2 July 2024

**DECISION**

**RACING VICTORIA**

**and**

**JAMES FILGATE**

**Date of hearing:** 12 June 2024

**Date of decision:** 12 June 2024

**Panel:** Judge John Bowman (Chairperson) and Ms Judy Bourke.

**Appearances:** Mr Dion Villella appeared on behalf of the Stewards.

Mr James Filgate represented himself.

**Charge:** Club Bookmaking Rule18.1.26

Interactions with customers:

the Bookmaker must: (a) in relation to communications with customers regarding complaints or disputes:

1. ensure that it records such communications conducted via the internet (whether conducted via the Bookmaker’s Internet Betting System or not). This includes direct messages, email, live chat and other like communications;
2. ensure that it records such communications conducted via the telephone (whether conducted via the Bookmaker’s Telephone Betting System or not). This includes voice calls, SMS messages, MMS messages, and other like communications;
3. (ensure that it informs their clients that the communications, described in Rules 18.1.26(a)(i) and 18.1.26(a)(ii), will be recorded by the Bookmaker, including for the purposes of responding to customer complaints;
4. retain all recordings, described in described in Rules 18.1.26(a)(i) and 18.1.26(a)(ii), for not less than ninety (90) days, and for such further period of time as it sees fit having regard to their obligations under Relevant Law (including but not limited to AML/CTF Act and Privacy Laws);
5. provide to Racing Victoria any such recordings, described in described in Rules 18.1.26(a)(i) and 18.1.26(a)(ii), within two (2) Business Days of a written request being made;

**Particulars:** On and around 19 September 2023 you did, via your personal phone, which was not recorded, have a conversation with a customer regarding a complaint or dispute.

**Plea:** Guilty

**DECISION**

Mr James Filgate, you are a licensed bookmaker appealing in relation to the penalty imposed on you by Stewards in relation to a breach of Club Bookmaker Licence Rule 18.1.26. That penalty was imposed on you at a Stewards’ hearing on 1 April 2024. You were fined the sum of $500. You are appealing in relation to that fine.

Essentially, the relevant part of the Rule in question relates to the recording of the use of telephones, particularly in relation to use in the betting ring. You are admitting the improper use of the telephone in relation to bets by a particular client.

The matter has already been dealt with at the bookmaking level and you have paid to the customer in question the sum of $2,135. We accept that you paid this somewhat grudgingly, as you were of the view that he or his colleagues had placed a series of bets, and particularly harness racing bets, after the race had already started.

As we understand it, the call in question was made from the betting ring on approximately 19 September 2023. We accept that, other than your somewhat reluctant paying of $2, 135, you thought that the matter was at an end. The Charge by the Stewards relating to the use of the telephone was not laid until much later, with, as stated, an interview being conducted on 1 April 2024.

The Rules in relation to use of phone in the betting ring and strict and are in place for a very good reason. However, we do accept that this was a somewhat unusual situation, with you ringing a client about what you considered to be a suspicious series of bets, bets which as stated you believed to have been placed after events had started.

We also note that no other offence of a like nature, or involving your work as a bookmaker, is alleged against you. We also note the sum which you have paid, with some reluctance, is quite a substantial one.

We also take into account your plea of guilty. In short, we regard this as a somewhat unusual situation arising from your belief that bets were being placed improperly with you – that is, what could be described as some financial cheating was occurring. We also note the amount of work that you have put into this appeal.

In all the circumstances, we are of the view that the appeal should be allowed. We believe that a severe reprimand should be made and recorded, but that this should be the sole penalty. However, should you commit a further offence of this nature, that severe reprimand is likely to be taken into account.

Mark Howard

Registrar, Victorian Racing Tribunal