satisfy yourself of (and assume full responsibility for) the legality of making a request.*
- 10. PointsBet may decline your Cash Out request, void the original bet which was Cashed Out, or demand repayment of any amount paid by PointsBet in respect of the original bet if:*
  - a. The original bet or your Cash Out request was made after the relevant event's completion or result was known; and/or*
  - b. PointsBet suspects fraud or other improprieties in respect of the original bet or your Cash Out request.*
- 11. PointsBet is not liable for any loss you may incur in connection with your use of the Cash Out feature or PointsBet accepting or denying your request (including any loss incurred due to a delay in PointBet accepting or denying your request).*
- 12. PointsBet may, in its absolute discretion, change, suspend, restrict or cease to offer the Cash Out feature at any time and without providing a reason or advance notification, even where the Cash Out feature has previously been advertised to you as being available at a particular time or in connection with a particular event. PointsBet is not liable for any losses incurred by you in connection with such an action being taken.*

14. PointsBet provided the following timeline of events at the time that the cash out request was made on 1 March 2021. This timeline has been confirmed by the Commission's independent audit log:

14:02 hours	Phone call made by complainant to PointsBet to request cash out.
14:09 hours	Cash out offer made to complainant.
14:10:05 hours	Cash out offer accepted by the complainant.
14:11:03 hours	Settlement paid to complainant.
14:11:11 hours	Fourth leg game commenced.
14:11:31 hours	First basket of fourth leg game scored.

15. The timeline confirms that the cash out was accepted and paid by PointsBet prior to commencement of the fourth leg game, and certainly before the first basket of that game was scored.
16. In order to properly consider the second ground of the complaint, that PointsBet failed to read back the cash out request to the complainant prior to completing the cash out, it is necessary to review the telephone call that the complainant made that resulted in the cash out. The relevant parts of the transcript of that call are set out below:

B = PointsBet customer service officer

C = Complainant

B: Afternoon PointsBet customer service, you're speaking with [name of customer service officer], how I can help you?

C: Giddy mate how are ya?

B: Good thanks, how are you?

C: Good thank you, I just got a pending bet \*inaudible\* I just want to know what the Cash out option is?

B: No worries, I can ah get the ah traders to have a look at that for you. What um what particular bet was that?

C: Ah I got a first basket multi and I got the first I got the, it's 4 legs and I got 3 legs and I, like the cash out option would be would be a fair amount but it says it like it hasn't approved the last 2 legs that have won which is weird.

B: No dramas I'll like, I'll actually send that through to them so I'm just having a look here.

*The next section of the call confirms identity and is not relevant to the dispute and has not been transcribed.*

B: Fantastic, Alrighty I think I've got this up here, so first basket, yep beautiful, if you wouldn't mind holding the line I will just get a value for you there.

C: Yep thank you.

*Call then goes on hold for 50 seconds.*

- B: Sorry to keep you waiting there [Christian name of complainant], ah we just got a ah cash out value there of \$3,114.12 there ah which has just come through, um so if you ah refresh the app ah there it should be on screen. Hello [Christian name of complainant], you there Hello?
- C: The games about to start, the games about to start though.
- B: Yeah so that's umm yeah the umm value that they have got there we just had to result the other markets that's all so um.
- C: I don't have the option.
- B: That's ok, would you like to take that um offer there or?
- C: Yeah I'll cash out yep.
- B: Yep, not a problem, no worries, I will confirm that there, OK beautiful OK and what we'll do is we'll email through as well just to confirm that. Um so that will be all done now.
- C: Righto, thank you.
- B: Thank you, not a problem at all and have a good afternoon.
- C: Bye.

17. There is no suggestion, either from the transcript or the complainant, that the complainant was under any misunderstanding as to either the nature or amount of the cash out. In fact, the complainant made two subsequent telephone calls to PointsBet, shortly after the outcome of the fourth leg was known, in which he sought unsuccessfully to argue that the cash out should be reversed because it occurred when the market for the final leg was suspended or closed. This suggests that the complainant fully understood the effect of the cash out of his wager.
18. Although it would have clearly have been preferable for the PointsBet customer service officer to have more clearly read back the proposed cash out to the complainant, the Commission is satisfied that the complainant understood the nature and amount of the cash out, and agreed to it.
19. The Commission has previously coined the term "gambler's remorse", to describe the situation where a punter has regretted their wagers after the event. It is not much of a stretch to extend the use of the term to a punter who cashes out a multi bet, only to discover shortly afterwards that if they had not cashed the bet out, it would have resulted in a much larger windfall.

## **Decision**

20. It follows from the findings above that Commission determines that both the original wager and the cash out were lawful, and that there is no reason for the Commission to interfere with the actions taken by PointsBet to accept the wager and the request for cash out.

## Review of Decision

21. 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 cursive script that reads "Alastair Shields".

Alastair Shields  
Chairperson  
Northern Territory Racing Commission

5 August 2022