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Police Integrity Commission

Montecristo Report 2014 Vol 1



Police Integrity Commission
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The Hon Don Harwin MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon Shelley Hancock MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Mr President and Madam Speaker

In accordance with section 96(3) of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a Report regarding Operation Montecristo, being a Report in relation to a matter as to which the Commission has conducted a public hearing.

I draw your attention to section 103(2) of the *Police Integrity Commission Act 1996*, pursuant to which I recommend that this Report be made public forthwith.

Yours faithfully

The Hon Bruce James QC
Commissioner

November 2014

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EXECUTIVE SUMMARY

The Commission's investigation code-named Operation Montecristo arose out of information that the Commission received in an unrelated investigation. Commission investigators were told by a source that Detective Senior Constable Anthony Williams of the NSW Police Force Homicide Squad had asked the source whether he had access to an online betting account with a corporate bookmaker and, if so, whether, in consideration of the payment of some money, he would consent to the account being used for betting by a professional gambler with whom Williams was alleged to have a close association. The professional gambler with whom Williams was alleged to have an association was later identified as being Stephen Fletcher.

After receiving this information the Commission commenced an investigation. The investigation revealed that Williams was involved in gambling activities with Fletcher and Darren Azzopardi.

Williams had first met Fletcher in 2003 and became involved in gambling activities with him in February 2012. On 26 February 2012 an online betting account with a corporate bookmaker Sportingbet, which was in Williams' name, was used by Fletcher, with Williams' consent, to place a number of bets. The net winnings from the bets were substantial and were divided equally between Fletcher and Williams.

After 26 February 2012 Williams provided Fletcher with access to other betting accounts he had with other corporate bookmakers.

Fletcher introduced Williams to Azzopardi, an acquaintance of Fletcher, who was also a professional gambler betting with corporate bookmakers.

Corporate bookmakers form part of the legal gambling industry in Australia. Corporate bookmakers operating in Australia include Sportingbet, Luxbet, Bookmaker and Bet 365. A person wishing to gamble with a corporate bookmaker can open a betting account with the corporate bookmaker and is then able to place bets on the account, either online or by telephone.

There are reasons why a professional gambler such as Fletcher or Azzopardi would want to be able to bet with a corporate bookmaker on an account in a name other than his own.

One reason for a professional gambler wanting to be able to bet on an account in a name other than his own is to preserve his anonymity. If a bet not made at fixed odds can be identified as a bet made by a professional gambler who has a reputation for successful gambling, that bet is likely to be followed by other gamblers, reducing the odds on the horse or greyhound backed by the professional gambler.

Another reason for a professional gambler wanting to be able to bet on an account in a name other than his own is to avoid restrictions which may have been placed by a corporate bookmaker on the bets which it will accept from a person who the bookmaker regards as a successful gambler. Restrictions had been placed by some corporate bookmakers on the bets they would accept from Fletcher and Azzopardi.

In early 2012 Williams approached persons he knew to see if they had an existing betting account with Sportingbet which they would be prepared to allow Fletcher or Azzopardi to use. A number of the persons approached gave their consent to their accounts being used and these accounts were made available to Fletcher or Azzopardi for betting by them.

In 2012 Williams contacted Senior Constable Marc Smith, who was a member of the Tactical Operations Unit of the NSW Police Force, to see if Smith had an account with Sportingbet which he would consent to professional gamblers using.

Subsequently Smith and Williams individually approached other persons they knew to see whether, in return for the payment of some money, they would consent to betting accounts being opened in their names with corporate bookmakers. In order for an account to be opened the person approached would have to provide personal details and identification documents.

Smith approached at least thirteen of his colleagues in the Tactical Operations Unit, namely Senior Constable Benjamin Bessant, Senior Constable Jason Immens, Senior Constable Joshua Kasun, Senior Constable Mark Peresson, Senior Constable Matthew Zeibots, Senior Constable Scott Robertson, Senior Constable Adam Mundy, Sergeant Blake Reily, Senior Constable Todd Seydler, Senior Constable Michael Innes, Senior Constable Bernard Goonan, Senior Constable Adam Guest, and Senior Constable Michael Foster. He also approached persons who were not police officers. Williams approached some of his family members and at least one of his colleagues in the Homicide Squad Senior Constable Christopher Groves.

All of the persons approached who have been named consented to betting accounts in their names being opened with a corporate bookmaker and provided the personal details and the identification documents required. Accounts with corporate bookmakers were opened in the names of all of these persons, who became the nominal account holders. The accounts were then made available to Fletcher and Azzopardi and used by them for betting.

Each of the accounts opened had a number of unusual features. The account was not conducted for the benefit of the nominal account holder. The nominal account holder did not contribute any of the money that was used for betting on the account. The nominal account holder played no part in determining what bets were placed on the account. The nominal account holder did not give any instructions or directions about the conduct of the account. The nominal account holder did not receive any report of the operations of the account.

In some cases there was direct evidence before the Commission that the nominal account holder was unable to access the account opened in his name, because he was not informed of the identification details and password for the account. The Commission considers that, even where there was no direct evidence, it can infer that this was true of all the accounts.

These unusual features of each account distinguished the arrangement between the nominal account holder and the person actually operating the account from other arrangements which commonly occur in the gambling industry and are regarded as unobjectionable.

The arrangement was not like a *"punters club."* In the usual *"punters club"* all members of the club are expected to make some contribution to the funds used for betting and all members of the club participate, at least to some extent, in decisions about what bets should be placed.

The arrangement was not like a person asking a friend to place a bet for the person at the TAB. A friend asked to place a bet for someone will usually require to be put in funds or at least be reimbursed for the amount of the bet.

The arrangement was not like any usual agency agreement, where the agent acts for the benefit of the principal, is given instructions by the principal and renders a report or an account to the principal.

At the Commission's public hearing the nominal account holders were sometimes referred to as *"bowlers."* The use of the word *"bowler"* was often coupled with a submission that there was nothing untoward in the setting up and using of the accounts, because the use of *"bowlers*" is widespread in gambling and is generally approved or at least condoned.

It was apparent from the evidence before the Commission that the word *"bowler*" is a word of uncertain import. However, the nominal account holders did not fall within the definitions of the term *"bowler"* given by the two professional gamblers Fletcher and Azzopardi, who both said that a *"bowler"* is a person who places bets on behalf of someone else. None of the nominal account holders placed any bet on behalf of anyone else or, indeed, at all. It was not suggested that the professional gambler using an account could be regarded as a *"bowler."*

It was sometimes suggested in the course of the Commission's investigation that the activities of Smith and Williams and the professional gamblers had merely relieved the nominal account holders of the burden of opening an account and placing bets on the account, things which they could have done themselves. However, it is critical that the nominal account holders did not in fact do these things.

The accounts which had been opened and were made available to Fletcher or Azzopardi were all operated in a similar way.

After an account had been opened, Smith or Williams deposited money, which was provided by Fletcher or Azzopardi, into the nominal account holder's bank account. That money was then transferred to the nominal account holder's betting account with a corporate bookmaker. The money was used to place bets which Fletcher or Azzopardi had decided to make. The bets were placed by Fletcher or Azzopardi. If a bet was placed by telephone Fletcher or Azzopardi represented to the employee of the corporate bookmaker answering the call that he was the nominal account holder.

If a bet was successful, the winnings were paid by the corporate bookmaker into the nominal account holder's bank account. Most of the winnings were then transferred out of the nominal account holder's bank account. Fletcher or Azzopardi, at their discretion, would allow a small part of the winnings to remain in the nominal account holder's bank account for the benefit of the nominal account holder.

The accounts were generally short lived. If a number of successful bets were placed on an account, the corporate bookmaker would be likely to scrutinize the account and either close it or place restrictions on the bets it would accept on the account.

Apart from opening accounts for the purpose of immediately making the accounts available to Fletcher or Azzopardi, Smith and Williams opened some accounts for the purpose of obtaining what was described as a *"free bet"* from a corporate bookmaker.

A *"free bet"* was an incentive offered by a corporate bookmaker to a person opening an account with the corporate bookmaker for the first time. The corporate bookmaker would match, either in whole or in part, the amount of the new customer's initial deposit or bet. The amount of the *"free bet"* could then be used for betting.

It was a condition of eligibility for a *"free bet"* that a person opening an account had not previously had an account with the corporate bookmaker. Both Smith and Williams already had accounts with the corporate bookmakers and hence were not eligible to receive free bets on any new accounts opened in their own names.

The Commission considers that in opening an account with a corporate bookmaker in the name of another person in order to obtain a *"free bet"* Smith or Williams represented to the corporate bookmaker that the person who was to be the nominal account holder was the true owner of the account and as a new customer was eligible to receive a *"free bet."* However, all of the accounts had the unusual features which have already been described. Furthermore, if a free bet was obtained, the application of the amount of the free bet was determined solely by Smith or Williams, without any consultation with the nominal account holder. In these circumstances the Commission considers that Smith or Williams, and not the nominal account holders, were the true owners of the accounts.

THE COMMISSION'S INVESTIGATION

The Commission held private and public hearings over thirteen days in November and December 2013. The general scope and purpose of the hearings was: *"To investigate whether Detective Senior Constable Anthony Paul Williams, or Senior Constable Marc James Smith, or any other member of the NSW Police Force or person associated with either of them, is or has been involved in police misconduct or criminal activity".*

The following persons appeared before the Commission and gave evidence at the private hearings: Senior Constable Benjamin Besant; Jason Immens; Joshua Kasun; Mark Peresson; Matthew Zeibots; Scott Robertson; Adam Mundy; Blake Reily; Christopher Groves; Todd Seydler; Michael Innes; Bernard Goonan; Adam Guest; Michael Foster; Scott Muller; Jason Cursley; Matthew Seagg; Darren Kolosque.

The following persons appeared before the Commission and gave evidence at the public hearing: Marc Smith; Anthony Williams; Stephen Fletcher; Darren Azzopardi; Bradley Smyth; and Anthony Quinn. Bradley Smyth was an employee of the corporate bookmaker Sportingbet. Anthony Quinn was an employee of the corporate bookmaker Luxbet.

The transcripts of evidence that had been given at the private hearings were admitted as exhibits at the public hearing.

A number of allegations of police misconduct or other misconduct were made against each of the witnesses who gave evidence at the private hearings and each of Smith, Williams, Fletcher and Azzopardi.

As to each police officer who gave evidence at the private hearings, it was alleged that the police officer engaged in police misconduct by providing his identification documents and details to Smith or Williams for the purpose of enabling Smith or Williams to set up and use betting accounts in the police officer's name. It was further alleged that the police officer did not conduct himself in a manner consistent with the standards expected of police, by providing his personal details and identification documents to Smith or Williams in reckless disregard of the obvious risks in doing so.

As to each witness who gave evidence at the private hearings who was not police officer, it was alleged that the witness engaged in misconduct by providing his existing betting account to Williams for the purpose of enabling professional gamblers to place bets on his account or engaged in misconduct by providing his identification documents and details to Smith or Williams for the purpose of enabling Smith or Williams to set up and use betting accounts in the name of the witness.

As to each of Smith, Williams, Fletcher and Azzopardi, it was alleged that each of them had engaged in conduct amounting to a contravention of s 192E of the *Crimes Act 1900.*

Section 192E of the *Crimes Act* is headed *"fraud"* and provides, so far as is relevant, that a person is guilty of an offence under the section if a person, by any deception, dishonestly obtains any financial advantage.

As to each of Smith, Williams, Fletcher and Azzopardi, it was alleged that each of them had also engaged in a conspiracy to defraud.

As to Smith, Williams and Azzopardi, it was alleged that each of them had engaged in conduct amounting to a contravention of s 24 of the *Financial Transaction Reports Act 1988 (Cth).*

As to Fletcher, it was alleged that he had engaged in conduct amounting to a contravention of s 193Q(2) of the *Crimes Act* and that he had engaged in misconduct by failing to declare or pay tax on money he received as a professional gambler.

As to each of Smith, Williams and Fletcher, other specific allegations of police misconduct or other misconduct were also made.

ASSESSMENT

For the reasons given in this report, the Commission has reached the following conclusions.

As to each police officer who gave evidence at the private hearings (Besant, Immens, Kasun, Peresson, Zeibots, Robertson, Mundy, Reily, Groves, Seydler, Innes, Goonan, Guest, Foster), the Commission is of the opinion that the police officer engaged in police misconduct by not conducting himself in a manner consistent with the standards expected of police officers, by providing his personal details and identification

documents to Smith or Williams for the purpose of enabling Smith or Williams to set up and use betting accounts in the police officer's name, in reckless disregard of the obvious risks in doing so.

As to each witness who gave evidence at the private hearings who was not a police officer (Muller, Cursley, Seagg, Kolosque), the Commission is of the opinion that the witness engaged in misconduct either by providing his existing betting account to Williams for the purpose of enabling professional gamblers to place bets on an account in the name of the witness (Seagg, Kolosque) or by providing his identification documents and details to Smith for the purpose of enabling Smith to set and use betting accounts in the name of the witness (Muller, Cursley).

The Commission is not of the opinion that consideration should give to the prosecution of any witness who gave evidence at the private hearings.

As to the police officers who gave evidence at the private hearings, the Commission is of the opinion that consideration should be given to the taking of non-reviewable action against each police officer under s 173 *Police Act 1990.*

As to each of Smith, Williams, Fletcher and Azzopardi, the Commission has formed the following opinions.

SENIOR CONSTABLE MARC SMITH

For the reasons given in this report, the Commission is of the opinion that Smith engaged in police misconduct by:

- dishonestly obtaining a financial advantage by deception, in relation to the setting up of betting accounts in the names of the following persons to obtain free bets: Besant, Immens, Kasun, Peresson, Zeibots, Robertson, Mundy, Innes, Goonan, Guest, Foster, Seydler, Muller and Cursley;
- providing his Sportingbet account to Azzopardi for the purpose of enabling Azzopardi to have bets placed on the greyhound Imry Bale which Azzopardi could not have placed in his own name;
- providing betting accounts in the names of the following persons to Williams for the intended use of Fletcher and/or Azzopardi to place bets which Fletcher and/or Azzopardi could not otherwise place: Immens, Seydler, Besant, Zeibots and Foster;
- participating in and instigating misconduct by private hearing witnesses in providing personal details and identification documents for the purpose of setting up betting accounts in the names of the witnesses;
- causing Innes to access the COPS system for an improper purpose and improperly supplying the information he obtained from such access to another person;
- deceiving his police colleagues about the purpose of opening accounts in their names with corporate bookmakers and acting contrary to the authority that he was given by a police officer (Zeibots) in whose name he set up accounts with corporate bookmakers;

- using his influence over his police colleagues to cause them to conduct themselves in a manner contrary to the standards expected of police officers;
- having a declarable association with a professional gambler (Fletcher) which was not declared.

In all of the circumstances, the Commission is of the opinion that consideration should be given to the prosecution of Smith for criminal offences under s 192E of the *Crimes Act*, being offences in the nature of fraud, in relation to the setting up of betting accounts in the names of the following persons to obtain free bets: Besant, Immens, Kasun, Peresson, Zeibots, Robertson, Mundy, Innes, Goonan, Guest, Foster, Seydler, Muller and Cursley.

Smith resigned from the NSWPF on 15 August 2014. Accordingly, the question of whether consideration should be given to the taking of disciplinary action against him under s 97(2) of the Act does not arise.

DETECTIVE SENIOR CONSTABLE ANTHONY WILLIAMS

For the reasons given in this report, the Commission is of the opinion that Williams engaged in police misconduct by:

- dishonestly obtaining or attempting to obtain a financial advantage by deception, in relation to:
    - the attempt to obtain a free bet on a Luxbet betting account opened in the name of Groves by pretending to be Groves,
    - the setting up of betting accounts in the names of the following persons to obtain free bets: his sister [MC22], Groves, Seagg and *"Paul Williams";*
- setting up betting accounts in the name of *"Paul Williams"* and providing those accounts to Azzopardi for his use to place bets which Azzopardi could not otherwise place;
- providing betting accounts in the names of the following persons to Fletcher and/or to Azzopardi for their intended use in placing bets which Fletcher and/or Azzopardi could not otherwise place: Immens, Seydler, Besant, Zeibots, Foster, Williams, Groves, Kolosque, Seagg, MC4, MC5, MC6, MC7, MC8 and MC9;
- pretending to be his sister (MC22) in email communications with the corporate bookmaker Luxbet;
- pretending to be Seagg in email communications with the corporate bookmaker Luxbet;
- participating in police misconduct by a private hearing witness (Groves) in providing his personal details and identification documents for the purpose of setting up betting accounts in the name of the witness;
- having a declarable association with Fletcher which was not declared;

- using his influence over a police colleague (Groves) to cause that colleague to conduct himself in a manner contrary to the standards expected of a police officer.

In all of the circumstances, the Commission is of the opinion that consideration should be given to:

- the prosecution of Williams for criminal offences under s 192E of the *Crimes Act*, being offences in the nature of fraud, in relation to:
  - the attempt to obtain a free bet on a Luxbet betting account opened in the name of Groves by pretending to be Groves,
  - the setting up of betting accounts in the names of the following persons to obtain free bets: MC22, Groves, Seagg, *"Paul Williams"*;
- the taking of action against Williams under s 181D of the *Police Act* or, alternatively, the taking of reviewable action against him under s 173 of the *Police Act.*

STEPHEN FLETCHER

For the reasons given in this report, the Commission is of the opinion that Fletcher engaged in misconduct by:

- dishonestly obtaining a financial advantage by deception, in relation to:
  - the use of Immens' Sportingbet account in 20 of 25 telephone calls that Fletcher made to Sportingbet in the period between 28 September 2012 and 17 October 2012, excluding from the 25 telephone calls he made, the telephone calls made at 20:54:26 on 28 September 2012 ("the first telephone call"), 14:14:52 on 29 September 2012 ("the fifth telephone call"), 15:38:49 on 7 October 2012 ("the fifteenth telephone call"), 15:57:40 on 14 October 2012 ("the twenty-fourth telephone call") and 13:52:51 on 17 October 2012 ("the twenty-fifth telephone call"),
  - the use of a Sportingbet account opened in the name of MC14,
  - the use of a Bet365 betting account in the name of Seagg;
- engaging in deceptive conduct in relation to betting accounts in the names of MC13, MC14 and MC16;
- using information obtained from employees within corporate bookmakers to facilitate the use of betting accounts in names other than his own and, in the process, compromising those employees;
- possessing inside information when betting on a horse named *"Mosheen"* to lose in a horse racing event held on 20 October 2012.

In all of the circumstances, the Commission is of the opinion that consideration should be given to:

- the prosecution of Fletcher for criminal offences under s 192E of the *Crimes Act*, being offences in the nature of fraud, in relation to:

- the use of Immens' Sportingbet account in 20 of 25 telephone calls that Fletcher made to Sportingbet in the period between 28 September 2012 and 17 October 2012, excluding from the 25 telephone calls he made, the telephone calls made at 20:54:26 on 28 September 2012 ("the first telephone call"), 14:14:52 on 29 September 2012 ("the fifth telephone call"), 15:38:49 on 7 October 2012 ("the fifteenth telephone call"), 15:57:40 on 14 October 2012 ("the twenty-fourth telephone call") and 13:52:51 on 17 October 2012 ("the twenty-fifth telephone call"),
- the use of a Sportingbet betting account opened in the name of MC14,
- the use of a Bet 365 betting account in the name of Seagg;

- the prosecution of Fletcher for an offence under s 193Q(2) of the *Crimes Act*.

The Commission has not formed the opinion that Fletcher engaged in misconduct by failing to declare or pay tax on money he received as a professional gambler. However, having regard to the substantial amount of evidence before the Commission which could be relevant to the issue of whether Fletcher should be liable to pay income tax on any profits from his gambling, the Commission is of opinion that information from the investigation should be disseminated to the Commissioner of Taxation for his consideration.

DARREN AZZOPARDI

For the reasons set out earlier in this report, the Commission is of the opinion that Azzopardi engaged in misconduct by dishonestly obtaining a financial advantage by deception, in relation to:

- the use of the Bookmaker betting account opened by Williams in the name of *"Paul Williams"* and
- the use of the Bookmaker betting account in the name of Seydler.

In all of the circumstances, the Commission is of the opinion that consideration should be given to the prosecution of Azzopardi for criminal offences under s 192E of the *Crimes Act,* being offences in the nature of fraud, in relation to:

- the use of the Bookmaker betting account opened by Williams in the name of *"Paul Williams"* and
- the use of the Bookmaker betting account in the name of Seydler.

1. INTRODUCTION

1.1. The Commission's investigation code-named Operation Montecristo arose out of information that the Commission received in an unrelated investigation.

1.2. Commission investigators were told by a source that Detective Senior Constable Anthony Paul Williams ("Williams") of the NSW Police Force ("NSWPF") Homicide Squad was involved in online gambling activities with a professional gambler. Williams was alleged to have approached the source and asked if the source operated or had access to an online betting account with a corporate bookmaker. Williams was alleged to have said to the source that he had a close association with a professional gambler who was seeking to gain access to betting accounts in return for payment. Williams was alleged to have told the source that what was being proposed was *"legit"* but keep it *"hush hush".*

1.3. The Commission commenced an investigation. The Commission determined that Williams was involved in online betting activities with corporate bookmakers and several persons, including Stephen Charles Fletcher ("Fletcher"), who was a well-known professional gambler; Darren Azzopardi ("Azzopardi"), who was also a professional gambler; and Senior Constable Marc James Smith ("Smith"). The Commission will refer to these (and other) persons by their surnames in this report as a matter of convenience and no disrespect is intended.

1.4. The following is a brief outline of some of the matters about which there was little or no dispute in the Commission's investigation.

1.5. Williams met Fletcher during a murder trial in 2003, which Fletcher had been watching from the public gallery. During the trial they struck up a conversation and developed a friendship.

1.6. Williams became involved in gambling activities with Fletcher in February 2012. At the time, Williams was experiencing some financial difficulties. Fletcher offered to help Williams financially by placing bets through an online betting account. Fletcher told him about *"Lucy's Light"*, a greyhound that Fletcher had bet on in a well-known race in Brisbane, when he had manipulated the betting market to his advantage. He asked Williams if he had an old Sportingbet betting account and told him that he could do a similar thing on such a betting account. Williams had an account with Sportingbet, a corporate bookmaker. Williams did some research about the incident involving *"Lucy's Light"* and decided to participate.

1.7. Subsequently, on 26 February 2012 bets were placed by Fletcher on Williams' Sportingbet account. Fletcher funded the bets that were placed on the account. The records for Williams' Sportingbet account show that bets placed on the account on that day totalled $16,930. The winnings were $84,888. Williams received half the net winnings.

1.8. Williams subsequently provided Fletcher with access to other online betting accounts that he had with other corporate bookmakers.

1.9. In time, Williams also provided his betting accounts to Azzopardi. Azzopardi was an expert in greyhound racing and an acquaintance of Fletcher's.

1.10. After Fletcher used Williams' Sportingbet account on 26 February 2012, Williams began approaching people he knew, asking if they had old Sportingbet accounts. He approached as many as 20 people. At least some of those people supplied Williams with the means of access to their betting accounts. Williams then provided Fletcher and Azzopardi with the means of access to some of those accounts. Money was deposited into the betting accounts and the betting accounts were used by Fletcher and Azzopardi to place bets.

1.11. In early 2012 Williams contacted Smith in his search for Sportingbet accounts. Williams said in his evidence before the Commission that he had telephoned Smith after he had been told by a colleague that Smith was involved in gambling.

1.12. Thereafter, Smith and Williams approached other people they knew, to see if they were willing to open betting accounts with corporate bookmakers.

1.13. Some of those people were told that the corporate bookmakers provided an incentive to new customers in the form of a free or bonus bet. Usually this bet would match, in whole or in part, the amount of the first bet that was made by the new customer.

1.14. The people who became involved as a result of being approached by Smith or Williams were not required to contribute any money to open any of the new betting accounts to secure the free bets. The money was provided by someone else.

1.15. The people who became involved provided personal identification documents and details to Smith or Williams. Typically, this included their Medicare card, credit card, driver's licence and details of their bank accounts. Smith and Williams then used the information to open betting accounts in the names of those people.

1.16. In other cases, the people who became involved provided their existing betting accounts.

1.17. The people who became involved each received at least one payment from Smith or Williams.

1.18. The first of more than 100 betting accounts with corporate bookmakers were opened by Smith in June 2012 in the names of Senior Constable Joshua Kasun ("Kasun"), Senior Constable Michael Innes ("Innes") and Senior Constable Scott Robertson ("Robertson"). Kasun, Innes and Robertson worked with Smith in the Tactical Operations Unit of the NSWPF.

1.19. Over the next few months Smith opened betting accounts with corporate bookmakers in the names of several of his other colleagues in the Tactical Operations Unit, including:

- Senior Constable Matthew Zeibots ("Zeibots")
- Senior Constable Benjamin Besant ("Besant")
- Senior Constable Michael Foster ("Foster")
- Senior Constable Todd Seydler ("Seydler")
- Senior Constable Mark Peresson ("Peresson")
- Senior Constable Adam Mundy ("Mundy")
- Senior Constable Jason Immens ("Immens")
- Senior Constable Bernard Goonan ("Goonan")
- Senior Constable Adam Guest ("Guest")
- Sergeant Blake Reily ("Reily").

1.20. Smith also opened betting accounts in the names of at least two friends who were not police officers: Jason Cursley ("Cursley") and Scott Muller ("Muller"). Cursley is a former police officer.

1.21. Williams opened betting accounts in the name of Detective Senior Constable Christopher Groves ("Groves") in July 2012. At the time Groves was a work colleague attached to the Homicide Squad. Williams subsequently opened betting accounts in the names of his sister, his mother and/or his father, and in the name of one of his friends, Matthew Seagg ("Seagg"). Seagg was a former police officer. Williams also opened betting accounts in the name of *"Paul Williams".* Paul is Williams' middle name but is not a name by which he is generally known. Williams also obtained Sportingbet accounts in the names of several people, including Darren Kolosque ("Kolosque").

1.22. Some of the betting accounts that were obtained or opened by Williams and Smith were subsequently provided to Fletcher and Azzopardi and used by them.

2. OVERVIEW OF THE INVESTIGATION

2.1 The Commission employed several methods in the investigation of the involvement of Williams and Smith in gambling activities with Fletcher and Azzopardi and other persons.

2.2 Pursuant to s 26 of the *Police Integrity Commission Act 1996* ("the Act), the Commission issued and served in excess of 90 notices to produce documents on financial institutions and on a number of corporate bookmakers.

2.3 In addition, the Commission obtained warrants under s 46 of the *Telecommunications (Interception and Access) Act 1979*, in respect of telecommunication services used by Smith, Williams or Fletcher.

2.4 The Commission obtained search warrants under s 45 of the Act, to search for and seize documents at the home and work premises of both Smith and Williams. The warrants were executed at those premises on 7 May 2013.

2.5 Following the execution of the search warrants on 7 May 2013, Commission investigators interviewed Smith on 30 May 2013 in the presence of his legal representative.

2.6 Subsequently, it was determined to hold hearings for the purposes of the investigation.

2.7 On 15 October 2013 summonses were issued pursuant to s 38(1) of the Act, requiring the following persons to appear before the Commission, to give evidence: Besant, Immens, Kasun, Peresson, Zeibots, Robertson, Mundy, Reily, Groves, Seydler, Innes, Goonan, Guest, Foster, Muller, Cursley, Seagg, Kolosque, Smith, Williams, Fletcher and Azzopardi.

2.8 The first 18 witnesses in the preceding list appeared before the Commission and gave evidence on 4-7 November 2013 and on 14 November 2013. The Commission determined that these hearings should be private hearings. All but five of the witnesses who gave evidence in the private hearings were legally represented at the hearings.

2.9 The general scope and purpose of each private hearing was:

> *To investigate whether Detective Senior Constable Anthony Paul Williams, or Senior Constable Marc James Smith, or any other member of the NSW Police Force or person associated with either of them, is or has been involved in serious police misconduct or criminal activity.*

2.10 On 8 November 2013 the Commission wrote separately to the legal representatives of Williams, Smith and Fletcher and to Azzopardi who at the time was not legally represented. In its correspondence the Commission provided some particulars of the Commission's investigation and stated that consideration was being given by the Commission to whether the hearings to which Williams, Smith, Fletcher and Azzopardi had been summoned should

be held in public or in private. Submissions were invited as to whether the hearings should be held in public or in private.

2.11 On 15 November 2013 the Commission received submissions on behalf of Smith and a joint submission on behalf of Fletcher and Azzopardi. The Commission did not receive any submissions on behalf of Williams.

2.12 After considering all of the submissions it was determined, pursuant to s 33(1) of the Act, that a hearing at which Smith, Williams, Fletcher and Azzopardi and, if necessary, any other witness would give evidence, should be held in public. In making that determination the Commission had regard to the obligation under s 33(3) of the Act to have regard to any matters that it considered to be related to the public interest and to the obligation under s 33(3A) of the Act to take into account the specific factors stated in s 33(3A) of the Act.

2.13 The public hearing was held on eight hearing dates: 19, 20 and 21 November 2013 and 5, 6, 17, 19 and 20 December 2013. In addition to Smith, Williams, Fletcher and Azzopardi, evidence was given by Bradley Smyth ("Smyth") of the corporate bookmaker Sportingbet and Anthony Quinn ("Quinn") of the corporate bookmaker Luxbet.

2.14 The general scope and purpose of the public hearing was the same as it had been for the private hearings.

2.15 Legal practitioners were authorised to appear for each of the witnesses who gave their evidence in public. Legal representatives were also authorised to appear for witnesses who had given evidence at a private hearing.

2.16 The five witnesses who had been unrepresented at the private hearings continued to be unrepresented at the public hearing.

2.17 Transcripts of evidence that had been given at the private hearings were admitted as exhibits in the public hearing.

2.18 At the conclusion of the public hearing, directions were given for the lodging of written submissions. Subsequently, the written submissions by Counsel Assisting were lodged with the Commission and served by electronic means on the practitioners who had represented witnesses at the public hearing and on the five witnesses who had been unrepresented when they gave evidence at a private hearing. Submissions in reply to the submissions of Counsel Assisting were received from the legal practitioners representing Williams, Smith, Fletcher, Azzopardi and Groves. The Commission received no submissions from or on behalf of any of the other witnesses.

2.19 In preparing this report the Commission has taken into account all of the submissions it received.

3 REPORT UNDER THE *POLICE INTEGRITY COMMISSION ACT 1996 (NSW)*

3.1 This report is made under the *Police Integrity Commission Act* ("the Act"). Relevant provisions of the Act are as follows.

3.2 Part 8 of the Act is headed *"Reports to Parliament".* Division 1 of Part 8 of the Act is headed *"Reports by Commission".* Section 96(2) in Division 1 of Part 8 is headed *"Report where public hearing"* and provides that *"the Commission must prepare reports in relation to matters as to which the Commission has conducted a public hearing".*

3.3 Section 97 in Division 1 of Part 8 is headed *"Contents of reports to Parliament"* and provides as follows:

> *(1) The Commission is authorised to include in a report under section 96:*
>
> > *(a) statements as to any of its assessments, opinions and recommendations, and*
> >
> > *(b) statements as to the Commission's reasons for any of its assessments, opinions and recommendations.*
>
> *(2) The report must include, in respect of each "affected" person, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:*
>
> > *(a) the prosecution of a person for a specified criminal offence,*
> >
> > *(b) the taking of action against the person for a specified disciplinary offence,*
> >
> > *(c) the taking of action (including the making of an order under section 181D of the Police Act 1990) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,*
> >
> > *(d) the taking of reviewable action within the meaning of section 173 of the Police Act 1990 against the person as a police officer.*
>
> *(3) An "affected" person is a person against whom, in the Commission's opinion, substantial allegations have been made in the course of or in connection with the investigation concerned.*
>
> *(4) Subsection (2) does not limit the kind of statement that a report can contain concerning any such "affected" person and does not prevent a report from containing a statement described in that subsection in respect of any other person.*

3.4 Part 3 of the Act is headed *"Functions of Commission".* Division 1 of Part 3 is headed *"Functions generally".* Section 16 in Division 1 of Part 3 is headed

"Provisions regarding assessments, opinions and recommendations" and provides as follows:

> *(1) The Commission may:*
>
> > *(a) make assessments and form opinions, on the basis of its investigations or those of the Police Royal Commission or of agencies of which it has management or oversight under this Act, as to whether police misconduct or other misconduct, misconduct of a Crime Commission officer or corrupt conduct of an administrative officer:*
> >
> > *• has or may have occurred, or*
> >
> > *• is or may be occurring, or*
> >
> > *• is or may be about to occur, or*
> >
> > *• is likely to occur, and*
> >
> > *(b) make recommendations as to whether consideration should or should not be given to the prosecution of or the taking of action under Part 9 of the Police Act 1990 or other disciplinary action against particular persons, and*
> >
> > *(c) make recommendations for the taking of other action that the Commission considers should be taken in relation to the subject-matter of its assessments or opinions or the results of any such investigations.*
>
> *(2) However, the Commission may not:*
>
> > *(a) make a finding or form an opinion that a specified person is guilty of or has committed, is committing or is about to commit a criminal offence or disciplinary offence (whether or not a specified criminal offence or disciplinary offence), or*
> >
> > *(b) make a recommendation that a specified person be, or an opinion that a specified person should be, prosecuted for a criminal offence or disciplinary offence (whether or not a specified criminal offence or disciplinary offence).*
>
> *(3) An opinion that a person has engaged, is engaging or is about to engage:*
>
> > *(a) in police misconduct, misconduct of a Crime Commission officer or corrupt conduct of an administrative officer (whether or not specified conduct), or*
> >
> > *(b) in specified conduct (being conduct that constitutes or involves or could constitute or involve police misconduct, misconduct of a Crime Commission officer or corrupt conduct of an administrative officer),*

is not a finding or opinion that the person is guilty of or has committed, or is committing or is about to commit a criminal offence or disciplinary offence.

(4) Nothing is this section prevents or affects the exercise of any function by the Commissioner that it considers appropriate for the purposes of or in the context of Division 2 of Part 9 of the Police Act 1990.

3.5 As to the term *"police misconduct"* within s 16(1) of the Act, the following provisions are relevant.

3.6 Part 1 of the Act is headed *"Preliminary"*. Section 5 in Part 1 is headed *"Police misconduct".* Section 5(1) defines *"police misconduct"* as:

misconduct (by way of action or inaction or alleged action or inaction) of a police officer:

(a) whether or not it also involves non-police participants, and

(b) whether or not it occurs while the police officer is officially on duty, and

(c) whether or not it occurred before the commencement of this subsection, and

(d) whether or not it occurred outside the State or outside Australia.

3.7 A non-exclusive list of examples of *"police misconduct"* is given in s 5(2). Those examples are:

(a) police corruption,

(b) the commission of a criminal offence by a police officer,

(b1) misconduct in respect of which the Commissioner of Police may take action under Part 9 of the Police Act 1990,

(c) corrupt conduct within the meaning of the Independent Commission Against Corruption Act 1988 involving a police officer,

(d) any other matters about which a complaint can be made under the Police Act 1990.

3.8 The term *"other misconduct"* within s 16(1) of the Act is not defined. However, it has been held to describe misconduct that might be engaged in by persons other than police officers: *Police Integrity Commission & Anor v Shaw* [2006] NSWCA 165.

3.9 In making assessments and forming opinions within s 16(1) of the Act the Commission applies the civil standard of proof, which was described as follows by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336 at p.361:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the

answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters, "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony or indirect inferences.

3.10 Part 13 of the Act is headed *"Miscellaneous"*. Section 137A in Part 13 is headed *"Persons to the heard"* and provides as follows:

> *(1) Before including in a report any comment about a person that the Commission or the Inspector considers is adverse, the Commission or Inspector must, so far as practicable:*
>
> > *(a) inform that person of the substance of the grounds of the adverse comment, and*
> >
> > *(b) give the person an opportunity to make submissions.*
>
> *(2) The Commission is taken to have complied with this section if it has held a hearing under section 32 at which the person who is the subject of the adverse comment concerned was informed of the substance of the grounds of the adverse comment and given an opportunity to make submissions.*
>
> *(3) This section applies only to the following reports:*
>
> > *(a) a report by the Commission in relation to any matter that has been or is the subject of an investigation by the Commission,*
> >
> > *(b) a report by the Inspector in relation to any complaint.*

3.11 The Commission considers that it complied with s 137A of the Act, by serving the submissions of Counsel Assisting the Commission on each of the *"affected"* persons within s 97(2) of the Act and by providing them with an opportunity to make submissions in reply.

4. GENERAL APPROACH OF THE COMMISSION IN PREPARING THIS REPORT

4.1 The evidence in Operation Montecristo consisted of the oral evidence of 24 witnesses and 375 exhibits. The transcript of the oral evidence, including the transcript of the evidence given in the private hearings, occupied more than 1300 pages. Some of the exhibits were voluminous.

4.2 It is appropriate, in order for the Commission to properly exercise its functions under the Act, to summarise the evidence that was adduced before the Commission.

4.3 In Part 5 of this report the Commission will summarise the evidence that was given by the witnesses at the private hearings. In Part 6 the Commission will summarise the evidence given by witnesses at the public hearing.

4.4 In Parts 7 and 8 of this report the Commission will make assessments and form opinions and in part 9 of the report the Commission will comply with its statutory obligations under s 97 of the Act.

5. SUMMARY OF EVIDENCE GIVEN IN PRIVATE

5.1 Eighteen witnesses gave evidence at private hearings of the Commission.

SENIOR CONSTABLE BENJAMIN BESANT

5.2 Besant was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 4 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Besant's name in May 2012 with the corporate bookmaker Luxbet and in August 2012 with the corporate bookmakers Bookmaker, Sportsbet, Sportingbet, Bet 365 and Betstar. The betting accounts opened with Bookmaker, Sportsbet, Sportingbet, Bet 365 and Betstar were used between 11 August 2012 and 20 September 2012 to place several bets totalling $45,317. Free bets totalling $950 were obtained on opening those accounts.

5.3 Besant had not heard of Williams before being summoned to the Commission and had never met him.[1] His relationship was with Smith.

5.4 Besant remembered that he became involved in gambling activities with Smith in 2012, when Smith was *"doing lots of gambling with Sportsbet and the likes of them".* Besant remembered that he personally set up a betting account in his own name, that he had a *"couple of bets"* on the account and that he had lost. He said that he had not *"partaken in it again".*[2]

5.5 Besant accepted that the one account he set up may have been set up in May 2012 with the corporate bookmaker Luxbet. That account was used between May 2012 and August 2012 to place several small bets. Besant thought he set up the account *"over the phone".* He believed Smith may have suggested which corporate bookmaker to contact for the purpose of setting up an account but he did not think that Smith was involved in actually setting up the account. Besant said that when he set up the account, *"it was just to have an interest, a hobby"* and described his use of the account as, *"just a bit of a weekend thing".* He said that the amounts he was betting was *"not much – 20, 30, $50, nothing exciting".* He said that Smith's involvement at this time included giving *"a tip or two here and there …"*[3]

5.6 A number of betting accounts with other corporate bookmakers were opened in Besant's name in August 2012. Besant said that he opened those accounts *"along with Smith"* but did not use the accounts to gamble.[4] When asked why he had opened the accounts, he said:

> *A. I was approached by Marc Smith, who asked me to set them up and asked if I would mind if he were to use my accounts to gamble. I said no,*

[1] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 6:26-6:34

[2] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 6:42-7:1

[3] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 7:6-8:47

[4] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 9:11-9:25

> *because by that stage I'd completely lost interest in it and I gave him permission to use my account*. [5]

5.7 Besant was paid by Smith for the arrangement. He could not remember the exact amount he received from Smith but said that *"it was a matter of a few hundred dollars"*. He said that Smith had explained to him that the payment was a *"percentage"* of the free bets that the corporate bookmakers gave on setting up accounts with them. [6]

5.8 Besant said that he was not involved in the movement of money in and out of his bank account to the corporate bookmakers with whom accounts in his name had been opened. With reference to a sum of $6,900 that was deposited into his bank account on 10 August 2012 and which was then withdrawn in a series of outgoings to different corporate bookmakers, he said that he *"wasn't involved in any of those"* transactions. When asked how they occurred, Besant said that he had given his bank account details to Smith and assumed that that was how Smith had done it. [7]

5.9 Besant was asked if there had been any discussion with Smith about why it was necessary for Smith to open and use betting accounts in Besant's name. Besant gave the following evidence:

> *A. Okay. Yeah, he explained to me that he was gambling with - well, sorry, betting with other friends who gave him tips and whatever and he told me that if - with these accounts, if you win a couple of times pretty big, they'll shut your account down, so, as a result, I assume they must have been shutting his account down when he won big and then he was using my account as a result of that*.[8]

5.10 Besant was then asked about a deposit of $10,000 into his bank with the transaction references *"Steve"* and *"Stephen Fletcher".* He said that he had not looked at that particular transaction before and assumed that the person Stephen Fletcher was Smith's friend.[9]

5.11 Besant denied being *"completely ignorant"* about the amounts of money that were being credited to his bank account and gave the following evidence:

> *A. I knew there would be - Marc said there would be large amounts of money going in and out and I definitely recall looking at it at some stage and I did notice there was. I actually at some point, I don't remember the date or the time, I did say I didn't realise it was going to be so much money going in and out - I stated my concern to him - but, yeah*.[10]

5.12 When asked what his concern had been, he said:

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[5] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 9:30-9:34

[6] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 9:36-10:11

[7] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 11:7-12:7

[8] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 12:40-12:46

[9] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 13:9-13:24

[10] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 13:26-13:38

A. Well, I imagined it would be in the hundreds of dollars coming in and out rather than the thousands. I didn't imagine that it would be so much money.[11]

5.13 Besant accepted, with reference to the $10,000 deposit that was made to his account by Stephen Fletcher, that it looked as if Stephen Fletcher was using the betting accounts that were in Besant's name to gamble.[12] It had not been apparent to Besant at the time. He said:

A. Obviously, I was a little bit ignorant to what was going on: this is not my scene. I do remember speaking to Marc and saying, "This is big money going in and out. What's going on with that?" but I don't remember specifically going and looking at each one, putting money in and out.[13]

5.14 Besant said that he was concerned by the amounts of money, because *"large-scale betting"* seemed to him to be serious and at odds with what he thought was happening with his accounts. He said: *"I thought it was just Marc having bets here and there"*.[14]

5.15 Besant said that the original agreement with Smith was that Smith *"was just going to use my accounts".* It had not been his understanding that his accounts were going to be used by the friends Smith was betting with and accepted, contrary to his understandings, that that was what happened.[15]

5.16 Besant agreed that he had assisted in deceiving the corporate bookmakers and that he became concerned when the amounts of money involved started to increase. The following questions and answers occurred:

Q. Was it your understanding then that Marc Smith had been restricted from or prohibited from placing bets with particular betting agencies because he'd had some big wins?

A. That was my understanding.

Q. Thereby deceiving the betting agency involved; correct?

A. Yes.

Q. And is that why, when the amounts started to be bigger - $10,000 and more - you expressed concern to him?

A. Yes.[16]

5.17 However, Besant denied that he knew it was a deception and was comfortable knowing it was a deception when the amounts of money involved were small.[17]

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[11] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 13:45-13:47
[12] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 14:17-14:39
[13] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 14:43-15:1
[14] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 15:5-15:7
[15] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 15:23-15:31
[16] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 15:33-16:1

5.18 Besant was shown statements for each of the betting accounts that were opened in his name with Bookmaker, Sportsbet, Sportingbet, Bet 365 and Betstar. He said that he did not make any of the bets that were placed on any of those accounts. He assumed that the bets were made by Smith.[18] He said that he did not have access to any of the accounts and was not conscious of any of the bets being made on them. [19]

5.19 As to how the betting accounts that were in his name were actually opened, Besant said that he provided his identification documents to Smith who told him that he needed the documents to open the accounts. Besant said that he provided Smith with a copy of his driver's licence and National Australia Bank card and that he did not give any consideration to the possibility that his identification documents might be used to deceive somebody. [20]

5.20 The following questions and answers occurred about what money Besant received for providing Smith with his personal identification documents:

> *Q. Were you told that you would receive any money as a result of providing Mr Smith with your personal identification documents?*
>
> *A. Yes.*
>
> *Q. And what was the arrangement in that regard?*
>
> *A. I think we spoke about it before, but I - he told me, in setting up the accounts, he gets free bets and said he will give me a percentage of that. It was in the hundreds of dollars.*
>
> *Q. If I suggested to you, from an analysis of your bank account, you appeared to have been left with about $800, would that accord with your memory of what you got effectively paid for providing this service?*
>
> *A. Yes.* [21]

5.21 In his evidence Besant said that Smith had approached him at work. [22] He was aware that Smith had also *"approached numerous other people in the office"* and knew that *"lots of people were doing it".* [23]

5.22 Besant said that it did not *"seem like a scam".* He said: *"It seemed like that I was getting a percentage of the free bets and he* [Smith] *was going to be using accounts that I never would have …used myself".* [24]

5.23 Besant was asked if he had withdrawn money from the Centrebet account that was set up in his name. He said that he did make a withdrawal but thought that

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[17] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 16:3-16:14
[18] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 17:23-17:42
[19] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 17:44-18:5
[20] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 18:7-18:46
[21] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 19:31-19:46
[22] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 10:2-10:3
[23] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 15:17-15:18, 20:17-20:18
[24] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 20:20-20:26

it was from his bank account. He had received instructions from Smith to withdraw certain winnings from the account. He said that he withdrew the money in cash, which he then gave to Smith. He could not remember the amount involved but said that *"it was in the thousands".* He recalled that he was asked by Smith to call someone before withdrawing the money.[25]

5.24 Besant accepted that a deception was perpetrated on the corporate bookmakers in respect of the free bets that were obtained. The following questions and answers occurred:

> *Q. The betting agency has an arrangement where it gives away money, gives away a financial advantage in the form of a free bet in hundreds of dollars?*
>
> *A. Gives credit to the account, yes.*
>
> *Q. Well, are you going to quibble with that being an advantage?*
>
> *A. No.*
>
> *Q. No. And the betting agency gives that to the person who opens the account?*
>
> *A. That's correct.*
>
> *Q. And gives it on the understanding that the person who opens the account puts up some money that they're going to gamble with?*
>
> *A. Yes.*
>
> *Q. But the betting agency in these instances is being deceived, aren't they, as to who is putting up the money --*
>
> *A. Yes.*
>
> *Q. -- and who is going to gamble?*
>
> *A. Yes.*
>
> *Q. So the money that you were getting from Marc Smith, and I think you have agreed it might have been $800, was money obtained by deception of the betting company, isn't it? Is there any doubt about that in your mind?*
>
> *A. No.*
>
> *Q. There's no doubt?*
>
> *A. Well, no, when it's described like that, that is exactly what happened.*
>
> *Q. But you didn't think in those terms at that time because you were basically doing a favour for a mate; is that correct?*

[25] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 20:28-21:11

A. In hindsight, obviously, it wasn't the smartest thing to do. I didn't put a lot of thought into it at the time …[26]

5.25 In the last part of his evidence a lawfully intercepted telephone conversation was played. Besant identified himself and Smith as being the parties to the telephone conversation. The relevant parts of the telephone conversation included the following:

SMITH: Um, what was I gonna say, oh can you um, can you ring up Centrebet and withdraw, there's, there's five and a half grand in that, that account.

BESANT: In the Centrebet account?

SMITH: Yeah.

BESANT: Alright.

SMITH: And um, your, the, the username is BESANT1 and the password's LISA's one.

BESANT: Yeah.

SMITH: And ah yeah just withdraw it, ah back to your bank account, just let me know when it gets there.

BESANT: Alright sweet, so obviously didn't win as much as he wanted out of that one but?

SMITH: Nah, I think, I think we're just gonna transfer that money over to another one that we can use properly and um, and ah yeah, and then

BESANT: Righto

SMITH: start again, I, I'll try and get ya a hundred bucks or two hundred bucks or somethin'.

BESANT: Alright sweet. Alright man.[27]

5.26 Besant agreed that the relevant parts of the telephone conversation related to the withdrawal of money from the Centrebet account. He said that he had obtained the passwords for the account from Smith because he did not personally exercise any control over the account. [28]

[26] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, pp. 23:25-24:20

[27] Ex 39 AC, Telephone call between Marc Smith and Benjamin Besant on 13 October 2012.

[28] Ex 39 AC, PIC Transcript, B R Besant, 4 November 2013, p. 27:41-27:47

SENIOR CONSTABLE JASON IMMENS

5.27 Immens was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 4 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Immens' name in the months of July, August and October 2012 with the corporate bookmakers Luxbet, Bookmaker, Sportsbet, IASBet, Betstar, Sportingbet, Bet 365 and Centrebet. Those accounts were used between 21 July 2012 and 29 August 2012 to place several bets totalling $494,575.55. Free bets totalling $2,900 were obtained on opening the accounts.

5.28 Immens said that he understood that he had been summoned to attend the Commission to give evidence because he had provided Smith with his personal details for the purpose of opening betting accounts.[29]

5.29 Immens gave the following account of what he did with and for Smith in July and August 2012:

> *A. Yeah, okay. So I was approached by Marc Smith. I couldn't give you a specific date and time - or a number of us were - and he come up with an idea where he wanted to open numerous accounts in other people's names for the purpose of gambling. So it was explained to me that different sporting bet agencies had promotions where if you open up an account, you would get an X amount of dollars worth of free bets. So he - I guess the idea behind it was he opened up all those accounts, getting all the free bets off - in other people's names. So, yeah, I provided him my details and he opened up - I don't know how many accounts but a lot. He would put money into my account, then use that money for gambling and also winnings from his gambling would come into my account and I would transfer that back to his account*. [30]

5.30 Immens was aware that Smith had approached other members of the Tactical Operations Unit and specifically named Besant, Innes, Zeibots, Mundy, Robertson, Peresson and Guest. [31]

5.31 Immens was not aware of the actual number of betting accounts that were opened in his name but believed that as many ten accounts may have been opened. He knew that from what he saw in his bank statements.[32]

5.32 As to why the betting accounts were opened in his name, and not in Smith's name, Immens gave the following evidence:

> *A. My understanding of why he opened the accounts was to get free bets in the names of all the other people, so obviously, if he opened an account in his name, he only gets the free bets for one specific sporting agency, whereas if he's using numerous, he gets more free bets*. [33]

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[29] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 6:17-6:24

[30] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 6:40-7:7

[31] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 7:9-7:30

[32] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 7:32-7:39

[33] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 8:5-8:9

5.33 Immens understood that to be the only reason for opening the accounts. He said that he had no knowledge of whether Smith himself or someone else was banned from opening betting accounts and if that was the reason why Smith needed to use Immens and his colleagues to open accounts with the corporate bookmakers. [34]

5.34 Immens was asked if he had any discussions with Smith about the honesty of what was being done. Immens said that he *"asked him* [Smith] *if it was all above board"* and that Smith told him it was. At the time Immens did not think that there was anything wrong with what was being done.[35]

5.35 The following questions and answers occurred in the evidence:

> *Q. It is the case that by this arrangement the betting agency believes that you were becoming a client?*
>
> *A. I would assume they would think that, yes.*
>
> *Q. Yes, and they would think that because they were provided with a number of identification documents that could only, subject to theft, have come from you?*
>
> *A. Yes.*
>
> *Q. And in that respect they were being deceived; correct?*
>
> *A. Yes.*
>
> *Q. So that putting those things together, the betting agency is being deceived into giving something away?*
>
> *A. Yep.*
>
> *Q. Did you consider that at the time that you were doing it?*
>
> *A. No*.[36]

5.36 Immens also said that he had a general discussion with other members of the Tactical Operations Unit who were involved about what was being proposed, to the effect, *"Are you going to do it?"* and *"Does it seem all right? Does it seem above board to you"*. He said that none of his colleagues expressed any concern that the corporate bookmakers were being deceived. [37]

5.37 Immens was paid by Smith for the accounts that Smith set up in his name. He could not be sure of the exact amount he received but said that he obtained two cash payments of $400 or $500.[38] He received the first payment when the

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[34] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 24:9-24:22

[35] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 8:11-8:29

[36] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 9:22-9:40

[37] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 9:42-10:10

[38] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 10:36-10:38

accounts were opened and received the second payment in January 2013, which he said was for the use of the accounts.[39]

5.38 With reference to what he had done to facilitate the use of his account by Smith, Immens said: *"I'd just supplied him with all my details, personal details … for the purpose of opening the accounts".* This had included providing him with identification documents, including his driver's licence and bank or credit card. In doing so, Immens said that he was not concerned about the possibility of identity fraud.[40]

5.39 Immens was shown account statements for the betting accounts that had been set up in his name with Luxbet, Bookmaker, Sportsbet, IASBet, Betstar, Sportingbet, Bet 365 and Centrebet. He said that he had no control over those accounts; that he had never gambled with those accounts; and that he did not know of the individual bets that were put through each of those accounts.[41] In giving that evidence, the following questions and answers occurred:

> *Q. But the betting agencies involved obviously understood that you were gambling with those accounts; correct?*
>
> *A. I assume they would think that I was, yes.*
>
> *Q. So in that respect they were being deceived; correct?*
>
> *A. Yeah, I guess.*
>
> *Q. But that was not something that concerned you at the time?*
>
> *A. No.*[42]

5.40 Immens said that it was his belief that Smith was the only person using the accounts that were in Immens' name.[43] He also said that he did not know if anybody else was involved in directing Smith to gamble. He did not know who may have made decisions concerning how much he would be paid for providing his personal identification and allowing accounts to be set up in his name. To his knowledge those decisions were made by Smith.[44]

5.41 Immens said that he raised concerns with Smith about the amounts of money that seemed to be going in and out of his account. He recalled that he raised those concerns in a conversation with Smith at the end of 2012 or at the beginning of 2013 when $27,000 was deposited in his account, which Smith asked him to transfer. Immens said: *"that's the sort of point that I … started getting a bit concerned."* Immens said that he was daunted by the sum of

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[39] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 15:33-16:7
[40] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 16:9-16:25
[41] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 16:27-17:31
[42] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 17:17-17:26
[43] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 11:39-11:44
[44] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 11:46-12:29

money involved. Before that he had not known enough about what was happening but, when he saw that amount, he said that it worried him.[45]

5.42 The following questions and answers then occurred in the evidence:

> *Q. And how did you express your worry to him* [Smith]*?*
>
> *A. I said to him, "Mate, like, that's almost 25 or $30,000 going into my account. Like, I don't think I want to be doing this anymore", and not long after that I think it all came to an end anyway.*
>
> *Q. You said to him that you don't think you want to be doing this anymore?*
>
> *A. Words to the effect. I can't recall the exact conversation. I expressed that I was uncomfortable with it.*
>
> *Q. What else did you say to him. Did you say, "I want it to stop and I want it to stop now", or anything to that effect?*
>
> *A. Not direct like that, no.*
>
> *Q. Did you say you wanted all the accounts closed down?*
>
> *A. No.*
>
> *Q. But you said something to the effect of you were concerned?*
>
> *A. Yes.*
>
> *Q. And that was in a conversation where he'd notified you that an amount like $27,000 had gone into your account or was about to?*
>
> *A. Yes.* [46]

5.43 Two lawfully intercepted telephone conversations were played in the last part of Immens' evidence. Immens identified himself and Smith as being the parties in both conversations.

5.44 The first conversation was intercepted by the Commission on 18 December 2012. The relevant parts of the telephone conversation included the following:

> *SMITH: Mm. Um, fuck, I thought, remember how, how we opened up all those accounts and, and all that stuff?*
>
> *IMMENS: Yeah.*
>
> *SMITH: The, the Bookmaker stuff.*
>
> *IMMENS: Yeah.*

[45] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 18:1-18:36

[46] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 18:38-19:18

SMITH: I thought all yours were um, all yours were done and dusted but um, I just got a text message to ah, make a withdrawal from one of them and there's um, twenty seven grand in one of them.

IMMENS: Holy shit we're still alive.

SMITH: We're still alive …

…

SMITH: … Alright well I'm withdrawin' it now so it's gonna hit your bank account probably in a couple of days and then um,

IMMENS: Yeah.

SMITH: I'll try and, I haven't, they haven't, no ones got back to me about how much we're gonna get out of it. Hopefully we get ah, something decent. So it should be another

IMMENS: At least, at least twenty grand

SMITH: -Laughs – Yeah. So um, yeah I know, so just lettin' you know, just um, when it hits your bank account don't do anything with it, just, just let me know and I'll um, and I'll see what we can get.

IMMENS: Yeah. Righto man.

…

SMITH: So um, but yeah, hopefully we get you know, five hundred bucks or, each or somethin'. See how we go.

IMMENS: Just a little Christmas bonus would be nice wouldn't it?

SMITH: Yeah it would be good, so this, this is the last one, this will be the end of it anyway, so, um

IMMENS: Yeah.

SMITH: I totally, I totally forgot, he must of um, whatever he had in there he must of put, he must of won it all 'cause he hasn't like deposited any money, so he must of done it from five hundred bucks or a thousand bucks or something.

IMMENS: A-Are these blokes just got lazy twenty seven grand lying around in bank accounts and they don't even known about it.[47]

5.45 Immens had a vague recollection of the telephone conversation. He agreed that it was not the conversation in which he had expressed any concerns to Smith.[48] He went on to say that he expressed his concerns in another

[47] Ex 41 AC, Transcript of Telephone call between Marc Smith and Jason Immens on 18 December 2012

[48] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 20:21-20:23

conversation with Smith, which he had with him after he spoke with his partner who had expressed her concerns to him.[49]

5.46 The following questions and answers then occurred in the evidence:

> *Q. I mean, I'm just going to ask you to apply the wisdom of hindsight to the situation. It clearly wasn't above board, was it? You know that now, don't you?*
>
> *A. Yeah.*
>
> *Q. What it was was a pretty easy way of making 500 bucks or 1,000 bucks, or something like that?*
>
> *A. Yep.*
>
> *Q. And you didn't, if you like, apply a policeman's eye to what was going on, and I'm talking there about the fact that an organisation was being deceived into providing a financial advantage to Mr Smith?*
>
> *A. Correct*.[50]

5.47 As to relevant parts of the telephone conversation, the following questions and answers occurred:

> *Q. The other thing is, I understood you to say earlier that it was only Mr Smith who was using the accounts. Are you sure about that?*
>
> *A. Yes.*
>
> *Q. You knew, didn't you, that there were other people involved in this scheme. It wasn't just Mr Smith's great idea. There were other people - other gamblers - involved; you knew that, didn't you?*
>
> *A. Like, I knew that he had gambling friends and he hangs around gambling circles. However, he explained to me that my account he would be using and only him.*
>
> *Q. But you knew that the money in that account was someone else's money and not Mr Smith's, didn't you?*
>
> *A. Well, I assumed it was in cahoots with these other - whoever he was gambling with.*
>
> *Q. If you go back to that telephone conversation, one of the things you said is, "These blokes just got lazy 27 grand lying around in bank accounts and they don't even know about it". Who are "these blokes"?*
>
> *A. Sorry, was the question "Do these"?*

[49] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 21:13-21:35

[50] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 22:1-22:15

Q. No. No. You're recorded as saying, "these blokes just got lazy 27 grand lying around in bank accounts and they don't even know about it"?

A. Mmm-hmm.

Q. My question to you is who did you understand "these blokes" and "they" to be when you made that comment?

A. I assume those to be the people that he was gambling with.

Q. But you don't know who they are?

A. No

Q. And going back a little bit in the conversation, what Marc Smith had said to you is that, "Whatever he had in there, he must have put - he must have won it". So Marc's talking about someone else and that was your understanding, wasn't it, there was someone else behind Marc Smith?

A. I understood it that Marc controlled my account, did everything and I was - he was the sole operator. As for - like, I had a fair understanding that he was gambling, or whatever, with other people, but to what level and how, I have no idea.

Q But when he said that to you, "he must have forgotten - he must have put it to you, because he hasn't, like, deposited, he must have won it". It must have been clear to you, at least at the time of that conversation, that it wasn't Marc Smith using your account at all; it was someone else?

A. No.

Q. And then you respond by saying, "these blokes just got a lazy 27 grand and they don't even know about it". Again, not Marc Smith, someone else?

A. It's a question as, "Do these blokes have a lazy" -

Q. Whether it's a question or a statement, you're still talking about someone who is not Marc Smith; correct?

A. I - yeah, but that's - I don't know who these people are. I only know Marc and what he was doing. I - like said, I assume that he was gambling with other people. However, they had no - well I don't believe they had any involvement in my accounts, or --[51]

5.48 The second telephone conversation was intercepted by the Commission on 20 December 2012. In the relevant parts of the telephone conversation Smith instructed Immens in the following manner:

SMITH: Um, I was just wonderin' with that um, that money.

IMMENS: Mm.

[51] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 22:17-23:37

SMITH: I was wonderin' do you reckon you'd, do you reckon you could have a crack callin' 'em up and trying to um, see what

IMMENS: Yeah

SMITH: the go is with it?

IMMENS: Yeah.

SMITH: All you gotta do is um, that, that number I dialled in your phone yesterday the, one eight hundred number, that should still be there, um just dial that

IMMENS: Yep.

SMITH: and just say, um, can you put me through to Customer Service or, or put me through to the Cashiers. I'd probably say Customer Service first

IMMENS: Yep.

…

IMMENS: Will they um, is there, do I have to like a pin number or anything on this account? (ui) that they'll ask for?

SMITH: Nah, nah your um, have you got a pen and paper?

IMMENS: Um, I got a pen, hand on – Pause – yep?

SMITH: Just the, the username is um DEEWHY1.

IMMENS: Like the letters D Y or the actual D Double E.

SMITH: Ah just, yeah D, um, double E, Y, H, Y, (ui) W, H, Y ah 1 and the password is IMMENS1, it's all, all lower case on both of them and your pin number is um, that was at the top of that email that they sent you yesterday, that had it

IMMENS: Oh yeah.

SMITH: in brackets.

IMMENS: Yep.

SMITH: And um, and everything else is just in your name and

IMMENS: Yeah.

SMITH: you just treat it as if it was, it's yours all along, if they ask you any, they won't, but if they ask you any specific things about you know, bets you've made or anything, just say oh, you know, I was doin' it, it's been a month or so since I've used the account, I'm not really sure.

…

SMITH: have a crack and let us know how you go.

IMMENS: Yeah, righto man.

SMITH: Alright mate thanks for your help, if, if you get it um, if you get it out I was just gonna say to him, mate Jase has done heaps of work trying to get all this out and I'll, I'll try and get you um, five hundred bucks or something for sure.

IMMENS: Yeah, well, see how we go.[52]

5.49 Immens agreed that he had not expressed any concern to Smith during the conversation. The following questions and answers then occurred:

Q. And this conversation was about you being invited to or asked or instructed to make a telephone call to arrange for a very large withdrawal of money from one account to another?

A. Yes.

Q. And to do that you needed to deceive the person you were speaking to into believing that it was genuinely your account?

A. Yes.

Q. And, indeed, Mr Smith has actually given you some helpful tips about how to go about that?

A. Yep.

Q. Ultimately, it came down to him saying to you that he would try to get you another 500 bucks?

A. Yep.

Q. And that he would tell "him", that is, Mr Smith would tell him, whoever "him" is, "mate Jase has done heaps of work trying to get all this out and I'll, I'll try and get you, um, five hundred bucks or something for sure."

A. Yep.

Q. So at that point you must have known that there was someone behind Mr Smith?

A. Well, that sort of confirmed that he was obviously working or gambling with other people. I don't know if there was some kind of structure to it or - I'm not sure but it's - it became apparent that he was with other people.

Q. At the time of this conversation were you concerned about the legality of what was going on?

A. Probably not so much legality but more ethically.

[52] Ex 41 AC, Transcript of telephone call between Marc Smith and Jason Immens on 20 December 2012

Q. Well, can you explain what you mean then by "ethically"?

A. I didn't think legally I was committing any kind of offence. However, at this point, like, I realise that it doesn't really feel right. So, yeah, I knew at that point that it was - something not right.

Q. You knew at that point, that is in December of 2012, that something wasn't right, or it was not right?

A. Yeah.

Q. Did you do anything about that? In other words, did you go to any of your supervisors, or anybody like that, to raise your concerns about the ethics, not to say legality, of this situation?

A. No.

Q. Did you talk to anybody who was also involved as to the possibility of going to your supervisors or someone in authority about it?

A. No.

Q. But what was clear is that you were still prepared to accept money for your involvement in it?

A. Yep.[53]

5.50 Immens went on to deny that he was being untruthful in stating that he only became concerned in December 2012. He denied that he had known from the beginning that there was something *"fishy"* or suspicious about the arrangement and that he participated in the arrangement despite knowing this. He stated that he only realised that there was something suspicions *"towards the end".* [54]

SENIOR CONSTABLE JOSHUA KASUN

5.51 Kasun was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 4 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Kasun's name in June 2012 with Luxbet, Sportsbet, IASBet, Sportingbet and Centrebet. Those accounts were used between 30 June 2012 and 14 July 2012 to place several bets totalling $1,250. Free bets totalling $1,100 were obtained on opening the accounts.

5.52 Kasun said that he was approached by Smith and became involved in setting up betting accounts for the purpose of obtaining free bets. Smith had approached him and told him about the free bets that corporate bookmakers offered and asked him if he *"would be willing to sign up for these free bets".*

[53] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, pp. 25:31-26:45

[54] Ex 41 AC, PIC Transcript, J P Immens, 4 November 2013, p. 27:16-27:25

Kasun gave his details to Smith and the accounts were opened. Smith then deposited some money into Kasun's account. [55]

5.53 Kasun was asked whether there had been any discussion with Smith about what Kasun would receive for his involvement. Kasun said that he was promised a *"share in the profits"* from the free bets.[56]

5.54 Kasun was shown each of the account statements for accounts that were set up in his name with Luxbet, Sportsbet, IASBet, Sportingbet and Centrebet.[57] Kasun said that he was not aware of the actual number of accounts that were opened in his name and was only aware that some accounts were opened. He said that he did not make any of the bets that had been placed on any of those accounts.[58]

5.55 At the time he entered into the arrangement with Smith, Kasun said that he was aware that the bets that would be made in the accounts in his name would be made in his name but would not be his bets and that he would play no part in making them.[59]

5.56 Kasun said that other officers in the Tactical Operations Unit were involved and said that he had discussed the matter with some of his colleagues at work. He said that the discussions were not in the open forum but were one-to-one discussions.[60] He knew Zeibots and Reily had come to a similar arrangement with Smith.[61] He could not recall whether the legality of the arrangement was ever discussed in the discussions he had at work.[62]

5.57 Kasun was asked his opinion about the honesty of the arrangement with Smith. In answering he said that he was *"wasn't sure of the honesty part of it"* and *"thought it was similar to a punters' club, where some else was laying a bet"* and said that he was *"confident that it was like a punters' club, where someone else was laying a bet"*. [63] The following questions and answers then occurred:

> *Q. When you say this was like a punters' club, we need to know what you understand a punters' club to be?*
>
> *A. Yes.*
>
> *Q. And is it correct to say that in a punters' club, as you understand it, the people in the club all contribute amounts of money?*
>
> *A. Yes*

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[55] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, p. 6:16-6:26
[56] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 6:45-7:3
[57] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, p. 8:41-8:42
[58] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 9:4-10:21
[59] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, p. 10:16-10:21
[60] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 10:38-11:4
[61] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, p. 15:6-15:11
[62] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 15:35
[63] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, p. 11:14-11:21

Q. And the difference in this operation, or scheme, was that you didn't contribute anything, other than your identification?

A. Yes.

Q. And then you'd get money back?

A. Yes.

Q. The proceeds of bets placed in your name which were not your bets?

A. Yes.

Q. Which is not honest, is it?

A. No, that's - no.[64]

5.58 Kasun went on to accept that, on looking back on his conduct, there was a deception being perpetrated. However, at the time of the conduct he did not think that it was dishonest. When asked why he did not recognise that the conduct was deceptive, he said:

A. I didn't think at the time and that was all the thought I had put into it. As I said, I didn't look into it any more than that and at the time I didn't think that it was.

…

A. I know earlier I referred to a punters' club. I just thought of it as someone else placing the bets for me in a similar circumstances as a punters' club, having someone else placing a bet for you. I understand you made the distinction in regards to the money, but that's the way I viewed it.[65]

5.59 Kasun said that he received money for his involvement from Smith. However, he did not know how much money he received or whether he received the money in cash or by other means. He thought it *"was a couple of hundred dollars".* When asked what he understood he was being paid for, he said: *"I … didn't take it that I was being paid for anything".* And again*: "I didn't take it as an understanding I was being paid for my involvement".* He said that the payment did not by itself cause him any concern about the legality of what was going on and denied that he did not care about the legality of what was going on.[66]

5.60 Kasun said that the payment he received was *"part of the profits"* that had been made from the use of free bets. When it was pointed out to him that no profits

[64] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 11:41-12:16

[65] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, p. 13:33-13:47

[66] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 16:23-17:45

were made on any of the accounts that had been opened in his name, Kasun could not explain where the money that he received as payment came from. [67]

5.61 Kasun said that he had heard the names *"Fletch"* and *"Fletcher"* used in conversations in the Tactical Operations Unit and said that Fletcher's name had arisen in the context of discussions about gambling. However, he knew of no connection between Fletcher and Smith.[68]

5.62 Kasun understood that the bets that were placed on accounts opened in his name were placed by Smith and by no one else. He said that Smith had told him that *"he would be doing the bets, or placing the bets".* However, Kasun also said that he would not have known if someone else was using the accounts to bet. [69]

SENIOR CONSTABLE MARK PERESSON

5.63 Peresson was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 4 November 2013 about his involvement with Smith in relation to betting accounts that had been opened in Peresson's name in August 2012 with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. Those accounts were used between 10 August 2012 and 25 August 2012 to place several bets totalling $8,018.50. Free bets totalling $2,900 were obtained on opening the accounts.

5.64 Peresson understood that he was being examined about his involvement with Smith in online betting. Peresson said that Smith had approached him and asked him if he could use Peresson's details to set up an online betting account, which Peresson subsequently allowed Smith to do. Peresson agreed to assist Smith because Smith was a friend who he trusted.[70] Peresson said that "He [Smith] just said he was - set up an - some accounts, that there'd be some - he'd get free bets and that, yeah, he'd give me some money for my trouble." As to what the "trouble was", Peresson said: *"Oh, just let him use my details".*[71] Peresson was subsequently given $300 in cash.[72]

5.65 In order for the account to be set up Peresson said that he provided copies of his driver's licence and Mastercard to Smith.[73]

5.66 Peresson knew that more than one account was opened in his name by Smith but did not think it was possible that seven or eight were set up, and was surprised that that many were opened.[74]

5.67 Peresson was aware from conversations he heard at work that other members in the Tactical Operations Unit were involved in allowing Smith to set up

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[67] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 17:47-18:18
[68] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, pp. 18:23-20:31
[69] Ex 43 AC, PIC Transcript, J D Kasun, 4 November 2013, p. 20:33-20:47
[70] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 5:24-5:47
[71] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 6:15-6:17
[72] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 8:2-8:5
[73] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, pp. 21:21- 22:25
[74] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 6:5-6:47

accounts in their names. He said that several officers were involved and named Zeibots, Reily, Michael Innes and Immens. [75] He agreed that there was quite a lot of talk about what was being done around the office at the time it was happening. However, he said that there had been no discussion about whether it was appropriate for police officers to be involved in deceiving the corporate bookmakers.[76]

5.68 When the arrangement was proposed by Smith, Peresson said that he had asked Smith questions about the legality of the arrangement.[77] He said that he had asked those questions, because *"I was giving him my details and it wouldn't be me setting up an account".* He considered whether any *"fraud"* was involved but considered that none was involved because he had given Smith permission to use his details to set up the accounts. Asked if he had considered whether a fraud might have been perpetrated on someone else, he said no.[78]

5.69 The following questions and answers then occurred:

> *Q. It was certainly the case that you understood that betting accounts were to be set up in your name?*
>
> *A. Yes.*
>
> *Q. But they were not your betting accounts, in the sense that you would have nothing to do with making bets through them?*
>
> *A. I guess I could have had the option to but I don't bet, so --*
>
> *Q. Well, putting aside whether you could have had the option to, the fact is accounts were set up in your name, using your personal information, your identification documents and those accounts were never intended and never were to be used by you; that's all correct, isn't it?*
>
> *A. Yes.*
>
> *Q. Does that not result in this conclusion, that the company setting up those accounts was being deceived as to the true identity of its customer?*
>
> *A. I guess you could make that assertion yes.*
>
> *Q. Forgetting what I can assert --*
>
> *A. Yeah.*
>
> *Q. -- that's the fact, isn't it?*
>
> *A. Yes.*

[75] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 7:6-7:26

[76] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 24:26-24:44

[77] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 8:11-8:16

[78] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, pp. 8:27-9:2

Q. And as a result of being deceived in that way, the particular corporation was giving something away, namely, free bets; correct?

A. I'm not quite sure how it works. I mean, that's what Marc Smith told me, so –

Q. But that was your understanding?

A. Yes.

Q. That if you set up this account and he put some money in, that he'd get back free bets?

A. Yes.[79]

5.70 Peresson said that he asked Smith whether *"it was all above board"* and was told by him that it was. He accepted Smith's word, because he *"trusted"* Smith.[80]

5.71 Peresson recalled that Smith asked him if he could let his gambling friends use the accounts that had been opened in Peresson's name. Peresson said that he had said no to Smith*, "because I just didn't know these people"* and *"I didn't want … them using my details"*.[81] Smith led him to believe that any bets that were made on the accounts were made by Smith and by no one else, including not by any of the gambling friends he had spoken to Peresson about.[82] Peresson said that he took Smith at his word.[83]

5.72 Peresson was examined in relation to certain transactions that appeared on his St George Bank account. These showed a number of transactions between 10 August 2012 and 3 September 2012, including a cash deposit of $5,250, and withdrawals to and deposits from different corporate bookmakers. Peresson was *"taken aback"* by the transactions and had no knowledge of them. He explained that he did not generally use the St George account and did not take any note of statements he received for the account.[84]

5.73 Peresson was shown each of the account statements for the betting accounts that were set up in his name with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. He did not realise that seven accounts had been opened in his name.[85] He said that he did not make any of the bets that had been placed on any of those accounts.[86]

5.74 Peresson accepted that each bet that was placed on the accounts, from the point of view of the corporate bookmakers, was made by him and he accepted

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[79] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 9:7-9:46
[80] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 10:34-10:39
[81] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 11:6-11:26
[82] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 11:28-11:43
[83] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 12:4
[84] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, pp. 12:6-13:39
[85] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 18:29
[86] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 19:23-19:24

that a deception was thereby perpetrated on the bookmakers. However, he said it had not been apparent to him at the time.[87]

5.75 The following questions and answers occurred:

Q. And you must have realised, had you given it a moment's thought back when this was happening, that it was a deception?

A. I guess in hindsight, yes.

Q. I mean, I'm not talking about hindsight, I'm asking you what you thought at the time?

A. At the time I didn't think about it.

Q. But you must have thought about it a bit because didn't you ask your friend Marc Smith whether it was above board?

A. Yes.

Q. Well, something must have prompted that question. It wasn't like he was saying to you, "Look, if you help me move my fridge I'll pay you 50 bucks", which is clearly an honest transaction. This was something quite different to that, wasn't it?

A. Yes.

Q. Such that you asked the question, "Is this above board?"?

A. Yes.

Q. And then simply chose to accept his answer?

A. Yes.

Q. Without giving it a moment's thought?

A. Yes.

Q. Or applying, if you like, the policeman's mind-set to it?

A. Yes.[88]

5.76 Peresson said that he provided Smith with copies of his driver's licence and Mastercard for the purpose of setting up the accounts. He agreed that in doing so he provided those documents to Smith for Smith to deceive the betting companies and said that he knew that at the time.[89] The following questions and answers occurred:

[87] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, pp. 19:45-20:12

[88] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, p. 20:5-20:38

[89] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, pp. 22:23-22:47

Q. What was your purpose in sending him photographs of those identification documents?

A. Oh, he said he needed it to set up the account.

Q. And that's because he needed to convince … the online bookmaker that the account was your account?

A. Yeah, I'm not quite sure why he just said that's what they needed, that's what they required, so --

Q. Yes, but using your common sense, let alone policeman's instinct, you must have known that if you're being asked to provide identification documents --

A. Yeah.

Q. -- it was in order to satisfy somebody that it was genuinely you setting up the account?

A. Yes.

Q. In other words, it was provided to Mr Smith for him to deceive the company?

A. Yes.

Q. And you knew that then, didn't you?

A. Yes, yeah.

Q. It's true - yes?

A Yeah. [90]

SENIOR CONSTABLE MATTHEW ZEIBOTS

5.77 Zeibots was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 5 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Zeibots' name in October 2012 with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. Those accounts were used between 20 October 2012 and 21 August 2013 to place several bets totalling $31,890. Free bets totalling $2,750 were obtained on opening the accounts.

5.78 Zeibots understood that he was being examined in relation to his involvement with Smith in online betting and gave the following account of his involvement:

A. Okay. Probably early to mid-2012 I was approached by Marc Smith. The conversation is going to be a bit hazy, it was a fairly long time ago. Words to the effect of, "I know you're not a punter. I can open some online betting

[90] Ex 22 AC, PIC Transcript, M J Peresson, 4 November 2013, pp. 22:23-23:3

> *accounts in your name and it will be run like a punters' club," with him managing it. He said I won't need to use any of my own money. I was a bit concerned at first but he said that, you know, it's going to be run like an online punters' club, with him managing it. I won't need to put in a cent. It won't - I said, "Is it going to affect my credit rating or anything like that?" and he said, "No, we're not doing anything wrong." So some accounts were opened in my name by him and money was deposited and then he placed bets with that money*.[91]

5.79 The arrangement lasted for approximately *"two, three months".* During the currency of the arrangement Zeibots said that he played no role in placing any bets on the accounts that were set up. He said that he did not have access to the accounts and did not have any capacity to use the accounts. He said that he did not have any of the security passwords for any of the accounts. At all times someone other than himself placed bets on the accounts. He believed that Smith placed all the bets on the accounts and that the accounts that were in his name were not used by anyone else. In that regard he said that he *"trusted"* Smith.[92]

5.80 Zeibots had asked Smith if Smith was the only person using his accounts. Smith had replied in the affirmative when Zeibots asked him, *"Can you guarantee only you will have access to my details?"*[93] Zeibots gave the following evidence about why he had asked Smith that question:

> *A. Towards the probably - I'm trying to think of the timeline here. Probably towards the end of 2012 I heard rumours speculating that - because he had done this for other people, opened accounts, and I heard rumours speculating that other people had access to accounts, other than himself, and I became wary and I was told no, he was the only one in control*.[94]

5.81 Zeibots did not know how many accounts were opened in his name by Smith but knew that there was more than one account. [95] He was aware that other officers in the Tactical Operations Unit had entered into similar arrangements with Smith and named Besant, Mundy and Robertson. When he was approached by Smith, Zeibots said that people at his work *"had spoken about accounts being opened".* [96]

5.82 Zeibots said that he was *"a bit concerned"* when he initially handed over his identification details to Smith for the purpose of setting up the accounts but trusted Smith. Smith had explained to him that what was being proposed *"was like an online punters' club, with him* [Smith] *sort of managing it".* Zeibots said that that was *"the view I took of it at the time".* [97] He agreed that a concern he

[91] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 5:35-6:1
[92] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 6:3-6:40
[93] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 7:1-7:3
[94] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 7:8-7:14
[95] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 7:16-7:28
[96] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 7:33-7:42
[97] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 8:14-8:29, 11:6-11:8

held was the possibility of identity fraud.[98] He provided Smith with his driver's licence, his address, Medicare card and a credit card.[99]

5.83 The following questions and answers occurred regarding the reference to a punters' club:

> *Q. Would the idea of a punters' club ordinarily be that the punters, the members of the club, would each contribute an amount of money which would then be pooled and gambled on sporting events or racehorses, or the like?*
>
> *A. Yeah.*
>
> *Q. That was your understanding?*
>
> *A. Well, yeah, to a degree, yes.*
>
> *Q. And that there was a difference in the arrangement that Mr Smith was proposing, wasn't there?*
>
> *A. Yeah, correct.*
>
> *Q. And what was that difference?*
>
> *A. As I said at the start, I wouldn't be having to put in - any of my own money in.*[100]

5.84 Zeibots accepted that a further distinction was that the corporate bookmakers were also contributing money to the accounts in the form of free bets. Zeibots accepted that those free bets were provided by the corporate bookmakers on the understanding that they were obtaining a new client.[101] Asked if that was one of the reasons why he was a bit concerned, he said:

> *A. Well, as I said, at the start I was concerned primarily about handing my details over, but, yeah, now you put it like that, yes…*[102]

5.85 Zeibots said that he was not concerned at that time that Smith was going to use Zeibots' identification to deceive the corporate bookmakers. He *"believed that it was all going to be done above board and like an online punters' club"*.[103]

5.86 The following question and answer then occurred:

> *Q. How could it be above board, sir, when the company who is giving away the free bets believes that you're opening an account when you have no intention of ever using that account other than as a front for Mr Smith? How*

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[98] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 16:25

[99] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 23:13-23:15

[100] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 8:31-8:46

[101] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 9:37-9:45

[102] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 10:8-10:10

[103] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 11:2-11:8

can be [sic] *above board? How could you have thought that it was above board?*

A. Well, now I seem quite naive, obviously, and at the time that's what I believed.[104]

5.87 Zeibots said that he became more concerned *"towards the end"* of the arrangement.[105]

5.88 Zeibots was asked if he ever received instructions from Smith about what he was to say to a corporate bookmaker if a corporate bookmaker ever contacted him to verify that an account opened in his name was in fact opened by him. He could not remember if such a conversation took place but said that a conversation to that effect possibly took place.[106]

5.89 Zeibots was examined in relation to certain transactions that appeared on his Commonwealth Bank account, including a deposit in the sum of $3,150 that was made on 24 August 2012. Zeibots said that that sum would have been deposited by Smith. He agreed that he had a subsequent communication with Smith in which Smith said that he would withdraw $2,750 from Zeibots' account and leave him $400. The $400 was the payment Zeibots received for his involvement in the arrangement. He said that the payment was for Smith *"placing bets".* As to what he did to earn the payment, Zeibots said: *"open accounts … nothing really … as I said earlier, it was … like a punters' club … I was going to share in some profits that he would make from gambling".* Zeibots denied that he was being paid for giving Smith the opportunity to deceive corporate bookmakers.[107] However, he agreed with the benefit of hindsight that what had been put was a fair categorisation of what was happening.[108]

5.90 At one point in his evidence Zeibots said *"I still wouldn't look at it as a deception".* The following question and answer then occurred:

Q. I'm still interested in how it is you justify the answer you gave a moment ago about how, "I wouldn't look at it as a deception"?

A. Obviously at the time that's the way I thought of it, but now looking back on it, I understand your question. Yes, it would look like that.[109]

5.91 Zeibots was asked about two deposits of $5,000 that were made to his bank account on 18 and 19 October 2012, which were followed by a series of outgoings to different corporate bookmakers. Zeibots said that the deposits were made by Smith for the purpose of gambling. Zeibots agreed that it was necessary for the money to go through his own account to *"perpetuate the*

[104] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 11:10-11:17
[105] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 11:23
[106] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 11:25-13:19
[107] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 13:25-14:45
[108] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 15:3-15:7
[109] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 15:42-15:47

belief or understanding" on the part of the corporate bookmaker that it was Zeibots who was operating the account.[110]

5.92 Zeibots was asked about deposits of $1,574 from Bookmaker and $981.75 from Luxbet that were made to his bank account. Zeibots said he believed that those deposits related to Smith's closure of the betting accounts. Zeibots subsequently made transfers to Smith. Zeibots said that the money transferred was the *"profits"* Smith had made by using the betting accounts.[111]

5.93 Towards the end of his involvement in the arrangement with Smith, Zeibots said that he became aware of restrictions that might be placed on gamblers by corporate bookmakers. He said that he heard about those restrictions through a conversation at work, although he could not recall when he heard the conversation or who was involved. To his knowledge, Smith had not told him.[112]

5.94 Zeibots was asked if he had ever heard of the name *"Fletch"* or *"Fletcher".* He said that he had heard of that person's name, *"towards the end when my accounts were closed".* He heard the name in the context of *"office banter, that Marc Smith was … loosely affiliated with this gentleman".* He said that something possibly may have been said about Fletcher being a restricted gambler. The banter that he heard involved people in the Tactical Operations Unit who had been involved with Smith in setting up betting accounts.[113]

5.95 Zeibots said that he had *"a suspicion"* towards the end of his involvement that the accounts that had been opened in Zeibots' name may have been used by Smith on behalf of other people. He said that it was then that he had a conversation with Smith. Smith had told him that no one else would use his accounts.[114]

5.96 Zeibots was shown each of the account statements for betting accounts that were set up in his name with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. He said that he did not make any of the bets that were placed on any of those accounts.[115]

5.97 Zeibots was asked if he was ever given instructions by Smith to have his identification verified by Innes. He denied that that occurred.[116]

5.98 Two lawfully intercepted text messages were shown to Zeibots and four lawfully intercepted telephone calls were played to him at the hearing. Zeibots confirmed that he and Smith were the parties in each communication.

5.99 The first intercepted communication was a telephone conversation on 18 October 2012, which included the following:

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[110] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 16:27-17:33
[111] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 17:43-18:20
[112] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 19:14-21:2
[113] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 20:15-21:6
[114] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 21:19-21:32
[115] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 21:34-22:37
[116] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 24:8-24:11

SMITH: Um well I just needed um, needed a photocopy of your driver's licence and your credit card just on a, if you just photocopy both of them and chuck it in my pigeon hole.

ZEIBOTS: Yeah, have you lost the photos?

SMITH: No, no, no it's for um, just to verify the account so you can make a withdrawal just in case we win.

ZEIBOTS: Oh okay righto

SMITH: And we (ui).

ZEIBOTS: so what do they, what do they get? Who gets them, do you fax them to someone do you?

SMITH: Yeah you just send them to the um, to like Sportingbet or whatever and they, they um and you've gotta get Innes to um certify them. Innes is a JP, just get him to certify them as true and accurate ah copies

ZEIBOTS: Yeah righto.

…

ZEIBOTS: How about, how about I just make a copy of the license and the credit card and you can sort all that out?

SMITH: Yeah alright just yeah just do that and chuck it in me pigeon hole mate.

ZEIBOTS: Righto and um …[117]

5.100 Zeibots had no memory of the telephone conversation. However, he appeared to agree that the contents of the communication added to the theme of what was happening, namely that it was necessary to do a number of things to deceive corporate bookmakers for the purpose of opening accounts with them.[118]

5.101 The next communication was a telephone conversation between Smith and Zeibots on 19 October 2012. It included a further discussion about whether Zeibots had done the photocopying that Smith had asked him to do. Smith told Zeibots that he was going to deposit $5,000 into Zeibots' credit card *"in case"* Smith needed to use it over the coming weekend. He also told Zeibots that he *"might get a little bit extra money".* Zeibots replied, *"Yeah that'll be sweet, whatever mate, its um, it's very easy money for us so"* and then laughed.[119]

5.102 With reference to when the conversation took place and the part of the conversation where Zeibots' said, *"it's very easy money for us"*, Zeibots agreed he did not have any concern about what was going on. However, he disputed having heard himself laugh. He also denied that he had *"shielded his eyes"*

[117] Ex 13 AC, Transcript of telephone call between Marc Smith and Matthew Zeibots, 18 October 2012

[118] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 25:15-25:18

[119] Ex 13 AC, Transcript of telephone call between Marc Smith and Matthew Zeibots, 19 October 2012

from what was going on, because it was easy money. He said: *"I believed at the time I was not doing anything wrong"*.[120]

5.103 The third communication was a telephone conversation between Smith and Zeibots on 23 November 2012. It included the following:

> *ZEIBOTS: Mate I was just calling to confirm, are my details like, of those accounts and that with any of those other blokes? Or are you the only one who still has that?*
>
> *SMITH: No, no I'm the only one who still has them, but um, the, one of me mates, um, wanted me to put a bet on, so he gave me, he put money into my bank account and um, and then I, then I used it.*
>
> *ZEIBOTS: Put it in and*
>
> *SMITH: Yeah. So.*
>
> *ZEIBOTS: Through my one?*
>
> *SMITH: Yeah …*
>
> *…*
>
> *ZEIBOTS: Righto I just wanted to make sure that there wasn't, like no one else is using 'em and stuff like that, that's all.*
>
> *SMITH: Yeah no, it's, it's, it's just me, he, he's given me five grand*
>
> *ZEIBOTS: Yep.*
>
> *SMITH: and I've um, and I, I could've given it to, put it into your account or to anyone else's account, I just, I put it into yours*
>
> *ZEIBOTS: Yep.*
>
> *…*
>
> *ZEIBOTS: Yeah no dramas um, yeah cool alright, that's no dramas at all.*
>
> *SMITH: Alright mate, well um.*
>
> *ZEIBOTS: I just wanted to confirm that, I might um, in time 'cause, mate unless we're gonna do this again I might just deactivate all those accounts.*
>
> *SMITH: Yeah that's um, that's no, no problem at all*.[121]

5.104 By the date of this call Zeibots said he was concerned about what was occurring. In his evidence he said: *"I supposed I wanted everything shut down because I didn't like obviously what was happening".* He said he was

[120] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 26:34-27:4

[121] Ex 13 AC, Transcript of telephone call between Marc Smith and Matthew Zeibots, 23 November 2012

concerned by the fact that Smith was using other people's money to bet through accounts that had been set up in Zeibots' name.[122]

5.105 Zeibots denied that he had had a previous conversation with Smith about the identity of the persons Zeibots referred to in the conversation as *"those other blokes"*. He said that the reference to those *"other blokes"* had been a reference to what he heard about the use of accounts by persons other than Smith from office banter.[123]

5.106 The following questions and answer also occurred in relation to the telephone conversation:

> *Q. Well, your mind set was you wanted to* [sic] *out, wouldn't you agree with that?*
>
> *A. Correct. You can see right down the bottom I'm asking for everything to be closed.*
>
> *Q. It's quite clear you're saying that, at least in time, you wanted all of those accounts deactivated?*
>
> *A. Correct.*
>
> *Q. And that's because by 23 November 2012, you had realised that the scheme was a dishonest scheme?*
>
> *A. Well, I'd realised that, yeah, he was not the only person in control of my account, obviously.*
>
> *Q. Which accounts are you talking about there?*
>
> *A. I don't know which exact accounts.*
>
> *Q. Are you talking about betting accounts, not bank accounts?*
>
> *A. Yes, yes*.[124]

5.107 The next communication was another telephone call between Smith and Zeibots on 19 October 2012. The telephone call concerned the making of a deposit of $550 into an account that had been opened in Zeibots' name with Luxbet. Owing to certain features of Luxbet's website, Smith required Zeibots to make the deposit himself and said that he would text him the login details for the Luxbet account.[125] In his evidence Zeibots agreed that by the date of this conversation, his willingness to be involved meant that he was not troubled by the possibility that what was happening might have been illegal, unethical or deceptive.[126]

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[122] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 28:38-29:1

[123] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, pp. 29:31-30:9

[124] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 31:9-31:31

[125] Ex 13 AC, Transcript of telephone call between Marc Smith and Matthew Zeibots, 19 October 2012

[126] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 34:14-34:18

5.108 The final two communications were two series of text messages. The first series of text messages was sent on 19 October 2012 in which Smith provided Zeibots with the login details for the Luxbet account and instructions to *"deposit $500 anyway u can".* Zeibots indicated in a reply that that had been done.[127] Zeibots memory of the event was refreshed by the communication and he recalled that what was described had occurred.[128]

5.109 The last series of text messages occurred between 28 November 2012 and 6 January 2013. They related to the closure of the betting accounts.[129] In his evidence, Zeibots said that he took Smith at his word that the accounts were closed.[130]

SENIOR CONSTABLE SCOTT ROBERTSON

5.110 Robertson was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 5 November 2013 about his involvement with Smith in relation to betting accounts that had been opened in Robertson's name in June 2012 with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. The accounts were used between 28 June 2012 and 14 July 2012 to place several bets totalling $17,731.50. Free bets totalling $1,000 were obtained on opening the accounts.

5.111 Robertson knew that he had been summoned to give evidence about his involvement with Smith in opening online betting accounts and gave the following evidence of how his involvement with Smith came about:

> *A. … Marc Smith and I had a conversation just in passing. He said we could open several online betting accounts. These accounts would then match the initial opening deposit. He would supply that initial opening account money and then place a bet and split the profit from that bet and I would return the money to him from the opening of the accounts*.[131]

5.112 Robertson said that he did not contribute any money to the arrangement. However, under the arrangement he would receive some money from any winnings. When asked if Smith had explained to him the reason for Smith's generosity, he said:

> *A. No, he said I could do it myself. He was - I just knew he was involved in gambling and obviously he had the knowledge if there was money to bet and he had that knowledge, when I say "knowledge", he had experience betting in sport and horses, was more likely to win than if I did it myself. He in fact told me I could do it myself, open the accounts myself and front the money myself. I just simply didn't*.[132]

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[127] Ex 13 AC, Exchange of text messages between Marc Smith and Matthew Zeibots, 19 October 2012

[128] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 35:1-35:3

[129] Ex 13 AC, Exchange of text messages between Marc Smith and Matthew Zeibots, 28 November 2012 to 6 January 2013

[130] Ex 13 AC, PIC Transcript, M C Zeibots, 5 November 2013, p. 35:33-35:36

[131] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 5:13-5:19

[132] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 5:38-5:45

5.113 Robertson said that he had no knowledge of any of the bets that were placed on any of the betting accounts that were opened in his name. He presumed that there were several accounts and that bets were made on them.[133] However, he did not know how many accounts were actually opened or with which of the corporate bookmakers. He accepted that it was possible that five such accounts were opened.[134]

5.114 Robertson was asked about his understanding as to the nature and the identity of the owner of the betting accounts. He said:

> *A. The identity? So it was my account and Marc would simply use my details to fill out that account while I was present with him in the room but he just did the actual typing on the computer because he was - he said he was familiar with those betting sites, he'd used them before*. [135]

5.115 Robertson understood that the reason Smith could not have opened the betting accounts in his own name was that Smith could not *"keep having multiple accounts and keep getting free bets".* However, he denied that the object of opening accounts in his (i.e. Robertson's) name was to pretend that the accounts were in fact his accounts. He said: *"I couldn't say pretend. I'd say doing it on my behalf".*[136]

5.116 Robertson said that he had no concerns about the arrangement he entered into with Smith and he trusted Smith. He also denied that the objective had been to deceive the corporate bookmakers. He repeated his evidence that Smith had opened the accounts on his *"behalf."*[137] The following questions and answers occurred:

> *Q. When you say on your behalf, what do you mean, Mr Robertson?*
>
> *A. That he was able to --*
>
> *Q. How was any of this on your behalf? You had nothing to do with it did you, apart from reaping some reward?*
>
> *A. He was opening in my name: I assumed it was on my behalf. If we lost, we lost the money, there would be no - there would be no reward.*
>
> *Q. What would you lose?*
>
> *A. What would I lose?*
>
> *Q. Yes?*
>
> *A. Nothing, because I wasn't putting the money up for the accounts.*
>
> *…*

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[133] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, pp. 5:47-6:9
[134] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 7:2-7:42
[135] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 6:13-6:17
[136] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 6:19-6:30
[137] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 8:7-8:27

Q. They were his bets. Every bet that was taken through any of those five accounts were the bets of Mr Smith, they weren't the bets of Scott Robertson; correct?

A. No, I didn't nominate any particular bet.

Q. You never made one bet in the time those accounts were opened, did you?

A. No.

…

Q. From the point of view of, for example, Luxbet, they were your bets; correct?

A. Yes.

Q. Because they had received a copy of your driver's licence and credit card and your name and date of birth, et cetera, et cetera, in order to deceive them into believing that you were opening a betting account and you were going to make some bets?

A. I wouldn't say "deceive".[138]

5.117 Robertson understood that free bets were provided by corporate bookmakers to *"entice more customers"* and that free bets were given when accounts in his name were opened *"in the belief"* that Robertson was *"a new customer"*.[139] However, he denied that the financial advantage that that represented had been obtained by means of deception. In his evidence he repeated that it was *"something I could have done myself".*[140] He also said that he could have used the accounts; however, he accepted that he did not have the passwords for any of the accounts. He also accepted that he did not fund the betting accounts and agreed that he did not place any of the bets on the accounts. [141]

5.118 As to what he received, or would receive, for his part in the arrangement, Robertson said that he had been told by Smith that he would receive an equal split of any profits that were made on the accounts. He agreed that his contribution for this reward was limited to providing Smith with details of his identity and important personal identification documents, which Smith used to set up the accounts.[142] Asked if he ever received any money, he said that he received *"somewhere around $400, $350"* but was not sure.[143]

5.119 The following questions and answers occurred about whether Robertson had any misgivings about his involvement in the arrangement with Smith:

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[138] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 8:29-9:28

[139] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 10:10-10:32

[140] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 11:5-11:13

[141] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 12:2-13:9

[142] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 13:11-13:29

[143] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 17:12-17:13

Q. Do you have any misgivings about your involvement in the scheme now, as you sit here, or do you think it was all just quite okay?

A. I can't see any criminal element to it. That's my opinion. And obviously, you know, if it would prevent me from sitting here giving evidence right now, I wouldn't have undertaken what I did with Marc, but at the time I couldn't see any problem with it and that's why I did it.

Q. At the time you say you couldn't see any problem with it. Now that you think about it here, do you not see a problem with it?

A. No.

Q. So apart from the possibility of getting caught, and being asked questions about it by someone like me before the Commission, you would do it again, right; is that your evidence?

A. I don't know that I'd do it again, but I certainly considered if there were any implications, legal implications at the time, and I couldn't see any in my opinion, and that's why I did it.

Q. So even sitting here now, you say to the Commission that you see no deception?

A. I don't see deception, no.

Q. You do see a financial benefit?

A. Yes.

Q. Being the opportunity for free bets?

A. Yes.

Q. But you don't see any deception in opening the account in your name and you having nothing to do with it except for your name?

A. What I see is that it is something I could have done myself, but rather than me typing through forms on a computer, I allowed someone I trusted to use my identification to do that for me and also by him doing that and also fronting the initial opening costs for the accounts, I saw that as legitimate.[144]

5.120 Robertson was shown each of the account statements for the betting accounts that had been set up in his name with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. He said that he was not aware of any of the bets that were placed on any of the accounts.[145]

5.121 Robertson said that a *"dozen"* of his colleagues in the Tactical Operations Unit were involved in setting up accounts with Smith and named Reily, Immens,

[144] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 14:6-14:47

[145] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, pp. 19:8-20:14

Innes, Foster, Zeibots, Mundy and Goonan.[146] He recalled that there had been a conversation involving his colleagues in the Tactical Operations Unit about the arrangements being entered into with Smith. He could not name any of the participants to the conversation but said that any number of the individuals he had named would have been present. He said that the group had arrived at a *"unanimous decision"* that what was being proposed by Smith was legitimate. He said that the *"discussion"* was to the effect *"that you could do it yourself if you were prepared to fill out the forms and have the initial opening money".*[147]

SENIOR CONSTABLE ADAM MUNDY

5.122 Mundy was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 5 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Mundy's name in September 2012 with Luxbet**,** Sportsbet, IASBet**,** Sportingbet, Bet 365**,** Betfair and Centrebet. The accounts were used between 21 July 2012 and 30 September 2012 to place several bets totalling $7,014. Free bets totalling $2,850 were obtained on opening the accounts.

5.123 Mundy knew that he was being examined by the Commission in relation to his involvement with Smith in opening the online betting accounts.[148] In explaining his involvement he said that he gave his details to Smith, *"to open an account, a betting account, and to place a bet for me".* [149] The *"details"* he provided Smith included his driver's licence and credit card details, which he gave to Smith so that he could *"open an account for me"*.[150]

5.124 Mundy said that Smith placed bets on the account on his (i.e. Mundy's) behalf. Mundy said that he would receive money from Smith if any of the bets won. He said that the amount of money he would receive was not discussed with Smith. Smith had only told him, *"I'll give you some cash"*.[151] He said that Smith told him he would receive *"a couple of hundred or something like that"* and *"up to $500".*[152]

5.125 Mundy denied that he was being paid for the service of providing Smith with his identification. He said that the betting account that was opened by Smith was *"my account"*. [153]

5.126 As to the reason why an account was opened in Mundy's name, the following questions and answers occurred:

Q. What was the reason you needed to do that?

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[146] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, pp. 20:37-21:17
[147] Ex 55 AC, PIC Transcript, S F Robertson, 5 November 2013, p. 21:22-22:4
[148] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 4:38-4:44
[149] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, pp. 4:47-5:1
[150] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 6:1-6:11
[151] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 5:28-5:30
[152] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, pp. 25:29-26:26
[153] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 26:44-26:47

A. Because apparently you don't have an account and you open a new one, Centrebet - I think it was Centrebet - were offering $100 or $200 free bets; I don't know.

Q. So was it necessary to convince Centrebet, to use your example, that it was you and not Marc Smith that was opening the account?

A. No, I don't think so. If I was going to open an account by myself, I'd get someone else to do it anyway, because I don't know the ins and outs of it. He was - he knew exactly what he was doing, so I got him to do it for me.

…

Q. But why was it necessary for him to produce or have access to an identification document such as a driver's licence?

A. Because I would assume that what they would need to open an account.

Q. Is that because you understood it was necessary to have the agency, Centrebet or whoever, believe that it was you that was opening the account?

A. The account was opened on my behalf but had I full knowledge that the account was being opened.

Q. What account was being - what did you have full knowledge of, Mr Mundy?

A. That there was a betting account being opened in my name.

Q. With whom?

A. I think it was Centrebet or some betting agency.[154]

5.127 And again:

Q. By providing your identity, you were allowing Mr Smith to make an application which Centrebet or Sportsbet, or whichever organisation it was, would take as being an application made by you?

A. That's correct. He did it on my behalf.

Q. Made by you for the purpose of becoming one of their customers?

A. Yes.

Q. And for that, the relevant company, be it Centrebet or Sportsbet, would provide you, as their new customer, with a financial benefit, being a free bet, or a number of free bets?

A. Yes.

[154] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, pp. 6:13-7:15

Q. But in fact, it was not you who was going to be doing the betting, was it?

A. No.

Q. And it was not you who was really the customer, it was someone else, Mr Smith; correct?

A. I gave him permission to open the account on my behalf and the way it was explained to me was there's no difference to me giving him 100 bucks down at the pub to put a bet on for me.

Q. So he explained that to you?

A. Yes.[155]

5.128 Mundy assumed that Smith would open only one account in his name and said that to his knowledge only one account was opened.[156] He went on to say that that was what Smith told him.[157]

5.129 Mundy was shown each of the account statements for accounts that had been set up in his name with Luxbet**,** Sportsbet.com.au, IASBet**,** Sportingbet, Bet 365**,** Betfair and Centrebet and said that he was not aware that seven accounts had been opened in his name.[158] When asked if Smith had deceived him as to the number of accounts that would be opened in his name, Mundy replied: *"I think 'deceived' is a strong word … I don't think he would do that intentionally to me or to try and cause harm to me, because I regard him as a mate".*[159]

5.130 The following questions and answers occurred about whether Mundy was troubled by the fact that Smith had opened seven accounts in his name:

Q. And sitting here today is the first time it's come to your knowledge that there were in fact seven such accounts in your name?

A. Yes.

Q. Does that trouble you at all?

A. It does, it troubles me that I'm here. [160]

5.131 Mundy said that he played no role in operating any of the accounts that were set up in his name and never placed a bet or put money into any of the accounts.[161] When asked if he was aware of who was placing bets on the accounts, he gave the following response: *"No. When I gave the details via*

[155] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 16:12-16:40
[156] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 8:5-8:14
[157] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 9:22-9:27
[158] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, pp. 8:25-9:12
[159] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 9:15-9:20
[160] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 24:10:24:16
[161] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 9:41-9:45

text, I had a conversation with him and I said, 'Make sure this is only for you' … 'Make sure you don't give out details to anyone else'".[162]

5.132 Mundy said that he never became aware of whether Smith was involved in gambling with large-scale gamblers and said that there was never any discussion at work about whether Smith was involved in gambling with large-scale gamblers.[163]

5.133 When he entered into the arrangement with Smith, Mundy said that he had no personal knowledge of the involvement of any other members of his unit. However he was told by Smith that *"some other blokes in the unit"* had provided their identification details to him. [164]

5.134 Mundy accepted that he did not put up any of the money that was used to bet on the accounts set up in his name. He also said that he did not have any knowledge of how any of the monies that were deposited into the betting accounts got there.[165]

5.135 Mundy was asked about certain transactions that appeared on his bank accounts. These included a deposit of $3,300 from Smith, the transfer of that amount from Mundy's *"S1"* bank account to his credit card, and a series of subsequent outgoing transactions from his credit card to different corporate bookmakers. Mundy initially said that he played no part in any of those transactions. He assumed that they had been carried out by Smith.[166] Later in his evidence he recalled that he may have transferred $3,300 from his *"S1"* account to his credit card, on instructions from Smith.[167]

5.136 Finally, the following questions and answers occurred:

> *Q. Thank you. Am I correctly reading your evidence that you don't think that there was anything wrong with what you did back then?*
>
> *A. No.*
>
> *Q. Do you think, and you would categorise it to the Commission, that all that happened was that Mr Smith made an account in your name and then proceeded to make bets on your behalf?*
>
> *A. That's correct.*
>
> *Q. And that it was your account?*
>
> *A. Yes.*
>
> *Q. There was no deception involved?*

[162] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 10:2-10:27
[163] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 10:30-10:39
[164] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 14:21-14:42
[165] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, pp. 17:33-18:27
[166] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, p. 20:23-20:34
[167] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, pp. 22:38-23:7

A. No.

Q. There was no tricking the particular agency or agencies into providing free bets on the basis of falsely pretending that it was your account when in fact, in every sensible and realistic view of the world, it was Mr Smith's account? You don't see that at all?

A. No, because the one account that I knew about I assumed it was mine.

Q. You didn't know the first thing about that account, did you?

A. No.

Q. If he'd put $400,000 on the grey, you wouldn't have known it, would you?

A. I wouldn't have.

Q. No, because you didn't even know which company it was with?

A. No.

Q. Or how the money got there?

A. No.[168]

SERGEANT BLAKE REILY

5.137 Reily was Smith's supervisor in the Tactical Operations Unit. He gave evidence before the Commission on 5 November 2013 about his involvement with Smith in relation to betting accounts opened in Reily's name in October 2012 with Luxbet**,** Sportsbet, Bookmaker, Sportingbet, Centrebet, Betezy, Betfair and Bet 365. The accounts were used between 6 October 2012 and 13 October 2012 to place several bets totalling $9,557. Free bets totalling $2,800 were obtained on opening the accounts.

5.138 Reily said that he became aware in or about June or July 2012 that a number of police officers in the Tactical Operations Unit were involved with Smith in opening betting accounts with corporate bookmakers. Smith told him who those officers were when he approached Reily.[169] Reily said that he was told by Smith that *"free bets"* were being offered by corporate bookmakers to new account holders. He was told that the arrangement was that two bets would be placed on the accounts that Smith would open: a win bet and a lay bet using the free bet.[170]

5.139 Reily was asked whether what he learnt from Smith was something he needed to report to a senior officer in the Tactical Operations Unit. He said that Smith explained the proposal to him and that he spoke to a number of the officers who were involved. Having discussed it with them, Reily said that he was of the

[168] Ex 20 AC, PIC Transcript, A J K Mundy, 5 November 2013, pp. 27:28-28:19

[169] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 5:34-5:46

[170] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, pp. 6:43-7:11

view that there was nothing *"illegal"* in what was being done and that no misconduct was involved. He said that his understanding was that what was being done *"was completely legal and completely within the parameters of those betting accounts"*.[171]

5.140 Reily agreed that the free bets that were provided by the corporate bookmakers constituted a financial advantage and described those free bets as *"an incentive for you to open the account"*.[172]

5.141 Betting accounts in Reily's name were opened by Smith in October 2012, five months after he was initially approach by Smith.[173] Reily said that Smith had again approached him at that time.[174]

5.142 Reily provided Smith with his driver's licence and credit card number, so that Smith could open the accounts in Reily's name. For his part in the scheme, he said that Smith had told him: "*You'll get a couple of hundred dollars out of this".* Reily knew that other people had received similar amounts.[175] The following questions and answers occurred about what Reily was being paid for:

> *Q. What was it you were being paid for, as you understood it?*
>
> *A. He was taking some of the money from those winning transactions from the laying and the betting and I was getting a piece of that. I have no idea how – what percentage, but I was getting a percentage of those transactions, those winning transactions.*
>
> *Q. What was it that you were doing to earn that money, if that question makes any sense in this context?*
>
> *A. You can only - my understanding is you only - once you open an account you can only open an account once and get that free bet once. So once you - say Mr X has opened his and used his, you can't use that again. So I was just a new customer to those betting agencies. That's the only benefit of me doing it*.[176]

5.143 Reily did not know how many accounts were opened in his name but said he knew that there was more than one and assumed that four or five were opened. Apart from providing his identification for the purpose of opening the accounts, he said that he played no role in operating the accounts. He said that he did not have the access numbers or passwords for any of the accounts and did not place any bets on any of the accounts.[177]

5.144 Reily said that, to the best of his knowledge, the accounts that were opened were only used by Smith. He said that he had an understanding with Smith that Smith would be the only person using the accounts and that the accounts

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[171] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 6:1-6:15
[172] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 7:38-7:42
[173] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 8:25
[174] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 9:5-9:8
[175] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 9:25-9:27
[176] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 9:29-9:44
[177] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 10:10-10:36

would be used for the sole purpose of securing and using free bets.[178] The following questions and answers occurred:

> *Q. … Are you saying that your understanding was that those accounts were to be opened?*
>
> *A. Yes.*
>
> *Q. The free bet was to be secured?*
>
> *A. Used, yes.*
>
> *Q. Secured and used?*
>
> *A. Yeah, yes.*
>
> *Q. That you would get something out of that?*
>
> *A. Yes.*
>
> *Q. And then after that, was it your understanding that the account would continue to be used for Marc to bet with?*
>
> *A. No, that certainly was not my impression.*
>
> *Q. Was your understanding that it would be used by somebody else, one of Marc's friends, to bet with?*
>
> *A. That is certainly not what my understanding was*.[179]

5.145 Reily did not consider that any deception had been perpetrated on the corporate bookmakers in order for the free bets to be obtained. He said that Smith was acting as his *"agent."* The following question and answer occurred:

> *Q. The company wasn't getting a new customer, it was getting Mr Smith placing a bet using someone else's identity to open an account that was really his?*
>
> *A. No, it was on my behalf. I knew what he was doing, or I think I knew what was happening, and to me I was acting within those legal parameters that were allowed within that account*.[180]

5.146 And again:

> *Q. Thank you. Just to be clear, is it your belief now that there was no deception being perpetrated on those betting agencies that were providing the financial benefit of a free bet on the understanding that it was getting a new customer, namely, you?*

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[178] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 10:38-10:46

[179] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 11:16-11:36

[180] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, pp. 12:47-13:6

A. I maintain that's still acting within the legal boundaries, yes.[181]

…

Q. Even though the credit card, or the betting agency, was under the understanding that you were becoming a new customer, when you weren't?

A. Well, I was by agency. [182]

5.147 Reily was examined in relation to certain transactions that appeared on his Police Credit Union account. These transactions included two deposits from Smith totalling $3,700, which were followed by a series of outgoings to different corporate bookmakers. Reily said that he had no knowledge of those transactions and had not seen them before.[183]

5.148 Reily was next shown the betting account statements for accounts that were opened in his name with Luxbet**,** Sportsbet, Bookmaker, Sportingbet, Centrebet, Betezy, Betfair and Bet 365 and was taken to various bets that were placed on the accounts. He said that Smith had used the accounts contrary to his understanding that the accounts would be used *"to have one bet and one lay off".* He said that he *"certainly didn't know there* [were] *multiple bets".* He also said that he played no part in any of the bets that were placed.[184]

5.149 At the end of his evidence, the following questions and answers occurred about Reily's evidence that Smith was acting as his *"agent"*:

Q. But if he was acting as your agent, wouldn't you be the one that would put up the 500 bucks, for example, to Luxbet?

A. It appears as though I did. They were coming out of my account, they were debiting out of my account, so, in effect, I did.

Q. I see.

A. He was just doing the legwork, if you will.

Q. Come on, Mr Reily, it wasn't your $500, was it?

A. That $500 that I got?

Q. No, the $500 that went to Luxbet, you didn't put that up; you're not suggesting to the Commissioner that was your $500, are you?

A. It came out of my account.

Q. All right. So it was yours?

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[181] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 24:28-24:34

[182] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, pp. 24:45-25:1

[183] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, pp. 13:33-15:25

[184] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, p. 20:21-23:45

A. Yeah. Yeah.

Q. Even though it came directly after a deposit of $3,200 from Mr Smith?

A. Oh, okay. Yeah, in light of that, yeah, obviously, he was just using my account, yes, when you put it in those terms.

…

Q. Don't you see that, first of all, the betting agency is being told, "Blake Reily is a new customer who's opening an account and who is going to receive a benefit of a free bet"?

A. Yes.

Q. The betting company then sees that Blake Reily has sent $500 to them in order to secure the free bet?

A. Yes.

Q. But Blake Reily hasn't sent them $500 at all, Marc Smith has. It has just been done in such a way that it looks like it's coming from Mr Reily?

A. Yes.

Q. Isn't that deceptive?

A. No. My understanding is funds have to be seen to come from my account into the account of my name, being the betting account. I don't think Marc Smith can put money from his account into the betting account: that's my understanding.

Q. Why do you think money has to be seen to be coming from your account?

A. Because that's the account linked to the betting account.

Q. Because the betting agency thinks it is you doing the betting?

A. Yes, it's in my name. It has to be - the betting - it's in my name.[185]

DETECTIVE SENIOR CONSTABLE CHRISTOPHER GROVES

5.150 Groves was a work colleague of Williams' in the Homicide Squad. He gave evidence before the Commission on 5 and 6 November 2013.

5.151 Groves was examined about his involvement with Williams in setting up and operating betting accounts that were established in Groves' name in July 2012 with Luxbet, Bookmaker, Sportsbet, Sportingbet, IASBet, Betstar, Centrebet and Bet 365. A sum of $22,240 was deposited into those accounts and the accounts were used between 28 July 2012 and 18 September 2012 to place

[185] Ex 61 AC, PIC Transcript, B Reily, 5 November 2013, pp. 26:38-28:29

several bets totalling $320,696.89. Free bets totalling $1,850 were obtained on opening the accounts.

5.152 Groves said that Williams was a work colleague and friend.[186] Groves said that he became involved in gambling with Williams in July 2012, very shortly after he had a conversation *"about him* [Williams] *using other people's accounts"*.[187] In that conversation Williams told Groves that he had already opened accounts in the names of at least four friends.[188]

5.153 Williams had explained to Groves the reason for using other people's account. Groves said:

> *A. Yep. Yep. That was the conversation in the car. He was talking about using other people's accounts with his friends. He told me that his friends had been stopped from using their accounts because they were winning too much and what the agencies do, the betting agencies, they don't want them - they don't want to lose, so they - sorry, I'm just a bit nervous.*
>
> *…*
>
> *A. They - they - so they've been stopped from using their accounts and so they can't - they can't bet, they can't bet big, so they use other people's accounts in doing that.*
>
> *…*
>
> *A. … So him* [Williams] *and a group of people who I believed to be his friends, being close friends, they had a lot of money, they were professional punters or betters or whatever you call them; that's all they do every day. Their accounts had been closed or stopped or reduced in betting and so they use other people's accounts to – so they can bet*.[189]

5.154 Groves said that it was explained to him by Williams that the reason for using other people's accounts was to get around the restrictions that applied to the professional gamblers.[190] From his initial conversation with Williams, Groves knew that one of those gamblers was Smith. He came to know that Fletcher and Azzopardi were also involved.[191] At one point in his evidence he said *"I think so"* when asked if he had known from the very beginning that Fletcher was involved.[192]

5.155 Groves gave the following account of how he became involved:

> *Q. In that first conversation, did Mr Williams ask you whether you would be prepared to be involved?*

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[186] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 4:38

[187] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 7:6-7:14

[188] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 8:4-8:35

[189] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 8:39-9:32

[190] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 9:26-9:32, 11:5-11:9

[191] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp.9:43-10:18

[192] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 21:31-21:33

A. No, it didn't happen that way. I started to ask questions about it. I asked whether it was legal or not and we spoke about as long as you give - as long as I gave him consent to use those accounts, and it was legal, I asked if it would affect me getting a loan later on down the track in any way. These are just questions I'd asked him and he said no. I asked if anyone could do it and he goes - he said yes. I asked "Can I do it?", and he said yes. These are just the sort of things I can remember from the conversation. I asked if his account had been stopped. He said, "What do you think?", which led me to believe it was stopped. I asked the question why these people had their accounts stopped and I think we've gone through that. I asked a number of questions to make sure before I said yes and I did - "Can I be part of this", in that sort of way. I asked a number of questions to make sure it was okay and, as I said, I trusted Tony Williams in what he was telling me.

Q. All of those questions that you just asked were designed to satisfy yourself that this was, if you like, above board or legal?

A. Yes, yes. [193]

5.156 Groves agreed that the arrangement he entered into with Williams could be viewed as a deception of the corporate bookmakers. He agreed that the deception enabled Williams and his gambling friends to make bets with corporate bookmakers that the corporate bookmakers did not want to take. He agreed that what was being done was the obtaining of a benefit by deception.[194]

5.157 The following questions and answers also occurred:

Q. But that was the reason for the scheme, wasn't it? The whole reason it was necessary to set up an account in your name was to allow people who had been restricted to bet?

A. Yes.

Q. And you didn't see that as a problem; is that correct?

A. No. As long as I gave them consent to use my accounts, I didn't see it as a problem. In hindsight, yeah, it was probably a stupid decision to make and I'm an idiot for doing it and I should have thought about it a little bit more.

Q. Just going back to that last answer - and part of your answer was that they had your consent - how did that impact upon whether or not the betting agency was being deceived?

A. Well, it was not my intention to deceive the betting agencies. Okay? I may have known that that might have been the case, as in they would be using my accounts, but it was not - my intention was to allow them to use my accounts under my consent. Now, if it was anyone else that approached me to ask me to do that, I wouldn't have done it, but because it

[193] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp.11:30-12:7

[194] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 12:32-13:32

was Tony Williams - as I said, I trusted him, I believed in what he said and, like I said, I looked up to him.[195]

5.158 Groves was examined about certain transactions that appeared on his Police Credit Union account. The transactions included several deposits from Williams, including a deposit of $15,200 on 26 July 2012 and a deposit of $2,400 on 28 July 2012, and subsequent outgoings to nine different corporate bookmakers. Groves was asked if the amounts of money involved would have made any difference to his decision-making. He said that he *"would have expected large amounts"*, given that Williams' friends were *"professional gamblers".* However, he also said that he was surprised when he saw the combined value of those two amounts *"go into"* his *"account"* and said that he was *"a little bit concerned but … trusted Tony Williams. I trusted him a lot, actually."*[196]

5.159 Groves said that he was not *"too concerned"*, because he had asked Williams questions before he entered into the arrangement with him. The following question and answer then occurred:

> *Q. But you asked the questions to a person who had an interest in the scheme. You didn't go to another officer and ask the questions; you asked Mr Williams?*
>
> *A. Well, I trusted him. He's a member of the team and if you can't trust a member of the team in police work, I think you've got - there would be problems and he's a well-respected person and a senior investigator and, yes, I looked up to him. I trusted him a lot*. [197]

5.160 Groves said that, had it not been Williams who came to him with the arrangement, he would have applied a clearer head to the situation and "*would have questioned it more".* [198]

5.161 Groves was not involved in making any of the transactions from his Police Credit Union credit card account to the corporate bookmakers and could not say who may have been responsible for making the transactions. He said: *"I can only say I gave permission to Tony Williams to use my account and I also found out halfway through that other people were using the accounts".* Those other people included Smith and Azzopardi and may also have included Fletcher.[199] As to the monies that were deposited into his account by Williams, Groves was only involved in transferring those monies from his bank account to his credit card account.[200]

5.162 Groves was then asked about deposits of $14,578.23, $17,200 and $5,227.50 that were made to his bank account, respectively by Bet 365, Bookmaker and Luxbet. He said that those amounts represented *"winnings"* from the betting

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[195] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 22:33-23:10
[196] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 17:7-19:10
[197] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 19:23-19:30
[198] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 23:33-23:43
[199] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 21:8-21:29
[200] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 29:33-29:38

accounts.[201] He subsequently transferred $14,000 to Williams and $20,427.50 to Fletcher. The transfer to Fletcher was made on instructions from Williams. [202]

5.163 Groves did not know if other members of the Homicide Squad were involved in similar arrangements with Williams. [203]

5.164 Groves stated that, after accounts were set up in his name, he had looked up the terms and conditions of one and possibly two corporate bookmakers and was satisfied that the only restriction that applied to betting accounts *"was that you weren't allow to let … a person under the age of 18 use your account".* He could not remember which of the corporate bookmakers' terms and conditions he viewed but recalled that the terms and conditions were about two or three pages in length.[204]

5.165 In explaining his involvement, Groves said that he was *"motivated by money"* and existing gambling debts.[205] He said that Williams had been unaware of his gambling debts when he entered into the arrangement with him. However, he said that he had spoken to Williams about his gambling debts in December 2012.[206]

5.166 Groves was shown each of the account statements for betting accounts that were opened in his name with Luxbet, Bookmaker, Sportsbet, Sportingbet, IASBet, Betsar, Centrebet and Bet 365. He said that he did not make any of the bets that were placed on any of those accounts and agreed he had not contributed any money to any of the bets that were made. In relation to one account which had an address in Parramatta, he said: *"They're not the details I gave Tony Williams".* [207]

5.167 Groves was also asked about a computer *"chat session"* between persons identified as *"Roisin"*, who appeared to be an employee of Luxbet, and *"Chris Groves".* The chat session related to free bets that the person *"Chris Groves"* claimed to have not received from Luxbet. Groves said that he did not engage in the chat session.[208]

SENIOR CONSTABLE TODD SEYDLER

5.168 Seydler was a former work colleague of Smith's in the Tactical Operations Unit. At the time of giving evidence Seydler was attached to the Quakers Hill Local Area Command.

5.169 Seydler gave evidence before the Commission on 6 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Seydler's name in October 2012 with Luxbet, Bookmaker, Sportsbet, IASBet,

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[201] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 30:22-31:21
[202] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 34:2-34:14
[203] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 21:3-21:6
[204] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 23:36-27:33
[205] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 32:37-32:42, 37:30-37:42
[206] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 34:16-34:31
[207] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, pp. 35:10-37:17
[208] Ex 114 AC, PIC Transcript, C F Groves, 5-6 November 2013, p. 38:15-38:18

Bet 365 and Centrebet. The accounts were used between 3 November 2012 and 13 January 2013 to place several bets totalling $33,838. Free bets totalling $2,750 were obtained on opening the accounts.

5.170 Seydler understood that he had been summoned to attend the Commission to give evidence in relation to *"betting"*.[209] He said he had been informed by Smith six to eight months earlier that Seydler was *"going to be spoken to by someone in regard to this matter"*.[210]

5.171 Seydler said that Smith had opened one *"account"* in Seydler's name of which he was aware. Seydler became aware, from looking at bank statements, that more than one account was opened. He believed that there were *"a number of them"* but did not know how many.[211]

5.172 Seydler said that he became involved with Smith after he heard that *"a number of people in the office … were setting up accounts*" with Smith and *"and he was giving them $500 and basically getting $1,500 worth of bets"*. [212]

5.173 Seydler had only spoken to Smith about the arrangement. He said that Smith had come to him with an offer of $500 for allowing him to set up an account in Seydler's name. Seydler agreed and was paid $500 in cash. [213]

5.174 Seydler could not recall whether he was paid before or after any accounts were opened. He recalled only that he provided Smith with his driver's licence and bankcard, which Smith photocopied.[214] Seydler said that he provided his identification documents to Smith and, on instructions from Smith, arranged for his identification documents to be verified by a Justice of the Peace. Seydler said that this was done to enable Smith to facilitate the use of an account in Seydler's name.[215]

5.175 Seydler said that he did not know what he was getting paid $500 for and said that he was *"dumb to it".* However, he denied that he was *"deliberately dumb to it"* or that he shielded his eyes from what was being done. He said that he *"trusted"* Smith. He agreed that he did not ask any questions about the lawfulness of what was being done and said that he *"didn't believe that he* [Smith] *was going to put me in any – harm's way whatsoever"*. [216] Seydler said that he also came to the view that there was nothing wrong with what was being done, as *"a number of blokes in the office"* were involved. He said: *"If everyone else is there, well, you know, there can't be anything wrong with it".*[217]

5.176 Seydler denied that he had taken the view that he did not need to hear anything about the legality of the arrangement:

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[209] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 5:16

[210] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 5:29-6:4

[211] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 7:31-8:31

[212] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 8:38-8:43

[213] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 9:2-9:36

[214] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 10:2-10:7

[215] EX 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 22:40-23:18

[216] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 10:9-10:44

[217] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 11:20-11:24

Q. Didn't you take the view that you didn't need to hear anything; you just wanted the $500 and that was that?

A. Sorry?

Q. Didn't you take the approach that you didn't need to hear anything about the legality of this or what Mr Smith was involved in; you just pocketed the $500 and gave over your identification documents and let him do whatever it was he was doing?

A. No, not at all. He gave me $500 because he was going to open an account with $1,500 betting money in it. I don't know the account that he was opening. That is all that I was aware of and I gave him consent to do that. Everything else I don't know. [218]

5.177 As far as Seydler knew, the result of the operation was that Smith *"got $1,500 worth of betting and that was it"*. [219]

5.178 Seydler said that he was aware that Smith made money from the venture. Smith had asked him to transfer $2,670 in November 2012. A month later, Smith told him that *"his bookie had transferred $30,000 into my* [that is, Seydler's] *account".* Smith asked Seydler to transfer that amount to him, which Seydler did. Seydler said that he was concerned about the amounts of money that were going through his bank account and said that he had said to Smith: *"I'll transfer this and then that's it".* However, Seydler said that he did not ask Smith any questions about the $30,000 that was deposited into the account and could not recall whether Smith had told him that the money represented winnings.[220]

5.179 A lawfully intercepted telephone conversation between Smith and Seydler which took place on 14 December 2012 included the following:

SMITH: I'm just ringing up to let you know that, that um, money should be hit – Interference - your PCU [Police Credit Union] *account um, probably on Monday or Tuesday.*

…

SMITH: if you, to transfer the money to me, you'll have to go into the um, the PCU at Penrith and just um, give them my account details and get 'em to transfer it.

SEYDLER: Oh okay. Can't I do it over the net?

SMITH: Na 'cause there's too much …

…

SMITH: Well it's, it's, it's gets um, thirty grand.

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[218] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 11:41-12:7

[219] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 12:12-12:13

[220] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 12:31-14:1

SEYDLER: Oh you're joking?

…

SMITH: keep, like when it comes in, you'll get thirty grand in there. When you, when you transfer it to me, just transfer um, twenty nine thousand six hundred, so keep four hundred for yourself.

SEYDLER: So twenty, twenty nine six hundred to you?

SMITH: Yeah so you keep, you keep four hundred and um,

SEYDLER: Oh okay.

SMITH: yeah transfer the rest to me and then I'll, I'll sort it out.

SEYDLER: Ok then (ui) SMITHY, crazy times.

SMITH: It's not all, it's not all winnings, trust me it's not as um,

SEYDLER: – Laughs –

SMITH: it's not as impressive as it seems.

SEYDLER: Oh mate I, I don't need to hear anything. I'm – Laughs –

SMITH: No.

SEYDLER: It's all good …[221]

5.180 The following questions and answers occurred about that conversation:

Q. You told us a little earlier that you, in that conversation, had told him that, "This has to be the end" and you wanted the account closed?

A. Not --

Q. That was a lie, wasn't it?

A. No, it wasn't a lie. That conversation may have taken [place] *later but whether it was on the phone or in person, I can't recall, but --*

Q. I thought your evidence --

A. I was going to - I beg your pardon?

Q. I thought your evidence was he rang you and spoke to you about the $30,000 and in that conversation you told him you wanted this over with because that was too much for you to be involved in?

A. Well, it wasn't because that was the conversation there.

[221] Ex 24 AC, Transcript of telephone call between Marc Smith and Todd Seydler, 14 December 2012

Q. Well, you say that now because you've heard the conversation?

A. Well --

Q. What I'm suggesting is that what you were saying to us earlier was made up?

A. No. [222]

5.181 Later in his evidence Seydler said that the account which he wanted to close was a personal bank account, and not the betting accounts, which he was going to close in any case because he had no need for that account.[223]

5.182 Seydler also denied that he had meant to convey that there was something suspicious about what was going on, when he said to Smith *"I don't need to hear anything".* He said that he *"trusted"* Smith*, "so I didn't need to know what he was doing".* He went on to say that he did not think that Smith *"was doing anything wrong."*[224]

5.183 Seydler was shown account statements for the betting accounts that had been set up in his name with Luxbet, Bookmaker, Sportsbet, IASBet, Bet 365 and Centrebet. He agreed that the accounts had been set up in his name; that he played no part in placing any of the bets on any of the accounts; that he contributed no money to the setting up or the accounts; and that the accounts, while in his name, were Smith's accounts.[225]

5.184 Seydler said that he first learnt that Smith had opened multiple accounts, *"just before or just after"* the $30,000 was transferred to his account, when he received a letter from a corporate bookmaker, who he thought might have been Bet 365 or Luxbet, stating that an account had been set up in his name.[226] The following questions and answers then occurred:

Q. When you received the letter from, whether it be Luxbet or BET 365, what did it tell you?

A. I didn't read it. I didn't - yeah. I was - yeah, I didn't read it, but I was - I think I was off work sick at that stage. I had a lot of things happening in my life at that - during that period where I was, yeah, under stress and that.

Q. What did you do with it, if anything?

A. I can't recall. I put it in me drawer, threw it out, I don't know. I can't recall, sorry.[227]

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[222] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 14:46-15:25
[223] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 24:13-25:25
[224] Ex 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 17:7-17:11
[225] EX 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 26:29-27:39
[226] EX 24 AC, PIC Transcript, T S Seydler, 6 November 2013, pp. 18:20-19:13
[227] EX 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 20:27-20:37

5.185 Seydler was then asked about a letter he received at his home address from Bet 365, which was recovered from a search of Smith's home. The relevant parts of the letter stated as follows:

> *It is important that we are able to positively identify our customers to comply with both regulatory requirements and to help ensure the security of accounts. We call this process KYC or Know Your Customer.*
>
> *Part of this process is our Postal Verification Code (PVC) check. By providing your unique PVC you confirm that you are over 18 years of age and the full details entered on your account are true and complete in every respect*.[228]

5.186 Seydler recognised the letter but did not recall making any arrangements for it to be provided to Smith and could offer no explanation for how it came to be in Smith's possession.[229]

SENIOR CONSTABLE MICHAEL INNES

5.187 Innes was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 6 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Innes' name in June 2012 with Luxbet, IASBet, Sportingbet and Centrebet. The accounts were used between 28 June 2012 and 8 August 2012 to place several bets totalling $11,268. Free bets totalling $1,000 were obtained on opening the accounts.

5.188 In his evidence about his involvement with Smith, Innes said that Smith had asked him if he wanted to *"make a few dollars".* Innes said that Smith had told him that *"he* [Smith] *wanted to open a number of accounts"* in Innes' name, to obtain a free bet from the corporate bookmakers. Under the arrangement, Innes said that he and Smith would share the *"free bet money"*.[230]

5.189 Innes said that Smith approached him again at some point, in relation to allowing other people to have access to the betting accounts that were set up in Innes' name. Innes said that he was not *"comfortable"* with that proposal and as far as he knew *"that was the end of it".* In the course of his involvement Innes said that he assisted Smith in activating some betting accounts, which he did by *"sending in some further documentation".* [231]

5.190 Innes said that he knew, from talk around the office, that Immens, Robertson, Reily and Foster were involved with Smith.[232]

5.191 Innes was asked about certain transactions that appeared on his Police Credit Union account. The transactions included a transfer of $1,400 from Smith. Innes said that he had provided his Police Credit Union account details to Smith and said the money that was deposited *"related to him putting money*

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[228] EX 24 AC, Letter to Todd Seydler from Bet 365

[229] EX 24 AC, PIC Transcript, T S Seydler, 6 November 2013, p. 21:18-21:41

[230] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 5:10-5:22

[231] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, pp. 5:40-6:21

[232] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 12:10-12:12

into my account to make a bet". The following questions and answers then occurred:

> *Q. And what was the purpose of giving him your details?*
>
> *A. The purpose was for him to make a bet on my behalf using one of –*
>
> *Q. Sorry, on your behalf?*
>
> *A. Yeah, using those accounts.*
>
> *Q. What do you mean a bet on your behalf?*
>
> *A. He would make a bet for me.*
>
> *Q. Well, what bet did you ask him to put on for you?*
>
> *A. What bet?*
>
> *Q. Yes.*
>
> *A. I don't recall the bet.*
>
> *Q. Did you tell him what bet you wanted to put on?*
>
> *A. No.*
>
> *Q. Was it like me asking my friend to go and put a bet on at the TAB for me?*
>
> *A. That's how it was explained to me initially, yes.*
>
> *Q. But it wasn't anything like that at all, was it?*
>
> *A. In my mind it was.*
>
> *Q. Do you still see it that way?*
>
> *A. Yeah … I do, yes*.[233]

5.192 Innes said that Smith had explained it to him in those terms. He said:

> *A. So Marc Smith said to me initially, when he asked me about this scheme, as you put it, that he would bet – make a bet for us, or for me, and he would lay a bet and that would enable us to get the free bet. So in my mind all I was doing was getting a free bet which was on offer from the sporting companies*. [234]

[233] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, pp. 14:30-15:10

[234] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 15:32-15:37

5.193 Innes said that he was to be paid for his involvement and said that he was paid. He could not remember the amount he was paid but said that *"it wasn't a large sum of money, maybe a few hundred dollars … I would say $300"*. [235]

5.194 Innes was asked about outgoing transactions to corporate bookmakers from his Police Credit Union account after Smith deposited $1,400 into his account. Innes said that he believed that those transactions related to the bets that were made through different betting accounts. [236]

5.195 Innes knew that Smith was going to open more than one account in his name. The terms of the agreement he had with Smith was that Smith would place *"one bet per company"*.[237]

5.196 The following questions and answers then occurred:

> *Q. And did you understand the betting company would be led to believe that the account was your account?*
>
> *A. It was my account, yes.*
>
> *Q. That's certainly what the betting company believed, it was your account?*
>
> *A. Yes.*
>
> *Q. But it wasn't really your account because you weren't making the bets, Mr Smith was?*
>
> *A. Yes, I understand that but I did know that he was doing it*. [238]

5.197 Innes went on to say that he did not contribute any money to any of the betting accounts and played no role in what bets were made. [239]

5.198 The following questions and answers also occurred:

> *Q. And you understood that the betting company involved was giving something away, that is, a free bet?*
>
> *A. That's right.*
>
> *Q. And that that was something of value?*
>
> *A. Yes.*
>
> *Q. Do you agree with that?*

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[235] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, pp. 15:39-16:4
[236] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 16:20-16:24
[237] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 16:26-16:37
[238] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 16:39-17:3
[239] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 17:5-17:10

A. Yes, yes.

Q. It had financial worth?

A. It did, yes.

Q. And they were giving that away - and what was your understanding as to why they would give that thing away?

A. If I had made a bet through the agency, I would get a bet back, for free, to a certain value.

Q. But you didn't make any bets?

A. But I - Marc Smith made the bet. I had knowledge that he was doing it.[240]

5.199 Innes was shown the records for each of the accounts that were set up in his name with Luxbet, IASBet, Sportingbet and Centrebet. He said that he had no control over those accounts and understood that they were used by Smith.[241] He was taken to the multiple bets that had been placed on one of the accounts and said that the volume of bets that were placed on the account did not accord with the agreement he had with Smith. He said that this was because the agreement was that the betting accounts would be used to lay a bet and to secure a free bet.[242]

5.200 In the course of being examined Innes was asked about a matter unrelated to his involvement in gambling. This concerned an access he made on the Computerised Operational Policing System (COPS) on 29 November 2012[243] on a person co-named MC3.[244] Innes did not recall that person's name and could not recall if he had been asked by Smith to look up that person on the police system.[245] He also denied that a text message exchange he had with Smith on 7 November 2012 related to the access he made on COPS.[246] The text messages stated as follows:

SMITH: Gotta little job for u. I'll email u details. $100 for your trouble. When u back in Sydney?

INNES: Next week… I love free money.[247]

5.201 The following questions and answers occurred about whether Inness could have performed the COPS access on MC3 for Smith:

Q. Could it have happened?

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[240] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 17:12-17:32

[241] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, pp. 17:42-18:15

[242] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 19:18-19:46

[243] Ex 59 AC, COPS access by Innes on 29 November 2012.

[244] The real name of this person is subject to a non-publication order by the Commission

[245] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, pp. 7:7-8:2

[246] Ex 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 9:11-9:14

[247] Ex 59 AC, Exchange of text messages between Marc Smith and Michael Innes, 7 November 2012

A. That I've accessed the computer on his behalf?

Q. Yes.

A. If he came and approached me and asked me to access the police system, I would generally ask why and there'd be a valid reason why and based on that valid reason, I may have conducted the inquiry.[248]

SENIOR CONSTABLE BERNARD GOONAN

5.202 Goonan was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 6 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Goonan's name in July 2012 with Luxbet, Bookmaker, Sportsbet, Sportingbet, Bet 365 and Centrebet. The accounts were used between 21 July 2012 and 25 July 2012 to place several bets totalling $6,255. Free bets totalling $2,400 were obtained on opening the accounts.

5.203 Goonan said that he became involved with Smith in July 2012, after they had a conversation. By then he knew that other people within the Tactical Operations Unit were involved in gambling with Smith. He said that he knew that Smith had opened accounts in their names and that they had received *"not more than $300"* each. He knew that Zeibots, Guest and Immens were involved.[249]

5.204 In terms of his own involvement, Goonan said that he could not recall if he made the approach or if Smith had made the approach. He said that he did not remember the particular conversation he had with Smith. However, he did remember having asked Smith whether what was being proposed was *"illegal"* and remembered that Smith told him it was not illegal.[250]

5.205 Goonan said that asked Smith whether what was being proposed was illegal for the following reasons:

A. Because I felt a little bit hairy about handing over details and he was going to place bets on my behalf or something like that. I just thought it was a proper question to ask. Something I should ask. [251]

5.206 Goonan said that he came to the view that what was being done was not illegal, because the amounts involved were *"small"* and because so many of his colleagues were involved and because it was being done so openly by them. [252]

5.207 Goonan said that he was also assured by Smith, as he indicated in the following questions and answers:

Q. Did you think that there was any deception being perpetrated on the betting agencies?

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[248] E x 59 AC, PIC Transcript, M P Innes, 6 November 2013, p. 10:39-10:46

[249] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, pp. 5:41-6:26

[250] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, pp. 6:41-7:1

[251] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, p. 7:4-7:7

[252] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, p. 7:9-7:27

A. No, I - not really. I asked Mark many times, definitely more than once, "Are you sure this is legal?" I wanted to be sure and I was.

Q. If you asked him many times, that must indicate that you had suspicions about it?

A. I felt a bit - I got a call once about transactions on my account from PCU [Police Credit Union] *and they said, "Do you authorise these?" I said, "I authorise them", but I didn't feel - like, I felt uncomfortable then and I either texted Mark or I called him, I think I may have texted him, and said, "Mark, are you sure you are the only one who got access to my accounts, mate? Is this all legal?", or words to that effect. I asked him - I looked for an answer from him. It was always, "It's all legal; it's not illegal." I remember distinctly being told that, "I'd never do anything to, you know, put you at risk or get you into trouble", or words to that effect, and I trusted him on that, yeah, implicitly.*[253]

5.208 As to the arrangement that he entered into with Smith, Goonan gave the following evidence:

A. The impression I was left with, well, my recollection of the conversation was that he was going to put bets on under a Sportsbet or some - an account, a betting account, that he'd somehow - he'd put bets on but they would be matched in value, or something, by Sportsbet, it was an incentive to open an account, and that was the impression I was left with.

…

A. In my head the mechanics of that arrangement would be something like he puts on $5 and it's matched in value [by the corporate bookmaker]*, like, another $5, so there'll be a total bet value of $10. That's the impression I had of it.* [254]

5.209 Goonan said that he could not remember if the arrangement with Smith involved opening one or multiple accounts.[255]

5.210 Goonan said that did not have an understanding of why the corporate bookmakers would match bets but accepted that it was *"an incentive"* for new customers to join. He also accepted that the purpose of opening up accounts in his own name was so that Smith would obtain the benefit of a matched bet.[256]

5.211 Goonan was shown the account statements for each of the accounts that were set up in his name with Luxbet, Bookmaker, Sportsbet, Sportingbet, Bet 365 and Centrebet. He said that he played no part in making any of the bets that were placed on any of the accounts, apart from the fact that his name was

[253] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, p. 12:20-12:40
[254] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, pp. 7:41-8:21
[255] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, p. 8:9-8:14
[256] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, p. 8:31-8:39

used on the accounts.[257] For his role he said that he received a payment of *"around $300"* in cash.[258]

SENIOR CONSTABLE ADAM GUEST

5.212 Guest was a work colleague of Smith's in the Tactical Operations Unit. He gave evidence before the Commission on 6 November 2013 about his involvement with Smith in relation to betting accounts that were opened in Guest's name in December 2012 with Luxbet, Bookmaker, IASBet, Sportsbet and Bet 365. Guest understood that he had been summoned to give evidence about Smith and online betting.[259] Guest's betting accounts were used between 21 December 2012 and 13 January 2013 to place several bets totalling $40,564. Free bets totalling $2,070 were obtained on opening the accounts.

5.213 Guest said that he became aware that several of his colleagues in the Tactical Operations Unit were involved with Smith in setting up gambling accounts. He said:

> *A. The first time I spoke to Senior Constable Smith we were in the office at work and I'd heard it around the office that there was some, like, betting, online betting going on, and I said, "Oh, Smitty, what's the deal with this whole betting thing that's going on?" and he goes, "Oh, do you gamble much or anything like that?" and I said, "No, not really" and he said, "Well, it's online betting using - utilising the free bets" and he said, "There's a bit of a loophole there" and I said, "Oh, loophole, what do you mean?" and he said, "Oh, it's a little bit too complicated to explain." I said, "Oh, are you allowed to* [do] *that sort of stuff?" and he said, "Yeah, absolutely" and he goes, "Heaps of guys in the office have done it" and that was basically the conversation I had with him then.*
>
> *Q. What did you understand him to mean when he said to you that there was a loophole?*
>
> *A. Well, I thought it odd at the time and so I said, "Oh, are you allowed to do that, is that legal?" and he said, "Yeah, absolutely", he says, "There's no problem with it, heaps of guys in the office have partaken in it" and I didn't give it any much thought than that*.[260]

5.214 Goonan said that he believed that, when Smith spoke to him about the loophole, it related to obtaining free bets upon opening betting accounts with the corporate bookmakers.[261]

5.215 Guest said that he knew that his colleagues who entered into an arrangement with Smith were each paid $500.[262]

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[257] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, pp. 11:19-12:9

[258] Ex 57 AC, PIC Transcript, B S Goonan, 6 November 2013, p. 12:15-12:16

[259] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 4:37

[260] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 5:25-5:46

[261] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 10:17-10:24

[262] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 6:20-6:26

5.216 Guest could not name any of the officers in the Tactical Operations who were involved in the conversations he overheard around the office and did not have a specific memory of having had a conversation with anyone. However, he *"would say* [that] *80 per cent of the office* [was] *involved".*[263]

5.217 Two weeks after Guest's initial conversation with Smith, Guest said that Smith asked him if he was *"interested in doing this betting thing online".* Guest said that he asked Smith what it entailed. Guest gave the following evidence of what was said:

> *A. ... he* [Smith] *said, 'Well, I'll give you - we get $500 and you need to provide your bank card and three forms of ID* [identification] *and a letterhead where you live" and I said, "Is that the normal thing that you do?" and he goes, "Yeah, it's fine, everyone in the office has done exact same thing."* [264]
>
> …
>
> *A. … We were in the office. I think he said, "Oh, Guesty, are you interested in doing this betting thing?" and I said, "Oh, what does it entail? What do I have to do?" and he said, "You've got to give me your bank card and three forms of identification and, like, the state where you live" and I said, "Is that the normal thing that you have to do?" and he said, "Yeah, all the same guys have done it in the office." And then I gave him, later that day, or the next day, I wasn't too sure, but that's when I gave him my bank card and forms of ID. I photocopied it and gave it to him*. [265]

5.218 Guest said that he was subsequently paid $500 by Smith. [266] Guest said that he believed that he received that money after an amount of money was deposited into his account. He was told by Smith to keet $500 and transfer him the difference.[267]

5.219 Guest said that he did not think it was *"unusual"* that he provided his identification documents to Smith, although agreed that he would not usually hand his identification documents over to someone else. He said that he *"work*[ed] *with* [Smith] *and … trust*[ed] *him very much"* and thought that he was providing his identification to him for a purpose that *"was completely legit and above board"*. [268]

5.220 Guest confirmed that he provided Smith with certified copies of his identification documents. The provision of those documents was the subject of a lawfully intercepted telephone conversation that was played at the hearing and a lawfully intercepted text message that was also shown.[269] Guest confirmed that he and Smith were the parties to those communications and confirmed that the communications related to the provision by him of certified

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[263] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 7:5-7:17

[264] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 6:34-6:38

[265] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 8:12-8:22

[266] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 8:34-8:35

[267] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 8:38-8:44

[268] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 9:14-9:19

[269] Ex 73 AC, Transcript of telephone call between Marc Smith and Adam Guest, 20 December 2012; Ex 73 AC, Exchange of text messages between Marc Smith and Adam Guest, 24 December 2012

identity documents.[270] In his evidence Guest also agreed that those documents were needed to open accounts in his name, so as to obtain free bets from the corporate bookmakers.[271]

5.221 Guest said he was never told how many accounts would be opened in his name and as far as he was concerned Smith could have opened 100 accounts and that would have been *"okay".* Nor did he know how many bets were going to be placed on the accounts that Smith would open.[272] Guest said that there was no discussion about who would be placing the bets but he assumed it would have been Smith.[273]

5.222 Guest was asked about certain transactions that appeared on his Bankwest bank account. The transactions included a cash deposit of $5,950 on 20 December 2012, which was followed by a series of outgoings to different corporate bookmakers. Guest said that the initial deposit was made by Smith and assumed that the outgoing transactions were to betting accounts that had been set up. To his knowledge, those outgoing transactions were made by Smith.[274]

5.223 Guest was asked about deposits which were made to his Bankwest bank account by Luxbet, which included a deposit of $5,897 and a deposit of $3,916. Guest said that he did not know what those monies represented and could not say if they were winnings.[275] However, he agreed that he transferred $5,897, $3,916 and $1,980 to Smith. [276]

5.224 Guest said that he received a text message from Smith at some point, in which Smith asked him to transfer $5000 to his account.[277] This was confirmed by a lawfully intercepted text message that was shown at the hearing.[278]

5.225 Guest was shown each of the account statements for the betting accounts that had been set up in his name with Luxbet, Bookmaker, IASBet, Sportsbet and Bet 365. He said that he played no part in any of the transactions that appeared on those accounts and that he had no knowledge of the number of accounts that were opened or the number of bets that were made on them.[279]

5.226 Guest said he did not contribute any money to any of the betting that was conducted on the accounts. He said that he did not know with which corporate bookmakers accounts had been opened and did not have any of the

[270] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, pp. 20:34-21:47
[271] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, pp. 18:19-18:42, 20:38-21:47
[272] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 10:8-10:35
[273] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 10:45-10:47
[274] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, pp. 12:33-13:27
[275] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, pp. 15:44-16:44
[276] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, pp. 16:21-17:6
[277] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 15:36-15:38
[278] Ex 73 AC, Text messages passing between Marc Smith and Adam Guest, 3 January 2013
[279] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 17:32-17:39

passwords or user names for any of the accounts and performed no transactions on the accounts themselves.[280]

5.227 Guest said that he did not believe that there was any deception involved in Smith setting up accounts in Guest's name so as to obtain free bets. Guest said that he understood that the reason he was asked to provide certified copies of his identification was to convince the corporate bookmakers, in order for them to part with free bets, that he, and not Smith, was genuinely opening an account with them. However, Guest said that he saw nothing wrong with what occurred, because of the assurances he received from Smith and because so many of his colleagues had done the same thing.[281]

SENIOR CONSTABLE MICHAEL FOSTER

5.228 Foster was a work colleague of Smith's in the Tactical Operation Unit. He gave evidence before the Commission on 6 and 7 November 2013.

5.229 Foster was examined about his involvement with Smith in relation to betting accounts that were opened in Foster's name in October 2012 with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. The accounts were used between 30 October 2012 and 13 January 2013 to place several bets totalling $4,449.82. Free bets totalling $3,450 were obtained on opening the accounts.

5.230 Foster said that he knew that a number of his colleagues were involved with Smith in internet gambling. Foster said that he came to know that *"a couple of his* [Smith's] *mates"* had come up with a *"scheme"* to obtain *"credits"* from corporate bookmakers. Foster said that he was told by Smith that credits were obtained when an account was opened with a corporate bookmaker. Foster said that the *"scheme"* involved obtaining the credits and using the credits to bet. Foster said that he did not know the identity of any of the *"mates"* that Smith referred to.[282]

5.231 Foster said that he became involved in the arrangement after he was approached by Smith. Foster said he was told by Smith that, if he provided him with his details, Smith would open some accounts in Foster's name and would use the free bets he obtained to bet. Foster said that he was promised a one-off payment of $500 for his *"troubles".* As to what he did to earn $500, Foster said: *"I gave him basically my - just my details off my driver's licence and bank account number."* Foster said that Smith used those to open the accounts. [283] Under his arrangement with Smith, Foster said that he would not receive any of the profits that Smith might earn from gambling on the accounts.[284]

5.232 When he provided him with his details, Foster said that he told Smith that he did not want anyone else to have access to his details and was assured by Smith that the scheme was *"above board".* He gave the following evidence:

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[280] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, p. 13:29-14:2

[281] Ex 73 AC, PIC Transcript, A D Guest, 6 November 2013, pp. 18:44-19:17

[282] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, pp. 7:43-8:46

[283] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 8:20-8:39

[284] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 9:1-3

A. I specifically said to him that I don't want anyone else having these details. It took me a number of weeks to come around to it because I wasn't sure of it. I'm not a gambler, so I don't - I didn't really know how it all worked, but he assured me that he was going to be the only one with my details. Hence, why I did give it to him because I did trust him.

Q. And in that couple of weeks did you give some thought to what was being proposed?

A. Yeah, I - not outside it, because I wasn't really thinking about it, but when - like, when I'd bump into him he'd ask me, "Still all right?" I'd say to him, "Are you doing this? How does it work?", trying to find out more information from him, and he assured me it was all above board and it was, I guess, a loophole that he and his mates had sort of worked out, but he assured me it was a hundred-per-cent legal and - yeah.[285]

5.233 Foster said that he had no reason to disbelieve Smith and accepted his assurances.[286] However, he later gave the following evidence:

Q. If in the future one of your colleagues who you trust gives you a 100 per cent guarantee that something's lawful you're just going to do it, are you?

A. Yeah, there's lessons been learned out of all this; so yeah, no.[287]

5.234 Looking at it now, Foster also accepted that a deception was involved. The following question and answer occurred:

Q. But this wasn't anything magical about being inexperienced in gambling. This is like Grace Brothers or David Jones offering $50 gift vouchers to new customers and me arranging 100 of my mates to pretend that they were becoming new customers when they weren't, isn't it? It's got nothing to do with gambling. It's just conning the company into a belief that they're getting new customers when they're not. Isn't that the reality?

A. Well looking at it now, yes, I - yeah, but at the time, I guess being naive, I just - I didn't think that much of it, like, in term - into the intricate details of it after he assured me on numerous occasions that it was legitimate, so I took that off his word. [288]

5.235 Foster denied that he knew at the time what was being done was *"shonky"*.[289]

5.236 Foster was examined in relation to certain transactions that appeared on his St George bank account. These included a cash deposit of $4,450 on 23 October 2012. It was Foster's understanding that that money had been put into his account by Smith to facilitate the arrangement.[290] He was then asked about a series of outgoings from his account to corporate bookmakers. Foster said that he understood that those transactions were conducted by Smith and

[285] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 9:12-9:29
[286] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 9:31-9:39
[287] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 26:41-45
[288] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, pp. 9:41-10:6
[289] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 12:21-12:26
[290] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 10:33-10:46

represented money going from his bank account to the betting accounts that were set up in his name. [291]

5.237 Foster said that he did not know the number of accounts that Smith was going to set up in his name and was not concerned to know. [292]

5.238 Foster was shown the records for each of the betting accounts that were opened in his name with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. He said that he had nothing to do with any of the accounts, other than providing his details which Smith used to open the accounts.[293]

5.239 Foster said that it was his intention that Smith would have sole access to the accounts that were opened. However, he said that he did not make an arrangement with Smith or make Smith promose that none of Smith's friends would use the accounts.[294] Foster also agreed that once the accounts were opened, he was not concerned about what happened with them.[295] He said that his only concern was that Smith should have been the only person with access to his identification documents.[296]

5.240 Foster said that he had asked *"numerous"* colleagues in the Tactical Operations Unit if they were involved in the arrangement with Smith. He said that *"some said yes"* and *"others said no"*. He became aware that Besant was involved because he suspected that Besant attended the Commission to give evidence. At the time of his own involvement, Foster knew that Immens, Reily and Innes were involved. However, he could give no names for those officers who had said *"no"*.[297]

5.241 Foster said that there had been a number of discussions in the Tactical Operations Unit about Smith opening accounts. He said that those discussions took place *"in the open"* and that the consensus of those discussions was that what was being done was lawful. He said that, had he believed otherwise, he would not have become involved. [298]

SCOTT MULLER

5.242 Muller was a friend of Smith's. He gave evidence before the Commission on 7 November 2013.

5.243 Muller was examined about his involvement with Smith in setting up and operating betting accounts that were opened in Muller's name in November 2012 with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet and Bet 365. The accounts were used between 28 November 2012 and 11 December 2012

[291] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 11:1-11:18
[292] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 11:30-11:39
[293] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, pp. 12:37-13:18
[294] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 13:20-13:32
[295] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 14:4-14:7
[296] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 22:47-23:3
[297] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, p. 14:38-18:30
[298] Ex 63 AC, PIC Transcript, M J Foster, 6-7 November 2013, pp. 25:37-26:30

to place several bets totalling $22,593. Free bets totalling $3,450 were obtained on opening the accounts.

5.244 Muller said that he knew that he had been summoned to give evidence about his involvement with Smith in opening the accounts. [299]

5.245 Muller said that he had met Smith through a mutual friend, Jason Cursely. He said that he was with Cursley and Smith when Cursley had explained the proposal to Muller. Muller said that he was told that if he wanted to *"earn $500"* Smith would pay that amount for allowing him to open accounts in Muller's name. Cursley said that it was explained to him that the accounts were being opened for the purpose of obtaining money from the corporate bookmakers *"for joining up to bet".* Muller said that he had asked Cursely if he should *"trust"* Smith and was told, *"Yeah, he's a good feller. He's been a mate of mine for years"*. Muller said he agreed to participate and handed Smith his driver's licence and other personal documentation for the purpose of opening the accounts.[300] He said that he handed over those documents then and there. He said:

> *A. I gave him that stuff there on the table. I just said, "There you go" and he took a photo of my driver's licence and if he needed it - I said, "If you need anything, just ring me and ask me", because I believed that all he was doing was opening up these betting accounts, getting the money in and then he was betting it whether he'd lose, lost or win, but as long as, I was telling him, he didn't bet any of my money out of my account*.[301]

5.246 Muller said that a later point he also provided Smith with certified copies of his identification. Muller assumed that the certified copies were required *"to prove that it was actually me and he* [Smith] *wasn't getting it from someone else that didn't want it to happen".*[302]

5.247 Muller said that he was not required to contribute any money to the accounts and that he was to play no part in making any of the bets. He said that all of that was to be done by Smith.[303]

5.248 Muller was asked about a number of transactions that appeared on his National Australia Bank account. Apart from a transfer that he personally made to Smith he had no knowledge about any of the betting transactions that appeared on his account and attributed those transactions to Smith.[304] He recalled that the amount he transferred to Smith was *"a few thousand, 2-3,000, maybe".*[305]

5.249 Muller was shown account statements for the betting accounts that were opened in his name with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet and Bet 365. Muller said that he played no part in relation to the accounts,

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[299] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 4:39-4:43

[300] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 6:1-6:29

[301] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 7:16-7:23

[302] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, pp. 9:36-10:16

[303] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 7:28-7:39

[304] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, pp. 8:4-8:43, 10:18-12:34

[305] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 13:8-13:9

apart from providing his identification documents and his approval for the accounts to be set up. [306]

5.250 Muller said that he had had discussions with Smith about putting him in touch with other people who might become involved. Muller said that he mentioned it to his sister but that *"it never sort of eventuated".* [307]

5.251 A telephone conversation between Smith and Muller took place on 18 December 2012, which included the following:

> *MULLER:* [My sister] *said I could get you all her stuff tomorrow but I said I think you're doing all the boys first before he goes onto the girls.*
>
> *SMITH: Yeah I probably wait until the footy season starts with the girls, 'cause um, so I keep it locked (ui)*
>
> *MULLER: Just won't look as dodgy?*
>
> *SMITH: yeah, won't look as dodgy, yeah.*
>
> *MULLER: Yeah too*
>
> *SMITH: But um, that, that's cool, all, if all they, if they um, post all the certified copies to me on um, even if I just go and pick 'em up on, on Thursday or whatever.*
>
> *MULLER: Yeah*
>
> *…*
>
> *MULLER: I fuckin', I'll get* [my sister] *to send them to me now and I'll just, like a picture text on their mobile and I'll fuckin' send you that,*
>
> *SMITH: Yeah*
>
> *MULLER: is that good enough or not?*
>
> *SMITH: Yeah, yeah that's fine and um,*
>
> *…*
>
> *SMITH: And um, yeah so if you can organise with your brother-in-law all that stuff, I'll um, I'll give you the five hundred bucks cash and you can um,*
>
> *MULLER: Yeah*
>
> *SMITH: g-give him whatever you ah, whatever you want for that.*

[306] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 13:28-13:30

[307] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 16:8-16:12

MULLER: Oh mate. I'll give him five hundred. I was only gonna fuckin' rip off other cunts that fuckin' wanna earn four hundred bucks like people that aren't me mates.[308]

5.252 Muller confirmed that he had approached his brother-in-law about joining the scheme but said that his brother-in-law never provided him with his certified identification documents.[309] He also said that he was asked by Smith *"if I knew anyone that wanted to do it and earn some mone*y" but said that that did not eventuate. [310]

5.253 Muller was asked about his use of the words, *"Just won't look as dodgy"*, in the telephone conversation with Smith and gave the following evidence:

Q. I'm just looking at the words and trying to piece it together. And the idea was it wouldn't look as dodgy because girls don't tend to gamble but they might have a flutter during the footy season?

A. I assume so, yeah.

Q. And when you use the word "dodgy", can you explain why this was dodgy?

A. I'm just assuming that by him joining up people and not having input is, yeah, probably wrong.

Q. I mean, it's a bit of a - I don't know what the word would be but it's a bit of a deception on the betting agency; is that a fair comment?

A. Yeah, I'd say it would be, yeah.

Q. Yes, because the betting agency is giving away, if you like, a free bet because it thinks it's getting a new customer –

A. Yeah.

Q. - or many, many new customers but what they're actually getting is Mr Smith every time?

A. Mmm.

Q. Is that right?

A Yeah.

Q. And you acknowledge when I put it to you like that, that it's a bit of a deception?

A. Yes.

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[308] Ex 71 AC, Transcript of telephone call between Marc Smith and Scott Muller, 18 December 2012

[309] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 18:36-18:37

[310] Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, p. 19:21-19:43

Q. And you, obviously knew it then because you used the word "dodgy", which can only have one meaning --

A. Yes.

Q. – which is "a bit crook"?

A Yes.[311]

JASON CURSLEY

5.254 Cursley was a former police officer and friend of Smith's. He gave evidence before the Commission on 7 November 2013 about his involvement with Smith in setting up and operating betting accounts that had been opened in Cursley's name in November 2012 with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. The accounts were used between 20 November 2012 and 25 November 2012 to place several bets totalling $9,525. Free bets totalling $3,650 were obtained on opening the accounts.

5.255 Cursley had been working as an officer with the NSW Police Force when he first met Smith. He had left the Police Force but maintained a friendship with him.[312]

5.256 Cursley said that he became involved in opening betting accounts with Smith in the twelve months before he gave evidence and gave the following account of how his involvement came about:

A. I can't remember, to be honest. I think - it was just a - through conversation, "Do you have any gambling accounts?" I said "No" and he said, "Do you mind if I open some in your name?" and he goes - and I said, "Yeah, go for it." I didn't mind because I don't gamble. [313]

5.257 Cursley was asked if it had been explained to him by Smith why it was that he wanted to set up accounts in Cursely's name. Cursley gave the following evidence:

A. He explained it. I was really flippant about the whole thing because, to be honest, I didn't care. I never will open a gambling account, so I was sort of like, "Yeah, go for it", I didn't mind,

…

A. I can't, to be honest. I remember - but - the crux of the conversation, that's really all I remember, is that, "Do you mind if I use your details to open an account?" I said, "Yeah, fine, go for it; I don't mind." Perhaps why came into it, I would have asked, and it was just because the web sites, or whatever, give you credit for opening a new account and I sort of thought, well, I'm not going to use it.

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311 Ex 71 AC, PIC Transcript, S F Muller, 7 November 2013, pp. 17:33-18:26

312 Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, p. 5:13-5:45

313 Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, p. 6:31-6:35

…

A. I know the reason why he opened it, yeah, so I'm not sure whether he told me voluntarily or whether I queried it, but I just remember not really being too thoughtful on it. [314]

5.258 Cursley said that he was never told by Smith how many accounts he would open in Cursley's name but knew that a *"few"* corporate bookmakers were involved.[315] Cursley said that he provided Smith with *"whatever details you need to open the account"* and agreed that he provided Smith with copies of his driver's licence and credit card in order to facilitate the opening of the accounts.[316] On being played a lawfully intercepted telephone conversation between himself and Smith from 20 November 2012, Cursley confirmed that he provided Smith with certified copies of those documents.[317]

5.259 Cursley said that he had not *"gone into the moral or legal implications"* of what was being done but said that he had a sense that *"it might have been a bit dodgy".* He gave the following evidence:

Q. Did you think it was a bit dodgy?

A. I probably had a little bit of a sense that it might have been a bit dodgy. I probably justified that with the fact that they're giving away free money, basically, and if it's not in my name, it was their promotion, I guess, and I sort of just went, well, I suppose if it's available.

Q. Two things about that. One is it was in your name, wasn't it?

A. Yes, yeah.

Q. And not only was it in your name, but it was in your name following certified identification documents being provided?

A. Mmm.

Q. Correct?

A. Yes.[318]

5.260 Cursley was next shown the records for the betting accounts that were opened in Cursley's name with Luxbet, Bookmaker, Sportsbet, IASBet, Sportingbet, Bet 365 and Centrebet. He said that he played no part in making any of the bets that were placed on the accounts; that he never used the accounts; that he did not contribute any money to the accounts or receive any of the proceeds from the accounts.[319] However, he said that he received a payment from Smith

[314] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, pp. 6:46-7:39
[315] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, pp. 7:41-7:47
[316] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, pp. 8:2-:8:19
[317] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, pp. 17:38-18:9
[318] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, p. 9:12-9:29
[319] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, pp. 12:1-13:4

for his involvement. He could not remember the amount he was paid but said that it might have been $1000 or $500.[320]

5.261 Cursley said that he did not know of Fletcher. He also said that Smith had never told him about a friend of his who may have wanted to open betting accounts. He said that he had a vague recollection of having a conversation with Smith, about Smith doing a job at a race track for someone but could not remember what the conversation was about.[321]

5.262 A number of lawfully intercepted telephone calls between Smith and Cursley were then played. Cursley confirmed that he and Smith were the parties to each call.

5.263 The following conversation occurred 12 October 2012:

> *SMITH: Oh mate I'm just wondering, who, who do you bank with?*
>
> *CURSLEY: Ah Westpac.*
>
> *SMITH: Westpac, alright, um, I've got a guy, got a mate who just um messaged me, he wants to open a couple of um bookmaker accounts and I was thinking that you were, you were pretty keen to do it, so.*
>
> *CURSLEY: Oh mate I'm always keen for a sly five hundred bucks or so.*
>
> *SMITH: Yeah. Um.*
>
> *CURSLEY: Yeah um, yeah so what's the, what's the, what's the go with it?*
>
> *…*
>
> *SMITH: I need, I need you to um, take a photo of your driver's licence, your credit card that is with the Westpac account,*
>
> *CURSLEY: Yeah*
>
> *SMITH: um and just send 'em to me so I can create the account with all your details.*
>
> *CURSLEY: Yeah, yeah no worries.*[322]

5.264 Cursley said that he had *"no idea"* who the *"mate"* was that Smith had referred to in the conversation. Cursley accepted that the telephone conversation showed that he knew that someone other than Smith was involved. However, when asked if he knew that to have been the case before he agreed to become involved with Smith, he said:

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[320] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, p. 13:1-13:8

[321] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, p. 13:10-13:40

[322] Ex 69 AC, Transcript of telephone call between Marc Smith and Jason Cursley, 12 October 2012

A. I think the crux of it was that Marc was opening it and what appears, from this conversation, is that it was sort of flicked over fairly quickly that somebody else was involved. What I do remember is my understanding of the whole thing, which was that Marc was opening accounts in my name. I didn't really look further into it, to be honest.[323]

5.265 The following conversation occurred on 13 October 2012:

CURSLEY: Yeah what are you guys doing?

SMITH: … I'm doing a bit of a cash job for a bloke today so, doing a bit of work.

CURSLEY: Oh right, what sort of cash job?

SMITH: Oh I've gotta go down to Kembla Grange race track and do a bit of work on the track for him.

CURSLEY: Oh right, nice one.

SMITH: Yeah, so yeah.

CURSLEY: What, bookieing or something?

SMITH: Oh well no it's more um, oh, m-mate it's sort of hard to explain. Just whate-, just whatever he needs to do, he'll, I'll be on the phone

CURSLEY: So it's dodgy? -Laughs-

SMITH: he'll be, he'll be in Sydney and I'll be um, I'll be down on the track probably just placing a few bets for him and -Interference-

CURSLEY: Oh you're, you're gonna be in the next Underbelly Smithy.

- Laughter -

SMITH: No it's do, it's not dodgy. -Laughs-

CURSLEY: Yeah whatever.[324]

5.266 Cursley agreed that his use of the words *"dodgy"* and *"Underbelly"* in this conversation suggested that he realised that what Smith was engaged in was *"a bit dishonest"*. The following questions and answers occurred:

Q. And the references to it being a bit dodgy and the next 'Underbelly' suggests that somewhere in you, you realised that all this was a bit shonky, a bit dishonest?

A. Yeah, yeah.

[323] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, pp. 15:40-16:24

[324] Ex 69 AC, Transcript of telephone call between Marc Smith and Jason Cursley, 13 October 2012

Q. But your - I think you used the word "moral compass" was not --

A. Mine's not

Q. -- sharp?

A. -- too bad, to be honest. No, in saying that, I realise that it was a bit of a dodgy thing to do. I personally - I didn't see myself as having any involvement in any sort of gambling racket, or anything like that. It was just a - you got credit for opening an account and that was as far as I really knew about it. I mean, I didn't push Smitty for any of this cash work because I - to be honest, I wouldn't have a clue what a bookie does at the track. [325]

5.267 On being played a further telephone conversations in which Smith referred to the *"scam"* he was running the following questions and answers occurred:

Q. There's a reference there to a scam that he's running. Again, that just suggested that you knew this was not a completely straightforward, honest operation?

A. I knew it was - yeah, I knew it probably would be, well, frowned upon. I guess I justified it by my own means, is that I didn't mind if he used my ID and looking back and hearing these, it's a stupid, stupid idea but --[326]

MATTHEW SEAGG

5.268 Seagg was a former police officer and associate of Williams. He gave evidence before the Commission on 7 November 2013 about his involvement with Williams in relation to betting accounts that were opened in Seagg's name with Sportingbet, Centrebet and Bet 365. The accounts were used between 24 February 2013 and 4 May 2013 to place bets totalling $222,080.68. Free bets totalling $350 were obtained on opening the accounts.

5.269 Seagg said that he knew Williams from when he had worked with the NSW Police Force. Since leaving the Police Force Seagg said that he had *"not really"* maintained a relationship or friendship with him.[327]

5.270 Seagg said that his association with Williams turned to matters of gambling in 2012. Seagg said that he was certain that he was contacted by Williams through Facebook, when Williams had asked him if he had *"any old sporting or betting accounts".* Seagg said that he told Williams that he did.[328]

5.271 Parts of a Facebook conversation between Seagg and Williams were then read to Seagg. The messages stated as follows:

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[325] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, pp. 16:44-17:33

[326] Ex 69 AC, PIC Transcript, J R Cursley, 7 November 2013, p. 18:20-18:26

[327] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, pp. 4:34-5:19

[328] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, p. 5:42-5:46

WILLIAMS: Seaggy, what are you up to these days? Quick question, brother / Do you have either a Sportingbet or Luxbet account? May hav something for you???

SEAGG: Sportingbet

WILLIAMS: Mate that is perfect! In 50 words or less: A have a mate who is a professional punter / he is that good he can't put bets on through corporate bookmakers. He puts 10k into your account and bets on it. You get a whack of whatever he wins. Zero risk to you / only catch is if he doesn't win u don't get paid. He has won every time. Last week he won 125 k / gave my mate 10k. The other time he won 75 / gave my mate 6k. Simple as that! Nothing dodgy / it's just raping corporates 'cause they only want to take $100 bets from idiots like us who never win! Just means u will never be able to have 10k on a horse or dog on that account if u want to but I'm guessing your [sic] *not doing that anyway! And if so – just go to Sportsbet!*

SEAGG: Why not, what do I need to do?

WILLIAMS: Gve [sic] *me your bank account details and I'll put $60 in there – then I just need your user name and password to put two dog exotic bets on to see if they dump the bets. If they don't your laughing!!*

5.272 Seagg's memory of the Facebook conversation was refreshed by having it read to him. Prior to having heard it, he had only a *"vague"* memory of it. From it, he understood that Williams had a friend who was a good professional gambler and agreed that the reference to that friend being unable to put bets on through corporate bookmakers meant that he had been *"restricted"* or *"banned"* from using betting accounts with corporate bookmakers.[329]

5.273 The following questions and answers also occurred:

Q. The reference to "raping corporates" is a reference, as you understood it then, to the fact that the only people that were going to lose were the corporate bookies?

A. Yes, the bookies, yeah.

Q. The way that was going to happen was they were going to be, I don't know, tricked into thinking that a mug punter like yourself was gambling, whereas in fact it was going to be a professional punter who they had previously banned?

A. I guess so, yeah.

Q. I won't go through it all, but if I were to suggest to you that in the Facebook conversation that follows you provide a number of details of your bank account and Sportingbet account?

A. Yes.[330]

[329] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, pp. 6:1-8:5

[330] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, p. 8:15-8:31

5.274 Seagg had further Facebook conversations with Williams and was told that his Sportingbet account had been used. [331]

5.275 Seagg was aware that accounts in his name were set up by Williams with other corporate bookmakers. He knew this from a conversation he had with Williams and from information on his bank account statements. He specifically knew of accounts having been opened in his name with Centrebet and Bet 365 or Betfair. However, he was not aware of an account having been set up with Luxbet and said that he did not have a hotmail email address relating to that account.[332]

5.276 He was shown an email exchange between Luxbet and mattyseagges@hotmail.com, which included follows:

> *Just because my flat mate has an account – you restrict me and take away my bonus bet after I lost 2k on a horse bet.*
>
> *I will be taking this to the NT gaming commission.*
>
> ---
>
> *From: LuxbetInfo@tabcorp.com.au*
>
> *To: mattyseaggs@hotmail.com*
>
> *Subject: Important Account Information*
>
> *Date: Tue, 5 Mar 2013 04:26:19 +0000*
>
> *Dear Matthew,*
>
> *Username: mattyseaggs*
>
> *Luxbet's system has identified that the computer or device used to access your Luxbet betting account matched the computer or device of other Luxbet accounts.*
>
> *Luxbet considers that the use of your account constitute a breach of clause 4.3(b)(i) of the Bonus Bet terms & Conditions as well as a breach of clause E(ii)(c) of Luxbet's Account Terms and Conditions. …*
>
> *…*
>
> *On this basis, Luxbet considers that you are not entitled to receive the following Bonus Bets which were credited to your account:*
>
> *BB100 $1000 bonus bet credited on 20/02/2013*

5.277 The following questions and answers then occurred:

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[331] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, p. 8:37-8:42

[332] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, pp. 8:44-9:27

Q. But do you say you had nothing to do with that email exchange?

A. I've not had anything to do with Luxbet and I've never had a mattyseaggs@hotmail.com.

Q. So it is not your email account?

A. No.

Q. If that was a betting account in your name, you knew nothing about it?

A. That's correct.

Q. Did you authorise anybody to create an account in your name?

A. The only one that initially - was the Sportingbet to be used.

Q. Your understanding of any arrangement you had with Mr Williams was that he or his friends were going to use your Sportingbet account to make wages [sic] *that they would otherwise not be able to make?*

A. Yes.

Q. And there was no agreement by you to have him set up other internet gambling accounts?

A. I did send him my driver's licence and my Police Credit Union copy [sic]*, but I didn't take that to mean opening other accounts. I didn't specifically say "don't" but I don't think it was never brought up in conversation that he was going to.*

Q. You have no memory of any suggestion that Mr Williams would open other accounts in your name?

A. No.

Q. And you did not authorise him to do so?

A. No. [333]

5.278 Seagg was then shown statements for betting accounts that were opened in his name with Bet 365 and Centrebet. He said that he did not authorise anyone to open the accounts and that he did not place any bets through the accounts. As to the Centrebet account, he said that the email address mattseaggs@gmail.com that was attached to the account was not his email address. [334]

5.279 Seagg was asked about certain transactions that appeared on his Police bank account which involved the corporate bookmakers. He said that he did not have anything to do with the deposits that were made to his account by Bookmaker, Sportingbet, Bet 365 and Betezy. He said he knew the

[333] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, pp. 10:39-11:28

[334] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, pp. 11:30-13:36

transactions were happening but *"wasn't following it"* and was *"a bit slack"* at looking at his statements. As to a $200 deposit he received from Williams, Seagg said that was the money he was paid by Williams.[335] An amount of $28,000 in gambling monies was left in his account. Seagg said that he had recently received an email from Williams, asking that this amount be paid.

DARREN KOLOSQUE

5.280 Darren Kolosque was former police officer and associate of Williams. He gave evidence before the Commission on 14 November 2013.

5.281 Kolosque said that he knew Williams from his time with the NSW Police Force.[336]

5.282 Kolosque said that he became involved in online gambling with Williams after he received an *"email"* from Williams, asking him if he had a Sportingbet account. Williams had said in that email that he had some friends, who were *"professional punters"*, and asked Kolosque if *"they"* could use his account. Kolosque said he agreed.[337]

5.283 Kolosque agreed that the communication he received from Williams may have been by Facebook.[338] He went on to say:

> *A. Well, it might have just been a general - I think it - actually, that's right, yeah, I think it was just a general thing, like a posting - like a post maybe on Facebook, where it says "Anybody who has a Sportingbet account – if anyone - let me know because I've got mates who want to use it", or something, and so I think I responded to that. That makes - that sounds right.* [339]

5.284 Kolosque understood that the point of the arrangement was that Williams' professional gambling friends were going to use Kolosque's account to gamble, because they could not use accounts in their own names to gamble.[340] However, he said that it was not his understanding that the purpose was to *"rort"* the corporate bookmakers. He said that the purpose was not to deceive the corporate bookmakers and that he saw no *"difference"* between what was being done with his account and when *"I've put bets on for other people before using my account"*.[341]

5.285 Kolosque said that he was told that he would receive *"a percentage"* of any winnings made on his Sportingbet account.[342]

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[335] Ex 110 AC, PIC Transcript, M D Seagg, 7 November 2013, pp. 15:7-18:26, 19:26-19:32
[336] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 5:2-6:30
[337] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 10:13-10:26
[338] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 11:10-11:11
[339] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 13:12-13:19
[340] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 13:21-13:45
[341] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 13:47-14:16
[342] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 14:18-14:22

5.286 The following evidence was given about whether Williams had ever explained the purpose of the arrangement:

> *A. He explained it to me but I didn't really understand the explanation at the time, I just said, "Yep, it's okay, you can use it". I didn't really - all I thought - all I heard was, "We're going to use your account, these guys are professional punters" and I said, "Sweet". I didn't really question it. I don't remember really even asking about it. I mean, I might have but if he did explain it me I didn't really understand the explanation. I wasn't really invested in it in any way, like, he - I just basically said, "You can use it", I didn't really think of anything. I thought it sounded perfectly normal to me. That was my understanding at the time.*[343]

5.287 Kolosque said that he had spoken to some of his friends about Williams' proposal and said that *"everyone said, 'yeah, no, that sounds fine to me'".* However, he could not name any of the friends with whom he spoke. He said that he asked questions to satisfy himself that what was being proposed was not illegal.[344]

5.288 Kolosque said that he subsequently entered into the arrangement with Williams. Williams initially transferred some money into Kolosque's bank account, which Kolosque then put into his Sportingbet account for Williams and his friends to use. Kolosque recalled that the money involved was *"probably $20,000"* but could not say whether that was the total amount involved.[345] He estimated that the arrangement with Williams lasted for *"maybe a couple of months"* in 2012.[346]

5.289 Kolosque was shown a thread of Facebook messages which took place between himself and Williams (Tony Paul). He accessed his Facebook account and provided a full version to the messages to Commission after he gave evidence. The relevant messages stated as follows:

> *Tony Paul: I have something else for you as well … Just need to find ANYONE who hasnt opened many sports accounts before. even if they have one or two its ok. Boys will pay 400 up front for just opening the accounts (which I will do for you) and then you get a percentage of whatever they win. easy as. they will open sportingbet /dynabet / lux bet / bookmaker and maybe sportsbet. same cut as before for each account they win on. eg they win 20k you get 1 k or 1500 or 2k – whatever they give. thats each account they win on, not in total eg, sportingbet 1k / betezy 1k etc etc the more accounts the better – can be your part time job! I wont take a cut because the boys will look after me with 200 on the side for each account. plus I get all the free tips!*
>
> *Darren Kolosque: sweet. i'll get on to it starting with the misses. let me know what you need.*
>
> *Tony Paul: Just can't be girls – cause the accounts are marked for obvious reasons!! … Anyone will do!! Need it ASAP!! Prob look at rorting*

[343] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 15:20-15:31
[344] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 15:34-16:20
[345] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 16:32-16:47
[346] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 17:2-17:13

sportingbet on Sunday with mates account!! Boys were in Macau living it up

Tony Paul: Fuck it – will use yours [sic] missus as well!! Get a boy for this weekend if you can – we will open both at same time! More $$ for you

…

Darren Kolosque: My brother has opted out. Thinks it's a scam. Can't convince the dickhead…[347]

5.290 Kolosque did not know when he received the messages but thought he might have received them 18 months earlier.[348]

5.291 Kolosque did not think that his involvement with Williams in gambling commenced with this Facebook message. He thought it commenced before he received the messages and agreed that the messages which he was shown were inviting him to find other people who might become involved. He remembered that Williams had asked him to find other people. Kolosque said that he had asked a couple of people and thought that one of his friends might have provided an existing account.[349] This was confirmed by a lawfully intercepted text communication which passed between Williams and Kolosque on 15 February 2012.[350] In the relevant message, which Kolosque agreed to having made, he provided Williams with the login details for that person's account.[351]

5.292 The following other questions and answers occurred in relation to the Facebook message:

Q. What did you take him to mean that he was "probably looking at rorting Sportingbet on Sunday with a mate's account"?

A. Well, the same as what they'd been doing - winning money on it. Like, they're professional punters, they put - they know what they're doing, so to me it's - they call it rorting. I don't see the - I don't see what you're saying. That's basically the - well, the way I see it is these guys can win, if they can win they're rorting it.

Q. Right.

A. Yeah.

Q. Okay. And you didn't see that to have anything to - with the connection, with the fact that it was going to be done on a mate's account?

A. Well, no, you see, as I said, to me it was just gambling. I didn't look at it as being an illegal thing.

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[347] Ex 112 AC, Exchange of Facebook messages; Ex 89, Exchange of Facebook messages

[348] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 18:45-19:5

[349] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 20:3-20:35

[350] Ex 112 AC, Exchange of text messages between Anthony Williams and Darren Kolosque, 15 February 2012

[351] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 39:38-40:16

…

Q. So is it your understanding of the arrangement that's being proposed is this: that you would find people to put in touch with Mr Williams?

A. Yes.

Q. That Mr Williams would then use their names and identification details to set up Sportingbet or other internet gambling accounts?

A. Yes.

Q. That the boys, being the professional gamblers, would pay money - $400 -

A. Yes.

Q. -- to the person whose identity was used?

A. To open the account, yes.

Q. And that the boys, being the professional punters, would then use those accounts to gamble with?

A. Yes.

Q. In circumstances where those boys were not able to make those bets because they'd won too much?

A. Yes.[352]

5.293 Kolosque was then shown his bank statements for his Police Credit Union account and was asked about a number of transactions that appeared on the account. These included a number of deposits from Williams which were followed by transfers to Sportingbet. Kolosque knew that the money that was deposited from Williams related to the use of his Sportingbet account by Williams and his friends. Once the money was deposited into his account, Kolosque personally made the transfer from his account to his Sportingbet account. He did not have a clear memory of having performed each transfer but assumed that he would have done them.[353] He also appeared to have transferred money from his bank account to Williams. This included an amount of $19,456 and three further amounts totalling $18,887 from a total of $39,843 that was deposited into his account by online bookmakers. The difference of $1,500 was left in his account as payment for his involvement in the arrangement.[354] That occurred in July 2012 and marked the end of the arrangement.[355]

5.294 Kolosque was next shown the account records for his Sportingbet account. He said that the large bets that were placed on his account between May and July

[352] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 22:23-22:40, 23:17-23:40
[353] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 25:12-28:25
[354] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 30:23-31:19
[355] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 33:6-33:28

2012, in sums of up to $10,000, were not his bets and that this period coincided with the period in which his account was being used by Williams' friends. He also said that he played no role in selecting any of the bets that were placed on his account in that time.[356]

5.295 Once the arrangement came to an end Kolosque said that his Sportingbet account had become restricted. He knew that it had become restricted, because he had attempted to place a bet on his account but was unable to do so. He thought that he might have been informed by Williams that his account was restricted.[357] He could not say whether his account was restricted in terms of the types of bets that could be placed on the account. In particular he could not say, with reference to a July 2012 notification on his account, *"Tote only"*, whether by July 2012, Williams and his friends could no longer use his Sportingbet account to place fixed bets.[358]

[356] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 34:45-36:46, 37:38-37:42
[357] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, pp. 33:44-34:12
[358] Ex 112 AC, PIC Transcript, D Kolosque, 14 November 2013, p. 38:16-38:37

6. SUMMARY OF EVIDENCE GIVEN IN PUBLIC

6.1 Six witnesses gave evidence at the public hearing. It is convenient to collect the evidence they gave before the Commission under the headings that appear below.

SENIOR CONSTABLE MARC SMITH

6.2 Smith confirmed what he had told Commission investigators at his interview on 30 May 2013 that he had set up betting accounts in the names of 17 people, including 13 of his colleagues in the Tactical Operations Unit.[359]

REASON FOR SETTING UP ACCOUNTS

6.3 In the early part of the evidence Smith gave he said that the reason for setting up betting accounts was to secure free bets from the corporate bookmakers. He said that the initial reason was not to set up accounts for other people to use but that some of the accounts that were set up *"to get the free bets"*, once they had been used, were *"given to other people to bet through as well."*[360] He said that that had occurred *"on three of four occasions"*[361] and happened with betting accounts he set up in the names of Immens and Seydler.[362] He said that he assumed that the accounts were provided to Azzopardi and Fletcher by Williams.[363]

6.4 Smith did not agree that the reason for setting up betting accounts in other people's names was to deceive the corporate bookmakers. He said:

> *A. No, the purpose of setting up the accounts was an idea I had with friends of mine to allow them to create a new account and then we could gain the free bets.*
>
> *…*
>
> *A. …. I personally have a number of accounts with different bookmakers and I receive the free bets and I thought if other people could receive those free bets then if they wanted to, that they should.* [364]

6.5 Smith said that he knew that free bets were made available to new customers of the corporate bookmakers and that he could not have obtained free bets had he set up accounts in his own name, because he already had accounts with the corporate bookmakers. However, he denied that it was necessary to make

[359] PIC Transcript, M J Smith, 19 November 2013, p. 19:12-20:8
[360] PIC Transcript, M J Smith, 19 November 2013, p. 17:7-17:30
[361] PIC Transcript, M J Smith, 19 November 2013, p. 21:26-21:28
[362] PIC Transcript, M J Smith, 19 November 2013, p. 22:8
[363] PIC Transcript, M J Smith, 19 November 2013, p. 21:31-21:45
[364] PIC Transcript, M J Smith, 19 November 2013, p. 17:10-17:23

the corporate bookmakers believe that they were getting a new customer when he set up accounts in the names of other people.[365]

6.6 The following questions and answers occurred:

> *Q. So it was necessary to make them believe that they were getting a new customer, wasn't it?*
>
> *A. I wasn't making them believe. A friend of mine - friends of mine can open up a new account and get a free bet.*[366]
>
> …
>
> *Q. Don't you agree in order for this to happen you had to deceive the betting agency into believing they were getting a new customer?*
>
> *A. They were getting a new customer. It is still a legitimate new account that the new account holder was aware of.* [367]
>
> …
>
> *Q. What did you understand the betting agencies to be motivated by in offering free bets?*
>
> *A. They do it to get people betting.*
>
> *Q. They do it to get new customers, don't they?*
>
> *A. It's a reward for being a new customer, yes.*
>
> *Q. Yes, but these accounts were not really the accounts of new customers, were they, they were the accounts of yourself or Mr Williams or Mr Fletcher or Mr Azzopardi being opened in the names of people who appeared to be new customers; that's correct, isn't it?*
>
> *A. No, they're friends of mine who - we opened up a new account in their name and as a group we operated those accounts and, as I said before, in hindsight we should have just let those people use the accounts and we still could have - as a - like I said, in my interview, as a punters' club, as a group of punters we still could have placed whatever bets we wanted, however, that person should have used the accounts themselves*. [368]

6.7 The only *"mistake"* Smith said he made was that he created and used the accounts himself. Smith said it would have been *"easy"* for his friends to have created the accounts themselves and to have used the free bets.[369] He also said:

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[365] PIC Transcript, M J Smith, 19 November 2013, p. 17:32-17:47

[366] PIC Transcript, M J Smith, 19 November 2013, p. 17:43-17:47

[367] PIC Transcript, M J Smith, 19 November 2013, p. 18:41-18:46

[368] PIC Transcript, M J Smith, 19 November 2013, p. 19:27-7:46

[369] PIC Transcript, M J Smith, 19 November 2013, p. 18:22-18:28

> *A. It was legitimate in that a person was creating a new account, but I guess the part that was a mistake was me operating the account when there was no real need for me to operate the account, I should have just let the person whose name was on the account operate the account*.[370]

6.8 As to why his friends did not set up the accounts and obtain the free bets themselves, Smith said:

> *A. I think I was a bit - I was probably a bit controlling and just did all the work myself when, in hindsight, I shouldn't have done that, I should have let them do it themselves and I could have - we could have, as any two people can talk about a bet that they want to put on at a TAB or a pub anywhere, we should have just let them do it and we could have still had the same outcome*.[371]

6.9 And again:

> *A. It was just I knew how to do the work on the computers and I just knew how to do it, so I was just trying to make things easy for them. It was my idea*.[372]

6.10 As to his characterisation that what occurred was the same as a *"punters' club"*, Smith said that none of the 17 people in whose names he opened accounts contributed any money to the accounts. He said that their *"contribution was the fact that … when a new account was opened, they got a free bet"*.[373]

6.11 Smith did not deny that he was involved in deceiving the corporate bookmakers. When asked how that occured, he said that he had the login details *"of one of my friend's accounts and I would ring up and place a bet saying I was them, and obviously that's a lie and I shouldn't have done that … It would have been just as easy to have them do it and it wouldn't have been as much of an issue"*.[374]

6.12 Smith said that he was motivated to get free bets to bet with, at a time when he was *"gambling pretty heavily, probably a little bit too much"*.[375]

6.13 As to how the accounts he set up were passed on to other people, Smith assumed that Williams passed them on. He said that Williams was *"friends with Darren Azzopardi and Stephen Fletcher and if it became evident that those two required use of an account, he* [Williams] *would give them one"*.[376] Smith understood that they needed the accounts, because they were *"successful*

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[370] PIC Transcript, M J Smith, 19 November 2013, p. 19:6-19:10
[371] PIC Transcript, M J Smith, 19 November 2013, p. 18:22-18:28
[372] PIC Transcript, M J Smith, 19 November 2013, p. 20:43-20:45
[373] PIC Transcript, M J Smith, 19 November 2013, p. 20:6-20:13
[374] PIC Transcript, M J Smith, 19 November 2013, p. 20:15-20:31.
[375] PIC Transcript, M J Smith, 19 November 2013, p. 21:5-21:15
[376] PIC Transcript, M J Smith, 19 November 2013, p. 21:3-21:41

gamblers and they have trouble getting bets on under their name" and said that he had been told that.[377]

6.14 As to Williams' involvement, Smith said that had received a telephone call from Williams in mid to late 2011.[378] This was before Smith started approaching his colleagues in the Tactical Operations Unit and other persons to set up accounts.[379] Smith said that Williams asked him if he gambled and if he had any bookmaker accounts and told him that his friend, Fletcher, *"wasn't able to gamble"* and *"needed accounts to gamble through".* Smith said that it was explained to him by Williams that Fletcher was restricted in the bets he could place. Smith said that Williams asked him if he was *"interested in allowing him* [Fletcher] *to place bets through one of my* [Smith's] *accounts."* Smith was promised payment for the use of his accounts on any winnings that Fletcher made on the accounts. Smith said that he would get *"about 10 per cent"*.[380]

6.15 Smith did not agree that he knew from the moment he received the telephone call from Williams that what was being proposed was a method by which the corporate bookmakers could be deceived. Smith said that he *"didn't see any difference between* [what was proposed and] *sitting at a TAB and just putting a bet on for somebody".*[381]

6.16 Later in the evidence the following questions and answers occurred about the reason for setting up the accounts:

> *Q. Weren't you doing the work* [setting up accounts in other people's names] *because you hoped to gain money from Mr Fletcher or Mr Azzopardi?*
>
> *A. That came later. The initial using the prepaid internet dongles was just to set up the accounts with my friends so we would get the free bets.*
>
> *Q. Isn't that an idea that popped up later, that is, the free bets?*
>
> *A. Yes, it is.*
>
> *Q. Yes, so your answer that you just gave is wrong, isn't it?*
>
> *A. There would have been - well, yeah, there would have been some occasions where the setting up of the account would have been to pass on to Mr Fletcher or Mr Azzopardi, yes.*
>
> *…*
>
> *Q. And when I asked you about your motivations earlier, you talked about the free bets but the reality is that all of this started with a phone call from Mr Williams asking you if you could allow his professional gambling friends to use you as a front for money; isn't that what happened?*

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[377] PIC Transcript, M J Smith, 19 November 2013, p. 22:14-22:27

[378] PIC Transcript, M J Smith, 19 November 2013, p. 23:21

[379] PIC Transcript, M J Smith, 19 November 2013, p. 23:23-23:26

[380] PIC Transcript, M J Smith, 19 November 2013, pp. 22:33-23:18

[381] PIC Transcript, M J Smith, 19 November 2013, p. 23:32-23:39

A. Yes, the initial conversation was that if I would be - if I had accounts that were - they could be used by Mr Fletcher and I would get money out of that.

Q. You knew that was designed to deceive the betting agencies, didn't you?

A. Looking back on it now, I can definitely see that…

…

Q. Breaking it down: the first thing you were told by Mr Williams was that Mr Fletcher was limited in what he could do, in terms of betting with these agencies; correct?

A. Yes.

Q. That Mr Fletcher wanted to place bets with those agencies; correct?

A. Yes.

Q. And he needed a front - you - to use to place those bets; correct?

A. Yes.

Q. And that if you became involved in that, you'd get paid money?

A. Yes.

Q. And you don't see that as deceptive?

A. I do now.

Q. But at the time, as a policeman, you didn't see any problem with it?

A. … I had the mindset of, like I just explained, being at Randwick races, or any pub where there's people betting, anyone could put a bet on for anybody. I didn't see the difference. I just thought it was a different version of that. [382]

6.17 And again:

Q. We do come back to the chicken and egg, if you like, position of: the reality is that the first thing that happened is that you agreed with Mr Williams to take money to be a front for Mr Fletcher and it was months and months and months later that you came up with the idea of the free bets?

A. Yes.

Q. So they're in a sense not associated?

[382] PIC Transcript, M J Smith, 19 November 2013, pp. 34:37-36:28

A. No, I - definitely not associated. The free bet thing was just an idea I had with my friends to help them get some money and help me get some free bets.

Q. What were they getting the money for again?

A. Well, it was just a - I didn't - because I was the one who was so interested in gambling, I just thought it was fair that if they wanted to open up the accounts, then they should get something out of it whether or not I won on the bets or not.[383]

PUNTERS' CLUB

6.18 In his evidence Smith said that what he had done by setting up accounts in other people's names was like a *"punters' club".* The following questions and answers occurred about that analogy:

A. Like I said earlier, I still, during that time, thought what I was doing was similar to an electronic version of a punters' club. That was my mindset. I didn't feel that I was doing anything wrong. I wouldn't have approached friends with the potential of getting them into trouble when I knew they were in the police if I thought what I was doing was wrong.

Q. If you're in a punters' club and you're at the TAB, you wouldn't wear disguises to go and make the bet, would you?

A. No.

Q. No. Whereas in your case you were setting up false email accounts, you were setting up - you were using a whole bunch of different computers. You were acquiring dongles and SIM cards. There was a whole raft of things, weren't there --

A. Yeah –

Q. -- that were designed the hide your activities?

A. -- I can see how it would look like that. But I thought I explained that earlier with the computers, the dongles and the phones. It was just saving my friends the time and effort of actually doing it. It was just a way for me to do it myself. It's - they still could have been set up without the need for all that stuff.

Q. I'd suggest to you it could have been done like that if it was legitimate, but it wasn't and you knew it wasn't?

A. I knew it was not right to call up and say I was somebody else but, like I said, it was with permission and I could have just had them do it and I wouldn't have as many issues as I have right now, but it was just an error in judgment in trying to do everything myself. It's not - I didn't see there being anything wrong with a friend of mine, helping them open up some accounts that they take care of, an offer that's open to the public and then,

[383] PIC Transcript, M J Smith, 19 November 2013, p. 51:1-51:20

in saying that, passing the account - that's separate to passing the account details on to Mr Azzopardi or Mr Fletcher. That obviously is not right. [384]

6.19 Smith also said that none of the persons in whose names he opened accounts ever placed a bet on the accounts that were opened in their names.[385]

KNOWLEDGE OF SECURITY MEASURES

6.20 Smith agreed that the *"scheme"* in which he was involved relied on the corporate bookmakers believing that different people were operating the individual accounts he set up, whereas he in fact operated those individual accounts.[386]

6.21 Smith said that he knew that some of the corporate bookmakers had security systems in place. The following questions and answers occurred:

> *Q. And some of the agencies had security systems in place so that it could see what computer communications were coming from so that it could stop precisely what you were doing?*
>
> *A. Yes.*
>
> *Q. Why were they doing that, do you think?*
>
> *A. Because they didn't want one person getting multiple lots of free bets.*
>
> *Q. And because they had rules that said you can only have one account?*
>
> *A. Mmm, yes, but like I said before, I didn't create the accounts without my friends' consent*. [387]

6.22 Smith said that he knew that the corporate bookmakers employed *"IP"* (Internet Protocol) address matching software to prevent multiple accounts from being opened by one person. He also said that he knew that the corporate bookmakers had rules that a person could have only one account.[388]

METHODS USED TO AVOID DETECTION

6.23 Smith was examined about some of the methods he appeared to have used to avoid being detected by the corporate bookmakers.

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[384] PIC Transcript, M J Smith, 19 November 2013, p. 50:6-50:46
[385] PIC Transcript, M J Smith, 19 November 2013, pp. 36:47-37:1
[386] PIC Transcript, M J Smith, 19 November 2013, pp. 81:41-82:7
[387] PIC Transcript, M J Smith, 19 November 2013, pp. 81:28-81:32
[388] PIC Transcript, M J Smith, 19 November 2013, pp. 81:41-82:16

SIM cards

6.24 Smith was asked about SIM card information that was retrieved from a search of his home.[389] He denied that the reason he needed multiple SIM cards was because he needed them to perpetrate a deception of the corporate bookmakers.[390] As to why he needed them, he gave the following evidence:

> *A. … It goes back to what I said earlier about in regards to this idea to get these free bets, I was doing all the work myself and probably in - being in control. You would get - I would get a new phone number to - when you create an account with a bookmaker, an online bookmaker, you have to supply a mobile phone number and the mobile phone number is linked to that account and I - those phone numbers, they receive marketing and all sorts of calls about verification - verifying accounts. When me and my friends - or a friend - agreed to set up the new accounts, I would get a phone number for those accounts so they weren't subject to all those marketing requirements and phone calls and also so I could operate the account on their behalf*
>
> *… I didn't think I was doing anything wrong. I had permission to open up the accounts and I just got new phone numbers just so it wasn't a hassle for anybody else*. [391]

Internet dongles

6.25 Smith also said that he did not believe that his use of different prepaid internet devices or *"dongles"* was deceptive. He said that he had used the devices to set up accounts *"for my friends"* and described his use of the dongles as *"me doing the work and setting up the accounts".* He repeated his earlier evidence that he should have *"just let my friends do the same thing on their own computers; it would have been the same result".*[392]

Use of different computers

6.26 The following questions and answers occurred about why Smith used different computers to set up accounts:

> *Q. When you were setting up the accounts you would use different computers to set up the accounts, wouldn't you?*
>
> *A. Yeah, it's the same as - same answer as with the phones. I think this just goes back to me doing the work. There was absolutely no reason why my friends, at their houses, couldn't use their own personal computer and do it.*
>
> *Q. But there was also no reason, or was there, Mr Smith - was there - no reason that you couldn't sit at one computer and open all of these accounts, or was there?*

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[389] Ex 1 AC, Telstra pre-paid sim pack with 'Guest' written on it; Ex 2 AC, Vodafone prepaid sim card pack; Ex 3 AC, Vodafone prepaid sim card pack; Ex 4 AC, Vodafone prepaid sim card pack.

[390] PIC Transcript, M J Smith, 19 November 2013, p. 26:7-26:10

[391] PIC Transcript, M J Smith, 19 November 2013, pp. 26:46-27:23

[392] PIC Transcript, M J Smith, 19 November 2013, pp. 33:46-34:35

A. You cannot do that.

Q. No, you cannot do that because some of the betting agencies had systems in place where they could tell which computer it was coming from; correct?

A. Yes.

Q. So that if you were trying to set up different accounts with the same organisation, they might be able to tell that it's coming from the same computer and realise that they're being deceived?

A. Yes, that's right. That's why I should have just let my friends open them up with their own computers.

Q. And so to counter that security measure you went to any number of different computers to set up the accounts; correct?

A. Yes. [393]

Email accounts

6.27 Smith was examined about a discussion he had with Williams in which reference was made to an email described as being *"out wide"*.[394]

6.28 In his evidence Smith explained that an *"out wide email account"* was *"an email account outside of what you would normally use".* He said that those email accounts were used, *"in case someone was reading your emails".* Smith linked the use of out wide email accounts to a conversation he remembered having with Williams about Williams' betting records having been subpoenaed. Smith said that he took from that conversation that someone was looking at their betting accounts.[395] Smith accepted that the use of the email accounts might appear *"sinister"*, however, at the time he used them he did not think he was doing anything wrong.[396]

6.29 One of the email accounts used by Smith and Williams to communicate was named *"moon_boot11".* Smith said that he and Williams both had access to the account and used the account to send emails to the account, which they could both read. Smith denied that they were *"trying to be very secretive or sophisticated"* by using the email account.[397]

6.30 The following questions and answers occurred:

Q. … Can you just explain why you would operate in that way?

A. There was no reason. There was no - it would have been no different to operating on our normal emails.

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[393] PIC Transcript, M J Smith, 19 November 2013, pp. 29:35-30:15

[394] Ex 5 AC, Exchange of emails between Marc Smith and Anthony Williams, 27 February 2012

[395] PIC Transcript, M J Smith, 19 November 2013, pp. 28:35-29:21

[396] PIC Transcript, M J Smith, 19 November 2013, pp. 29:26-29:33

[397] PIC Transcript, M J Smith, 19 November 2013, pp. 38:46-39:26

Q. Except that your normal email is identifiable with you; correct?

A. Yes, I can't remember what name that email was created under. It probably would have been a different name to either me or Mr Williams.

Q. Why?

A. Like you just said, so our name is not attached to it.

Q. Why?

A. Because we didn't want our name to be attached to the email.

Q. Well, yeah.

A. So nobody knew what we were doing. [398]

6.31 A second email that Smith and Williams used to communcicate was named *"mental patient".* Smith said that that email was set up for the same reason as *"moon_boot11"*.[399]

6.32 Smith also that the two emails accounts were set up in the fictitious names of *"Michael Cooper"* and *"Paul Harvey".*[400]

6.33 The use of false email accounts was revisited later in Smith's evidence when the following questions and answers occurred:

Q. … what I want you to address is the answer that you gave, that using this form of communication was designed to hide your activity?

A. Yes.

Q. You agree with that?

A. Yes.

Q. One of the answers, or one of the reasons you gave for hiding the activity, was so that you wouldn't get in trouble?

A. Well, I'm in trouble now and I can see why it would look to certain people who aren't involved in this sort of environment as - it would look a lot worse than what in my mind it was. I did not think it was anything that bad.

…

Q. So I suggest the reality is you knew that what you were doing was deceptive and so you tried to cover your tracks?

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[398] PIC Transcript, M J Smith, 19 November 2013, pp. 40:1-40:20

[399] PIC Transcript, M J Smith, 19 November 2013, p. 40:22-40:27

[400] PIC Transcript, M J Smith, 19 November 2013, pp. 69:18-6920, 70:38-70:42

> *A. There was a couple of aspects of what I was doing, like I stated earlier, like when I was ringing up and saying that I was somebody else, that's obviously deceptive and denying a bookmaker the right to refuse a customer is - well, it's their right to do that, so that's wrong. But in my mind there was so many ways that that could be done, it just didn't seem like it was anything illegal or anything too wrong. Like I said before about just being at the TAB and putting on a bet for somebody else, blokes do that every day. That's how I thought of it*. [401]

6.34 At his interview with Commission officers on 30 May 2013, Smith said that it had been Williams' idea to use email accounts, as *"he* [Williams] *was a bit sort of paranoid"*.[402]

HOW THE ACCOUNTS WERE SET UP

6.35 Smith gave the following evidence about how betting accounts were set up:

> *Q. Just as a matter of practicality, how did this work? You approached a friend and trusted colleague from the Tactical Operations Unit, they agreed to become involved, and physically what happens next?*
>
> *45 A. I would usually take a photo of their driver's licence and their credit card and maybe another form, like Medicare card, deposit some money into their bank account and then enter that information onto the different bookmakers' websites and then an account would be created*.[403]

6.36 Smith said that the corporate bookmakers would follow up with a telephone call or an email. He said:

> *A. They would call the phone number that was used to create the account or they would email the email address that was used to create the account and I had access to both of those*. [404]

6.37 The setting up of accounts also involved a transfer of money or a deposit of money from Smith into the bank accounts of the persons in whose names he set up the accounts.

PROVISION OF ACCOUNTS

6.38 In his evidence Smith agreed that he and Williams were involved in *"a scheme"* whereby, from April 2012 through to January 2013, there was a steady stream of betting accounts available for use by professional gamblers.[405] In his evidence, Smith would not say that there was always an account available for use but said that an account was available for use the *"majority of the time"*.[406]

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[401] PIC Transcript, M J Smith, 19 November 2013, pp. 61:34-62:27

[402] Ex 25 AC, Transcript of interview of Marc Smith, 30 May 2013, p. 29

[403] PIC Transcript, M J Smith, 19 November 2013, pp. 80:40-81:1

[404] PIC Transcript, M J Smith, 19 November 2013, p. 81:13-81:16

[405] PIC Transcript, M J Smith, 19 November 2013, p. 74:8-74:13

[406] PIC Transcript, M J Smith, 19 November 2013, pp. 76:39-77:3

6.39 Smith said that three or four of the accounts he set up were provided to Fletcher or Azzopardi for their use. He said that he first provided the account information for those accounts to Williams and agreed that he had done so without the consent of the persons in whose names he had set up the accounts. Smith also agreed that he had deceived those persons, in circumstances where he had given guarantees to them that he would be the only person placing bets on the accounts.[407]

6.40 Smith estimated that he was contacted by Williams on less than 10 occasions for the purpose of obtaining accounts for Azzopardi's use.[408]

6.41 At one point in his evidence Smith said that he was mistaken when he said that Williams had contacted him only *"once or twice"* for accounts to place bets though. He agreed that in saying *"once or twice"* he made a *"gross understatement".* However, he denied that his statement was just another example of an attempt by him to minimise his involvement in, and understanding of, the arrangement he entered into with Williams.[409]

PAYMENT FOR PROVIDING ACCOUNTS

6.42 Smith said that he was paid for setting up the betting accounts and understood that the payments he received came from either Azzopardi or Fletcher or Williams. Smith agreed that he received a payment for his involvement in having accounts available for use and that the service he was providing was giving them access to the accounts. Smith said that he did not keep any records of how much he was paid but said that he was paid on *"a few occasions, probably three or four"*, when he received between $500 and $1000. He said that he was only paid if Azzopardi or Fletcher won on the accounts. He recalled that that had occurred *"four times"*, although *"it was possible that it could have been more".*[410]

INVOLVEMENT IN RELATION TO SPECIFIC ACCOUNTS

6.43 Smith gave the following evidence about the accounts he set up in the names of his colleagues in the Tactical Operations Unit and in the names of two of his friends.

Accounts opened in the name of Zeibots

6.44 Smith agreed that he deceived Zeibots when he had set up accounts in his name. When asked how he had deceived him, he said:

[407] PIC Transcript, M J Smith, 19 November 2013, pp. 24:24-25:24
[408] PIC Transcript, M J Smith, 19 November 2013, pp. 41:28-42:8
[409] PIC Transcript, M J Smith, 19 November 2013, pp. 76:5-76:30
[410] PIC Transcript, M J Smith, 19 November 2013, pp. 66:14-67:7

A. I set up the accounts - I told him about the idea to - you set up the new accounts, you get the free bets, and then passed his account details on to Mr Williams. [411]

6.45 And again:

Q. So you had a conversation with him at the beginning. He told you that he didn't want anyone else using the account?

A. Yes.

Q. That came up because you'd told him that you had these professional gambling connections?

A. Yes.

Q. He asked you to guarantee that they wouldn't use the account?

A. Yes.

Q. You, in spite of that guarantee, passed his details on, through Mr Williams, to the professional gamblers?

A. Yes.[412]

6.46 Smith said that he had made *"a bad decision"* by allowing Zeibots' details to be passed on and used by somebody else.[413] He said that he was motivated by his desire to help his *"friends"*, Fletcher and Azzopardi, and to obtain money in return for the accounts he gave to Williams.[414]

6.47 Smith was asked about other conversations he may have had with Zeibots about the use of accounts in Zeibots' name by other people. Form his memory, Smith believed that a further conversation occurred when Zeibots' accounts were closed down.[415]

6.48 A lawfully intercepted telephone conversation from 23 November 2012 was played. Smith identified himself and Zeibots as being parties to the telephone conversation in which the following was said:

ZEIBOTS: Mate I was just calling to confirm, are my details like, of those accounts and that with any of those other blokes? Or are you the only one who still has that?

SMITH: No, no I'm the only one who still has them, but um, the, one of me mates, um, wanted me to put a bet on, so he gave me, he put money into my bank account and um, and then, I, then I used it.

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[411] PIC Transcript, M J Smith, 19 November 2013, p. 41:27-41:30

[412] PIC Transcript, M J Smith, 19 November 2013, p. 53:3-53:18

[413] PIC Transcript, M J Smith, 19 November 2013, p. 46:19-46:20

[414] PIC Transcript, M J Smith, 19 November 2013, pp. 46:22-47-1

[415] PIC Transcript, M J Smith, 19 November 2013, p. 53:24-53:30

…

ZEIBOTS: Ok

…

ZEIBOTS: Righto I just wanted to make sure that there wasn't, like no one else is using 'em and stuff like that, that's all.

SMITH: Yeah no, it's, it's, it's just me, he, he's given me five grand.

ZEIBOTS: Yep.

SMITH: and I've um, and I, I could've given it to, put it into your account or to anyone else's account, I just, I put it into yours

ZEIBOTS: Yep

SMITH: but yeah only, only four's been used so, hopefully um, I'm sure it probably, it prob-, they probably will realize but um.

ZEIBOTS: Yeah.

SMITH: Yeah we'll see how we go.

ZEIBOTS: Righto mate.

SMITH: Give it, give it a run anyway.

ZEIBOTS: Yeah no dramas um, yeah cool alright, that's no dramas at all.

SMITH: Alright mate, well um.

ZEIBOTS: I just wanted to confirm that, I might um, in time 'case, mate unless we're gonna do this again I might deactivate all those accounts.

SMITH: Yeah that's um, that's no, no problem at all.[416]

6.49 Smith had a memory of the conversation and said that it occurred *"a few weeks"* after certain bets had been placed on Zeibots' accounts.[417]

6.50 Smith was then shown a folder of material relating to the evidence given by Zeibots before the Commission in private. He was shown the betting account records for the accounts that were opened in Zeibots' name with Luxbet and Bookmaker. The Bookmaker account showed that bets had been placed on the account from 20 October 2012 to 17 December 2012. Smith could not say who placed the bets on either of the accounts and said that he did not remember placing any of the bets.[418]

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[416] Ex 11 AC, Transcript of telephone call between Marc Smith and Matthew Zeibots, 23 November 2012

[417] PIC Transcript, M J Smith, 19 November 2013, p. 53:42-53:47

[418] PIC Transcript, M J Smith, 19 November 2013, pp. 54:31-55:32

6.51 The following questions and answers then occurred about the telephone call of 23 November 2012:

> *Q. I played to you a telephone call and I asked you to accept that it was dated 23 November 2012?*
>
> *A. Yes.*
>
> *Q. In that account you represented to Mr Zeibots, didn't you, that the others - the other blokes that he was asking about - no longer had access to his accounts?*
>
> *A. Yes.*
>
> *Q. And that was a lie, wasn't it?*
>
> *A. Yes. He was adamant he didn't want anybody betting through his accounts. He was probably more concerned with his information, like his credit card details or bank details, and that was - it was true in that sense that no-one had access to those but his log-in details to his accounts were passed on.*
>
> *Q. When he said "no-one else is using them" he was talking about the betting accounts, wasn't he?*
>
> *A. Yes.*
>
> *Q. And you told him a pack of lies about someone had put in 5 grand and there was 4 left and we might - maybe they'll remember it or maybe they won't; whereas in fact what was happening is that people out there still had access to his account and were gambling on it?*
>
> *A. Yes*.[419]

Accounts opened in the name of Besant

6.52 Smith agreed that he had set up accounts in Besant's name and that he had told Besant about the opportunity of obtaining free bets. He could not remember if he had told Besant that he would give control of the accounts to somebody else but was *"sure"* that he *"would have told"* Besant that that was a possibility.[420]

6.53 Smith could not remember if he personally operated the accounts that were set up in Besant's name and agreed that it was possible that the accounts were operated by other people.[421]

6.54 Smith said that the accounts were opened in the usual way, by Besant providing Smith with the means to establish his identity.[422]

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[419] PIC Transcript, M J Smith, 19 November 2013, p. 56:8-56:34

[420] PIC Transcript, M J Smith, 19 November 2013, pp. 67:33-68:4

[421] PIC Transcript, M J Smith, 19 November 2013, p. 99:15-99:37

6.55 In the course of being examined Smith was asked about communications between himself and Williams concerning Besant. One communication was an exchange of emails on 31 August 2012, in which Williams wrote as follows: "*Hey mate How did we go with Betstar?? there is 13 or 14 in bb's sportingbet which we need to take out as well. I will speak to fletch to see what we are giving them*."[423]

6.56 Smith agreed that the reference to *"bb"* in the email was a reference to Benjamin Besant and that the reference to *"fletch"* was a reference to Stephen Fletcher. He also agreed that the email indicated that insofar as Besant was to be paid any money the approval for that would come from Fletcher.[424]

Accounts opened in the name of Foster

6.57 Smith agreed that he set up accounts in Foster's name and that he provided the access information for the accounts to Williams.[425] He said that he had not told Foster that he would be providing his account details to Williams. [426]

Accounts opened in the name of Seydler

6.58 Smith said that he had set up betting accounts in Seydler's name and provided the access information for the accounts to Williams. He also said that he had not told Seydler that he was going to pass that information to Williams.[427]

6.59 Smith disputed the evidence that Seydler had given that Seydler had only ever authorised Smith to open one account in his name and not seven. Smith said that he remembered having had a conversation with Seydler, when he said words to the effect: *"Let me open up some accounts and I'll get to use some free bets and I'll – you'll get a guaranteed $400 or $500".* Smith said that there must have been some misunderstanding on the part of Seydler about what was being proposed or some miscommunication.[428]

6.60 In his evidence Smith confirmed the contents of a lawfully intercepted telephone call that took place between himself and Seydler on 14 December 2012.[429] The telephone call related to a sum of $30,000 that was deposited into Seydler's bank account by a bookmaker. Smith said that he instructed Seydler on how he was to transfer the money to him. He also

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[422] PIC Transcript, M J Smith, 19 November 2013, p. 99:26-99:28

[423] Ex 36 AC, Exchange of emails between Marc Smith and Anthony Williams, 31 August 2012

[424] PIC Transcript, M J Smith, 19 November 2013, p. 118:3-118:12

[425] PIC Transcript, M J Smith, 19 November 2013, p. 71:17-71:23, 73:25-73:39

[426] PIC Transcript, M J Smith, 19 November 2013, p. 72:7-72:9

[427] PIC Transcript, M J Smith, 19 November 2013, pp. 71:25-72:9

[428] PIC Transcript, M J Smith, 19 November 2013, pp. 82:35-84:11

[429] Ex 51 AC, Transcript of telephone call between Marc Smith and Todd Seydler, 14 December 2012

confirmed that he subsequently transferred the money he received from Seydler to either Fletcher or Azzopardi.[430]

Accounts opened in the name of Peresson

6.61 Smith agreed that he set up a number of accounts in Peresson's name. He remembered having told Peresson: *"There's promotions at the moment where if you're a new customer you get some free bets. If you want I'll set up the accounts for you and give you a guaranteed sum of money, probably $400 or $500".* Smith said that he was *"pretty certain"* that he had personally *"handled"* Peresson's accounts. However, he was *"not sure"* if the accounts were passed on to anyone else for their use. While he did not remember having a conversation with Peresson about whether his accounts could be passed on to anyone else, he said it was *"highly likely"* that Peresson had told him that they could not.[431]

Accounts opened in the name of Mundy

6.62 Smith agreed that he had used Mundy's name to open a number of accounts and said that he had done so with Mundy's consent. He disputed Mundy's evidence that Mundy had only ever authorised Smith to open one account but agreed that it was possible that Mundy had formed that view from what Smith had told him. [432]

6.63 However, Smith denied having lied to Mundy and thought that Mundy must have misunderstood what he said. Smith himself could not recall the conversation he had with Mundy and said that he *"pretty much told the same thing to most of my friends"*, which was that he would open *"numerous accounts".*[433]

6.64 Smith said that Mundy's accounts were never handed over to anyone else and remembered that he had *"personally used the free bets"* and the initial stake that had been used to set up the accounts in Mundy's name.[434]

Accounts opened in the name of Kasun

6.65 Smith said that he approached Kasun to open accounts for the purpose of obtaining free bets and said that *"his account wasn't passed on to anybody else".* He was certain for the fact that Kasun had specifically asked him not to pass on his account details to anyone else.[435]

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[430] PIC Transcript, M J Smith, 19 November 2013, pp. 148:25-149:28

[431] PIC Transcript, M J Smith, 19 November 2013, pp. 76:32-77:40

[432] PIC Transcript, M J Smith, 19 November 2013, pp. 78:1-78:27

[433] PIC Transcript, M J Smith, 19 November 2013, pp. 78:29-79:19

[434] PIC Transcript, M J Smith, 19 November 2013, p. 80:16-80:35

[435] PIC Transcript, M J Smith, 19 November 2013, pp. 102:36-103:1

Accounts opened in the name of Immens

6.66 Smith said that he opened some accounts in Immens' name and that *"one or two"* of the accounts were *"passed on to Mr Fletcher".* He did not know how the accounts were passed on to Fletcher but remembered that $27,000 was won on one of the accounts.[436]

6.67 A lawfully intercepted telephone conversation from 18 December 2012 was played. Smith agreed that the parties to the conversation were Immens and himself. The telephone conversation included the following:

> *SMITH: Mm. Um, fuck, I thought, remember how, how we opened up all those accounts and, and all that stuff?*
>
> *IMMENS: Yeah.*
>
> *SMITH: The, the Bookmaker stuff.*
>
> *IMMENS: Yeah*
>
> *SMITH: I thought all yours were um, all yours were done and dusted but um, I just got a text message to ah, make a withdrawal from one of them and there's um, twenty seven grand in one of them.*
>
> *IMMENS: Holy shit we're still alive.*
>
> *…*
>
> *SMITH: I totally, I totally forgot he must of um, whatever he had in there he must of put, he must of won it all 'case he hasn't like deposited any money, so he must of done it from five hundred or a thousand or something*.[437]

6.68 Smith said that the references to *"he"* in the telephone conversation were references to Fletcher.[438]

6.69 A lawfully intercepted telephone conversation from 20 December 2012 was then played. Smith agreed that the parties to the conversation were Immens and himself. A part of the conversation related to the withdrawal of money from a betting account. During the call Smith instructed Immens on what he was to say when he called the corporate bookmaker. In one part of the call he said to Immens: *"…just explain it to 'em as if it was your own account …"*.[439] The following evidence was then given:

> *Q. When you say and use the expression "as if it was your own account", doesn't that prove the point that it wasn't his account in anything but name?*

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[436] PIC Transcript, M J Smith, 19 November 2013, pp. 103:33-104:27

[437] Ex 29 AC, Transcript of telephone call between Marc Smith and Jason Immens, 18 December 2012

[438] PIC Transcript, M J Smith, 19 November 2013, pp. 104:47-105:2

[439] Ex 31 AC, Transcript of telephone call between Marc Smith and Jason Immens, 20 December 2012

A. Yeah, until that point he hadn't used it, so - it was his account but he hadn't used it.

Q. Well, if it was his account he wouldn't have to act as if it was his account, would he; is that right?

A. Well, I'm just trying to - when I said that I'm just trying to explain to him to act as if it's his account.

Q. Because it isn't - "pretend it's your account even though we all know it's not your account", that's the meaning of that expression, isn't it?

A. Yeah, pretend it's your account even though you haven't used it yet and other people have been using it.[440]

6.70 Smith was also asked about an exchange of text messages he had with Williams on 17 and 19 December 2012 and another person code-named MC1[441] on 19 December 2012.

6.71 Parts of the text exchange between Smith and Williams on 17 December 2012 included a question from Smith about whether Immens was going to get *"any sling"* in respect of a sum of $26,000 that was in his Sportingbet account.[442] Smith agreed that the reference to *"any sling"* in the communication was a reference to whether Immens was going to get paid any money.[443]

6.72 The text exchanges that took place with Williams on 19 December 2012 included the following text message from Williams to Smith: *"We already got paid for using immens accounts so send all through to sf"*.[444] Smith confirmed that the reference to *"sf"* was a reference to Stephen Fletcher and that the message he received from Williams was to the effect that Fletcher had already paid them for the use of Immens' accounts.[445]

6.73 The exchanges on 19 December 2012 with MC1 included as follows:

SMITH: Hi [MC1] *its smitty. Can you let fletch know I'm withdrawing/transferring Immens sba $27k ASAP. Probably a day or 2. Can u ask if he is allowing Immens to keep a percentage or not and let me know. Thanks mate*

MC1: Steve said sweet. Though he's going to check on the interest/commish, as he think he's already paid it. Will get him to contact you personally.[446]

6.74 With reference to exchange of text messages with MC1, Smith agreed that it was Fletcher who made the decisions about whether Immens was to be paid or

[440] PIC Transcript, M J Smith, 19 November 2013, p. 105:31-105:46

[441] The real name of this person is subject to a non-publication order by the Commission

[442] Ex 33 AC, Exchange of text message between Marc Smith and Anthony Williams, 17 December 2012

[443] PIC Transcript, M J Smith, 19 November 2013, p. 113:21-113:28

[444] Ex 35 AC, Exchange of text messages between Marc Smith and Anthony Williams, 19 December 2012

[445] PIC Transcript, M J Smith, 19 November 2013, p. 114:10-114:29

[446] Ex 32 AC, Exchange of text messages between Marc Smith and another person, 19 December 2012

what he would be paid. Smith said Fletcher would make those decisions in relation of each of the accounts he used.[447]

6.75 Smith was also asked about certain transactions that appeared in the financial records for Immens. These included a transfer of $2,400 from Smith. Smith could not remember the transfer but imagined that the transfer was done for the purpose of operating a number of betting accounts that were set up in Immens' name.[448]

Accounts opened in the name of Robertson

6.76 Smith agreed to having opened betting accounts in Robertson's name. With reference to Robertson's bank records, he also agreed to having made a cash transfer of $1,400 to Robertson to fund the use of accounts that were set up in Robertson's name. Smith also admitted to having made transfers from Robertson's bank account to different corporate bookmakers. In giving that evidence he said that he had made similar *"transactions out of* [other] *people's accounts on many occasions"*. [449]

Accounts opened in the name of Goonan

6.77 Smith agreed to having opened betting accounts in Goonan's name. As in other cases, he said that he made a transfer of money to Goonan to fund the betting activities that would occur on the accounts he set up in Goonan's name.[450]

Accounts opened in the name of Innes

6.78 Smith agreed to having opened betting accounts Innes' name and said that he had adopted that same process as he had for other accounts. That had included making a transfer of $1,400 to Innes' bank account. [451]

Accounts opened in the name of Reily

6.79 Smith agreed to having opened betting accounts Reily's name. He said that he transferred $3,700 to Reily's bank account for the purpose of funding the betting that was done on the betting accounts that were opened in his name and made transfers from Reily's bank account to the different corporate bookmakers. He said that Reily's betting accounts had not been used by other persons to place bets.[452]

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[447] PIC Transcript, M J Smith, 20 November, p. 111:26-111:44

[448] PIC Transcript, M J Smith, 19 November 2013, p. 115:15-115:29

[449] PIC Transcript, M J Smith, 19 November 2013, p. 158:8-158:42

[450] PIC Transcript, M J Smith, 19 November 2013, pp. 158:46-159:23

[451] PIC Transcript, M J Smith, 19 November 2013, p. 159:30-159:47

[452] PIC Transcript, M J Smith, 19 November 2013, p. 160:7-161:13

Accounts opened in the name of Guest

6.80 Smith agreed to having opened betting accounts Guest's name. While he did not have a specific memory of a cash deposit of $5,950 that was made to Guest's bank account on 20 December 2012, he said that the deposit would have been for the purpose of funding the betting that was done on the betting accounts, *"plus whatever money was given to Mr Guest"*.[453]

6.81 Smith was also asked about deposits of $5,897 and $3,916 from Luxbet that were made to Guest's bank account and subsequent transfers of $5,197 and $3,916 that were made from Guest's bank account to Smith. Smith said that the money represented winnings from bets that he himself placed on Guest's Luxbet accounts. He was *"pretty sure"* that Guest's accounts were not used by anybody else. [454]

6.82 Smith was shown a lawfully intercepted email message dated 31 December 2012, which stated as follows:

> *From: adam guest <alterboy_11@hotmail.com>*
>
> *To: <cashier@sportingbet.com.au>*
>
> *…*
>
> *My name is Adam Guest. My account number is XXXXX*
>
> *I have attached documents required for my account to be verified*.[455]

6.83 Smith agreed that he set up the email account alterboy_11@hotmail.com and that he wrote the words *"My name is Adam Guest".* He agreed that by doing so he had engaged in deceptive conduct by falsely pretending to be somebody else and also agreed that what he had done was no different from ringing Sportingbet and lying to Sportingbet about the identity of the caller.[456]

Accounts opened in the name of Cursely

6.84 Smith agreed to having opened betting accounts in Cursely's name. He said that he deposited $5,950 into Cursely's bank account to facilitate the use of the betting accounts that were set up in his name. He was not sure whether Cursely's details were passed on to other people.[457]

6.85 A lawfully intercepted telephone conversation between Smith and Cursely occurred on 12 October 2012. In one part of the conversation Smith said:

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[453] PIC Transcript, M J Smith, 19 November 2013, pp. 170:24-171:16

[454] PIC Transcript, M J Smith, 19 November 2013, pp. 171:18-172:11

[455] Ex 78 AC, Email, 31 December 2012

[456] PIC Transcript, M J Smith, 19 November 2013, pp. 181:22-182:3

[457] PIC Transcript, M J Smith, 19 November 2013, pp. 172:13-173:4

SMITH: … I've got a guy, got a mate who just messaged me, he wants to open up a couple of um bookmaker accounts and I was thinking that you were, you were pretty keen to do it, so.[458]

6.86 The following questions and answers occurred about what Smith had said:

Q. Certainly at that stage - and that, I'd suggest to you, is in October of 2012 - you were looking to set up a number of other accounts for use by people like Mr Williams, Mr Fletcher and Mr Azzopardi; correct?

A. Yes.

Q. And that was precisely why you called Mr Cursley to have him become involved; correct?

A. Yes. [459]

Accounts opened in the name of Muller

6.87 Smith agreed to having opened betting accounts in Muller's name and said that Muller had provided him with identification details to open those accounts.[460]

6.88 Smith was examined about a letter from Bet365 that was retrieved form Smith's home during the execution of a search warrant. The letter was addressed to Muller and, in part, stated the following:

Hi Scott

…

It is important that we are able to positively identify our customers to comply with both regulatory requirements and to help ensure the security of accounts.[461]

6.89 Smith said that he was not sure if he had seen or read the letter but accepted that it had been retrieved from his home and said that he knew it was important for corporate bookmakers to verify the identity of their accounts holders.[462] The following questions and answers then occurred:

Q. You knew the importance that the companies that you were dealing with placed on identifying who they were dealing with?

A. Yes.

Q. And that's partially because they chose not to accept bets from certain people?

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[458] Ex 67 AC, Transcript of telephone call between Marc Smith and Jason Cursley, 12 October 2012

[459] PIC Transcript, M J Smith, 19 November 2013, p. 174:16-174:24

[460] PIC Transcript, M J Smith, 19 November 2013, p. 174:40-174:45

[461] Ex 71 AC, Letter from Bet 365 to Scott Muller

[462] PIC Transcript, M J Smith, 19 November 2013, p. 171:47-172:38

A. Yes.

Q. And because they had clear rules about only having one account per customer?

A. Yes.

Q. And you took many, many steps in order to deceive them about that, didn't you?

A. Yes.[463]

RELATIONSHIP WITH WILLIAMS

6.90 Smith said that Williams was the *"middleman"* as between himself and Fletcher and Azzopardi. However, he disagreed with the proposition that he generally received directions or instructions from Williams. [464]

6.91 Smith was shown a number of intercepted text communications, which he said occurred between himself and Williams.[465] On seeing each of those messages Smith agreed that Williams had *"directed"* him in each of them. [466]

6.92 One example was an email from 30 November 2012 in which the following as said:

WILLIAMS: Need two names!!

SMITH: Got nothing organised. For anything in particular?

WILLIAMS: Yep – need two for Monday! Will come see you

SMITH: Sf get back to u?

WILLIAMS: No yet!!![467]

ASSOCIATION WITH FLETCHER AND AZZOPARDI

6.93 Smith said that he had never been given any reason to think that Fletcher or Azzopardi *"were involved in any criminal activity"*. He said: *"I know what criminal behaviour is, I've been in the police for a while, and they never behaved in any way like that".* He said that he was not concerned about the possibility that any of the bets that were made on their behalf were based on

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[463] PIC Transcript, M J Smith, 19 November 2013, pp. 175:47-176:15

[464] PIC Transcript, M J Smith, 19 November 2013, p. 144:13-144:37

[465] Ex 47 Ac, Exchange of text messages between Marc Smith and Anthony Williams, 30 November 2012; Ex 48 Ac, Exchange of text messages between Marc Smith and Anthony Williams, 9 November 2012; Ex 76 AC, Exchange of text messages between Marc Smith and Anthony Williams,11 September 2012

[466] PIC Transcript, M J Smith, 19 November 2013, pp. 145:21-145:27, 146:16-146:18, 180:16-180:24

[467] Ex 47 AC, Exchange of text messages between Marc Smith and Anthony Williams, 30 November 2012

inside information and thought that Fletcher and Azzopardi were just smart gamblers.[468]

6.94 Smith said that he was aware from news articles he had read that Fletcher had been accused of using inside information and that he had been investigated but not found guilty of having use inside information in Brisbane. When he became aware of the information, Smith said that it had not caused him any concern and had not prompted him to break his association with Fletcher or seek advice from a senior colleague about the propriety of being a front for Fletcher.[469] Smith said that the reason he did not was that he was motivated at the time to make money to fund his gambling habit.[470]

6.95 Smith agreed that he had no way of knowing whether any of the accounts he set up and passed on to Williams were used to place bets using inside information. He agreed that he had thereby exposed himself, his colleagues and his friends to involvement in possible criminal offences, had that occurred.[471]

6.96 The following question and answer also occurred after he was asked about *"whispers"* he had heard concerning Fletcher's possible involvement in criminal activities:

> *Q. But as a policeman did you not think you should be pretty cautious about allowing yourself, let alone colleagues of yours who trusted you, to have bets placed by people who may have been involved in things that you'd heard whispers about?*
>
> *A. Yeah, during when this was happening, I think I was a bit blinded by my own sort of willingness and gambling problems. I think I made a lot of bad decisions and that was one of them.*[472]

6.97 Smith also said that his interactions with Fletcher and Azzopardi had been rare. He did not obtain instructions directly from Fletcher. One reason he gave was that he did not have his telephone number.[473]

6.98 Smith confirmed that he had worked for Fletcher on one occasion when he attended the Kembla Grange racetrack on Fletcher's behalf to place bets for him.[474] He was paid $300 for the work he did. [475]

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[468] PIC Transcript, M J Smith, 19 November 2013, p. 48:1-48:34
[469] PIC Transcript, M J Smith, 19 November 2013, pp. 48:36-49:44
[470] PIC Transcript, M J Smith, 19 November 2013, pp. 49:46-50:1, 94:
[471] PIC Transcript, M J Smith, 19 November 2013, pp. 95:11-96:3
[472] PIC Transcript, M J Smith, 19 November 2013, pp. 98:38-98:46
[473] PIC Transcript, M J Smith, 19 November 2013, p. 144:9-144:32
[474] PIC Transcript, M J Smith, 19 November 2013, pp. 47:28-47:29, 150:4-150:16
[475] PIC Transcript, M J Smith, 19 November 2013, p. 155:16-155:19

FINANCIAL TRANSACTIONS

6.99 Smith was asked about a number of transactions that appeared on his Police Credit Union account.[476]

6.100 In general terms, Smith said that he was unable to remember the specific details of transactions that appeared on his bank account because of the number of transactions involved.[477] He agreed that he would be unable to comment on individual deposits and withdrawals. However, he also agreed that the flow of money in and out of his account related to the *"scheme"* whereby accounts were set up in the names of his colleagues.[478]

6.101 Smith confirmed that transfers that were made from his account to Innes ($1,400), Immens ($2,400) Robertson ($1,400), Kasun ($1,400), Goonan ($2,400) were for the purpose of setting up the accounts that were set up in their names.[479]

6.102 Smith was asked about transfers that were made to his account by Williams, including transfers of $12,000 and $12,500. He said that the money he received from Williams was used to fund accounts that were set up in other people's names.[480] He agreed that it would be fair to deduce that Williams was funding those accounts. [481]

6.103 The following questions and answers occurred about transfers that were made to his account from Seydler and Immens:

> *Q. Can I take you back to 17 December, same page. There's a transfer of $29,600 into the account from Mr Seydler?*
>
> *A. Yes.*
>
> *Q. And then, the same day, a transfer to Darren Azzopardi in the sum of $28,000?*
>
> *A. Yes.*
>
> *Q. Is it your understanding that that was a result of winnings made by Mr Azzopardi using accounts which were in Mr Seydler's name?*
>
> *A. That's my understanding, yes.*
>
> *Q. Well, that's an amount - do you remember that transaction?*
>
> *A. Yes.*

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[476] Ex 44, Summary of bank account records for Smith; Ex 45 AC, Original bank records of Smith; Ex 46 AC, Commonwealth Bank banking records of Smith

[477] PIC Transcript, M J Smith, 19 November 2013, pp. 127:24-127:28

[478] PIC Transcript, M J Smith, 19 November 2013, p. 135:38-135:45

[479] PIC Transcript, M J Smith, 19 November 2013, p. 128:3-128:38

[480] PIC Transcript, M J Smith, 19 November 2013, pp. 129:40-129:44, 131:43-132:3

[481] PIC Transcript, M J Smith, 19 November 2013, p. 133:18-133:20

Q. Do you remember what the winnings were on?

A. Greyhounds.

Q. Greyhound races?

A. Yeah.

Q. The last page of the document, barcode 7966193, there is a deposit from JP Immens in the sum of $27,040?

A. Yes.

…

Q. And then there is a transfer to S Fletcher in the sum of $27,040?

A. Yes.

Q. Do you know what that is?

A. Yes, that's the - that's from Mr Immens - one of - it's winnings from one of his betting accounts that was withdrawn and then transferred to Mr Fletcher.[482]

MATTER INVOLVING MC2

6.104 Smith was shown text messages between himself and Innes which occurred on 7 November 2012. The messages were follows:

SMITH: Got as little job for u. I'll email u details. $100 for your trouble. When u back in Sydney?

INNES: Next week … I love free money …[483]

6.105 Smith said that he could not remember what job he had for Innes. He could not say for certain that the invitation to do the job had nothing to do with betting, although the betting accounts that he had set up in Innes' name were used between June and August 2012 and the invitation to do a job took place in November 2012.[484] However, he could give no answer as to what Innes was doing for $100 that might have related to betting, saying that he could *"not remember what it was".* [485]

6.106 Smith was asked if he had ever asked Innes to access the police database on behalf of MC2[486] and replied that he had. MC2 was a person Smith knew

[482] PIC Transcript, M J Smith, 19 November 2013, pp. 138:42-139:42

[483] Ex 65 AC, Exchange of text messages between Marc Smith and Michael Innes, 7 November 2012

[484] PIC Transcript, M J Smith, 19 November 2013, p. 165:21-165:36

[485] PIC Transcript, M J Smith, 19 November 2013, p. 168:39-168:43

[486] The real name of this person is subject to a non-publication order by the Commission

though a shared association with football. Smith said that MC2 was involved in a dispute with another person, MC3,[487] and had asked Smith to look up MC3 on the police system.[488]

6.107 Smith gave the following evidence of what happened:

> *A. …* [MC 2] *had a relationship with a female, I'm not sure who it was, and he was - her partner or ex-partner was in - from the information I got, was stalking the female and he asked me to look - I think it was - it was some - he had a domestic relationship with a female and she was having dramas with another male and it was becoming violent, and I looked him up - I got Mick Innes to look him up, just to see - I can't remember exactly why, but just to get his general information, in an attempt to try and stop him from harassing the female.* [489]

6.108 Smith was then shown an exchange of intercepted text messages dated between 23 November 2012 and 29 November 2012. He confirmed that the text messages occured between himself and MC2. The message included as follows:

> *MC2: can u get car rego today*
>
> *SMITH: Nah. My mate does all those sorts of checks in our office. I haven't accessed those systems for years. He does 10 a day.*
>
> *MC2: Ok can anyone else or too risky.*
>
> *SMITH: Yeah too sus. We all get audited but my mate does so many he can do it no worries. Monday morning mate.*
>
> *MC2: Cheers*
>
> *SMITH: No dramas getting address, car rego etc. he will do it. He just left for an exercise out at Holsworthy so it'll be done by this arvo.*
>
> *MC2: No problems thx – will catch up with ya and get thoughts when your free…*
>
> *SMITH: Checked him out. Is he in early 30's? With surname spelling u gave me found a Clovelly road address Randwick, born 1981 and no history at all. Not much there at all mate. Talk to u Saturday*.[490]

6.109 Smith agreed that he had had prior discussions with MC2 before they exchanged text messages on 23 November 2012. He said that he had been in regular contact with MC 2 before the text messages were exchanged. Smith explained that MC2 was *"pretty upset and stressed out"* about his girlfriend's ex-partner. He said that the discussions he had had with MC2 was not police work. Smith said: *"it was just a coffee between two friends".* However, he

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[487] The real name of this person is subject to a non-publication order by the Commission

[488] PIC Transcript, M J Smith, 19 November 2013, p. 165:38-165:44

[489] PIC Transcript, M J Smith, 19 November 2013, p. 166:8-166:17

[490] Ex 64 AC, Exchange of text messages between Marc Smith and MC2, 23-29 November 2012

agreed that it led him to ask Innes to access the police database on MC2's behalf.[491]

6.110 The following questions and answers then occurred:

> *Q. The earlier offer of a job to Mr Innes on 7 November 2012, is it correct to say that that relates to his accessing the police computer?*
>
> *A. No, it definitely wasn't that.*
>
> *Q. It definitely wasn't that?*
>
> *A. No.*
>
> *Q. You say that you don't know what it was for?*
>
> *A. Yeah, I would assume it would have been in relation to betting stuff. This was a favour as I had spoken to* [MC2] *about just handling the matter through normal police but because he has a close relationship with me and I was in the police, I was going to handle it for him and have a chat to the guy.*
>
> *Q. Have a chat to the guy?*
>
> *A. Yes.*
>
> *Q. And did you have a chat to the guy?*
>
> *A. No*.[492]

6.111 The following questions and answers also occurred about the exchange of messages with MC2:

> *Q. Thank you. Just going back to tab 429, if that could be brought up again, do you see after you talk about "My mate doing all the checks" - do you see that line from you; second line?*
>
> *A. Yes.*
>
> *Q. And that's a reference - the "mate" in that case is Mr Innes?*
>
> *A. Yes.*
>
> *Q. You're then asked: "Ok can anyone else or too risky." And you say: "Yeah too sus. We all get audited but my mate does so many he can do it no worries." Do you see that?*
>
> *A. Yes.*
>
> *Q. What's that about?*

[491] PIC Transcript, M J Smith, 19 November 2013, p. 167:10-167:28

[492] PIC Transcript, M J Smith, 19 November 2013, pp. 167:35-168:8

A. Like I said, my job doesn't require me to look people up, or rarely does, so Mr Innes looks up a lot of people and he can look it up without anyone noticing.

Q. Why would it be a problem if anyone noticed, if it was a regular police job?

A. Because it wasn't - didn't go through the regular channels, it wasn't really my duty type to be handling that sort of complaint.

Q. And because it's not proper for policemen to access people's private records for their mates, is it?

A. No, it's not.

Q. And that's what you did, isn't it?

A. Yes.[493]

6.112 Smith confirmed that he obtained information about MC22 from Innes and said that it was *"very likely"* that he would have then provided the information to MC22.[494]

DETECTIVE SENIOR CONSTABLE ANTHONY WILLIAMS

INITIAL INVOLVEMENT WITH FLETCHER

6.113 Williams said that he met Fletcher during a murder trial in 2003 which Fletcher had been watching from the public gallery. They had struck up a conversation and developed a friendship.[495]

6.114 Williams said that he became involved in gambling with Fletcher in February 2012, when Williams was having *"a pretty rough time"* financially.[496] Williams was having dinner with Fletcher one night when Fletcher told him that he *"would be able to help"* him financially. He asked Williams if he had an old Sportingbet account, which he did, and told him about *"Lucy's Light".* Lucy's Light was the name of a greyhound that Fletcher bet on in a well-known race in Brisbane, when he had manipulated the betting market. Williams said: *"He* [Fletcher] *said that if I had an old Sportingbet account we could do a similar thing to help me out"*.[497] Williams did some research that night about the incident involving Lucy's Light and decided to participate.[498]

6.115 Williams' Sportingbet account was then used to place bets.[499] Williams agreed that the bets were solely determined and funded by Fletcher. Williams *"didn't*

[493] PIC Transcript, M J Smith, 19 November 2013, pp. 169:31-170:22
[494] PIC Transcript, M J Smith, 19 November 2013, p. 168:30-168:37
[495] PIC Transcript, A P Williams, 20 November 2013, p. 224:28-224:45
[496] PIC Transcript, A P Williams, 21 November 2013, p. 222:13-222:21
[497] PIC Transcript, A P Williams, 21 November 2013, pp.222:25-223:34
[498] PIC Transcript, A P Williams, 21 November 2013, pp. 222:34-223:1
[499] PIC Transcript, A P Williams, 21 November 2013, p. 223:21-223:22

have any money" at the time.[500] He said that he received half of the net winnings that were made on the account. When asked what he did to earn that money, he said: *"I didn't do anything, I just provided my account."*[501]

6.116 Williams was shown the records for his Sportingbet account. He confirmed that the bets that were placed on his account on 26 February 2012 were placed by Fletcher.[502] The records show that bets totalling $16,930 were placed on Williams' account and that the winnings from that day were $84,888.[503]

6.117 The following questions and answers occurred about the use by Fletcher of Williams' Sportingbet bet:

> *Q. But when Sportingbet received a bet on your account, Sportingbet was entitled to assume that you, Mr Williams, were making the bet?*
>
> *A. Well, on my account I may have been with Mr Fletcher. I was with him at the time.*
>
> *Q. Well, you were with him sometimes?*
>
> *A. If we're talking about my personal account, no, I was there.*
>
> *Q. Okay.*
>
> *A. I specifically remember exactly where we were, but who was using the computer, I don't know. I may have used it, he may have used it, I'm not sure, I can't remember, but I know exactly where we were sitting.*
>
> *Q. And you deny the proposition that that represents tricking them into accepting Mr Fletcher's bets that they otherwise would not have accepted?*
>
> *A. I don't agree with that.* [504]

6.118 Williams said that it was only *"from hearing the evidence"* given before the Commission that he learnt that Fletcher would not have been permitted to place the bets that he did through Sportingbet in his own name.[505] He said:

> *A. I don't know the status of his Sportingbet account or other accounts. I never asked him.*
>
> *…*
>
> *A. … Mr Fletcher never told me that his Sportingbet account have been voided or defunct, so to speak*.[506]

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[500] PIC Transcript, A P Williams, 21 November 2013, p. 229:45-229:46
[501] PIC Transcript, A P Williams, 21 November 2013, p. 230:1-230:21
[502] PIC Transcript, A P Williams, 17 December 2013, p. 499:24-500:48
[503] Ex 236 AC, Williams' Sportingbet records
[504] PIC Transcript, A P Williams, 21 November 2013, p. 229:24-229:43
[505] PIC Transcript, A P Williams, 17 December 2013, pp. 501:45-501:48
[506] PIC Transcript, A P Williams, 17 December 2013, p. 502:9-502:25

USE OF WILLIAMS' OTHER BETTING ACCOUNTS BY FLETCHER AND AZZOPARDI

6.119 Williams was shown the records for betting accounts he set up in his own name with Centrebet, Bookmaker, IASbet, Sportsbet and Bet 365.[507]

6.120 He permitted Fletcher to start using his betting accounts from February 2012 and thought that Azzopardi started using his accounts *"within a few months after February"*. He accepted that Fletcher's gambling patterns were different in terms of the quantity of the wagers he made as compared to his own. He accepted that the records for his accounts might show a pattern of bets before and after Fletcher started using the accounts.[508]

6.121 The following questions and answers occurred about why he had provided his accounts to Fletcher and Azzopardi for their use to bet:

> *Q. Why did that happen?*
>
> *A. I was just trying to help them out and help my friends out and help myself out at the same time.*
>
> *Q. But why couldn't they have made the bets through their own account?*
>
> *A. They possibly could have.*
>
> *Q. Then why would you ring up on a Thursday or text on a Thursday and say, "Mate, do you need any accounts for this weekend?"?*
>
> *A. As I just said, as I just explained, to help them out, to help myself out and to help my friends out.*
>
> *Q. But the way you were helping them out was to provide them a means of betting that they couldn't otherwise have undertaken; isn't that right?*
>
> *A. Well, I can't answer that, but there's nothing stopping them going down to the TAB and taking fixed odds on a machine. There's nothing stopping them going to the casino or any TAB in New South Wales and sitting there all day and putting bets on the machine. The TAB machines don't know who the person is.*
>
> *…*
>
> *Q. I want you to acknowledge that you were involved in deceiving the betting agencies as to who was placing the bet?*
>
> *A. Well, I don't look at it like that, no.*[509]

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[507] Ex 237 AC, Williams' IASBet records; Ex 238 AC, Williams' Sportsbet records; Ex 239 AC, Williams' Bookmaker records; Ex 240 AC, Williams' Betezy records; Ex 241 AC, Williams Centrebet records; Ex 242 AC, Williams' Bet 365 records; Ex 243 Ac, Williams' Betfair records.

[508] PIC Transcript, A P Williams, 17 December 2013, pp. 498:28-499:14

[509] PIC Transcript, A P Williams, 17 December 2013, pp. 502:33-504:13

6.122 Williams was taken to the account records for each of his betting accounts.

6.123 Williams agreed that a series of bets that were placed on his Centrebet account in April 2012, in multiples of hundreds and thousands, were not his bets. He was not sure if they were made by Fletcher or Azzopardi and could only say that it was *"possible"* and *"more than likely"* that the bets were placed by one of them. He could not say whether his account details were passed on by Fletcher or Azzopardi to one of their associates. When asked if he had given consent for that to occur, Williams replied: *"of course"*. When asked: *"Why of course?"* he replied: *"because it's just a betting account. They can – anybody can use it, in my eyes"*.[510]

6.124 Williams said that a bet that was made on his Bookmaker account on 15 April 2012 for $500 on an AFL match would have been his own bet. However, he agreed that the other bets that were placed on the account on thoroughbred race events in that period were not his bets. They included bets with stakes of between $400 and $2,000. He was not sure who placed the bets but agreed that it was either Fletcher or Azzopardi or one of their colleagues.[511]

6.125 Williams remembered that the bets that were made on his IASBet account on 10 and 11 April 2012, with stakes of between $300 and $500, for the *"Tigers to miss the 8"* were placed for Fletcher.[512] This was confirmed elsewhere in the evidence.[513]

6.126 Williams said that the bets that were placed on his Sportsbet account in May 2012 on thoroughbred race events, with stakes of between $370 and $1,500, were *"more than likely"* placed by Fletcher. He also said that the bets could possibly also have been Azzopardi's bets.[514]

6.127 Williams was confident that his Bet365 account was used to place bets for Azzopardi on greyhound events in August 2012, with stakes of $2000. Williams said that the bets were placed for Azzopardi, *"because they're Victorian greyhound bets and that's what he bets on"*.[515]

6.128 In giving evidence about the use of his betting accounts by Fletcher and Azzopardi, Williams asserted that he had on occasion contributed money to the betting on the accounts. He said:

> *A. … There was times where, you know, we'd go to the greyhounds or we'd go to the particular meets and I'd say, "I'm in for 10 per cent" or "5 per cent". So if they won - or if he won, sorry, you know, I'd get 10 per cent. If he lost, I'd be up for 10 per cent of the loss. I just can't remember*.[516]

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[510] PIC Transcript, A P Williams, 17 December 2013, pp. 504:33-507:33

[511] PIC Transcript, A P Williams, 17 December 2013, pp. 509:9-510:44

[512] PIC Transcript, A P Williams, 17 December 2013, pp. 517:9-517:27

[513] Ex 294 AC, Email from Williams' NSWP email, 12 April 2012

[514] PIC Transcript, A P Williams, 17 December 2013, pp. 517:39-518:21

[515] PIC Transcript, A P Williams, 17 December 2013, pp. 520:33-521:10

[516] PIC Transcript, A P Williams, 17 December 2013, pp. 521:29-521:34

OBTAINING SPORTINGBET ACCOUNTS

6.129 After Fletcher had used Williams' Sportingbet account in February 2012, Williams said that he began approaching people he knew for existing betting accounts. His objective had been to obtain people with pre-existing gambling accounts, particularly with the corporate bookmaker Sportingbet, *"so that particular bets could be placed on dog races"*. He approached *"quite a few"* people for those accounts, often by text, email and Facebook.[517]

6.130 Over the course of his evidence Williams named or confirmed that he approached as many as 20 people for pre-existing betting accounts and identified six persons whose accounts were supplied and used to bet.[518] He said that the accounts were used by Fletcher and Azzopardi.[519]

6.131 Williams admitted that the possibility of recruiting other persons was raised in a discussion he had with Fletcher. The following questions and answers occurred:

> *Q. When Mr Fletcher raised with you the possibility at dinner of using your Sportingbet account, did he raise with you the possibility that you would recruit others?*
>
> *A. No.*
>
> *Q. At some point did he raise with you the possibility that you would recruit others?*
>
> *A. It was later, yes, or - I'm not sure if he said it or if I said it but it was discussed*. [520]

6.132 Several emails and Facebook messages by which Williams had attempted to recruit people were shown to Williams. They show that he began approaching people for old Sportingbet accounts at the end of February 2012.[521]

6.133 Williams was examined on the contents of some of the messages he sent.

6.134 Williams sent an email to three friends on 1 March 2012, which in part stated as follows:

> *I told you – I got 10k for two accounts*
>
> *Could be 5k per account (which I think it is if it it's a decent win) / plus bonus if it's a big win / I don't ask questions – I just get what he gives*
>
> *You have to remember this*

---

[517] PIC Transcript, A P Williams, 20 November 2013, p. 204:29-204:46

[518] PIC Transcript, A P Williams, 20 November 2013, pp. 205:1-209:10, 216:14-216:32, 529:18-529:26

[519] PIC Transcript, A P Williams, 20 November 2013, p. 216:37-216:45

[520] PIC Transcript, A P Williams, 21 November 2013, p. 230:37-230:45

[521] Ex 81 AC, Exchange of emails; Ex 82 AC, Exchange of emails; Ex 83 AC, Exchange of emails; Ex 84 AC, Exchange of emails; Ex 85 AC Exchange of emails, Ex 86 AC Exchange of Facebook messages, Ex 87 AC, Facebook message; Ex 88 AC, Facebook message; Ex 89 AC Thread of Facebook messages; Ex 90 AC, Exchange of Facebook messages.

He is paying bloke for form etc

He is putting on all the bets / outlaying on tab and taking all the risk

He is crunching all the numbers

Nothing is certain – he may do it on a particular night and only win 10k which then I don't think you will get 5k

…

I will be the one sitting at home / in a café etc being a bit stressed taking msn messages etc putting on tabs at the last second and I am getting ZERO for it / I am just doing it to:

A – help him out to rort them cause I know he will look after me down the track

B – helping you kcufers [sic] *out make some possible easy $$$*.[522]

6.135 Williams agreed that some of the things he said in the email were a *"sales pitch".* It was not true, for example, that he would get *"ZERO"* for placing bets. He admitted that he *"would have taken some of that"*.[523]

6.136 The following questions and answers then occurred:

Q. And then you say you're just doing it to "help him out to rort them cause I know he will look after me down the track".

A. Yeah, that's just a - just a term. That's just - I'm just rambling on there.

Q. And to help out you - I think it's meant to read "fuckers", but it doesn't. Do you see where I'm reading from?

A. Yeah.

Q. ... (to) make some possible easy $$$

A. Yeah, just easy money. Obviously it's just bad terminology now. I'm just typing an email and I'm just trying to get betting accounts.[524]

6.137 Williams did not think that he was doing anything wrong when he sourced old Sportingbet accounts. He said it was *"just a bigger punters' club"*.[525] He said that the old Sportingbet accounts were used, so that *"everyone"* might *"win some money"*. He said: *"the three of us, being Mr Fletcher, Mr Azzopardi and myself, were using these accounts, these Sportingbet accounts. So they'd*

[522] Ex 84 AC, Exchange of emails

[523] PIC Transcript, A P Williams, 21 November 2013, p. 225:18-225:34

[524] PIC Transcript, A P Williams, 21 November 2013, pp. 225:36-226:6

[525] PIC Transcript, A P Williams, 21 November 2013, pp. 226:37-226:45, 227:34-227:43

get a percentage, I'd get a percentage and the account holder would get a percentage."[526]

6.138 Williams said that the bets that were placed on the accounts were determined by Fletcher and Azzopardi and agreed that the actual account holders played no part in placing any of the bets.[527] Williams agreed that Sportingbet would not have accepted such bets from Fletcher or Azzopardi. Williams did not accept that Sportingbet was thereby deceived into having accepted the bets from Fletcher.[528]

6.139 Williams was shown a thread of Facebook messages between himself and Kolosque, which appeared to have commenced sometime in 2012.[529] The Facebook messages stated in part as follows:

> ***Tony Paul***
>
> *Quick Question – do u have a sportingbet or luxbet account (prefer lux) as I can made u some very very quick and risk free money. If u do spear me a text …*
>
> ***Darren Kolosque***
>
> *Sportingbet account …*
>
> *…*
>
> ***Tony Paul***
>
> *I have something else for you as well … Just need to find ANYONE who hasn't opened many sports accounts before. Even if they have one or two its ok. Boys will pay 400 up front for just opening the accounts (which I will do for you) and then you get a percentage of whatever they win. Easy as. They will open sportingbet / dynabet / luxbet / bookmaker and maybe Sportsbet. Same cuts as before for each account they win on. Eg they win 20k you get 1k or 1500 or 2k – whatever they give. That's each account they win on, not in total. eg, sportingbet 1k / betezy 1k etc etc*
>
> *The more accounts the better – can be your part time job*
>
> *I won't take a cut because the boys will look after me with 200 on the side for each account. Plus I get all the free tips*
>
> ***Darren Kolosque***
>
> *Sweet. I'll get on to it starting with the misses. Let me know what you need.*
>
> ***Tony Paul***

[526] PIC Transcript, A P Williams, 21 November 2013, p. 228:29-228:32

[527] PIC Transcript, A P Williams, 21 November 2013, p. 228:38-228:43

[528] PIC Transcript, A P Williams, 21 November 2013, pp. 228:45-229:21

[529] PIC Transcript, A P Williams, 17 December 2013, p. 612:9-612:10

Just can't be girls – cause the accounts are marked for obvious reasons …[530]

6.140 William confirmed that the messages he sent to Kolosque in which he sought accounts were reflective of messages he sent to a number of people.[531]

6.141 The following questions and answers occurred:

Q. But you're trying to get people to open up accounts in such a way that doesn't draw attention to the fact that the accounts are being opened, aren't you?

A. Yes.

Q. And that was the common thread through your conduct for the whole of this period, I suggest to you?

A. Yes, it was.

Q. Yes. Consistent methods of hiding your behaviour from the corporate bookmakers and from anybody else?

A. Well, from the corporate bookmakers, I wouldn't say "anybody else".[532]

6.142 In one of the emails he sent to different people, Williams stated as follows:

There are only a few people in the country who knows what each dog has trialled like with times etc and it was very interesting talking to one of them (toohey) and sf at Golden Century at 11pm last night!

…

Anyway long story short, only these few people know what these dogs will do on thurs/fr and before you ask … I am not going into explicit detail about who/how/why/ but all time trials are kept separately but toohey gets all of them.[533]

6.143 Williams disagreed that he had suggested in the email that certain persons had access to inside information. In commenting on what he had written he also said: *"I can't remember what I was thinking there and that's the honest truth."*[534]

6.144 Williams had on-going email contact with some of the persons who had provided him with the means of access to their existing Sportingbet accounts. The communications related to such matters as ensuring that money was

[530] Ex 89, Thread of Facebook messages

[531] PIC Transcript, A P Williams, 21 November 2013, pp. 231:45-231:47, 232:26-232:28

[532] PIC Transcript, A P Williams, 21 November 2013, p. 235:28-235:40

[533] Ex 119 AC Email from Anthony Williams, 26 March 2012

[534] PIC Transcript, A P Williams, 21 November 2013, p. 303:15-303:24

deposited into their Sportingbet accounts for use by Fletcher. Fletcher was named in some of those communications.[535]

6.145 On 10 April 2012 Williams sent an email which included the following statement:

> *Sportingbet now require a faxed or emailed copy of bank statements showing any deposit over 5k otherwise it is flagged – for accounts where no deposits like that have been submitted previously*.[536]

6.146 With reference to the email, Williams said that he was relaying something that he *"heard"* and saw nothing wrong with making a deposit that would be inconsistent with other deposits that might have been made to a Sportingbet account. He could not say why such a transaction might be *"flagged"* and said that he was *"talking in general terms".* He would not say that the problem might be that such a deposit might alert Sportingbet to the possibility that it was not the account holder who was using the account. He went on to say that his use of the word *"flagged"* in the email was *"a poor word"* and said that what he meant to say was that the deposit *"may be looked at"*.[537] The following questions and answers then occurred:

> *Q. Well, let's use "looked at". Who is going to look at it?*
>
> *A. Well, I don't know. I'm just saying, "Sportingbet now require a faxed or emailed", this is obviously something that had come back to one of the account holders or something that I heard. That's the best way I can explain it.*
>
> *…*
>
> *Q. Who was going to look at it?*
>
> *A. Someone from Sportingbet, if they did. I never knew that they did. I've got no proof to indicate that that's what took place.*
>
> *…*
>
> *Q. So you say someone at Sportingbet might look at it?*
>
> *A. Just purely because of the amount of the deposit is not consistent with what was normally deposited into the account.*
>
> *Q. And what's the problem with that?*
>
> *A. There is no problem with it.*
>
> *Q. The problem with it is that it might suggest someone else is using the account, right?*

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[535] Ex 290 AC, Email from Williams' NSWPF email, 11 April 2012; Ex 29 AC, Email from Williams' NSWPF email, 11 April 2012; Ex 293 AC, Email from Williams' NSWPF email, 12 April 2012;

[536] Ex 289 AC, Email from Williams' NSWPF email, 10 April 2012; Ex 296 AC, Email from Williams' NSWPF email, 16 May 2012

[537] PIC Transcript, A P Williams, 17 December 2013, pp. 543:33-545:24

A. No.

Q. That's the problem with it?

A. I beg to differ.[538]

6.147 Williams did not know what happened to an account when it was *"flagged"* or *"looked at".* He said that he had never worked with a corporate bookmaker. [539]

6.148 Williams sent the following email on 12 April 2012:

> *Seeing sf this arvo – so I will ring and tell you what to put the 5k on.*
>
> *Probably some out wide tennis match.*
>
> *I have used every internet café around the inner west*
>
> *Toohey lives around Kogarah / any Centrebet or Sportingbet account from anyone living in close proximity to him is automatically flagged (we know this for a fact)*
>
> *It got that bad at one stage that any person opening an account with Centrebet living around him had an automatic $1 max bet of dog races until they proved who they were / spoke to racing manager etc.*
>
> *Toohey estimates he has gone through 200+ accounts over the past few years!!!! Massive ynuf!*[540]

6.149 Williams said that he was exaggerating in the email when he said that he had used *"every internet café around the inner west".* He said that in the period around April 2012 he had visited *"a few internet cafes".* He said he had done so *"to check the status of accounts that were used in that time"* and to see if they were *"dump or non-dump accounts".*[541] He agreed that he had visited more than one internet café to check the accounts. The following questions and answers then occurred:

> *Q. So why could you not access all three of them from the one internet cafe? Let's assume that - I think you put it, for convenience sake, you went to an internet cafe.*
>
> *A. Yes.*
>
> *Q. Let's assume the truth of that. Why would you not check all of them from the one internet cafe?*
>
> *A. Because the accounts would get linked.*
>
> *Q. So you needed to fool the computer at the other end?*

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[538] PIC Transcript, A P Williams, 17 December 2013, pp. 545:40-546:24

[539] PIC Transcript, A P Williams, 17 December 2013, p. 546:36-546:46

[540] Ex 292 AC, Email from Williams, 12 April 2012

[541] PIC Transcript, A P Williams, 17 December 2013, p. 549:9-549:37

A. Well, we were just checking the accounts, the status of the accounts, so they wouldn't get linked.

Q. When you say "get linked", so that the sporting agency wouldn't work out that the same person was operating through different identities?

A. No, that's not entirely true because they could possibly link them anyway through the referrer friend-link, so they might have already known that one person was already linked to another account. For example, if [MC4][542] *has an account and he refers* [MC5],[543] *those accounts already are linked.*

Q. I'm just going to ask you I think the same question: why couldn't you have checked this stuff from your own computer?

A. Well, I could have but there was a possibility that they may have been linked.[544]

6.150 Williams was then asked about his reference to the person named *"toohey".* He confirmed that *"toohey"* was a reference to Azzopardi and said that he had *"heard that any person that opened up a Sportingbet account in close proximity to where he lived was looked at".* Williams could not say if he *"heard"* that Azzopardi had *"gone through 200+ accounts"* or if he *"made that up".*[545]

6.151 In a third email dated 14 April 2012 Williams referred to a *"quick funny story"* about Fletcher. The email stated as follows:

Quick funny story – he got a tennis player on side a few years ago.

Tennis player would ring him and say 'Can you have 75 on for me' obviously backing the yob he was playing. Steve would say 'yep no worries and quote him overs eg. 2.80 instead of 2.50

Then SF would go and have $500k+ on

Then he got this blokes other mate on side – they both played aust open.

Fletch won 2.5 in the space of 60 minutes.[546]

6.152 Williams said that the story was one he *"heard floating around"* and was *"not sure if it was true or not".* He said that there were *"a lot of stories about Mr Fletcher and his gambling activities"*. Assuming that the substance of the story was true, he agreed that it was *"not right"* for a tennis player to throw a match and for a gambler to know in advance that they are going to throw the match. However, he did not believe that the story was true.[547]

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[542] The real name of this person is subject to a non-publication order by the Commission

[543] The real name of this person is subject to a non-publication order by the Commission

[544] PIC Transcript, A P Williams, 17 December 2013, p. 550:8-550:35

[545] PIC Transcript, A P Williams, 17 December 2013, p. 551:1-552:2

[546] Ex 293 AC, Email from Williams, 14 April 2012

[547] PIC Transcript, A P Williams, 17 December 2013, pp. 552:36-553:47

6.153 Williams also said that he had no concern about involving himself and friends in an arrangement with Fletcher. The following questions and answers occurred:

> *Q. Did it concern you that he had this reputation and you were, yourself, involved, along with a number of friends, including a number of police officers, in allowing him to bet through your accounts, if there was even the slightest whiff of dishonesty in the betting?*
>
> *A. Not at all. It's a story. People - you can't read everything you hear or say. I mean, there's been circumstances in this case where things have been portrayed in the media which are totally incorrect. It's just a story.*
>
> *…*
>
> *Q. -- the nub of your answer, you weren't concerned at all?*
>
> *A. No*.[548]

ASSOCIATION WITH SMITH

6.154 Williams said that he was *"looking for old Sportingbet accounts"* when he came into contact with Smith.[549] Before he contacted Smith he had been told by a colleague that Smith was involved in gambling.

6.155 Williams denied having deliberately targeted Smith because he knew that Smith had a gambling problem.[550]

6.156 Williams gave the following account of what happened after his initial telephone conversation with Smith:

> *A. .. I think in a subsequent call to Mr Smith, he outlined that he had opened a number of accounts to use free bets and … that's possibly when I became aware - he's had to use the free bets and close the accounts and I think I said to him, "Well, don't close the accounts because there may be an opportunity there for friends of mine", being obviously Mr Fletcher and Mr Azzopardi, "to use the accounts"*.[551]

6.157 And again:

> *A. .. Initially, in my initial conversation, I told him that we were going to bet on the dogs, that I had smart punters, and it wasn't until a subsequent phone call, which I believe that the Commission would be in possession of, that he told me he had set up a number of accounts in order to get a free bet and then he'd subsequently close those accounts down and I told him, "Well, don't close the accounts down because I'd have people who could bet through the accounts and we may be able to get a bit more money as a*

[548] PIC Transcript, A P Williams, 17 December 2013, pp. 555:6-555:22
[549] PIC Transcript, A P Williams, 21 November 2013, p. 233:5-233:8
[550] PIC Transcript, A P Williams, 20 November 2013, p. 193:35-193:45
[551] PIC Transcript, A P Williams, 21 November 2013, p. 233:14-233:21

commission agent". That's when I first became aware of setting up accounts and getting free bets.[552]

6.158 Later in his evidence the following questions and answers occurred:

Q. I think you said that he [Smith] *told you that he had been opening accounts and obtaining free bets and then closing the accounts?*

A. Yes, that's what he told me. He said that he'd opened up a number of accounts and used the free bets.

Q. It was your understanding that he was opening them in his own name, with various organisations?

A. No, with members of his work.

Q. What gave you that impression?

A. He told me.

Q. Well, I suggest to you that's incorrect; would you agree with that or not?

A. No, that's totally incorrect.

…

Q. And it's the situation, isn't it, that when those accounts were opened - that's the ones you were aware of - you provided the funds to Mr Smith to open those accounts?

A. Some I did, some I didn't.

…

Q. Would you agree with the proposition that you provided him approximately $14,000 in total to open these various accounts?

A. I thought it was 7 initially.

Q. All up, I'm talking about?

A. Possibly, yes. [553]

INVOLVEMENT IN ACCOUNTS SET UP BY SMITH

6.159 Williams had been in the hearing room when Smith gave evidence and had heard evidence that some of the persons Smith had recruited to open accounts had indicated to Smith that they did not want their accounts used by anyone other than Smith. Williams said that he had not heard that before hearing the evidence and said that he had not been told by Smith. He said that he believed

[552] PIC Transcript, A P Williams, 17 December 2013, p. 512:37-512:48

[553] PIC Transcript, A P Williams, 17 December 2013, pp. 604:37-606:32

that if he used any accounts he would have done so with the consent of the account holders.[554]

6.160 The following questions and answers also occurred about whether the account holders had consented to the use of accounts that were set up by Smith:

> *Q. Do you recollect having any discussions with Mr Smith about the accounts that he provided you with, about people agreeing or not agreeing, or was there any mention of their consent in relation to the accounts being used by others?*
>
> *A. I believe that he told me that they were right to bet through, as in to pass on the details to bet.*
>
> *…*
>
> *Q. Would you agree with me that on occasions there was no specific discussion about whether these people whose names were being used to create accounts had actually consented to the accounts being --*
>
> *A. I would have asked him, I definitely would have asked him because I wouldn't have passed the details on otherwise.*
>
> *Q. Is it your evidence you had a specific recollection of asking Mr Smith on each and every occasion?*
>
> *A. Not on each and every occasion but - as I wouldn't have passed the details on if in my mind those people weren't consenting.*
>
> *Q. And if I suggested to you that on occasions there was no such discussion, would you agree with that or not?*
>
> *A. I wouldn't agree with that, no.*
>
> *…*
>
> *Q. Sir, with respect to picking up from what my friend said, would you have ever used anyone's account without the understanding that they were consenting to you using?*
>
> *A. No, I didn't need to, there was no shortage of people who were willing to provide their details for the accounts to be used*.[555]

6.161 Williams was shown an exchange of text messages from 4 September 2012 and confirmed that he and Fletcher participated in the exchange.[556] The exchange included the following text from Williams to Fletcher:

> *WILLIAMS: Tigers miss the 8 … Finding all the bets now. Have sba (bb) and betstar (imm) coming tomorrow as well. Need to give both those boys something as well (especially imm)*.[557]

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554 PIC Transcript, A P Williams, 21 November 2013, p. 261:43-252:15

555 PIC Transcript, A P Williams, 17 December 2013, pp. 610:22-611:37

556 PIC Transcript, A P Williams, 17 December 2013, p. 522:21-522:30

6.162 Williams confirmed that the reference to *"bb"* and *"imms"* in the communication were references to accounts that had been set up in the names of Besant and Immens with the corporate bookmakers Sportingbet and Betstar, respectively. He said that he was asking Fletcher in the communication if *"we can give them something because they've taken a withdrawal"*.[558]

6.163 Williams was shown an exchange of text messages from 3 December 2012, which he confirmed took place between Smith and himself. The messages included as follows:

> *SMITH: U need anything today? What's the story with Zeibots?*
>
> *WILLIAMS: Just pull money out of z and close them down!*[559]

6.164 Williams agreed that Smith had asked him what was happening with Zeibots' account and that he had given Smith a direction to pull the money out. Williams thought that Zeibots' account was being used by Fletcher and said that he would have been given instructions by Fletcher to withdraw the money from the account.[560]

6.165 Williams had some involvement in Smith's personal accounts.

6.166 Williams agreed with reference to an intercepted text exchange that occurred between himself and Azzopardi on 11 and 12 September 2012 that he had provided Azzopardi with the login and password details for Smith's betting account with Bet365.[561]

6.167 Williams also gave evidence about the use of Smith's Sportingbet account to place bets on behalf of Azzopardi.

6.168 Williams was shown an exchange of text message from 5 November 2012, which he confirmed took place between himself and Smith.[562] With reference to those messages he said that he had been contacted by Azzopardi *"to try and put a bet on for him"* and that he *"in turn contacted Smith"* and asked him to *"try and get $2,000 on a dog"* named Imry Bale which was racing *"at the Meadows"*.[563] He was not sure if Azzopardi could have placed the bet on his own but agreed that Azzopardi could not have placed such a bet with Sportingbet or Centrebet. Williams said that he knew that *"at the time"*.[564]

6.169 Williams was then played a telephone conversation from 5 November 2012, which he confirmed took place between himself and Smith. It included as follows:

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[557] Ex 124 AC, Text message exchange between Anthony Williams and Stephen Fletcher, 4 September 2012

[558] PIC Transcript, A P Williams, 17 December 2013, pp. 522:43-523:5

[559] Ex 268 AC, Text message exchange between Anthony Williams and Marc Smith, 3 December 2012

[560] PIC Transcript, A P Williams, 17 December 2013, pp. 560:41-561:19

[561] Ex 269 AC, Text exchange between Darren Azzopardi and Anthony Williams, 11-12 September 2012; PIC Transcript, A P Williams, 17 December 2013, p. 560:18-560:29

[562] Ex 276 AC, text exchange between Anthony Williams and Marc Smith, 5 November 2012

[563] PIC Transcript, A P Williams, 17 December 2013, p. 584:38-584:42

[564] PIC Transcript, A P Williams, 17 December 2013, p. 585:22-585:36

WILLIAMS: … Can we get that two K on for DAZ anywhere?

SMITH: Yeah I um, got, fifteen hundred on my Sportingbet

WILLIAMS: Yeah, At sixes?

SMITH: At sixes yeah …[565]

6.170 Williams agreed that the telephone conversation was about Azzopardi needing to get a bet on and said that $1,500 was *"put on it"* through Smith's Sportingbet account.[566]

INVOLVEMENT IN RELATION TO ACCOUNTS WILLIAMS OPENED

6.171 Williams said that he opened betting accounts in the names of his sister, his mother and/or his father and in the names of both Groves and Seagg. He also said that he opened accounts by using his sister's middle name and his own middle name, *"Paul"*.[567] In the course of his evidence he accepted that he had been IP address matched by Luxbet to his use of accounts in the names of Smith, Groves and his sister.[568]

6.172 Early in his evidence the following question and answer occurred about the reason he opened accounts in other people's names:

Q. What was then the reason for doing it in other people's names?

A. Well, that was just - we'd get a free bet, but that's the thing, we just open up the accounts in all those people's names, just that's what - that's what we were doing.[569]

Accounts opened in the name of Groves

6.173 Williams confirmed that Groves was paid for his involvement and agreed that Groves would have been paid in the vicinity of $3,200.[570]

6.174 Williams could not comment on, and was unaware of the fact, that bets totalling in excess of $250,000 were placed through Groves' accounts.[571]

6.175 Williams said that he could not be certain as to the identity of the person or persons who placed bets through Groves' accounts and could not remember if he himself had placed any bets on any of Groves' accounts. However, he confirmed that he had passed on Groves' account details and assumed that he would have passed them on to Fletcher or Azzopardi, or possibly both. He

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565 Ex 278, Transcript of telephone call between Marc Smith and Anthony Williams, 5 November 2012

566 PIC Transcript, A P Williams, 17 December 2013, p. 586:21

567 PIC Transcript, A P Williams, 20 November 2013, pp. 204:12-204:22, 250:28

568 Ex 288 Ac, Luxbet system print out; PIC Transcript, A P Williams, 17 December 2013, p. 559:28-559:48

569 PIC Transcript, A P Williams, 20 November 2013, p. 196:37-196:42

570 PIC Transcript, A P Williams, 20 November 2013, pp. 191:41-192:10

571 PIC Transcript, A P Williams, 20 November 2013, p. 192:20-192:24

could not comment on whether either of them passed on Groves' account details to other people.[572]

6.176 Williams said that he was not aware of Groves' gambling problems when he approached him to set up accounts and denied that he had deliberately targeted Groves because he knew that he had a gambling problem.[573]

6.177 Williams was shown the bundle of documents relating to the evidence that had been given by Groves in private on 6 November 2013.[574] He said he could not comment on the extensive bets that were made on Groves' Sportingbet account or that in excess of $250,000 worth of wagers were placed on the account. However, he said that he *"must have"* been responsible for making two deposits to Groves' bank account totalling $17,600. He also said that he *"would have"* played a part in the transfer of $20,427.50 from Groves' account to Fletcher on 13 August 2012.[575] He could not remember the exact details of the transfer. In similar cases he said that Fletcher would have contacted him with instructions to *"remove the amount of money from X account".* Williams would then contact the holder of the account and tell them to *"withdraw the money".* The money would pass to Fletcher via Williams' own account or directly from the bowler's account. [576]

6.178 Williams was shown a chat session between *"Chris Groves"* and Luxbet. In the chat session, the person described as *"Chris Groves"* complained to Luxbet that they had not received a *"400 free bet"*, after $2000 was deposited into the account.[577]

6.179 Williams said it was possible that he was the author of those words. He could not remember having authored the words but said that it was likely that he had, because he had Groves' account and was *"managing the free bets"*.[578]

6.180 The following questions and answers then occurred:

> *Q. Again, looking back on it now and accepting that you're at a particular stage of difficulties in your life, do you accept that's deceptive conduct?*
>
> *A. I don't know what I was thinking at that time. I was --*
>
> *Q. Do you accept it's deceptive conduct?*
>
> *A. Well, I'm trying to get a free bet. I'm just betting on behalf of - I'm opening the account on behalf of Chris Groves. I don't know if it was deceptive.*
>
> *Q. You were pretending to be Chris Groves, weren't you?*

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572 PIC Transcript, A P Williams, 20 November 2013, pp. 192:26-193:2
573 PIC Transcript, A P Williams, 20 November 2013, pp. 193:4-194:8
574 PIC Transcript, A P Williams, 21 November 2013, p. 291:10-291:12
575 PIC Transcript, A P Williams, 21 November 2013, pp. 291:34-291:46
576 PIC Transcript, A P Williams, 21 November 2013, pp. 292:45-293:21
577 Ex 114 AC, Photograph of a chat session between Groves and Luxbet
578 PIC Transcript, A P Williams, 20 November 2013, p. 296:12-296:33

A. Well, I was using the account. I'm using Chris Groves' account. I wouldn't - if you put it that way then I'd say yes, but –

Q. The person described in that communication is Roisin?

A. Yes.

…

Q. And that person is under the apprehension that they are communicating with Chris Groves?

A. Well I - yes.[579]

Accounts opened in the name of Seagg

6.181 Williams was shown an email exchange between LuxbetInfor@tabcorp.com.au and mattyseaggs@hotmail.com. The email was retrieved from a search of Williams' home. The relevant parts stated as follows:

You are a joke

Just because my flat mate has an account – you restrict me and take away my bonus bet after I lost 2k on a horse bet.

I will be taking this to the NT gaming commission.[580]

6.182 Williams did not remember writing or sending the email. He did not deny that it had been retrieved from his laptop computer and conceded that he *"must have"* been the author and assumed that he was the author.[581]

6.183 Williams also conceded that, if he had set up Seagg's Luxbet account, he *"would have set up"* the email account mattyseaggs@hotmail.com*, "to manage that betting account"*.[582]

6.184 The following questions and answers then occurred about whether Williams was pretending to be Seagg in the email:

Q. Would you agree that, in that email, you are pretending to be Matty Seagg?

A. Or I'm sending it from that email address. I'm not pretending to be him; I'm sending it from that email address.[583]

…

[579] PIC Transcript, A P Williams, 20 November 2013, pp. 296:24-297:7

[580] Ex 80 AC, Exchange of emails

[581] PIC Transcript, A P Williams, 20 November 2013, pp. 195:3-195:10, 195:23-195:35

[582] PIC Transcript, A P Williams, 20 November 2013, p. 195:19-195:21

[583] PIC Transcript, A P Williams, 20 November 2013, p. 195:37-195:41

Q. Going back to that email, do you or do you not agree that, in that email, you are pretending to be Matthew Seagg?

A. Well, I'm sending it from his email address

Q. Aren't you pretending to be him?

A. Well, I'm sending that from his email address.

Q. And you -

A. So - but I'm not saying that I am Matthew Seagg; I'm just sending it from that email address.[584]

…

Q. What we're suggesting to you, we're asking you to consider, is whether or not, when you sent that email, you were pretending to be somebody that you're not?

A. Well, if it's come from Matthew Seagg, then I guess yes, I'd have to agree with that.

Q. And that, would you agree, was designed to deceive Luxbet?

A. Well, I wouldn't say "deceive". That's your word, not mine.[585]

6.185 Williams was later asked about the consent he received from Seagg to set up accounts in Seagg's name. Williams said that he would not have opened accounts in Seagg's name unless he had Seagg's consent. He said:

A. Well, I wouldn't have. The people that I used the accounts - that I personally opened the accounts for – Matt Seagg and Chris Groves - I specifically spoke to them and told them exactly what I was going to do and asked if, you know, they were fine with me passing on the account, which they said yes.[586]

6.186 And again:

A. … I wouldn't have opened up the accounts otherwise. I wasn't in the habit of doing that. Like, that's not how I operate. If someone didn't want to become involved, like in previous conversations, I wouldn't force it upon them. If they said no, that's it, I wouldn't contact them again, I wouldn't force it upon them. That's not me.[587]

6.187 Williams disputed Seagg's evidence that he had not authorised Williams to open multiple accounts in his name. The following questions and answers occurred:

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[584] PIC Transcript, A P Williams, 20 November 2013, pp. 196:44-197:7

[585] PIC Transcript, A P Williams, 20 November 2013, pp. 197:40-198:2

[586] PIC Transcript, A P Williams, 21 November 2013, p. 262:20-262:25

[587] PIC Transcript, A P Williams, 21 November 2013, p. 265:33-265:39

Q. I'd just ask you to comment on this: Mr Seagg said that there was an initial request as to whether or not he had an existing Sportingbet account?

A. Yes.

Q. And you agree with that?

A. That's what I said, yes.

Q. And he said that he had no memory of any suggestion that you would open other accounts in his name?

A. I disagree with that.

Q. And he says that he did not authorise you to do so?

A. I totally disagree with that.

Q. And he said specifically, when I took him to a Centrebet account, that he'd never authorised anyone to open a Centrebet account in his name?

A. I disagree. I believe that there should be emails on my laptop computer where I outline to him that I'm willing to pay him $500 or $400 for the opening up of these accounts and, in actual fact, he then went on and recruited two extra people which he said that I could use in this same fashion.

Q. Those two extra people were?

A. I'm not sure. He just provided a Hotmail account and a Gmail account or a Yahoo account. I never contacted those people but he willingly, openly discussed, because he said that he should get an extra $200 or an extra $300 for finding those two accounts and I specifically remember that email conversation. [588]

6.188 Williams also agreed that he had invited Seagg to become involved by means of a Facebook message, in which he had told Seagg that he had *"a mate"* who was *"a professional punter"* and who was *"that good"* that he could not *"put bets through corporate bookmakers."*[589]

Accounts opened in the name of Williams' sister (MC22)

6.189 Williams was shown a series of emails dated between 4 and 7 February 2013 and confirmed that the exchanges took place between himself and his sister.[590]

6.190 In explaining the contents of the emails, Williams said that he had offered his sister $450 to allow him and his colleagues to set up and use accounts in her name. He guessed that as many six accounts were set up in her name. He promised her $450 *"for her trouble"* when she first agreed and believed that

[588] PIC Transcript, A P Williams, 21 November 2013, pp. 264:31-265:15

[589] PIC Transcript, A P Williams, 21 November 2013, pp. 289:29-290:43

[590] Ex 274 AC, Exchange of emails between Anthony Williams and his sister, 4-7 February 2013; PIC Transcript, A P Williams, 17 December 2013, p. 567:26-567:29

she was paid additional monies. At the start of the arrangement Williams said that he transferred some money to fund the betting accounts in her name.[591]

6.191 Williams said that he set up the accounts himself. He said that he set up her accounts *"like any of the other accounts".* He said he "*would have got her personal details, credit card in her name and then just gone to a computer and set the accounts up, with various passwords and log-in details".*[592] He said that he set up accounts in his sister's name *"just … to get a free bet"*.[593]

6.192 Williams was played a lawfully intercepted telephone conversation that occurred on 16 February 2013. He confirmed he and Azzopardi were the parties to the conversation om which the following was said:

> *AZZOPARDI: Um, I've gotta back a horse today.*
>
> *WILLIAMS: Yes*
>
> *AZZOPARDI: Um, that'll get rid of um, that thing and then I can pay you*
>
> *WILLIAMS: Yeah, yeah for sure. Well do you want, do you want just the ah, do you want the log-in details?*
>
> *AZZOPARDI: Yeah, who's it with though?*
>
> *WILLIAMS: Um, um DynaBet*
>
> *…*
>
> *AZZOPARDI: Which is those idiots*
>
> *…*
>
> *AZZOPARDI: … I can't ringh 'case it's a chick's name, fuck.*
>
> *WILLIAMS: it's a ch-, (ui) sister's, um, can you get your Mum to ring?*
>
> *AZZOPARDI: She's not here.*
>
> *WILLIAMS: Fuck I haven't got anyone new in the other either. Um*
>
> *…*
>
> *WILLIAMS: … I might have a bit more in another account out wide as well, I'll um, I'll give you a call back in five*.[594]

[591] PIC Transcript, A P Williams, 17 December 2013, p. 568:3-568:45

[592] PIC Transcript, A P Williams, 17 December 2013, p. 569:4-569:13

[593] PIC Transcript, A P Williams, 17 December 2013, p. 569:18-569:19

[594] Ex 273 AC, Transcript of call between Anthony Williams and Darren Azzopardi, 16 February 2013

6.193 Williams agreed that he provided Azzopardi with the login details for an account he had set up in his sister's name. He gave the following evidence about why that represented a problem:

> *Q. That seemed to present a problem?*
>
> *A. Well, from the phone call there's - he's obviously looking it up and there's no fixed price on it, so therefore he'd have to ring up and take the price and obviously being male in a - myself and Mr Azzopardi being male and the account holder being in a female's name, well, you couldn't put the bet on, or you might be able to put the bet on; I'm not sure.*
>
> *Q. Because if a male rang up using a female account, the operator would obviously know that it wasn't the account holder?*
>
> *A. Well, that's right*.[595]

6.194 Williams agreed that when he had said, *"Fuck I haven't got anyone new in the office either"*, there was a suggestion that had there been a female in the office, either a civilian or a police officer, he would have asked that person to ring the corporate bookmaker.[596]

6.195 Williams did not provide an answer as to whether it would have been deceptive to have someone else ring up Dynabet and pretend to be his sister. He said that it *"didn't happen"*.[597]

6.196 Williams was asked if he ever pretended to be his sister. He replied that he had *"sent email from an account"* that he had generated for her and agreed that he had wanted the recipients of the emails to believe that he was his sister.[598]

6.197 He was shown an email exchange between himself and his sister from May 2012, in which he asked his sister to send an email to the betting manager at Luxbet.[599] With reference to the email exchanges, Williams explained that he had opened an account in his sister's name with Luxbet and had obtained a free bet. He had won money on those free bets and was attempting to *"get the money from Luxbet"*. He agreed that he was pretending to be his sister in order to obtain money.[600] Part of the email exchange stated as follows:

> *I CAN NOT provide you with any identification saying that I go by my middle name because I don't have anything on it, unless you want me to get a stat dec signed by 50 people saying that is what I am known as*.[601]

6.198 Williams said that had used his sister's middle name to set up the account but said he had done so in error.[602]

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595 PIC Transcript, A P Williams, 17 December 2013, p. 562:36-562:48
596 PIC Transcript, A P Williams, 17 December 2013, p. 566:24-566:28
597 PIC Transcript, A P Williams, 17 December 2013, p. 563:3-563:25
598 PIC Transcript, A P Williams, 20 November 2013, pp. 198:33-198:43
599 Ex 79 AC, Exchange of emails
600 PIC Transcript, A P Williams, 20 November 2013, pp. 198:45-199:36
601 Ex 79 AC, Exchange of emails

6.199 He confirmed that he had authored the words and agreed that they were false. He said that he *"just made them up"* and agreed that neither he nor his sister could have got 50 statutory declarations saying that she was known by her middle name, because she was not known by her middle name.[603]

Accounts opened in the name of *"Paul Williams"*

6.200 Several items of evidence were led about the creation by Williams of betting accounts in the name of *"Paul Williams"*.

6.201 Williams was shown an intercepted exchange of MSN messages from 18 February 2013, which he confirmed took place between himself and Azzopardi. They contained the following relevant messages:

> *AZZOPARDI: Whose paulywine?*
>
> *AZZOPARDI: It's not your account?*
>
> *…*
>
> *WILLIAMS: Yes – me. My middle name!*
>
> *AZZOPARDI: Ok*
>
> *WILLIAMS: Just tell them I got confused and thought I put in my full name!!*
>
> *WILLIAMS: Hahahahha*
>
> *AZZOPARDI: Classic*.[604]

6.202 Williams accepted that the MSN communication contained a reference to the existence of an account in Williams' *"middle name"* but said he did not remember setting up the account. He thought that the account was opened to obtain free bets and that he subsequently provided the account to Azzopardi to use.[605]

6.203 Williams gave the following evidence about what he had written in the MSN exchanges:

> *A. Yes, this is what I alluded to previously. I opened up the account using my middle name. I - just in order to get a free bet. It was stupid and I regret it.*
>
> *Q. When you say "it was stupid" and you regret it, is that because in that context the word "stupid" means deceptive?*

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[602] PIC Transcript, A P Williams, 20 November 2013, pp. 285:19-285:27

[603] PIC Transcript, A P Williams, 20 November 2013, pp. 287:43-288:16

[604] Ex 105 AC, Exchange of MSN messages between Anthony Williams and Darren Azzopardi, 18 February 2013

[605] PIC Transcript, A P Williams, 17 December 2013, pp. 580:34-581:19

A. Well, I should have opened up in my own name - in my first name, not my middle name.

Q. Why didn't you?

A. Well, just to get the free bet. If I'd opened it up in Anthony Williams - I'm not sure if I had a bookmaker.com previous account, I may have had, I'm not sure, but if I did have - if I did open it up in Anthony Williams, I wouldn't have been able to have that $300 free bet.

Q. Because? Sorry, why?

A. Well, because I would have had a previous account with them and you can only get one free bet per account.

Q. So you were obtaining a benefit from the betting company by deceit; correct?

A. A $300 free bet, yes.

Q. Well --

A. Yes. At the same time I was using a credit card in my own real name.[606]

6.204 Williams was shown a further exchange of MSN messages from 18 February 2013, which he also confirmed took place between himself and Azzopardi. The relevant parts included as follows:

WILLIAMS: Yes – but now you have paulywine cb with 1500 now as well!!

…

AZZOPARDI: Whose account is that?

….

WILLIAMS: Mine

…

AZZOPARDI: bookmaker login??

AZZOPARDI: sba login

AZZOPARDI: c/b login??

AZZOPARDI: spit them out and I'll write them down.

WILLIAMS: Bookmaker is

WILLIAMS: paulwine/bondibeach

[606] PIC Transcript, A P Williams, 21 November 2013, pp. 278:7-278:35

WILLIAMS: SBA is

WILLIAMS: paulwine/bondibeach

WILLIAMS: Cb is

WILLIAMS: florimo1/mthsydney

…

AZZOPARDI: Got it

…

AZZOPARDI: that will get all your money back anyway

WILLIAMS: Toooooo eeeeeeeasy

WILLIAMS: You will never complain about not getting on again!! Hahahaahha.[607]

6.205 Williams said with reference to MSN messages that he provided Azzopardi with the login details for a number of accounts he set up in the name of *"Paul Williams".* He said that he opened the accounts to obtain free bets and that he recouped the money he had used to set up the account from Azzopardi.[608]

6.206 Williams was asked what he meant when he had written, "*You will never complain about not getting on again".* He said that the comment was *"tongue in cheek"* and that he was *"just being sarcastic".* However, he agreed that, in some cases, the whole purpose of providing Azzopardi with the accounts was to give him a means of betting that he did not otherwise have.[609] He did not think there was anything dishonest about the arrangement and continued to hold that view.[610]

6.207 Williams confirmed that one of the accounts he opened in the name of *"Paul Williams"* was with the corporate bookmaker Bookmaker.The full name of that account was *"Paul Williams (paulywine)".*

6.208 Williams said that he created the account *"just in order to get the free bet and do what I did before, to lay off the free bet".* However, in that instance the bet he placed on the account won. After it won, he asked Azzopardi if he *"wanted to turn it* [the winnings] *over"* and provided him with the account details.[611] The account was used by Azzopardi and $50,000 was won on the account.

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[607] Ex 275 AC, MSN exchange between Anthony Williams and Darren Azzopardi, 18 February 2013

[608] PIC Transcript, A P Williams, 17 December 2013, p. 582:3-582:30

[609] PIC Transcript, A P Williams, 21 November 2013, pp. 582:22-583:43

[610] PIC Transcript, A P Williams, 21 November 2013, p. 584:18-584:23

[611] PIC Transcript, A P Williams, 21 November 2013, pp. 270:44-171:14

6.209 Two lawfully intercepted telephone conversations that related to the use of the account were played. Williams confirmed that he and Azzopardi were the participants in both calls.

6.210 The first conversation occurred at 18:06:31 pm on 23 February 2013. The relevant parts included as follows:

AZZOPARDI: Mate you're not gonna believe this.

WILLIAMS: Yeah.

AZZOPARDI: Bookmaker.com rang me up.

WILLIAMS: Rang you?

AZZOPARDI: Yep.

WILLIAMS: And said what?

AZZOPARDI: She goes is this Paul? I go sorry, she goes oh Paul. I'm just letting you know, can you give us your bank details, we're closing your account, we, we've worked out your account's not viable. So um, we're just letting you know, so if you could give us your bank details in due course that'd be great,

WILLIAMS: what?

AZZOPARDI: I've gone what, I nearly fucking mate, I-I shivered all the way through me.

WILLIAMS: Yeah and what'd you say?

AZZOPARDI: I went oh, okay no worries thank you and hung up.

WILLIAMS: Yeah that fine, no worries.

AZZOPARDI: Fuck me.

WILLIAMS: See they know.

AZZOPARDI: And I'm thinking if

WILLIAMS: they, they know because it's your computer that's why

AZZOPARDI: Yeah well, it's gotta be.

…

WILLIAMS: Oh well, d-don't stress mate, see what happens

AZZOPARDI: Well anyway I went to log-in and you can't even log-in

WILLIAMS: Fair dinkum?

AZZOPARDI: Yep.[612]

6.211 Williams said that the conversation related to Azzopardi's inability to access the sum of $50,000 that he had won on the Bookmaker account in the name of *"Paul Williams"*.[613]

6.212 The second conversation occurred at 18:23:41 on 23 February 2013. The relevant parts included as follows:

WILLIAMS: hello mate.

AZZOPARDI: Yeah just fucking rang me just then.

WILLIAMS: Oh what'd they say?

AZZOPARDI: No I didn't answer it.

WILLIAMS: Oh fair dinkum?

AZZOPARDI: Did you send 'em the email?

WILLIAMS: Yeah I send an email.

AZZOPARDI: what'd you say?

WILLIAMS: I just said, dear Jade as per conversation please make payment into this bank account.

6.213 Midway through the second telephone conversation Azzopardi answered a separate telephone call from Bookmaker. The conversation with Williams then recommenced as follows:

AZZOPARDI: Okay, they said I sa, is she goes oh we just found out we don't have your ID?

WILLIAMS: Yeah

AZZOPARDI: I said that's fine, I said I'll tell you what you turn my account off so I couldn't do it, I said so turn it back on for half an hour, she goes well you won't be able to bet, I said no that's good, you turn it back on, I'll do the ID, and then we'll be sweet.

WILLIAMS:-Laughs- Yeah, oh well I don't have any of my shit here but I need my Passport.

AZZOPARDI:-Sighs- Oh fuck.

WILLIAMS: Like I, yeah, I-I can't send my fucking Driver's Licence, I'll send my Driver's Licence they're gonna like, email it to me anyway, at least if I send my Passport, it doesn't have

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[612] Ex 102 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 23 February 2013

[613] PIC Transcript, A P Williams, 21 November 2013, p. 272:1-272:8

AZZOPARDI: Where's your Passport?

WILLIAMS: At work

…

WILLIAMS: Yeah. If I send my Li-, Driver's Licence they're gonna know it's fucking me, it's got same licence number and everything. At least if I send my Passport it doesn't have any of that shit on it, it's just my name.[614]

6.214 Williams agreed that the second telephone conversation he had with Azzopardi related to the same subject matter as the first telephone conversation, namely the problem of Azzopardi not being able to withdraw money from the Bookmaker account because Bookmaker had worked out that there was something wrong with the account.[615]

6.215 The following questions and answers occurred about Williams' reluctance to provide Bookmaker with his driver's licence:

Q. On the second page of the transcript, you are talking about needing to communicate with Bookmaker your identity or identification document and you, I suggest, are very concerned not to provide them with your driver's licence?

A. I remember that part of the phone call, yes.

Q. Do you remember what the issue was that caused you that concern?

A. Well, I think, from what we - what I've ascertained earlier is I may have opened - I would have opened the account up in the name of Paul Williams, not Anthony Williams. I think that's possibly my - the reason for my concern there but I can't be sure. I dare say it would be.

Q. The concern you express on page 3 of that transcript is if you send the driver's licence, they're going to know it's you?

A. Yeah, I think I'm just protecting myself there.

Q. From what?

A. Just from knowing it was me - sending in my driver's licence.

Q. But it seemed to be that you were proposing to send them your passport?

A. Yeah, that's right and I think, from memory, that's what I sent them. Honestly, I don't know what I was thinking.

…

[614] Ex 104 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 23 February 2013

[615] Ex 102 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 23 February 2013

Q. Do you say that you just don't know now what the problem was with sending them your driver's licence?

A. Just from that phone call, like, they're obviously in my same name, my passport and my driver's licence are in the same name. So, yeah, I'm not sure what I was thinking there. I'm not sure what I was saying. Possibly I don't want Bookmaker to know that it has come from my driver's licence. I just don't know.

Q. Could it have been that the problem was that your driver's licence had been used as a means of identification in some other account with Bookmaker and that there'd be a match through their clever computer system?

A. Possibly. I don't know if I had a previous Bookmaker account. I dare say I would have but I can't be certain. [616]

BETTING RESTRICTIONS ON FLETCHER AND AZZOPARDI

6.216 Williams said that he was aware that betting accounts could become restricted and marked by corporate bookmakers. He said that he understood that restrictions might include limits on the amounts that could be bet and said that Fletcher and Azzopardi would have been subject to some form of restriction. He agreed in general terms that he circumvented those restrictions by setting up and providing Fletcher and Azzopardi with betting accounts in other people's names.[617] However, he also noted that what was being put was *"a massive general question"*, which was *"hard to answer".* He said that it was also his belief that Fletcher could have placed bets with certain corporate bookmakers and was not subject to any limitation in respect of those bookmakers.[618]

6.217 Williams was then asked about his canvassing of people on Facebook to find Sportingbet accounts and messages in which he said that his gambling friends *"can't place bets through corporate bookmakers".* He gave the following evidence:

Q. I'm driving at the words "can't put bets on through corporate book makers"?

A. Yeah, I think this was just a spiel that I'd drafted up and sent to a lot of people, as I mentioned earlier.

Q. But I'm coming back to the question that the Commissioner was asking you and that I was trying, not very well, to ask you. That was the whole purpose of this, wasn't it? When you say you were helping Mr Fletcher and Mr Azzopardi out it's because that's who you're talking about there --

A. Yes, I am.

[616] PIC Transcript, A P Williams, 21 November 2013,pp. 274:28-275:36

[617] PIC Transcript, A P Williams, 17 December 2013, pp. 523:13-524:5

[618] PIC Transcript, A P Williams, 17 December 2013, pp. 524:36-525:20

Q. -- professional punters that are that good that they can't get on with corporate bookmakers?

A. Yeah, I understand what you're saying but again that's just words that I've written. I know for a fact that they could get on with corporate bookmakers through at least one or two accounts, TopSport being one of them.

Q. I'm mystified and I really am seeking your help genuinely as to why it was necessary for Mr Fletcher and Mr Azzopardi to have access to tens of accounts in different names, not that?

A. Just to put more bets on, that's all.[619]

KNOWLEDGE OF CORPORATE BOOKMAKERS RULES AND PRACTICES

6.218 Williams never looked up terms and conditions of any of the corporate bookmakers and said that he had never read a term or a condition that stipulated that an account holder was permitted to have only one account. However, he knew that corporate bookmakers would close down an account, if they came to know that more than one account was being operated by one person.[620]

6.219 The following questions and answers then occurred:

Q. Because obviously if it was okay to just simply open multiple accounts in your own name, it wouldn't be necessary to use other people's names?

A. That's true.

Q. And other people's identities?

A. Yes.

Q. And, indeed, they had, to your knowledge, security measures in place to stop people having multiple accounts, didn't they?

A. Yes.[621]

KNOWLEDGE OF SECURITY MEASURES

6.220 As a result of his knowledge of the security measures used by corporate bookmakers, Williams agreed that he *"became more sophisticated"* in the measures he adopted to get around those measures.[622] He said that the measures included visiting internet cafes and buying prepaid internet devices *("dongles"*) so as to ensure that accounts he opened on devices were not IP address matched to other accounts he had opened and used from the same

[619] PIC Transcript, A P Williams, 17 December 2013, pp. 527:44-528:21

[620] PIC Transcript, A P Williams, 20 November 2013, pp. 201:42-202:9

[621] PIC Transcript, A P Williams, 20 November 2013, p. 202:27-202:38

[622] PIC Transcript, A P Williams, 20 November 2013, p. 203:17-203:21, 21 November 2013, p. 283:14-283:30

device.[623] Williams said that he had only ever purchased three or four *"dongles"* and said that when he purchased those devices, he *"always purchased them in my own name"*.[624]

6.221 Several items of evidence were led about his knowledge of the security measures employed by corporate bookmakers, including as follows.

6.222 Williams was shown a lawfully intercept exchange of MSN messages that occurred on 7 March 2013. He confirmed that the exchange occurred between himself and Azzopardi. Part of the exchanges included as follows:

WILLIAMS: hellllooooo maaaaate.

WILLAMS: I chased up bm this morning

AZZOPARDI: farrk

WILLIAMS: Reckon they didn't receive my email and fax

AZZOPARDI: I'm having nightmares here.

AZZOPARDI: Thought what the fuck happened

WILLIAMS: They are full of it

…

AZZOPARDI: Just keep emailing them

WILLIAMS: They definitely look up IP addresses now.

AZZOPARDI: Fair dinkum.

WILLIAMS: So new dongles for each account.

…

WILLIAMS: I opened up two more to get them ready – took away my free bets.

AZZOPARDI: Hahahaha.

AZZOPARDI: Fucking funny

WILLIAMS: Although different names – can't have same IP address

…

[623] PIC Transcript, A P Williams, 17 December 2013, p. 512:6-512:10

[624] PIC Transcript, A P Williams, 20 November 2013, pp. 203:23-204:1

WILLIAMS: I had about 4k in free bets sitting there from these acc's – lost them all cause of IP. Even opened one up at internet café!!

WILLIAMS: So you really need to rape them now!! [625]

6.223 Williams said that the MSN messages related to accounts he had opened with Bookmaker and to one particular account which he passed on to Azzopardi. He said that Azzopardi had won over $50,000 on the account. Williams said that part of the messages was about the attempts he had made to verify the account to withdraw that money.[626] The other parts were about free bets that Williams lost when he opened other betting acocunts, because the IP address of the devices he had used to open the accounts were matched to other accounts he had opened on the devices.[627]

6.224 The following questions and answers occurred:

Q. So you got caught?

A. Or --

Q. Yes, you got caught?

A. Yeah, well, if you put it in those words - they just took away the free bets, they didn't close the accounts.

Q. Because they realised the rort was on?

A. Well, no, because they - I wouldn't say the rort was on. I would say that they closed down the free bets because, in essence, you can only have one free bet per account or one - yeah, so - but they didn't close the accounts, so they didn't know that the rort was on.

Q. And the next message you send says this: "So you really need to rape them now!!"

A. It's just a figure of speech.

Q. What does it mean?

A. You need to win to --

Q. Why?

A. It's just my figure of speech, saying, you know, they took away my free bet, so win some money. [628]

[625] Ex 91 AC, Transcript of intercepted MSN exchanges between Anthony Williams and Darren Azzopardi

[626] PIC Transcript, A P Williams, 21 November 2013, pp. 247:30-248:38

[627] PIC Transcript, A P Williams, 21 November 2013, pp. 249:47-250:16, 252:1-252:18

[628] PIC Transcript, A P Williams, 21 November 2013, p. 252:20-252:45

6.225 Williams was played a telephone call that occurred on 3 September 2012 and confirmed that the participants had been himself and Azzopardi. The relevant parts of the call included as follows:

> *AZZOPARDI: Um he said they've linked it to my computer.*
>
> *WILLIAMS: Yeah, I-I-I'll um, I think w-when we have dinner next I'll tell mate it's, they've fucking, y-you can't even use the same computer mate or anything. Y-you've gotta get dongles for Bet 365. And even if you back it, 'case I, I saw their computer system, obviously at,*
>
> *AZZOPARDI: Yeah*
>
> *WILLIAMS: at the new bosses house*
>
> *AZZOPARDI: Yeah.*
>
> *WILLIAMS: They're fucking unbelievable. Even if, even if two people back the same dog and take it 'round the same time, the same price they, they link it together. Th-their systems fucking unbelievable.*
>
> *AZZOPARDI: Fair dinkum.*
>
> *WILLIAMS: Yep, the best ever. The best ever. 'Cause we book, we pulled up mine and you should see mine mate. 'Cause, cause I've looked at my links to, like when I was doing on my phone to withdraw the money.*
>
> *AZZOPARDI: Yeah.*
>
> *WILLIAMS: and mate it all fucking linked, y-you've gotta, you can't even use the same modem or anything. Y-you got, you've gotta use different dongle. You gotta use a different dongle for each account. –Laughs- They are fucking unbelievable*.[629]

6.226 Williams said that he had seen his own account records at the person described as the new boss' house. The new boss had been an employee of Bet 365. When Williams saw his account records, he saw that he *"was friends with a certain number of people"* and that his account was linked to other accounts. [630]

6.227 Williams also gave the following evidence about his reference to dongles in that communication:

> *A. I'm just basically saying that you've got to use different dongles for each new account, otherwise they'll link your accounts, simple as that, and they'll close the account if they know that two accounts have come from the one dongle or from the one computer.* [631]

6.228 Williams also agreed that he had informed Azzopardi of the need to use different dongles, in order for him to use multiple accounts with the same

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[629] Ex 107 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 3 September 2012.

[630] PIC Transcript, A P Williams, 21 November 2013, p. 280:23-280:30

[631] PIC Transcript, A P Williams, 21 November 2013, p. 281:3-282:7

corporate bookmaker. Williams was aware that if the same dongle was used to access multiple accounts, the corporate bookmakers would *"cut the account off"*.[632]

6.229 Williams was also shown emails that he sent to certain friends from his police email address. In one email he wrote: *"I have used every internet café around the inner west".*[633] With reference to what he had written, he said: *"That's just me embellishing again. That was in April 2012. There - I don't think there was many accounts set up in that time - at that time. I think I'm just full of shit."* At the time of the email, he said he would have only *"used four different internet cafes to open"* accounts in the names of four people. [634]

EMAIL ACCOUNTS MOON_BOOT11 AND MENTALPATIENT1

6.230 Williams confirmed, with reference to communications he was shown, that he and Smith used the email addresses moon_boot11@hotmail.com and mentalpatient1@hotmail.com.[635] In each case, the exchange of messages was to the same email account. Williams' explanation for not using his own email account was that he did not trust Hotmail or Gmail, because *"the security there isn't too good".* He denied that he was trying to hide the communications and said that he had used his own phone and his own laptop to access the email accounts.[636] Williams did not remember whether it had been his own idea to set up the accounts. However, he said it was possible that he had suggested that the account be set up, because he was *"paranoid"*.[637]

FINANCIAL RECORDS

6.231 Williams was shown his financial records and agreed with the general proposition that very large sums of money passed through his accounts, in relation to the arrangement he entered into with Fletcher and other people. He agreed that there were transactions in many tens of thousands of dollars, including payments to Fletcher, including one of $52,838 on 5 March 2012.[638]

TELEPHONE CONVERSATION WITH FLETCHER ON 7 MAY 2013

6.232 Williams was played a lawfully intercepted telephone conversation from 7 May 2013, which he confirmed took place between himself and Fletcher and after a search warrant was executed by Commission officers at Williams' home address. During the conversation Williams told Fletcher that the search warrant

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[632] PIC Transcript, A P Williams, 21 November 2013, pp. 281:34-282:2

[633] Ex 108 AC, Exchange of emails, 12 April 2012

[634] PIC Transcript, A P Williams, 21 November 2013, pp. 284:12-285:1

[635] Ex 279, Email exchange between Marc Smith and Anthony Williams, 17-20 October 2012; Ex 280, Email exchange between Marc Smith and Anthony Williams, 17-20 October 2012; Ex 298, Printout of email dated 6 November 2012; Ex 297 AC, Print out of email dated 2 November 2012

[636] PIC Transcript, A P Williams, 17 December 2013, pp. 586:39-587:27, 588:41-588:9

[637] PIC Transcript, A P Williams, 17 December 2013, pp. 589:39-590:7

[638] PIC Transcript, 17 December 2013, p. 594:35-595:22

had been executed and said: *"I'm not sure what you've got at your house but yeah"*.[639]

6.233 Williams said that he could not remember what he meant by the words, *"I'm not sure what you've got at your house but yeah"*. He said that he had not impledly suggested to Fletcher that, if Fletcher had anything in his house, it might be a good idea to move it. Williams said that he remembered that he rang Fletcher, *"to establish"* if a search warrant had been executed at his house. However, he agreed that he had not asked Fletcher in the telephone conversation if a warrant had been executed, and when asked again what he meant by the words, *"I'm not sure what you've got at your house but yeah"*, he said: *"I don't know what I'm saying there … It's just words … I can't remember what I was saying there."*[640]

ATTITUDE TOWARD THE CORPORATE BOOKMAKERS

6.234 In an email communication which Williams was shown he had described a corporate bookmaker as being *"a joke".* Williams was asked to explain what he had meant by those words. In his answer, he stated that corporate bookmakers *"preyed"* on *"mum-and-dad gamblers"* and would shut down the accounts of *"smart punters".* He said:

> *A. … If you're a small punter who punts regularly, just, you know, $10 or $20, they're the type of people that bookmakers like to keep on their books, so to speak, and they just drip-feed them people. You know, if you put $200 in, you lose that $200, they'll offer you a $50 free bet to keep you punting, just keep turning it over and over and over. But if you're what could be classified as a smart punter, as soon as you start to win any minimal amount of money, they'll close your account. You don't even have to win money before they close your account.*
>
> *If it's, for example, say a Saturday and I have $100 on a horse that's paying $10, and then a lot of people back that horse and it ends up starting at $5 and that horse wins, you'll be what's considered a smart punter and they'll close your account. But if you're just mum and dad who just bets $100 a week, $200 a week, $300 a week, they'll keep your account open forever. That's what I mean when I say that, they're a joke. It's not an open playing field, so to speak*.[641]

6.235 The following questions and answers then occurred:

> *Q. Is it that mindset that you brought to bear when you were operating these betting accounts?*
>
> *A. No, not at all.*
>
> *Q. Did it inform your decision-making in any way?*

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[639] Ex 271, Transcript of call between Anthony Williams and Stephen Fletcher, 7 May 2013.

[640] PIC Transcript, A P Williams, 17 December 2013, pp. 557:46-558:27

[641] PIC Transcript, A P Williams, 20 November 2013, pp. 199:47-200:20

A. No.[642]

WILLIAMS' DESCRIPTION OF CONDUCT

6.236 Williams said that what he had done was like a punters' club. At one stage in his evidence he drew an analogy with being at a race meeting with friends. He said:

> *A. … Everyone puts in $500 and you take it in turns to go and put a bet on the bookmaker. The bookmaker doesn't know who's putting the bet on or who's betting on his behalf, so I - that's - in my mind, that's just the way that - it was just another version of that*.[643]

6.237 The following questions and answers then occurred:

> *Q. Well, aren't there three relevant distinctions from that example? One is not everyone is putting in the $500, just Mr Fletcher is?*
>
> *A. Yeah, but I'm - it's just an example. Yes, true.*
>
> *Q. I want to follow the example through.*
>
> *A. Yes.*
>
> *Q. Two, the bookmaker in your example hasn't barred a person from lodging a bet?*
>
> *A. They may have. They may have. So - yeah, they may have.*
>
> *Q. And, three, the objective of the exercise is just for a group of friends to have a bet together rather than one person to have a bet by deceiving the bookmaker into who's making the bet?*
>
> *A. Well, I - no.*
>
> *Q. See, I suggest that the punters' club example that we heard Mr Smith talk of, and you've now alluded to a couple of times, is simply a false analogy?*
>
> *15 A. Well, I don't see it that way …*[644]

6.238 Williams also described himself as being *"a commission agent"* and a *"go-between"* or *"middle man"* as between Smith and Fletcher and Azzopardi in respect of the accounts with which Smith was concerned.[645]

6.239 He used the term *"commission agent"* in the following sense:

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642 PIC Transcript, A P Williams, 20 November 2013, p. 200:30-200:35
643 PIC Transcript, A P Williams, 21 November 2013, p. 238:32-238:37
644 PIC Transcript, A P Williams, 21 November 2013, pp. 238:39-239:14
645 PIC Transcript, A P Williams, 20 November 2013, p. 190:1-190:14

A. … When I refer to a commission agent, if money wasn't won on the account, then I wouldn't receive anything. However, if money was received, I'd receive X amount of dollars, depending on how much was won.[646]

6.240 Williams also said he was paid *"for sourcing the account or through betting".* He could not give an estimate of how much he received from Fletcher but said it *"was minimal".* He did not understand that the money he earned would be subject to taxation and said: *"I was losing money".* Nor did he keep any records of how much income he derived in order to declare it on his tax return.[647] He also said that he was not claiming his *"losses as capital losses"* and said that *"it was just gambling to me"*.[648]

STEPHEN FLETCHER

USE OF "BOWLERS"

6.241 Fletcher said that he was professional gambler and admitted to having used *"bowlers"*.[649] He said that the term *"bowler"* was *"a colloquial term for a commission agent"* and that a *"commission agent could be described as a person who placed bets on behalf of another punter for a small commission".* He agreed that the term *"bowler"* applied equally to internet-based gambling and to circumstances where a gambler sends someone to a bookmaker at a racetrack. He said that the small commission they received was for *"running around … placing the bet, contacting the bookmaker, if you like, and securing the odds".*[650]

6.242 Fletcher said that there were several advantages of using *"bowlers"* but that the main advantage was *"anonymity"*.[651] He explained more fully in the following questions and answers:

Q. I will ask you, then, what are the advantages of being anonymous?

A. The agencies employ, basically, gamblers to operate all their entity, if you like. Naturally, they will follow who they think is smart and can plummet a price - that's one advantage.

…

Q. That, I think, is a way of saying "affect the market", "affect the odds"?

A. That's right, yes.

Q. There are lawful ways in which that can be done; is that correct?

A. Oh, yes. It's just - they just follow, like an avalanche, and everyone backs the same horse in the end.[652]

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[646] PIC Transcript, A P Williams, 21 November 2013, pp. 221:44-221:47
[647] PIC Transcript, A P Williams, 17 December 2013, pp. 596:9-597:9
[648] PIC Transcript, AP Williams, 21 November 2013, p. 251:36-251:41
[649] PIC Transcript, S C Fletcher, 5 December 2013, p. 315:44-315:45
[650] PIC Transcript, S C Fletcher, 5 December 2013, p. 314:9-314:44
[651] PIC Transcript, S C Fletcher, 5 December 2013, p. 315:2-315:4

6.243 As to why he personally used *"bowlers"*, he said:

> *A. I have a lot of bets I have to place every day. I have a lot of staff. I send people to every racetrack. I utilise commission agents. I have a lot of people who rely on me to get their money. It's just economically not possible to do it, a one-man show, so I need to utilise commission agents to place the bets.*[653]

6.244 He said that another advantage was to place bets that he could not otherwise make in his own name. He gave that evidence with reference to a lawfully intercepted telephone conversation of 9 January 2013, which he confirmed took place between himself and an employee with Bet365. The conversation included the following:

> *BET 365: Thank you for waiting. Okay I'm just letting you know that your account is currently cl-, closed.*
>
> *FLETCHER: (ui) Yeah, I knew that. But they, they haven't paid me the money, that they owe me.*
>
> *…*
>
> *FLETCHER: Maybe I should speak with the supervisor. If that's okay?*
>
> *…*
>
> *BET 365: Um, I believe you got, you asked to speak to supervisor. How can I help you?*
>
> *FLETCHER: Um yeah. Someone rang me the other day and told me my account was closed, as I was been winning too much, or whatever, I understand how it all works.*
>
> *BET 365: Yeah. Okay*
>
> *FLETCHER: Um however I accepted that but they haven't paid me the money was in, I, I don't forfeit the money just 'cause you guys call close an account, surely?*
>
> *BET 365: Um, no, no, not at all. Um.*
>
> *…*
>
> *FLETCHER: Th-The gentleman rang me in the middle of the Saturday race day while I was rather busy betting so I couldn't speak with him really, but um. What was the verdict there, it's just totally gone forever, that account?*
>
> *BET 365: Uh, yeah the traders h-h-have uh, reviewed your account and they've decided to close it.*

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652 PIC Transcript, S C Fletcher, 5 December 2013, p. 315:10-316:24

653 PIC Transcript, S C Fletcher, 5 December 2013, p. 316:4-316:9

FLETCHER: Right so now I've just gotta get another bodgy and they won't know who I am, and, I'll just bet again I guess. -Laughs- That's how it works.

BET 365: Um that, yeah, th-that's what they decided on this account, so.

FLETCHER: Yep, no worries but I'll get another one.[654]

6.245 Fletcher did not remember the telephone conversation but said that it made *"perfect sense".* He said that Bet365 closed the betting account he had with them because he was *"winning too much".*[655]

6.246 Fletcher was asked about what he meant when he said, *"so now I've just gotta get another bodgy and they won't know who I am, and, I'll just bet again"*. He replied:

A. That means I will just bet through a commission agent. I am implying there that at least when I bet - I was betting in my own name, they could have tailored their markets accordingly and utilised the information, but now that they've done that, they just know that people who they close accounts on will just bet through commission agents, and then they will have no idea if the money is smart or what have you.[656]

6.247 The following questions and answers also occurred:

Q. If they knew it was you betting through a commission agent, they wouldn't accept the bet; is that correct?

A. Not necessarily. It depends whose money it was.

Q. If you were using your money and your skills to bet through a bowler, they wouldn't accept the bet, would they?

A. At Bet365, evidently not. Yes, that particular company, yes.

Q. A company that had closed your account --

A. That's right, yes.

Q. -- did not want you betting with them, did they?

A. That's right.

Q. And a company that had restricted your account to a monetary limit - that is, you could only bet to a point where you could win, I don't know, $500 or $1,000 - wouldn't want you placing bets greater than that amount?

A. They probably wouldn't want me, no.

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654 Ex 121 AC, Transcript of Telephone call between Stephen Fletcher and Bet365, 9 January 2013

655 PIC Transcript, S C Fletcher, 5 December 2013, p. 327:23-327:37

656 PIC Transcript, S C Fletcher, 5 December 2013, p. 328:9-328:16

Q. The advantage of bowlers or commission agents is that you can place bets that they would otherwise not accept?

A. They could place - yes.[657]

6.248 The following other questions and answers occurred about the part of the telephone conversation where Fletcher said that he would set up a *"bodgy"*:

Q. You said you would have to set up a bodgy. Is that a commonly used expression and what does it mean?

A. It's another word for a bowler or a commission agent. It is basically just where you can retain your anonymity successfully.

Q. Does it mean "false"?

A. No, to me, no.

Q. So to you it means, can you just explain what –

A. It means using a commission agent in order to retain your anonymity when placing bets.

Q. But that is in order to deceive, isn't it?

A. Not in my view, no.

Q. But do you not grant that there is a deception in getting someone to take your bet who would not otherwise take your bet?

A. Not in the racing game. That's the brinkmanship of the racing world. That's very common. That's not regarded as deception.

Q. I'm not asking you whether it is common and I'm not asking you whether it is regarded as deception by other people. I am asking you whether you agree that there is - or whether you would grant that there is a deception in getting someone who would otherwise not take your bet to take your bet --

A. No.

Q. -- by tricking them?

A. No.

Q. The practice is designed to trick them, isn't it?

A. Well, that's - I disagree. It's an integral part of the racing industry. A commission agent - we will have to disagree there. I'm not trying to be difficult, but that's just my view. And it's an opinion you are asking, isn't it?

Q. Yes, I am.

[657] PIC Transcript, S C Fletcher, 5 December 2013, p. 328:18-328:41

A. That's my opinion.[658]

PREFERENCE FOR NON-DUMP ACCOUNTS

6.249 Fletcher indicated that he had a preference for using what was termed in the evdience as *"non-dump"* betting accounts. He gave the following evidence about *"dump"* and *"non-dump"* accounts:

> *A. A dump account - well, this refers to a particular type of market, which is called parimutuel. How do I describe a parimutuel market? It is a dynamic market, like a tote pool, and if an agency feels that the punter will win on his account, he might - they might choose to dump a portion back into the pool. They might choose to put back the whole lot. It depends on the punter, I guess.*
>
> *In doing so, there's several advantages to the agency. This can go on a bit now. They can receive rebates from the TAB for their turnover. They can use some punters' bets as a way to measure whether they should bet other punters' bets back accordingly. So, yes, there are different levels of how much they - I think they call it "retail" it rather than "dump", is the correct term.*
>
> *…*
>
> *Q. In a dump account, is it the case that the amount of the bet goes into the total pool and thus affects the starting price?*
>
> *A. The final price, yes.*
>
> *Q. The final price?*
>
> *A. That's right.*
>
> *Q. And so as a punter, is it correct to say if you are placing a large bet, you would rather do so through a non-dump account?*
>
> *A. Absolutely, yes. Yes.*
>
> *Q. Because that way, your bet doesn't affect the odds?*
>
> *A. The odds, yes.*[659]

USE OF BETTING ACCOUNTS IN THE NAMES OF POLICE OFFICERS

6.250 Fletcher said that he used betting accounts in the names of police officers in the period between February 2012 and May 2013.[660] He said that that came about through his association with Williams. He said that he and Williams were having dinner one night and that *"Lucy's Light"* was mentioned. He said that he told Williams they could do *"something similar"* by using Williams' Sportingbet

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[658] PIC Transcript, S C Fletcher, 5 December 2013, pp. 333:18-334:12

[659] PIC Transcript, S C Fletcher, 5 December 2013, pp. 316:42-317:27

[660] PIC Transcript, S C Fletcher, 5 December 2013, p. 317:38-317:41

account.[661] Fletcher said that Williams was *"very depressed"* at the time and that he thought that he *"might try to assist him"*. He said to Williams*: "I'll put some money in your account and if we win, I will go halves with you"*. Fletcher said that they *"had a run" and "won in the ballpark of $80,000".*[662]

6.251 Fletcher agreed that his involvement with police officers mushroomed significantly in the 18 months after his initial involvement with Williams.[663]

6.252 He said that he only became aware that between 15 to 20 police officers were involved, after hearing the evidence about their involvement in the evidence given at the public hearing.[664] He said that he conducted some research and believed that there were five police officers whose names were used to set up accounts that he used.[665]

6.253 The following questions and answers occurred about his knowledge when he used the accounts:

> *A. You have indicated that you have now researched, and you believe that there were five police officers whose names were used to set up bowler accounts that you used?*
>
> *A. That's right.*
>
> *Q. But you didn't know they were police officers then?*
>
> *A. Well, some of them. It was inconsequential what they were. I didn't really investigate their occupation*.[666]

6.254 At the time he only knew that Williams and Smith were police officers.[667]

6.255 Elsewhere in his evidence Fletcher said that he never set up any of the betting accounts that were used.[668] He also had nothing to do with the persons who had been recruited by Williams and Smith[669] and said that he had never met Groves, Immens or Zeibots.[670] However, he said that he knew that Williams would have used some police officers.[671]

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[661] PIC Transcript, S C Fletcher, 5 December 2013, pp. 319:35-319:48
[662] PIC Transcript, S C Fletcher, 5 December 2013, pp. 317:43-318:7
[663] PIC Transcript, S C Fletcher, 5 December 2013, p. 320:23-320:30
[664] PIC Transcript, S C Fletcher, 5 December 2013, pp. 320:32-321:11
[665] PIC Transcript, S C Fletcher, 5 December 2013, pp. 320:32-321:45
[666] PIC Transcript, S C Fletcher, 5 December 2013, p. 322:8-322:16
[667] PIC Transcript, S C Fletcher, 5 December 2013, p. 321:13-321:17
[668] PIC Transcript, S C Fletcher, 6 December 2013, pp. 434:45-435:7
[669] PIC Transcript, S C Fletcher, 5 December 2013, pp. 391:2-391:9
[670] PIC Transcript, S C Fletcher, 5-6 December 2013, pp. 371:22-371:23, 458:25-458:32
[671] PIC Transcript, S C Fletcher, 6 December 2013, p. 445:26-445:29

ARRANGEMENT WITH WILLIAMS

6.256 Fletcher estimated that Williams provided him with the user names of 15 betting accounts.[672] He agreed that *"hundreds of thousands of dollars"* were turned over in those accounts.[673]

6.257 Fletcher said that he did not believe that he *"directly"* asked Williams to set up accounts. He assumed that Williams would have seen that that was *"part of gambling".* He did not know who initiated the arrangement, whether Williams had asked him or whether he himself had asked Williams to set up the accounts, and could not *"recall any direct conversation"* on the topic.[674] However, he accepted that he had a motive for raising the idea with Williams, as he was always on the lookout for opportunities to source people who were prepared to put up their names and identities, so that he might gamble through accounts set up in their names.[675]

6.258 Fletcher said that Williams would have been paid a commission on *"any winning accounts".* He said:

> *A. … The arrangement would be what I generally do with a commission agent, and if you have a win, they would receive - generally it's about 5 to 10 per cent of what you win, that's what they charge. And if you lose, they would receive nothing*.[676]

6.259 He could not remember whether there had been any discussion with Williams about the commissions Williams would receive and said *"it wasn't anything official".*[677]

ASSOCIATION WITH SMITH

6.260 Fletcher said that he had limited contacted with Smith. While he had met Smith socially on at least two occasions, he said that he had no direct dealings with him.[678] Fletcher said that Williams was the *"middleman"* as between them. However, Fletcher said that he knew that Smith was acquiring identities to create accounts that were then available for Fletcher to use.[679]

6.261 Fletcher also said that he had employed Smith on one occasion. He recalled that Smith accompanied one of his associates *"down to Kembla Grange races, just for one Saturday afternoon"* and placed bets for Fletcher *"with bookmakers on track".* He said that Smith was paid *"$300 for the legwork, running around,*

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672 PIC Transcript, S C Fletcher, 5 December 323:27-323:36

673 PIC Transcript, S C Fletcher, 5 December 2013, p. 324:3-324:21

674 PIC Transcript, S C Fletcher, 5 December 2013, pp. 325:38-325:43, 326:20-326:39

675 PIC Transcript, S C Fletcher, 6 December 2013, p. 445:12-445:24

676 PIC Transcript, S C Fletcher, 5 December 2013, pp. 326:48-327:5

677 PIC Transcript, S C Fletcher, 5 December 2013, p. 327:7-327:11

678 PIC Transcript, S C Fletcher, 5 December 2013, pp. 391:2-391:9, 6 December 2013, p. 443:15-443:21

679 PIC Transcript, S C Fletcher, 6 December 2013, p. 447:13-447:28

driving that far and back". Fletcher agreed that the work that Smith did was an example of using *"bowlers in the field".*[680]

ASSOCIATION WITH AZZOPARDI

6.262 Fletcher said that Azzopardi was a *"friend"* who had particular skill and knowledge in studying the *"form"* of greyhounds and said that he was known by the nickname *"Toohey".*[681]

6.263 Fletcher said that he introduced Azzopardi to Williams but did not know when Azzopardi became involved in gambling with Williams.[682] He said that any arrangement that existed between Azzopardi and Williams was *"their business"*.[683] However, he was aware that Azzopardi *"would bet on the dogs on some accounts"*.[684]

6.264 Fletcher himself was not involved in any joint conduct with Azzopardi in the use of accounts. He said that it was more the case that they both knew Williams and were both accessing accounts through him.[685]

PROVISION OF ACCOUNTS BY WILLIAMS

6.265 Fletcher said that it was generally the case that Williams contacted him and asked him if he needed accounts.[686]

6.266 Fletcher was shown a thread of MSN messages that took place between himself and Williams on 27 September 2012 in which the following was said::

> *WILLIAMS: With Smithy now! We are back with accounts!!*
>
> *WILLIAMS: Need one for this weekend?*
>
> *FLETCHER: Possibly*.[687]

6.267 Fletcher confirmed that the conversation was *"just about using corporate bookmaker accounts for the upcoming weekend"* and said that Williams contacted him frequently but *"not continuously during the year"* asking him whether he needed any accounts.[688]

6.268 Fletcher said that there were occasions when he contacted Williams for accounts. He agreed that that occasionally happened.[689] One example in the

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[680] PIC Transcript, S C Fletcher, 6 December 2013, pp. 441:38-442:23

[681] PIC Transcript, S C Fletcher, 6 December 2013, pp. 396:44-396:46, 354:2-354:4

[682] PIC Transcript, S C Fletcher, 5 December 2013, pp. 338:5-338:10, 339:14-339:27

[683] PIC Transcript, S C Fletcher, 5 December 2013, p. 347:36-347:37

[684] PIC Transcript, S C Fletcher, 5 December 2013, p. 347:41-347:42

[685] PIC Transcript, S C Fletcher, 6 December 2013, p. 466:34-466:39

[686] PIC Transcript, S C Fletcher, 6 December 2013, p. 432:40

[687] Ex 94 AC, MSN exchange between Anthony Williams and Stephen Fletcher, 27 September 2012

[688] PIC Transcript, S C Fletcher, 6 December 2013, p. 431:6-431:43

[689] PIC Transcript, S C Fletcher, 6 December 2013, p. 438:24-438:27

evidence was a telephone call to Williams on 25 February 2013 in which the following conversation occurred:

> *FLETCHER: … are you at work tomorrow?*
>
> *WILLIAMS: Mate I am, I'll, but I've got Friday off, so I might come spend the day at um, the new pig pen on Friday?*
>
> *FLETCHER: Yeah no worries, I might um, I'll, yeah I wouldn't mind using some of those accounts on the weekend I reckon … do you want to email me couple …*
>
> *…*
>
> *WILLIAMS: Yeah well mate, g-got plenty of time, we'll just um, just, do you want just the normal ones, just Sportingbet, Lux, just tell me what you need?*
>
> *FLETCHER: Sportingbet. Sportingbet and 365 are the best*.[690]

CONTROL OF MONIES

6.269 Fletcher was played a telephone conversation from 19 December 2012, which he confirmed took place between himself and another person. The conversation was about the payment of a commission for using Immens' Sportingbet account.[691] Fletcher confirmed that the conversation was about whether the account holder was due a commission from the use of the account and said that he would have made the decision on whether any commission was to be paid, based on the amount of money that was won on the account, if any.[692]

6.270 Fletcher said that he received the lion's share of any money that might have been won on the betting accounts. The following questions and answers occurred about how that occurred:

> *Q. Just in a general sense, when betting accounts were used on your behalf or by you as a result of Mr Williams recruiting bowlers --*
>
> *A. Yes.*
>
> *Q. -- and you won, and then the account had to be closed down like the Immens account, money withdrawn, would the money be transferred into your bank account?*
>
> *A. In full?*
>
> *Q. Or the lion's share of it?*
>
> *A. The lion's share would, yes.*

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690 Ex 93 AC, Transcript of telephone call between Stephen Fletcher and Anthony Williams, 25 February 2013

691 Ex 188 AC, Transcript of telephone call between Stephen Fletcher and another person, 19 December 2012

692 PIC Transcript, S C Fletcher, 5 December 2013, p. 390:12-390:23

Q. Was that a transfer from Mr Williams or from the individual bowler or --

A. I think it varied with each individual person.[693]

6.271 Fletcher also stated at different points through his evidence that he funded the betting that was done on the accounts he used.[694] Some of the evidence for that included banking transactions that occurred between himself and Williams.[695] In one example he said that the bets were *"definitely not"* funded by Williams.[696]

RESTRICTIONS ON BETTING

6.272 Fletcher said he was aware of the restrictions that could be placed on betting accounts and agreed that the corporate bookmakers were allowed to impose those restrictions.[697]

6.273 He said that, after he used Williams' Sportingbet account in February 2012, Williams' account was *"classified as a smart account and restricted accordingly"*. The winnings from the account were in the *"ballpark of $80,000"*.[698] By the term *"smart account"* he meant "*any account that wins and/or any account that loses less that 7 per cent"*.[699] As to the restrictions that might apply to *"smart accounts"*, he gave the following evidence:

> *A. It can be a number of levels of restriction. They might stop you taking fixed price on country tracks or fixed price on provincial tracks, fixed price on metropolitan tracks. Basketball - if you win on basketball, they might say, "You are not allowed to bet on basketball." Again, it is tailored to their individual account.*[700]

6.274 Fletcher said that he had personally been restricted in his betting by two corporate bookmakers, Sportsbet and Luxbet, as to the amount of money he could place on race events, and that his account with Bet365 was closed because he was winning too much money on the account.[701]

6.275 As to his ability to place bets with Sportingbet he gave the following evidence.

6.276 Early in his evidence Fletcher said that it was necessary to use Williams' and other people's Sportingbet accounts, because Sportingbet *"wouldn't want to accept bets that emanated from me personally"*.[702] Later in his evidence, when examined in relation to certain *"maxi div"* bets he placed over the phone by using Immens' Sportingbet account, Fletcher said that he was not restricted from placing *"maxi div"* bets with Sportingbet over the internet in his own name

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693 PIC Transcript, S C Fletcher, 5 December 2013, p. 399:22-399:37

694 PIC Transcript, S C Fletcher, 5-6 December 2013, pp. 335:34-335:36, 338:15-338:17, 403:28-403:29

695 PIC Transcript, S C Fletcher, 5-6 December 2013, pp. 486:26-489:19, *passim*

696 PIC Transcript, S C Fletcher, 5 December 2013, p. 338:22-338:23

697 PIC Transcript, S C Fletcher, 5 December 2013, p. 325:4-325:11

698 PIC Transcript, S C Fletcher, 5 December 2013, p. 318:3-318:7

699 PIC Transcript, S C Fletcher, 5 December 2013, p. 318:5-318:19

700 PIC Transcript, S C Fletcher, 5 December 2013, p. 318:40-318:46

701 PIC Transcript, S C Fletcher, 5 December 2013, pp. 325:13-325:36

702 PIC Transcript, S C Fletcher, 5 December 2013, p. 329:7-329:8

and said*, "No, I can bet over the internet on a maxidiv bet with Sportingbet, by all means, in my own name."* [703]

6.277 The following questions and answers also occurred about the restrictions on his Sportingbet account:

> *Q. That's fine. Hadn't Sportingbet placed a restriction on your account, which remained in place and which commenced in September 2005?*
>
> *A. I don't believe I ever received any communication of that. I've never attempted to have a horse bet with Sportingbet, because, to my knowledge, I think I can only have these tote bets. I can't take fixed odds with them.*
>
> *…*
>
> *Q. What do you say to the proposition that it was a sport-only restriction?*
>
> *A. Sport?*
>
> *Q. Sport only, in other words --*
>
> *A. I don't think I've seen any documentation to support that proposition.*
>
> *Q. Putting aside whether you have seen documentation, you knew it to be the case, didn't you?*
>
> *A. No, I didn't. I believe I can have tote bets on that account and they would retail it accordingly, because there's zero risk to them. I think I could log in now and put a horse race tote bet on*.[704]

6.278 He went on to say that he had not logged into his Sportingbet account in six years and that he had not *"bothered to top up the account with any money because of the restrictions placed on it."* He said it was *"exactly right"* that he used betting accounts in the names of other people, *"because of those restrictions"* and he agreed that that was why he used Immens' Sportingbet account. [705]

KNOWLEDGE OF SECURITY MEASURES

6.279 Fletcher said that he was aware of the security measures employed by corporate bookmakers and agreed that he employed several methods to avoid being detected by those agencies when using betting accounts. Those methods included using different *"dongles".*[706]

6.280 Fletcher was played a lawfully intercepted telephone conversation from 12 February 2013, which he confirmed took place between himself and another person. In parts of the conversation Fletcher stated the following:

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[703] PIC Transcript, S C Fletcher, 5 December 2013, p. 382:29-382:30

[704] PIC Transcript, S C Fletcher, 6 December 2013, p. 413:2-413:37

[705] PIC Transcript, S C Fletcher, 6 December 2013, p. 413:48-414:20

[706] PIC Transcript, S C Fletcher, 6 December 2013, pp. 451:4-451:20, 482:45-483:47

FLETCHER: … Yeah I do one a week.

…

FLETCHER: Every week I gotta do that.

…

FLETHCER: New account. Ya last a weekend and that's the end.

…

FLETCHER: … Sportingbet you can normally get forty out though, I find.

…

FLETCHER: … You gotta um, you gotta have maxibets first.

…

FLETCHER: You don't have tote bets, best tote and that's, that'll get you a better, cause it,

…

FLETCHER: for the first week the account's under review.

…

FLETCHER: Second week you are sweet, they, they, they won't just bar you straight away.[707]

6.281 Fletcher said that the conversation was about setting up betting accounts. He said that he knew that Sportingbet accounts would become subject to restrictions, once a win of up to $40,000 was made on an account. He agreed, with reference to what he had said in the conversation, that he discussed what measures might be taken to avoid an account being scrutinised. He said that that could be done by having a *"maxi bet"* first. [708] He said that a *"less-smart punter would take a maxi-bet, because they don't know what price they are taking, because that's determined by the final TAB pool"*. [709]

6.282 Fletcher also said it was necessary to *"try to lose on accounts, just so I can get my bets on".*[710]

[707] Ex 123 AC, Transcript of telephone call between Stephen Fletcher and another person, 12 February 2013

[708] PIC Transcript, S C Fletcher, 5 December 2013, p. 330:6-330:31

[709] PIC Transcript, S C Fletcher, 5 December 2013, p. 331:4-331:6

[710] PIC Transcript, S C Fletcher, 5 December 2013, p. 331:36-331:37

TAXATION

6.283 At one point in his evidence Fletcher said that he placed *"millions of bets a week."* Later he said that the claim was an exaggeration but he agreed that he placed *"many, many bets"*.[711]

6.284 Fletcher said that he did not maintain any records of the bets he placed and said that he kept track of the bets *"with a lot of difficulty"*.[712]

6.285 Fletcher gave the following evidence about whether he paid taxation on any income he derived from gambling:

> *Q. As a professional gambler, which you stated to be your occupation, I take it that income derived from that occupation is taxable?*
>
> *A. No, not gambling isn't, no.*
>
> *Q. So are records kept?*
>
> *A. No. Well, there would be by the agencies from the bets placed, obviously.*
>
> *Q. But you don't keep any?*
>
> *A. No.*[713]

CONTACTS WITHIN THE CORPORATE BOOKMAKERS

6.286 Fletcher was examined on his contacts within the corporate bookmakers. Several telephone calls were played in which he had conversation with those contacts.

6.287 The following evidence was given about his contacts within the corporate bookmaker Bet365.

6.288 MC10[714] was an employee of Bet 365. In a telephone conversation between Fletcher and MC10 on 24 February 2013 the following was said:

> *SPORTINGBET EMPLOYEE: … What's the username?*
>
> *FLETCHER: … [MC9]*[715]
>
> *…*
>
> *FLETCHER: … Can you see it?*

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[711] PIC Transcript, S C Fletcher, 5 December 2013, p. 348:29-348:35

[712] PIC Transcript, S C Fletcher, 5 December 2013, p. 348:37-348:43

[713] PIC Transcript, S C Fletcher, 5 December 2013, p. 323:38-323:48

[714] The real name of this person is subject to a non-publication order by the Commission

[715] The real name of this person is the subject of a non-publication order by the Commission

…

SPORTINGBET EMPLOYEE: under review, sharp pro punter linked Steve Fletcher

FLETCHER: Are you serious?

…

SPORTINGBET EMPLOYEE: Monitored, it's a monitored account.

…

SPORTINGBET EMPLOYEE: Oh you'll still get on to win a thousand.

…

FLETCHER: How did they know I wonder?

SPORTINGBET EMPLOYEE: How do they know? How do they know?

FLETCHER: I think, I think I accidently um, logged into my phone to it once. I think might do it, mightn't it?[716]

6.289 The following questions and answers occurred about the telephone conversation:

Q. Again, reference there to "sharp horses", which suggests that someone, or something, within the betting agency has identified that account as if you - well, I think you called it a smart account?

A. That's right.

Q. In this case, linked to Steve Fletcher?

A. That's right.

Q. Did you ever uncover how that happened?

A. No.

Q. Again, in that conversation there is discussion of a limit whereby you would be limited to bets by which you could win $1,000?

A. That's right.

Q. [MC10] seemed to think you might be able to continue to bet but only to that limit?

A. That's right.

[716] Ex 220 AC, Transcript of telephone call between Stephen Fletcher and Sportingbet, 24 February 2013

Q. At one stage, you speculated, at least, that the reason that the link may have been made is because you used your telephone and that telephone number would have identified you as you, rather than --

A. Correct, yes, that's right.[717]

6.290 In a telephone conversation between Fletcher and a second person he knew at Bet365 on 7 March 2013 the following was said:

FLETCHER: Have a look at what it says on the, the account I'm using as a bodgy at the moment, Matty Seaggs. M A, double T, Y, S, can you look at the account, see what it says about it?

…

BET365 EMPLOYEE: … Alright I'll have a look …[718]

6.291 Fletcher confirmed in his evidence that he perceived that a problem had developed in relation to Seagg's account and agreed that he was attempting to use the person he knew at Bet365, to find out information about the account.[719]

6.292 In a telephone conversation between Fletcher and a third person he knew at Bet365 on 8 March 2013 the following was said:

FLETCHER: Matty, Matty, Matty Seaggs?

BET365 EMPLOYEE: … Yeah he's under review.

FLETCHER: What does that mean, th-that's normal though isn't it?

BET365 EMPLOYEE: No it's okay, it's something. (ui) all clients can go under that, betting that big so.

…

BET365 EMPLOYEE: they've checked for computer links and they can't find any.

FLETCHER: Oh lovely.

BET365 EMPLOYEE: It's all clear so he's under review. So that'll run for about a fortnight. So all is (ui), they'll check every, they will check every cent that he has and they will note what price you took (ui) to Betfair. That's how it'll work.

FLETCHER: Is that right? Well it's about time Matty Seaggs had some bad bets.

BET365 EMPLOYEE: Yes. (ui) yeah just don't tell anyone for fuck sake …

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[717] PIC Transcript, S C Fletcher, 6 December 2013, p. 471:16-471:41

[718] Ex 212 AC, Transcript of telephone call between Stephen Fletcher and Bet365, 7 March 2013

[719] PIC Transcript, S C Fletcher, 6 December 2013, p. 454:6-454:18

…

BET365 EMPLOYEE: So yeah, it's a, doesn't mean he has to lose but you know, you saw the other day with a, it says possibly sharp, possibly sharp with horses. So in other words, just, they'll just note the bet until, and eventually they, if it's okay they'll say client okay take off review well then he goes into the ruck.

FLETCHER: Well I know how to fix Matty.

…

FLETCHER: Just, just punt off the gronk sheet.[720]

6.293 Fletcher confirmed that he was speaking to someone inside Bet 365 in relation to a problem that developed with Seagg's account. He confirmed that the account was going to be shut down and that it was necessary to lose *"some serious money to it".* He said that this is what he meant when he had said he would *"punt off the gronk sheet".* He also confirmed that he was informed that the issue surrounding Seagg's account was that it was *"possibly sharp with horses".*[721]

6.294 In a telephone conversation with the person MC10 on 18 March 2013, the following was said:

FLETCHER: Boss.

BET365: Yeah it says under review possible (ui) horses.

FLETCHER: Oh look but I'm still in high roller aren't I?

BET365: High roller one, it's not the best thing yeah, who, who is the bloke?

FLETCHER: Oh just like one of the Inspector Detective's mates, so

BET365: Alright.

FLETCHER: what does that mean? Ah, um, I'm not, I'm not

BET365: It says here under, you're high roller one, so you probably still get bets at the moment, you can get on right, but it says here, ah, where are we s-, trader (ui). It says, under review two weeks, possible sh-, sharp horses. They're not sure.

FLETCHER: So you reckon if I just bet badly for two weeks I'll be sweet?

BET365: Yeah probably …[722]

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[720] Ex 210 AC, Transcript of telephone call between Stephen Fletcher and Bet365, 8 March 2013

[721] PIC Transcript, S C Fletcher, 6 December 2013,p. 453:6-453:32

[722] Ex 208 AC, Transcript of telephone call between Stephen Fletcher and Bet365, 18 March 2013

6.295 Fletcher said that the telephone conversation was with a *"friend"*, who was *"just letting me know"* that an account was *"on its last legs".* He imagined that he would have earlier asked his friend to check the account, *"to see if this account is worthwhile or is finished, has been terminated"*.[723]

FREE BETS

6.296 Fletcher said that he had himself *"never used a free bet"*; that free bets were below his *"league"*; and that he would not set up accounts in order to grab a $200 free bet. He said that free bets were *"a new idea"* that corporate bookmakers used to attract new customers.[724]

INVOLVEMENT IN RELATION TO SPECIFIC ACCOUNTS

6.297 Fletcher agreed that there was a high turnover in relation to the betting accounts he used and said that betting accounts were used over a two or three week period.[725]

6.298 In his evidence it was often the case that Fletcher was unable to confirm whether he had used any of the particular accounts that were provided to him by Williams and said he would not be able to do so, unless he was shown a document with *"bets or something"*.[726]

6.299 However, Flecther confirmed that he had placed bets through accounts in the names of Williams, Immens,[727] Besant,[728] Groves[729], Zeibots[730] and Seagg.[731]

6.300 Fletcher also gave some evidence about his use of Williams' own accounts and the Sportingbet accounts that were initially sourced by Williams and other accounts he used.

Use of Williams' accounts

6.301 Fletcher was shown the account records for Williams' betting accounts with Sportingbet, Centrebet, Bookmaker, IASBet, Sportsbet and Bet365. [732]

6.302 Fletcher confirmed that he used Williams' Sportingbet account on 26 February 2012. He also confirmed that he, and not Williams, funded the bets. As to what Fletcher gained from the betting, he said he obtained *"half the winnings".*[733] He said he could not have placed the racing bets with Sportingbet through his own

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[723] PIC Transcript, S C Fletcher, 6 December 2013, pp. 451:47-452:27
[724] PIC Transcript, S C Fletcher, 5 December 2013,pp. 443:42-444:21
[725] PIC Transcript, S C Fletcher, 5 December 2013, p. 448:3-448:11
[726] PIC Transcript, S C Fletcher, 6 December 2013, p. 436:34-436:46
[727] PIC Transcript, S C Fletcher, 5-6 December 2013, pp. 321:37-321:45, 362:8-382:38
[728] PIC Transcript, S C Fletcher, 5 December 2013, pp. 448:19-450:17
[729] PIC Transcript, S C Fletcher, 5 December 2013, p. 324:40-324:43
[730] PIC Transcript, S C Fletcher, 6 December 2013, p. 457:23-458:26
[731] PIC Transcript, S C Fletcher, 5-6 December 2013, pp. 321:37-321:45, 454:39-455:21
[732] PIC Transcript, S C Fletcher, 5 December 2013, p. 333:9-333:11
[733] PIC Transcript, S C Fletcher, 5 December 2013, p. 335:17-335:47

account, because *"they have never accepted them from me"* and confirmed that Sportingbet would not have taken the bets from him personally. The following questions and answers occurred:

> *Q. But you could do that through your own account, presumably?*
>
> *A. Sportingbet? No.*
>
> *Q. Why is that?*
>
> *A. Because I don't bet on racing with Sportingbet. I never have.*
>
> *…*
>
> *Q. …You don't bet on racing with Sportingbet and you never have?*
>
> *A. In my name.*
>
> *Q. Why is that?*
>
> *A. They have never accepted them from me.*
>
> *Q. So apart from the advantage of half the winnings, is the other advantage the ability to bet with Sportingbet without them knowing?*
>
> *A. Apart from - well, the advantage of having the opportunity to bet, yes. I guess so, yes*. [734]

6.303 Fletcher could not identify which of his bets were placed on Williams' Centrebet account. He said that the bets *"would be mine and/or Darren Azzopardi's".* He thought that the bets that were placed on greyhound events were *"more likely Darren's than mine…"* He confirmed that the large bets that were placed on the account on greyhound and horse racing events were funded by Azzopardi or himself. He said that they were *"definitely not"* funded by Williams. Fletcher said that those bets were outside of Williams' *"league".* He said that Williams would have placed the smaller bets that were placed on the account.[735]

6.304 Fletcher agreed that bets of $500 and $2000 which were placed on Williams' Bookmaker account were not Williams' bets. He could not isolate the bets he placed on the account. He thought *"the dog ones would definitely be Darren's"* and that *"the horse ones would be definitely mine"*.[736]

6.305 Fletcher recognised the bets that had been placed on Williams' IAS bet account, for the West Tigers to miss the top 8. He said *"that was my bet".* He said that the bets were placed through Williams' accounts, because the odds offered on the account ($1.72) were *"terrific odds".* [737]

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[734] PIC Transcript, S C Fletcher, 5 December 2013, p. 336:2-336:26

[735] PIC Transcript, S C Fletcher, 5 December 2013, pp. 337:40-338:44

[736] PIC Transcript, S C Fletcher, 5 December 2013, pp. 339:43-340:38

[737] PIC Transcript, S C Fletcher, 5 December 2013, pp. 342:30-343:25

6.306 Fletcher did not recognise a series of bets that were placed on Williams' Sportsbet account in quantities of up to $5,000, although he said it was correct that the amounts bet were not the amounts that Williams would bet. Except for the bets on greyhound events, he was *"happy to accept"* that the other bets were his. However, he said that he could not recall individual bets given the volume of betting he did.[738] In the context of giving that evidence he said that he *"didn't really get involved"* in any separate arrangements that Williams and Azzopardi may have had about the use of accounts. He said it was *"their business".*[739]

6.307 Fletcher did not remember using Williams' Bet365 account and had no knowledge of the bets that were placed on the account in August 2012, with stakes of up to $2000. He was not using any of Williams' betting accounts at that time. He thought that the bets were placed by Azzopardi. [740]

Use of Sportingbet accounts

6.308 Fletcher was shown the Sportingbet account records for six people who had provided their account to Williams.[741] Fletcher said that he recognised the names of three of those people.[742]

6.309 Fletcher was taken to each of the accounts and was asked if he recognised whether the bets that were placed on the accounts were bets that were placed either by him or on his behalf. He said that he generally could not identify whether any of the bets were his bets. At one point in his evidence he said that he *"wouldn't be able to hazard a guess"*.[743]

6.310 With reference to the first account he was shown,[744] Fletcher said he assumed that the bets were not his, because they were on greyhound events.[745]

6.311 With reference to the second account,[746] Fletcher said that he could not comment on whether the bets were placed by himself or Azzopardi but said that the bets would have been placed by one of them.[747]

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[738] PIC Transcript, S C Fletcher, 5 December 2013, pp. 346:31-347:28

[739] PIC Transcript, S C Fletcher, 5 December 2013, pp. 347:33-347:37

[740] PIC Transcript, S C Fletcher, 5 December 2013, pp. 347:44-348:24

[741] PIC Transcript, S C Fletcher, 5 December 2013, pp. 395:39-402:45, *passim*

[742] PIC Transcript, S C Fletcher, 5 December 2013, pp. 394:30-395:10

[743] PIC Transcript, S C Fletcher, 5 December 2013, p. 397:17

[744] The financial and betting records for the account showed a change in betting in April 2012. On 30 March 2012 $7,000 was deposited into the Sportingbet account, taking the balance to $7000.70. On 1 April 2012 a number of exotic bets on greyhound racing events were placed on the account. That betting culminated in a $52,950 pay out being paid by Sportingbet to account on 10 April 2012. The sum of $47,950 was then transferred to Williams on 11 April 2012: Ex 250 AC, Financial Summary; Ex 251 AC, NAB records; Ex 252 AC Sportingbet records

[745] PIC Transcript, S C Fletcher, 5 December 2013, p. 396:24-396:25

[746] The financial and betting records for the account showed a change in betting in March 2012. Between 7 March 2012 and 14 March 2012, a total of $9,406.44 was deposited into the account, bringing the total balance of his account to $10,000. A number of bets were then placed on the account, all on 14 March 2012, being various exotic bets. The betting culminated in a $44,143 pay out being paid by Sportingbet ton 15 March 2012. The sum of $41,143 was then transferred Williams on 20 March 2012: Ex 253 AC, Financial Summary; Ex 254 AC, Westpac bank records; Ex 255 AC, Sportingbet records

[747] PIC Transcript, S C Fletcher, 5 December 2013, p. 398:34-398:35

6.312 With reference to the third account,[748] Fletcher said *"they're all greyhounds".* While he could not be sure, he concluded that the bets were probably not his.[749]

6.313 With reference to the fourth account,[750] Fletcher said that the bets were not his as they were on greyhound events, which were not his *"forte"*.[751] However he conceded that a payment of $47,410 that was connected with the account *"could certainly be mine"*.[752]

6.314 With reference to the fifth account,[753] Fletcher accepted that the combination of a payment of $39,698 that was made to the account and a deposit of that amount into his own bank account meant that the betting account was used by him or on his behalf. However, he said that *"none of the bets stand out to me, particularly"*.[754]

6.315 With reference to the sixth account,[755] Fletcher said that it was *"fairly feasible"* that the bets that were placed on the account *"were my bets"*.[756]

Use of a Sportingbet account in the name of Jason Immens

6.316 Fletcher agreed to having used a Sportingbet account in the name of Jason Immens. He could not answer whether he knew that Immens was a police officer. He said: *"I don't think I did, but I can't be sure"*.[757] He also had never met Immens. He said that he knew that Immens was a *"bowler"* and said that the account he used that was in Immens' name was set up by either Williams or Smith. [758]

6.317 The main evidence relating to Fletcher's use of the Sportingbet account was contained in 25 lawfully intercepted telephone calls which Fletcher made to

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[748] The financial and betting records for the showed a significant change in betting in July 2012. On 3 July 2012 and 4 July 2012, $8,500 was deposited into the account. Between 5 July 2012 and 7 July 2012, several bets were placed on his account on greyhound racing and horse racing events. The betting culminated in a $6,915 pay out being made from Sportingbet on 10 July 2012. The sum of $5,915 was then transferred to Williams on 11 July 2012: Ex 256 AC, Financial Summary; Ex 257 AC, NAB banking records; Ex 258 AC, Sportingbet records

[749] PIC Transcript, S C Fletcher, 5 December 2013, p. 400:8-400:16

[750] The financial and betting records for the showed a change in betting in June 2012. On 29 May 2012, $7,000 was deposited into the Sportingbet account, bringing the total balance of the account to $7,000.40. On 5 June 2012, several exotic bets were placed on the account. The betting culminated in a $59,165 pay out being paid by Sportingbet on 7 June 2012. The sum of $47,710 was then withdrawn from the account on 8 June 2012: Ex 259 AC, Financial Summary; Ex 260 AC, CBA records; Ex 261 AC, Sportingbet records

[751] PIC Transcript, S C Fletcher, 5 December 2013, p. 400:21-400:27

[752] PIC Transcript, S C Fletcher, 5 December 2013, p. 400:41-400:47

[753] The financial and betting records for the account showed a change in betting in July 2012. On 4 July 2012 and 5 July 2012, $9,000 was deposited into the Sportingbet account, bringing the total of the account to $9,000.19. A number of bets were then placed on the account, culminating in a pay out of $39,414 being paid by Sportingbet on 9 July 2012. The sum of $36,708 was then withdrawn from on 13 July 2012: Ex 262 AC, Financial Summary; Ex 263 AC, Bank records; Ex 264 AC, Sportingbet records

[754] PIC Transcript, S C Fletcher, 5 December 2013, p. 401:25-401:47

[755] The financial and betting records for the account showed a change in betting in April 2012. On 12 April 2012 $5,000 was deposited into the Sportingbet account, bringing the total of the account to $5,030.02. A number of bets were then placed on his account, resulting in no pay outs: Ex 265 AC, Financial Summary; Ex 266 AC, Bank records; Ex 267 AC, Sportingbet records

[756] PIC Transcript, S C Fletcher, 5 December 2013, p. 402:5-402:45

[757] PIC Transcript, S C Fletcher, 5 December 2013, p. 370:42-370:44

[758] PIC Transcript, S C Fletcher, 5 December 2013, p. 371:19-371:28

Sportingbet in the period between 28 September 2012 and 17 October 2012. Fletcher agreed that his voice was recorded in each of the telephone calls.

6.318 The first telephone call that was played occurred at 20:54:26 on 28 September 2012 between Fletcher and a person at Sportingbet named Ken. It included the following conversation:

> *KEN: Sportingbet, Ken.*
>
> *FLETCHER: Yeah mate Jason, three, two, three, four, three, nine.*
>
> *…*
>
> *KEN: Three, two, three, four, three, nine and that's Jason?*
>
> *FLETCHER: Yep*
>
> *KEN: No worries, how can I help?*
>
> *FLETCHER: Ah I wanna have a treble …*
>
> *…*
>
> *FLETCHER: Bet twenty thousand on the treble.*
>
> *…*
>
> *KEN: Okay so that was twenty thousand on ah, Melbourne, Hawthorn, and USA in the Ryder cup was it?*
>
> *FLETCHER: Yep, beauty.*
>
> *KEN: Okay so that's on for you*.[759]

6.319 Fletcher said that it was *"highly likely"* that he could have placed the $20,000 bet in his own name on his own Sportingbet account. He said that the bet *"would suit them"*, as it was *"a big tournament and they hold a lot of money on it".* He said that he did not place the bet on his own Sportingbet account, because he did not have $20,000 in his account.[760]

6.320 Fletcher did not agree that he had deceived the person name Ken when Fletcher said *"Jason".* Fletcher disagreed that he was pretending that he was Jason Immens and gave the following evidence:

> *A. No, I'm just matching up the account number to the name that will come up on his screen, so he can confirm he has access to the correct account.*
>
> *Q. Then when he says to you in his third line down, "And that's Jason?"*

[759] Ex 136, Transcript of telephone call between Stephen Fletcher and Sportingbet, 28 September 2012

[760] PIC Transcript, S C Fletcher, 5 December 2013, p. 362:8-362:38

A. Yes.

Q. And you say "Yep".

A. Yes.

Q. That's a lie, isn't it?

A. No, it is - that's Jason's account, and he said "that's Jason", next to the name on the account number. That's what he's referring to

Q. I see. He's not asking you for your name?

A. He's not asking me, no.

Q. You weren't pretending to be Jason?

A. No.

…

Q. Would it have been problematic had you said, "It's Stephen Fletcher here, but I am betting through Jason's account" --

A. They would probably have to - they would probably ask, "Oh, we will have to get Jason to confirm that he's allowing you to use that account, Steve."[761]

6.321 The second telephone call that was played occurred at 18:43:27 on 28 September 2012 between Fletcher and an unidentified female employee at Sportingbet. It included the following conversation:

UF: Spotingbet (ui) speaking.

FLETCHER: Ah three, two, three, four, three, nine. Jason.

UF: Hi Jason, how can I help?

FLETCHER: Just Moonee Valley race one, can I get four thousand Maxidiv number four, Clinton Affair.[762]

6.322 With reference to that telephone conversation, Fletcher agreed with the proposition that the employee thought that she was speaking to *"Jason".* However, he said that no deception was involved. Fletcher said that by referring to *"Jason"* he was referring to the account name. Fletcher also said that he believed that Sportingbet would have taken the bet from him personally, because it was a *"tote bet. They would like that"*.[763]

[761] PIC Transcript, S C Fletcher, 5 December 2013, p. 362:46-363:33

[762] Ex 138, Transcript of telephone call between Stephen Fletcher and Sportingbet, 28 September 2012

[763] PIC Transcript, S C Fletcher, 5 December 2013, p. 363:44-364:22

6.323 The next telephone call that was played occurred at 13:30:25 on 29 September 2012 between Fletcher and a person at Sportingbet named Jonathan. It included the following conversation:

> *JONATHAN: Sportingbet, Jonathan.*
>
> *FLETCHER: Yeah mate, three, two, three, four, three, nine.*
>
> *JONATHAN: Jason?*
>
> *FLETCHER: Yeah can I get a maxidiv bet at Rosehill today please?*
>
> *JONATHAN: Yep.*
>
> *FLETHCER: Um, just on More Joyous, whatever is on the balance, the whole balance on More Joyous, maxidiv*.[764]

6.324 Fletcher said that no trickery was involved in the conversation. He said that he was not tricking Jonathan into believing that he was speaking to *"Jason".* He said that the reference to *"Jason"* in the conversation was a reference to the account name.[765]

6.325 The fourth telephone call that was played occurred at 14:13:47 on 29 September 2012 between Fletcher and a person named Michael and included the following:

> *MICHAEL: Sportingbet, Michael.*
>
> *FLETHCER: … Jason, three, two, three, four, three, nine.*
>
> *MICHAEL: Jason?*
>
> *FLETCHER: Yeah. Can I get a Maxidiv bet at Mornington? Do you do that?*
>
> *MICHAEL: Yep.*
>
> *FLETCHER: (ui) Maxidivs. Ah Glacier King number four for three thousand dollars please*.[766]

6.326 Fletcher denied that there was any trickery involved in the conversation. He said: *"No, well, I'm just putting a bet on the commission agent's account".* The following questions and answers then occurred:

> *Q. The commission agent?*
>
> *A. Well, he's the agent I'm betting through at the --*

---

[764] Ex 140, Transcript of telephone call between Stephen Fletcher and Sportingbet, 29 September 2012

[765] PIC Transcript, S C Fletcher, 5 December 2013, p. 365:5-365:12

[766] Ex 142, Transcript of telephone call between Stephen Fletcher and Sportingbet, 29 September 2012

Q. What did Jason Immens do as a commission agent, apart from provide his identity?

A. Provide the service to be able to bet.

Q. But you described the actions of a commission agent earlier, when I asked you what they did to earn their commission, you talked about running around to racetracks and various other things.

A. Right.

Q. What I would suggest is that Mr Immens did nothing except provide his identity details to his colleague at the Tactical Operations Unit, Mr Smith, who in turn provided the account set up in his name to you?

A. Right.

Q. That's all Mr Immens did, isn't it?

A. I guess so, yes.[767]

6.327 The next series of telephone calls were of a similar kind to those that had already been played. They included as follows.

6.328 In a telephone conversation at 14:14:52 on 29 September 2012 the following occurred between Fletcher and a person at Sportingbet called Neil:

FLETCHER: Oh g'day mate. Three, two, four, three, nine

NEIL: Ah Jason is it?[768]

6.329 Fletcher said that the operator in the conversation was *"confirming they have dialled in the correct account name with the number … he doesn't care if I'm Jason or not, as long as the bet's being put into the correct account"*.[769]

6.330 In a telephone conversation at 16:21:39 on 6 October 2012 the following occurred between Fletcher and a person at Sportingbet called Shane:

FLETCHER: Three, two, four, three, nine. Jason calling.

…

FLETCHER: Could I get five hundred Maxidiv, number one, please in Melbourne, Winchester.[770]

6.331 Fletcher disputed that he was tricking the operator into believing that he was someone he was not. He said: *"Well, it's not so much tricking. I'm explaining –*

[767] PIC Transcript, S C Fletcher, 5 December 2013, p. 366:12-366:36

[768] Ex 144, Transcript of telephone call between Stephen Fletcher and Sportingbet, 29 September 2012

[769] PIC Transcript, S C Fletcher, 5 December 2013, p. 367:13-367:23

[770] Ex 152, Transcript of telephone call between Stephen Fletcher and Sportingbet, 6 October 2012

I'm ensuring the correct account is being brought up. I don't know if 'tricking' is the right word for it. I'm not trying to be difficult". [771]

6.332 In a telephone conversation at 14:38:49 on 6 October 2012 the following occurred between Fletcher and a person at Sportingbet called Jarryd:

> *FLETCHER: Three, two, three, four, three, nine.*
>
> *JARRYD: Jason, how can I help you?*
>
> *FLETCHER: Seventeen-thousand Maxidiv, Proisir, please?*[772]

6.333 The following question and answer occurred about that conversation:

> *Q. The question I'm asking you is, from that, is it not clear to you that Jarryd believed he was speaking to somebody called Jason?*
>
> *A. Well, no, it's a corporate bookmaker. That's protocol. What they do, to ensure they've opened the correct account, they always say the name attached to the account, and then that's like a secondary security precaution to make sure the bet is not being placed on an account that it's not supposed to be placed upon. So I don't think he necessarily quite cares less if he is speaking to a Jason or a Steve or a Charlie. As long as that account and the person on the other end of the phone identifies that account with that name, the bet is going to be placed correctly and not debited on someone's account who has no idea about that race.*[773]

6.334 In a telephone conversation at 14:45:19 on 6 October 2012 the following occurred between Fletcher and a person at Sportingbet called Ian:

> *FLETCHER: Yeah Ian, three, two, three, four, three, nine.*
>
> *…*
>
> *IAN: …Jason?*
>
> *FLETCHER: Yeah mate, could I just get whatever the balance is on the favourite in Perth Maxidiv, number three it is Travinator.*
>
> *…*
>
> *IAN: Twenty-thousand, five hundred and seventy-eight.*
>
> *FLETCHER: Yeah.*[774]

6.335 Fletcher confirmed that an amount of $20,578 was wagered on the event. He said that no deception was involved in the conversation and said that the

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[771] PIC Transcript, S C Fletcher, 5 December 2013, p. 368:8-368:11

[772] Ex 146, Transcript of telephone call between Stephen Fletcher and Sportingbet, 6 October 2012

[773] PIC Transcript, S C Fletcher, 5 December 2013, p. 370:2-370:16

[774] Ex 148, Transcript of telephone call between Stephen Fletcher and Sportingbet, 6 October 2012

reference to *"Jason"* was a reference to the name on the account he was using and not to himself.

6.336 Fletcher gave the same evidence[775] in respect of a further ten telephone calls[776] that were played.

6.337 In a telephone conversation at 17:25:14 on 6 October 2012 the following occurred between Fletcher and an unidentified person at Sportingbet:

> *SPORTINGBET: Jason is it?*
>
> *FLETCHER: Belmont, yeah. Four thousand Maxidiv number four, Texan.*[777]

6.338 In a telephone conversation at 15:48:43 on 13 October 2012 the following occurred between Fletcher and a person at Sportingbet called Neil:

> *SPORTINGBET: Racing, Neil.*
>
> *FLETCHER: Yeah three, two, three, four, three, nine*
>
> *…*
>
> *FLETCHER: Jason calling.*[778]

6.339 The following questions and answers occurred about that telephone conversation:

> *Q. Surely you would accept that that is you pretending to be someone called Jason?*
>
> *A. Sportingbet have a - they don't have a password. Like, for instance, the TAB - if you ring the TAB, you have, let's say the account number is 323439, then to double-check that you have a PIN number, you don't have a name. To me, saying "Jason calling" is a confirmation of a PIN number, if you like, a double security to ensure the right account number is being typed in. It's inconsequential if it's a name or if it's a PIN number or whatever, or a number. As long as - it's a precautionary measure to ensure that the appropriate bet is being placed on the correct account.*
>
> *Q. And the form of words "Jason calling" –*

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[775] PIC Transcript, S C Fletcher, 5 December 2013, pp. 372:39-372:48, 373:21-373:24, 373:39-374:3, 375:34-375:42, 376:6-376:8, 376:24-376:44, 377:11-377:14, 377:46-378:2, 379:2-379:9, 379:43-379:46.

[776] Ex 154, Transcript of telephone call between Stephen Fletcher and Sportingbet, 6 October 2012; Ex 156, Transcript of telephone call between Stephen Fletcher and Sportingbet, 6 October 2012; Ex 158, Transcript of telephone call between Stephen Fletcher and Sportingbet, 6 October 2012; Ex 168, Transcript of telephone call between Stephen Fletcher and Sportingbet, 13 October 2012; Ex 170, Transcript of telephone call between Stephen Fletcher and Sportingbet, 13 October 2012; Ex 172, Transcript of telephone call between Stephen Fletcher and Sportingbet, 13 October 2012; Ex 174, Transcript of telephone call between Stephen Fletcher and Sportingbet, 13 October 2012; Ex 176, Transcript of telephone call between Stephen Fletcher and Sportingbet, 13 October 2012; Ex 178, Transcript of telephone call between Stephen Fletcher and Sportingbet, 13 October 2012; Ex 182, Transcript of telephone call between Stephen Fletcher and Sportingbet, 14 October 2012.

[777] Ex 158, Transcript of telephone call between Stephen Fletcher and Sportingbet, 6 October 2012

[778] Ex 178, Transcript of telephone call between Stephen Fletcher and Sportingbet, 13 October 2012

A. Well, that's like saying "password Jason", to me.

A. That's how the corporate - that's their secondary precautionary measure to ensure the right account is being accessed.[779]

6.340 The last telephone conversation that was played occurred at 13:52:51 on 17 October 2012 between Fletcher and a person at Sportingbet called Kay. It included the following:

FLETCHER: Yeah, Jason calling. Three, two, three, four, three, nine

SPORTINGBET: How can I help Jason?

…

SPORTINGBET: Hello Jason?

FLETCHER: Yeah.

SPORTINGBET: Your account is set to an internet only account. You can only place bets over the internet.[780]

6.341 Fletcher accepted with reference to that conversation that the operator at Sportingbet thought that she was *"talking to the account holder, Jason".* By saying *"Jason calling"* he accepted that he made a representation that he was Jason.[781] However, he did not accept that that had been the case with respect to other telephone calls in which he said *"Jason calling".*[782]

6.342 During his examination Fletcher said that it was his belief that Sportingbet would have accepted bets from Stephen Fletcher, in sums of $17,000, $20,500 and so on, that he placed on Immens' account.[783]

6.343 Fletcher gave the following evidence as to the basis of his belief that Sportingbet would have accepted the bets from himself:

A. Yes. Well, I believe they would accept them. They would possibly retail them and earn the commission on the bets, as I explained yesterday, that they can do with any tote business such as that. So basically they can get 8 per cent of whatever I turned over for nothing. There's no risk at all. They get 8 per cent back from the tote for retailing the bets back.

Q. Explain to us what you mean by retailing them back?

A. By putting them back into the pool and then they would get a commission rebate from the TABs.[784]

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[779] PIC Transcript, S C Fletcher, 5 December 2013, p. 378:15-378:33

[780] Ex 184, Transcript of telephone call between Stephen Fletcher and Sportingbet, 17 October 2012

[781] PIC Transcript, S C Fletcher, 5 December 2013, p. 380:21-380:47

[782] PIC Transcript, S C Fletcher, 5 December 2013, p. 381:2-381:8

[783] PIC Transcript, S C Fletcher, 5 December 2013, pp. 375:3-375:12

[784] PIC Transcript, S C Fletcher, 6 December 2013, p. 412:31-412:43

6.344 In his evidence Fletcher also said that he was not restricted from placing maxi dividend bets with Sportingbet over the internet in his own name.[785]

Use of other betting accounts over the phone

6.345 Fletcher was asked if it was common for him to make telephone calls to corporate bookmakers, in which he identified himself with reference to the account name and number associated with the account he may have been using at the time. He said:

> *A. Well, each agency, as I explained, has a different security - I call it a two-prong security check. I can go through them, if you like. The TAB has a six-digit account number and then a four-digit PIN. IAS have a six-digit combination and then normally a four-letter PIN. Sportingbet has the numerical account number and then the Christian name, and then I think the rest just have user names and passwords*.[786]

6.346 Where a Christian name was not required, he said it would definitely not be necessary for him to identify himself with reference to a name.[787]

6.347 Fletcher was then played a telephone call from 2 December 2012, which he confirmed took place between himself and different persons at the TAB, including a person named April. The relevant parts of the conversation included the following:

> *TAB EMPLOYEE: Tab, may I have your account number please?*
>
> *FLETCHER: Eight, six, double …*
>
> *…*
>
> *TAB EMPLOYEE: … Your pin?*
>
> *FLETCHER: Five, seven …*
>
> *…*
>
> *TAB EMPLOYEE: What's your name again sorry?*
>
> *FLETCHER: [MC13]*[788]
>
> *…*
>
> *APRIL: Thank you so much for waiting, is this [MC13]?*

[785] PIC Transcript, S C Fletcher, 5 December 2013, p. 382:29-382:30

[786] PIC Transcript, S C Fletcher, 6 December 2013, p. 414:36-414:43

[787] PIC Transcript, S C Fletcher, 6 December 2013, p. 414:45-414:47

[788] The real name of this person is subject to a non-publication order by the Commission

FLETCHER: That's alright. Yes.

…

APRIL: no worries, I'll definitely give you a call back [MC13].[789]

6.348 When asked about the conversation Fletcher said that he was saying that he was *"[MC13], the account holder"* and agreed that the person April thought that she was speaking to the account holder.[790]

6.349 Fletcher disagreed that he deceived the corporate bookmaker. He said that he knew the account manager at the TAB and said that *"he knows I use several accounts that aren't in my name"*. He said that he spoke to that person every second day and that the person April did not have *"anything to do with the betting side of things"* at the TAB.[791]

6.350 Fletcher was next played a telephone conversation from 2 January 2013, which he confirmed took place between himself and a person at Bet365 named Ross.[792] The relevant parts of the conversation included the following:

FLETCHER: Ah username's [MC9][793] *… I haven't got my account, I don't know the account number is.*

ROSS: Yep, just bring it up now for you sir. Yep, can I just confirm your full name, postal code, date of birth please?

FLETCHER: Ah full name's [MC14].[794]

6.351 Fletcher did not agree that he had deceived Ross as to his identity. He said that when he had used the account holder's name, he was giving the TAB operator the name that was *"associated with that account".* The following question and answer then occurred:

Q. He didn't ask you for the name associated with the account.

A. Well, that's my interpretation, sorry.[795]

6.352 Fletcher went on to say that Bet365 would not have taken the $200 bet that he placed on the account from him personally.[796]

6.353 Fletcher was played a telephone conversation from 1 December 2012, which he confirmed took place between himself and a person at Sportingbet named Jonathan. In that telephone call Fletcher placed a bet of $3,500 on a horse to

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[789] Ex 190 AC, Transcript of telephone call between Stephen Fletcher and TAB, 2 December 2012

[790] PIC Transcript, S C Fletcher, 6 December 2013, p. 416:5-416:22

[791] PIC Transcript, S C Fletcher, 6 December 2013, pp. 416:35-416:47, 417:26-417:28

[792] Ex 192 AC, Transcript of telephone call between Stephen Fletcher and Bet365, 2 January 2013

[793] The real name of this person is subject to a non-publication order by the Commission

[794] The real name of this person is subject to a non-publication order by the Commission

[795] PIC Transcript, S C Fletcher, 6 December 2013, p. 418:20-418:30

[796] PIC Transcript, S C Fletcher, 6 December 2013, p. 419:17-419:19

win at fixed price odds.[797] Flecther said that he could not have placed that bet with Sportingbet in his own name and that it was necessary to use a *"bowler account"* to place the bet. [798]

6.354 In the context of being asked whether it was necessary to deceive the corporate bookmaker, he gave the following evidence:

> *Q. And my question to you is whether or not your belief is that Sportingbet would have accepted the bet knowing it was really Stephen Fletcher's bet but being done through someone else's name and account?*
>
> *A. And my answer is, no, they wouldn't have accepted the bet if they knew it was my bet.*
>
> *Q. And doesn't it flow from that that to make that bet with Sportingbet, you needed to deceive them?*
>
> *A. Well, I won't accept that it's deception, because in the racing world I'm a corporate bookmaker shareholder, or I was. We don't view that as deceptive behaviour. Like I said from day one, it's the brinkmanship characteristic of the racing industry. It is not viewed as deception.*
>
> *Q. What do you mean by "brinkmanship"?*
>
> *A. Well, it's gamesmanship. It's fair play. And fair play does not mean deception. It means it's just what is expected as the norm.*[799]

6.355 Fletcher was then played two further telephone calls.

6.356 The first was from 17:22:49 on 23 November 2012 and occurred between Fletcher and another person codenamed MC15.[800] In the telephone conversation Fletcher asked and was provided with answers to the following questions:

> *FLETCHER: Hey [MC15], on my desk there, ya know where [MC16]*[801] *um court papers?*
>
> *…*
>
> *FLETCHER: Can you check what the date of birth is, I'm, I'm betting on his TAB account, I wanna know his date of birth.*
>
> *…*
>
> *FLETCHER: … what's his address?*[802]

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[797] Ex 194 AC, Transcript of telephone call between Stephen Fletcher and Sportingbet, 1 December 2012.

[798] PIC Transcript, S C Fletcher, 6 December 2013, p. 420:14-420:30

[799] PIC Transcript, S C Fletcher, 6 December 2013, p. 422:4-422:22

[800] The real name of this person is subject to a non-publication order by the Commission

[801] The real name of this person is subject to a non-publication order by the Commission

[802] Ex 200 AC, Transcript of telephone call between Stephen Fletcher and another person, 23 November 2012

6.357 The second telephone call took place at 17:24:25 on 23 November 2012. Fletcher confirmed that the telephone call took place between himself and a person named Jodi at the TAB. It included the following conversation:

JODI: Mr [MC 16]?

FLETCHER: Yes, Jodi..

…

JODI: need to ask you a couple of questions.

FLETCHER: Yep

JODI: Just your date of birth?

FLETCHER: Twenty-sixth of November, sixty-one.

JODI: Thank you. Your address?

FLETCHER: Ah …

JODI: I've got a different address here.

FLETCHER: What have you got there?

JODI: You have to tell me.

…

JODI: Email address?

FLETCHER: Ah …

JODI: No. Mobile number?

FLETCHER: Ah zero four, three four, …?

JODI: No.

…

JODI: Okay. Unfortunately, um, 'cause you're not answering the questions that I have on the account, we've um had to freeze the account.

FLETCHER: Right. Why?

JODI: Ah, due to some er irregular betting activity today.

…

FLETCHER: Right, well, w-why would you freeze my account? …

JODI: Okay, but I, I just need to fully be, fully um guaranteed who I'm, who I'm dealing with so.

FLETCHER: Alright, let me get, I'll get the address and I'll ring you straight back …

…

JODI: Yeah, we need to confirm who you are first and then we'll be (ui).[803]

6.358 Fletcher agreed that he did not have enough information to satisfy Jodi as to who he was and agreed that she was trying to find out who he was in the conversation. The following questions and answers occurred:

Q. And it's entirely clear, isn't it, from that call that that particular agency was trying to find out who you were?

A. Yes, it would appear so in that phone call, yes, I agree.

Q. Not which account you were using, but who you were?

A. Well, they had to in order to unfreeze the account; they need to determine they're talking to the right person.

Q. And the right person is the person in whose name the account is held?

A. That's right, to unfreeze the account, correct.

Q. I suggest to you that's true of all of the phone calls I've been playing to you --

A. No, I disagree with that.[804]

Use of accounts in the name of Groves

6.359 Fletcher said that he had a memory of using accounts in the name of Groves. He did not dispute that more than $250,000 went through his accounts and said that Groves' *"would have been the highest turnover, I think, of all the police"*.[805] He did not accept responsibility for all the bets that were placed on the accounts.[806]

6.360 Groves' Luxbet account ran from the period between 26 July 2012 and 5 August 2012 and included bets of between $200 and $3,000 on both greyhound racing events and fixed-odds horse racing events.[807] Fletcher agreed that the total value of the bets that were placed in that period was around $22,000.[808] By reference to the bets and their quantities, Fletcher

[803] Ex 202 AC, Telephone call between Stephen Fletcher and TAB, 23 November 2012

[804] PIC Transcript, S C Fletcher, 6 December 2013, p. 428:6-428:21

[805] PIC Transcript, S C Fletcher, 5 December 2013, p. 324:40-324:48

[806] PIC Transcript, S C Fletcher, 6 December 2013, p. 465:41-465:46

[807] Ex 114 AC, Exhibits and evidence given in private by Christopher Groves

[808] PIC Transcript, S C Fletcher, 6 December 2013, pp. 459:46-460:3

thought that he placed most of the bets on the account, although did not think that he placed all of the bets. At the time the bets were placed he agreed that he would not have been permitted to make bets of the same nature in his own name with Luxbet.

6.361 Groves' Bookmaker account ran from 26 July to 17 August 2012. The records for the account show bets of between $300 and $1,500 on fix-odds horse racing events, bets of $2,000 and $5,000 on women's swimming events and a bet of $300 on a rugby league game.[809] Fletcher agreed that the total value of the bets that were placed in that period was around $28,000.[810] Fletcher thought that he placed most of the bets on the account and said they looked *"pretty familiar with me".* However, he did not think that he placed bets on the women's swimming events or a bet that was placed on the rugby league game.[811] He did not know who might have placed those bets. In giving evidence about who might have placed those bets, the following questions and answers occurred:

> *Q. Have you any idea who would have been placing that bet, if not you?*
>
> *A. I wouldn't know.*
>
> *Q. Because I suppose once someone's account details are known, they can be provided to any number of people?*
>
> *A. That's right.*
>
> *Q. Who could conceivably make the bet?*
>
> *A. Yes, that's correct.*[812]

6.362 Groves' IAS Bet account ran from 28 July 2012 to 13 August 2012 and included bets of between $200 and $4,000 on swimming events, rugby league and horse racing.[813] Fletcher agreed that the total value of bets placed was $18,000.[814] However, he was only prepared to accept as his the bets that were placed on horse racing events, saying they *"look correct"*.[815]

6.363 Groves' Betstar account ran from 28 July 2012 to 19 September 2012 and included bets on fixed-odds horse racing events.[816] Fletcher agreed that the total value of the bets that were placed in that period was about $5,500 and accepted that the bets on the fixed-odds horse racing events were placed by him.[817]

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[809] Ex 114 AC, Exhibits and evidence given in private by Christopher Groves
[810] PIC Transcript, S C Fletcher, 6 December 2013, p. 462:7-462:10
[811] PIC Transcript, S C Fletcher, 6 December 2013, p. 460:5-461:29
[812] PIC Transcript, S C Fletcher, 6 December 2013, p. 461:34-461:43
[813] Ex 114 AC, Exhibits and evidence given in private by Christopher Groves
[814] PIC Transcript, S C Fletcher, 6 December 2013, p. 463:15-463:16
[815] PIC Transcript, S C Fletcher, 6 December 2013, p. 462:37-462:41
[816] Ex 114 AC, Exhibits and evidence given in private by Christopher Groves
[817] PIC Transcript, S C Fletcher, 6 December 2013, p. 463:18-463:37

6.364 Groves' Sportingbet account ran from 26 July 2012 to September 2012 and included bets of between $30 and $10,000 on horse racing events, greyhound events and a variety of sporting events.[818] Fletcher agreed that the total value of bets that were placed in that period was in the vicinity of $170,000. He said that the bets *"generally look all mine"*.[819]

6.365 Groves' Centrebet account ran from 26 July 2012 to 11 August 2012 and included bets of between $25 and $749 on swimming events, fixed odds horse racing events, greyhound events and Rugby league games.[820] Fletcher said that most of the bets were not his bets, for reasons that included the type of bets that were placed, the location of the events, and the fact that the amounts bet were small. [821]

6.366 Groves' Bet365 account ran from 29 July 2012 to 7 August 2012 and included a number of bets on greyhound events.[822] Fletcher would not accept that the bets were his, as they were on *"greyhounds"* and *"exotics"*, which he said was not his *"cup of tea"*.[823]

INSIDE INFORMATION

6.367 During the course of his evidence Fletcher was played two telephone conversations that he had with a person code-named MC17.[824]

6.368 The first telephone convseration was at 9:57:25 on 20 October 2012 and included the following:

> *MC17: No I've got one that can't win that's favourite*
>
> *FLETCHER: Which one?*
>
> *MC17: Mosheen*
>
> *FLECTHER: Mosheen?*
>
> *MC17: Yep.*
>
> *FLETCHER: What was wrong with it?*
>
> *MC17: Your phone's not bugged is it?*
>
> *FLETCHER: I don't know, could be*
>
> *…*

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[818] Ex 114 AC, Exhibits and evidence given in private by Christopher Groves

[819] PIC Transcript, S C Fletcher, 6 December 2013, pp. 463:45-464:44

[820] Ex 114 AC, Exhibits and evidence given in private by Christopher Groves

[821] PIC Transcript, S C Fletcher, 6 December 2013, p. 465:3-465:23

[822] Ex 114 AC, Exhibits and evidence given in private by Christopher Groves

[823] PIC Transcript, S C Fletcher, 6 December 2013, p. 465:29-465:39

[824] The real name of this person is subject to a non-publication order by the Commission

MC17: I'm, my. Well I'm working for [Mc18][825] at the moment right, and he's like a chiroprac, he does all their backs and shit.

FLETCHER: And it, and it's, it's in a bit of pain is it?

MC17: Well he done it the other week and said that it, went around and said that it would just win first up.

FLETCHER: Yeah

MC17: And now, and then today we said well will we back her again? And he goes, well I'm not supposed to tell anyone, but it's, it's, it's not right, it can't fuckin' win

FLETCHER: It's a sore horse?

MC17: Mm

FLETCHER: Well I thought, I was actually, when it pulled up, after it won the other day when it was pulling up, I thought it looked a little bit sore then

MC17: Mm.

FLETCHER: So that doesn't surprise me.

MC17: There's something wrong with it.

…

FLETCHER: Alright matey, well I'll fiddle around with Mosheen, yeah I didn't like it but I'll, I'll, I'll pot it more.

MC17: Yeah.

FLETCHER: Good boy.[826]

6.369 The second telephone conversation was at 13:51:57 on 21 October 2012 and included the following:

FLETCHER: [MC17].

MC17: What's going on mate?

FLETCHER: That was a good result

MC17: Yes, yes

FLETCHER: What do you go today, you've more? Any chiropractic mail?[827]

[825] The real name of this person is subject to a non-publication order by the Commission

[826] Ex 132 AC, Transcript of telephone call between Stephen Fletcher and another person, 20 October 2012

6.370 Fletcher disputed that the information he received from MC17 was inside information. He said: *"…I don't know if it's inside information. I think I've said in the conversation I noticed it myself. So it's fairly obvious to most."* Fletcher said that he imagined that he *"layed"* the horse Mosheen, that is bet on it to lose*, "but not on the basis of that information."* He denied having used a police officer's betting account to *"lay"* the horse. When asked if he had, he said: *"No, definitely - I have never used a police officer's account - I've got my own accounts - to lay horses. You only need police officers to back horses, yes."*[828]

6.371 Fletcher agreed that he was being supplied medical information about the horse but said that he did not give *"much credence"* to the information received from MC17. He said that he remembered the race and that he *"had the horse rated. I get professional ratings"* and said that he *"would not have backed the horse; I would have laid it, but not as a result of his information."*[829]

6.372 Fletcher remembered that the horse Mosheen ran sixth in the race. As to the conversation he had with MC17 on 21 October 2012, after the race, he said that he *"would have rung him just to, you know, give him a bit of confidence"*. When asked whether he had asked MC17 if he had any more *"chiropractic mail"*, Fletcher replied: *"Well, that was quite - that was tongue in cheek, I think, really, yes."*[830]

DARREN AZZOPARDI

6.373 Azzopardi said that he was a professional gambler and racing form analyst. He said that he specialised in *"greyhounds"* and that his job involved studying the *"behaviour and betting of greyhounds"*.[831] Apart from gambling, he said he earned an income by doing the *"form"* for corporate bookmakers. However he was not employed by a bookmaker at the time of giving his evidence.[832]

6.374 Azzopardi confirmed that he was known by a number of nicknames, including *"Two Turns", "Toohey", "2eeeee", "Daz"* and *"Dazzler"*.[833]

EMPLOYMENT WITH SPORTSBET

6.375 Azzopardi said that he had worked for Sportsbet for three years. He said that he *"basically did fixed odds pricing for Melbourne greyhounds"* for the corporate bookmaker, until his employment ceased in December 2012.[834]

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827 Ex 134 AC, Transcript of telephone call between Stephen Fletcher and another person, 21 October 2012

828 PIC Transcript, S C Fletcher, 5 December 2013, pp. 360:15-361:11

829 PIC Transcript, S C Fletcher, 5 December 2013, p. 357:13-357:35

830 PIC Transcript, S C Fletcher, 5 December 2013, p. 358:4-358:39

831 PIC Transcript, D S Azzopardi, 19 December 2013, p. 619:17-619:45

832 PIC Transcript, D S Azzopardi, 19 December 2013, p. 620:5-620:16

833 PIC Transcript, D S Azzopardi, 19 December 2013, p. 620:45-621:32

834 PIC Transcript, D S Azzopardi, 19 December 2013, p. 621:34-622:8

6.376 Azzopardi said that, once his employment with Sportsbet came to an end, Sportsbet had attempted to impose restrictions on him he when he left the company. He said that that they *"tried a lot"* to restrict his ability to bet with Sportsbet and told him that he *"couldn't work for anyone else".* In the end he said that *"that was all watered down to basically a separation"*.[835]

6.377 A lawfully intercepted telephone conversation from 21 November 2011 was played concerning the termination of his employment, which Azzopardi confirmed took place between himself and Williams. During the conversation Azzopardi told Williams that Sportsbet had said to him *"you're not allowed to bet with us for twelve months".* The following conversation then occurred:

> *WILLIAMS: fuckin' cunts.*
>
> *AZZOPARDI: fuckin' like [MC15]*[836] *said, he said just use a bowler.*
>
> WILLIAMS: Yeah that's right, oh.
>
> *AZZOPARDI: 'Cause you're not betting with them.*
>
> *WILLIAMS: No that's right, we've got fucking plenty of those don't worry about that.*[837]

6.378 Azzopardi agreed that Sportsbet was able to refuse to accept bets from him. He said that *"one way to get around"* that restriction was to use *"bowler accounts".*[838]

PERSONAL BETTING ACCOUNTS

6.379 Azzopardi was shown the records for betting accounts he had in his own name with the corporate bookmakers Bookmaker, Betstar, Bet365, TabSport and Luxbet[839] and confirmed that the accounts were opened and used by him to place bets.[840] He said he would have had accounts other than those but could not say with which corporate bookmakers, as he would have had the accounts *"a while ago"*.[841] He confirmed that he closed his Luxbet account but could not say why he closed the account.[842]

6.380 In giving evidence about his personal betting accounts he said his Bet365 account was closed after he had placed four bets on the account. He remembered seeing a message on the account informing him that the account was closed. He inferred that it had been closed, *"because they recognised my*

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[835] PIC Transcript, D S Azzopardi, 19 December 2013, p. 622:16-622:23

[836] There is a non-publication order over this person's name

[837] Ex 345 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 21 November 2012

[838] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 696:41-697:8

[839] Ex 323 AC, Bookmaker.com.au account of Darren Azzopardi; Ex 324 AC, Betstar account for Darren Azzopardi; Bet 365 account of Darren Azzopardi; Ex 326 AC, TopSport account of Darren Azzopardi; Ex 327 AC, Luxbet account of Darren Azzopardi

[840] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 623:2-624:32

[841] PIC Transcript, D S Azzopardi, 19 December 2013, p. 625:9-625:13

[842] PIC Transcript, D S Azzopardi, 19 December 2013, p. 625:20-625:22

name". He said that the account was closed *"within ten minutes"* of being opened and thought that that was *"very odd and weird".*[843]

ASSOCIATION WITH WILLIAMS

6.381 Azzopardi said that he met Williams in the middle of 2012 through Fletcher[844] and that he started using betting accounts that were in Williams' name to make bets in around August 2012. Azzopardi said that he was definitely using those accounts by November 2012.[845] He could not be *"100 per cent"* certain but thought that he would not have being using the accounts as early as February, April or May 2012.[846]

6.382 Azzopardi said that the bets that he placed on Williams' accounts were generally his (i.e., Azzopardi's) bets alone. He said that he did not place bets jointly with Williams and Fletcher. [847] However, he was unable to identify which bets he placed on Williams' accounts. He said: *"I don't want to basically say no, I don't want to say yes. I'm – not because I don't want to, it's just, you know, like I'm not certain".*[848]

PROVISION OF ACCOUNTS BY WILLIAMS

6.383 Azzopardi said that at some point Williams provided him with accounts to bet through which were in other people's names. Azzopardi could not give a date for when that occurred but presumed that it would have occurred *"later"* in 2012.[849] He could not remember how that came about. He said that it probably came up in a conversation but could not say what the conversation had been about. [850]

6.384 Azzopardi said that he did not think that he got *"too many accounts"* from Williams and, at one stage in his evidence, said that about ten betting accounts were provided to him by Williams.[851] As to how accounts were provided, he said that Williams would contact him with accounts or that he would sometimes contact Williams for accounts.[852]

6.385 Azzopardi said that he did not know any of the individuals in whose names Williams provided accounts.[853]

6.386 Azzopardi said that he had met Smith once and that Williams was the *"middleman"* as between himself and Smith.[854]

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[843] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 624:7-624:11, 625:24-625:30, 626:4-626:17, 626:44-627:6
[844] PIC Transcript, D S Azzopardi, 19 December 2013, p. 627:22-627:36
[845] PIC Transcript, D S Azzopardi, 19 December 2013, p. 628:7-628:23
[846] PIC Transcript, D S Azzopardi, 19 December 2013, p. 628:41-629:10
[847] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 642:46-643:9
[848] PIC Transcript, D S Azzopardi, 19 December 2013, p. 646:13-646:19
[849] PIC Transcript, D S Azzopardi, 19 December 2013, p. 629:17-629:23
[850] PIC Transcript, D S Azzopardi, 19 December 2013, p. 629:21-629:31
[851] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 649:13, 666:47
[852] PIC Transcript, D S Azzopardi, 19 December 2013, p. 652:6-652:26
[853] PIC Transcript, D S Azzopardi, 19 December 2013, p. 649:38-649:44

6.387 Azzopardi said that Williams received *"a cut of the winnings"* on any winning accounts Williams provided. He said that Williams got between five and ten per cent. Azzopardi said that he personally determined the size of the *"cut"*.[855]

6.388 Azzoaprdi said that the following telephone call was an example of an occasion where he sought accounts from Williams:

> *WILLIAMS: Oh well fuck what do ya need?*
>
> *AZZOPARDI: Oh fuckin' everything.*
>
> *WILLIAMS: Well fuck (ui) what's everything? Tell me what you need and I'll fuckin' try and get something sorted*
>
> *…*
>
> *AZZOPARDI: … well one Sportingbet and one Centrebet would be good.*[856]

6.389 Azzopardi explained that his reference to *"oh fuckin' everything"* had been a reference to obtaining *"accounts".* He also said that he had sought Centrebet and Sportingbet accounts from Williams, as those bookmakers offered fixed odds.[857]

6.390 In another example[858] he agreed that he had sought an account from Williams to place a $20,000 bet on a particular dog.[859]

WHY HE USED ACCOUNTS

6.391 The following questions and answers occurred about why Azzopardi bet through Williams' and other people's accounts:

> *Q. Why did* [you] *start to bet through accounts in Mr Williams' name?*
>
> *A. Probably a number of reasons.*
>
> *Q. Tell us what they are.*
>
> *A. To basically to get on, you know, at prices available to, you know, your rank and file, basically everyone. To, you know, remain anonymous because obviously if they realised it's me betting, they can follow me in, they can adjust their prices, they can crunch totes, they can –*
>
> *Q. In that context, when you say "they can follow you in" are you talking about the betting agencies or other punters?*

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[854] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 668:36-669:12

[855] PIC Transcript, D S Azzopardi, 19 December 2013, p. 649:16-649:31

[856] Ex 286 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 19 November 2012

[857] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 655:35-656:14

[858] Ex 331 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 19 November 2012

[859] PIC Transcript, D S Azzopardi, 19 December 2013, p. 657:40-657:43

A. I'm talking probably both.

Q. Right. And when you talk about - I forget, I think you said "crunching the totes"?

A. Yeah, well, if you place a bet and the bookmaker deems you to be smart, they can then basically put your money plus some of their own into the totes, reducing your price that you're going to get, the flip side. The workers at the agency sit there and they follow you in, reducing the price again. It's pretty common.[860]

...

Q. Right. You used an expression "rank and file" earlier. I take it what you mean by that is your average punter?

A. Yeah, basically, everyone else that's not smart.

Q. And that was in answer to why you were using someone else's account, one of the reasons you gave was so that you could get on - these are not your exact words but you could get on like the rank and file like anyone else; is that correct?

A. Yeah. Well, if a --

Q. I mean, if Peter Hamill --

A. If the bookmaker puts up the price, well, obviously they're willing to bet that price, so why shouldn't it be available to everyone else?[861]

USE OF BETTING ACCOUNTS TO OVERCOME RESTRICTIONS

6.392 Azzopardi agreed that that there were occasions when he could not in his own name place a bet with particular corporate bookmakers.[862] He also said that it was *"part of the business"* of corporate bookmakers to use various means to determine who they were dealing with. In his opinion the corporate bookmakers were wary of dealing with him as a customer, as he was *"smarter than them".*[863]

6.393 Azzopardi agreed in the following questions and answers that he used *"bowler accounts"* to place bets that he was unable to place himself:

Q. Thank you. Do you understand what I mean by a bowler in the context of gambling?

A. Yes, I know what a bowler is, correct.

Q. Thank you. Can you tell us in your words what a bowler is?

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[860] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 629:37-630:13

[861] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 630:40-631:8

[862] PIC Transcript, D S Azzopardi, 19 December 2013, p. 631:25-631:35

[863] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 631:37-632:29

A. A bowler is someone that bets for someone else.

Q. In your practice as a professional gambler, have you, from time to time, used accounts that might be described as bowler accounts?

A. Yes.

Q. And that's the sort of accounts we're talking about when we're talking about accounts that aren't in your name?

A. Yes.

Q. And the benefits of doing that are the ones you described before, including the ability to actually place a bet where otherwise you're unable to place a bet?

A. That's correct.[864]

6.394 Azzopardi estimated that since 2010 he had used about 50 accounts that were not in his name to bet through.[865] He thought that the figure of *"200+"* accounts that Williams had quoted in an email to other persons about Azzopardi's use of accounts was an exaggeration.[866]

6.395 The email from Williams also included the following statement:

> *Toohey lives around Kogarah / any centrebet or sportingbet account from anyone living in close proximity to him is automatically flagged (we know this for a fact).* [867]

6.396 Azzopardi confirmed the accuracy of what Williams had written in the email. He said that he was aware that there were problems for people living near him in opening betting accounts with the corporate bookmakers Sportingbet and Centrebet. While Azzopardi could not be certain, he said that he probably informed Williams of that fact.[868]

6.397 Elsewhere in his evidence Azzopardi said that Sportingbet and Centrebet would not have accepted bets from him at fixed odds.[869]

6.398 Azzopardi was shown an MSN exchange between himself and Williams from 18 February 2013, which included the following messages:

WILLIAMS: Yes – but now you have paulywine cb with 1500 now as well!!

…

AZZOPARDI: Whose account is that??

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[864] PIC Transcript, D S Azzopardi, 19 December 2013, p. 636:4-636:24
[865] PIC Transcript, D S Azzopardi, 19 December 2013, p. 636:39-636:48
[866] PIC Transcript, D S Azzopardi, 19 December 2013, p. 638:13-638:18
[867] Ex 292 AC, Email from Williams, 12 April 2012
[868] PIC Transcript, D S Azzopardi, 19 December 2013, p. 637:25-637:39
[869] PIC Transcript, D S Azzopardi, 19 December 2013, p. 656:16-656:18

…

WILLIAMS: Mine !!

…

AZZOPARDI: Bookmaker login??

AZZOPARDI: sba login

AZZOPARDI: c/b login??

AZZOPARDI: Spit them out and I'll write them down

…

WILLIAMS: Bookmaker is

…

WILLIAMS: Sba is

…

WILLIAMS: Cb is

…

WILLIAMS: You will never complaint about not getting on again!! Hahahaahha.[870]

6.399 Azzopardi confirmed that in those communications Williams provided him with the login and password details for a number of accounts.[871] The following questions and answers then occurred:

Q. The reference to not complaining about getting on, is a reference back to the fact that you were unable to bet in your name and therefore sometimes couldn't place a bet?

A. As a punter it is hard to get on, yes.

Q. No, no, I'm not talking about as a punter. I'm talking about you?

A. Yeah.

Q. It's hard for you, Darren Azzopardi, to get on?

A. That's correct.

[870] Ex 275 AC, MSN exchange between Anthony Williams and Darren Azzopardi,18 February 2013

[871] PIC Transcript, D S Azzopardi, 19 December 2013, p. 640:19-640:31

Q. Because the businesses that you're dealing with in some instances don't want to take your bets; that's correct, isn't it?

A. Yes, that's - yes.

Q. And in some cases they close the account altogether; correct?

…

A. Yes.

Q. And in other cases, they restrict?

A. They restrict, limit, and then - yeah.

Q. -- the amount that you can win?

A. Yeah, that's correct. [872]

6.400 Azzopardi was uncertain as to whether the restrictions in his case applied to *"events".* He also said that it would be the case that accounts would be limited rather than closed down. By limited he meant that fixed odds bets would not be accepted. [873]

6.401 Azzopardi said he knew that corporate bookmakers would scrutinise bets that he placed in his own name and accepted that one advantage of purporting to be another person for the purpose of making a bet was to avoid scrutiny.[874]

VIEWS ABOUT CONDUCT

6.402 Azzopardi did not think that there was anything wrong or illegal in using betting accounts in other people's names. He said that it was not something that he thought he could get in trouble for. He said that it was not something he thought the account holders could get in trouble for. He was not sure whether it was something that a police officer might get in trouble for.[875]

6.403 Azzopardi was played a telephone conversation from 13 September 2012, which he confirmed took place between himself and Williams. It included the following:

WILLIAMS: … Do you want any of those ah accounts?

…

AZZOPARDI: … Who's are they though?

WILLIAMS: They're Smithys.

---

[872] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 640:47-641:28

[873] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 641:30-642:14

[874] PIC Transcript, D S Azzopardi, 19 December 2013, p. 670:17-670:24

[875] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 660:35-661:3

AZZOPARDI: Yeah but I don't wanna get him into trouble.

WILLIAMS: Nah, nah well there his, his, they're his accounts. You know what I mean? Like he's, he's fine. Like when I

AZZOPARDI: Yeah, yeah.

WILLIAMS: …they're his. Do you know what I mean? There's no fucking third party they're, they're his accounts. He's not gonna get in trouble he's (ui) use it. You know what I mean like it's,

AZZOPARDI: Yeah.

WILLIAMS: like us fucking just betting in our syndicates mate it's no dramas.

AZZOPARDI: Yeah, yeah, fair enough.[876]

6.404 Azzopardi said that he did not know what he meant when he had said, *"yeah, but I don't wanna get him into trouble".* He was not sure of the trouble that Smith might have got into and did not know why he had said those words.[877] The following questions and answers then occurred:

Q. That's okay. Mr Williams says that he won't get into trouble because they're his accounts, there was no third party?

A. Okay.

Q. Do you have any idea what he was talking about there? What did you take from that?

A. Yeah. He's not opening it for someone else.

Q. What would be wrong with him opening it for someone else?

A. I'm not sure.[878]

CONTRIBUTION MADE BY WILLIAMS TO THE BETTING

6.405 Azzopardi gave evidence that Williams was not involved in funding any bets that were made on the betting accounts that Williams supplied. With reference to the last telephone conversation and Williams' reference to *"our syndicates"*, the following questions and answers occurred:

Q. The reference in Mr Williams conversation to "our syndicates", did you have any idea what he was talking about when he said that?

A. Just must be betting, basically.

---

[876] Ex 333 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 13 September 2012

[877] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 661:39-662:21

[878] PIC Transcript, D S Azzopardi, 19 December 2013, p. 662:23-662:34

Q. But it wasn't a syndicate in the sense that two punters pool their money and bet on a series of sporting events.

A. Yeah.

Q. This was not that sort of syndicate, was it?

A. No. Well, like I said, he used to get 5 and 10 per cent of the winnings, so --

Q. And that was the sense in which it was a syndicate?

A. Yeah.

Q. It wasn't the case that he was part of the capital, if you like?

A. He wasn't, yeah, putting in, no.

Q. He wasn't placing the money in to make the bets?

A. No.

Q. If he did, it was recouped later from you?

A. Yeah.

Q. Because these accounts to be used had to have money in them; correct?

A. Correct.

Q. And there's talk in some of these calls I think of him --

A. There's some - yeah, him putting the money up or me putting in the - that's how, basically, it would have got lost and --

Q. But if he, Mr Williams, put the money in or if Mr Smith put the money in, it was you would recoup that?

A. Recoup the money, correct.

Q. It wasn't --

A. The risk was on my side, correct.

Q. Yes, it wasn't them putting their --

A. Yeah.

Q. -- money in to place a bet on their own account?

A. No. Correct.[879]

6.406 Later in his evidence Azzopardi was taken to his bank account records.[880] As to deposits that were made to his bank account by Williams, totalling $23,000, he said that the deposits would relate to the winnings he himself made on betting accounts. He said that there would be no other reason for Williams to send him money.[881] He gave similar evidence in relation to deposits totalling $29,100 that were made to his account by Smith.[882] As to monies Azzopardi transferred to Williams, totalling $29,720, he said that the money was for funding the setting up of betting accounts. He gave the same evidence in relation to a deposit of $2,500 that he made to Smith's account. [883]

AWARENESS OF SECURITY SYSTEMS

6.407 Azzopardi was played a telephone conversation from 3 September 2012, which he confirmed took place between himself and Williams. It included the following:

AZZOPARDI: Fuckin' what about Bet365?

WILLIAMS: Yeah?

AZZOPARDI: I've had to fuckin', Fletch had to back a dog for [MC19].[884]

WILLIAMS: Yeah.

AZZOPARDI: Um he said they've linked it to my computer.

WILLIAMS: Yeah, I-I-I'll um, I think w-when we have dinner next I'll tell mate it's, they've fucking, y-you can't, you can't even use the same computer mate or anything. Y-you've gotta get dongles for Bet365. And even if you back it, 'cause I, I saw their computer systems, obviously at,

…

WILLIAMS: at the new bosses house.

…

WILLIAMS: They're fuckin' unbelievable mate. Even if, even if two people back the same dog and take it 'round the same time, the same price they, they link it together. Th-their systems fucking unbelievable.

AZZOPARDI: Fair dinkum?

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[879] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 662:36-663:37

[880] Ex 342 AC, Summary of transactions for Darren Azzopardi's bank account; Ex 343 AC Bank statements for Darren Azzopardi's account with Commonwealth bank

[881] PIC Transcript, D S Azzopardi, 19 December 2013, p. 699:22-699:33

[882] PIC Transcript, D S Azzopardi, 19 December 2013, p. 700:42-700:47

[883] PIC Transcript, D S Azzopardi, 19 December 2013, p. 700:24-700:35

[884] The real name of this person is subject to a non-publication order by the Commission

WILLIAMS: yep, the best ever. The best ever. 'Cause we book, we pulled up mine and you should see mine mate. 'Cause, 'cause I've looked at my links to, like when I was doing on my phone to withdrawn the money,

…

WILLIAMS: and mate it all fucking linked, y-you've gotta, you can't even use the same modem or anything. Y-you got, you've gotta use different dongles. You gotta use a different dongle for each account. –Laughs- They are fucking unbelievable.[885]

6.408 Azzopardi confirmed that the discussion related to the security systems used by Bet365. Where Williams said the system was *"the best ever"*, Azzopardi understood that he must have been *"talking about their system … picking up stuff".*[886]

6.409 The following questions and answers then occurred about whether Azzopardi employed dongles or other measures to counter the security systems used by corporate bookmakers:

Q. Is this a discussion and did you have other discussions wherein you and Mr Williams or you and Mr Fletcher discussed the ways in which the online betting agencies were picking up links between accounts and how you would go about countering those measures?

A. I never bothered going to get a dongle, so that's really not --

Q. Did you ever have a conversation with either Mr Williams or Mr Fletcher in which you discussed the ways of getting --

A. Yeah, he's just discussed it then, like, about dongles and stuff like that, but I don't know - like, I don't know what he was doing but - or what they were doing, but I basically bet on my computer.

Q. You didn't take any such measures, is that what you're saying?

A. No, no - yeah, I didn't - I've never - I do have a dongle which I've had for years - when I use it on holidays, you know, go away so you've got internet, but, yeah.

Q. Mr Azzopardi, there's evidence that Mr Williams and Mr Fletcher, for example, had different dongles. I think Mr Smith as well?

A. Yep, okay.

Q. You say you didn't undertake that sort of measure?

A. No. No.[887]

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[885] Ex 107 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 3 September 2012.

[886] PIC Transcript, D S Azzopardi, 19 December 2013, p. 697:27-697:36

[887] PIC Transcript, D S Azzopardi, 19 December 2013, p. 698:4-698:33

INVOLVEMENT IN RELATION TO SPECIFIC ACCOUNTS

6.410 Azzopardi confirmed that he used betting accounts in the names of Smith, Seydler, Groves and Zeibiots. He also confirmed that he had bet through accounts that Williams set up in Williams' sister's name and accounts that Williams set up in the name of *"Paul Williams".* He confirmed that the accounts that were in the name of *"Paul Williams"* were accounts that Williams set up by using Williams' middle name.[888]

Involvement in the Bookmaker account of Seydler

6.411 Azzopardi said he had a preference for obtaining accounts with Bookmaker, as the corporate bookmaker offered the best odds and took big bets.[889] He doubted that Bookmaker would have accepted a bet from him in an account in his own name and said that they would not have accepted the size of bets that he placed through other people's accounts.[890] He also confirmed that there was a problem with using Bookmaker accounts, as Fletcher had *"a share or … something along those lines"* in the business and said that he had been warned off by Fletcher from betting with Bookmaker. However, he did not think he took notice of the warning.[891]

6.412 Azzopardi was played a telephone conversation from 30 November 2012, which he confirmed took place between himself and Williams. During the telephone conversation Azzopardi sought betting accounts from Williams to bet on an upcoming event. During the conversation Azzopardi said: *"Todd, Todd, Todd, bookmaker Todd".*[892]

6.413 Azzopardi agreed that the reference to *"Todd"* and *"bookmaker"* was a reference to a Bookmaker account in the name of Todd Seydler.[893] Azzopardi was shown the betting records for the account in Seydler's name with Bookmaker and said that he placed bets on the account on 2, 3 and 5 December 2012. A sum of $30,000 was withdrawn from the betting account. Azzopardi recalled that the account *"did win lot of money"*.[894]

6.414 Azzopardi said that he doubted that Bookmaker would have accepted the size of bets he placed on greyhound events through the account. He said the bets could have been placed *"but probably not of that size".* The bets included a bet of $1,500 on a greyhound racing event, which he confirmed Bookmaker would not have accepted from him. He said it was necessary to use someone else's account to place the bet. However, he said that Bookmaker would have accepted a bet that was placed on a horse racing event from him. The bet was for $2,500.[895]

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888 PIC Transcript, D S Azzopardi, 19 December 2013, pp. 670:32-671:36

889 PIC Transcript, D S Azzopardi, 19 December 2013, p. 667:31-668:30

890 PIC Transcript, D S Azzopardi, 19 December 2013, p. 669:28-669:37

891 PIC Transcript, D S Azzopardi, 19 December 2013, p. 672:27-673:6

892 Ex 116 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 30 November 2012

893 PIC Transcript, D S Azzopardi, 19 December 2013, p. 672:21-672:25

894 PIC Transcript, D S Azzopardi, 19 December 2013, p. 673:8-673:31

895 PIC Transcript, D S Azzopardi, 19 December 2013, p. 673:33-674:34

6.415 The following questions and answers occurred:

Q. Just let me go back. If Bookmaker.com had known that it was you using someone else's account, they wouldn't have accepted that bet, would they?

A. No.

Q. Thank you. And the bet below that, on "Granville's Call", on 3 December 2012, you could not have made that bet with Bookmaker.com in your own name, could you?

A. No.

Q. And if they'd known that you were betting through someone else's account, they would not have accepted the bet, would they?

A. Yes, they would have restricted it, yes.

Q. Restricted it?

A. Yes.

Q. They wouldn't have taken a bet for $1,500 at 7,800, would they?

A. No. Well, they might have taken it and dumped it into the pool, or something along those lines.

Q. It was necessary, wasn't it, to trick them, in a sense, into not knowing it was you?

A. Oh, it's not really - it's not really tricking them because it's - it's a service available to everyone.

Q. It wasn't a service available to you, was it?

A. Yeah, but bowling --

Q. Was it?

A. Bowling is so widespread in racing that - bowling is so widespread that, you know, they know it's there. They're bowling themselves. You've got to understand that the traders are sitting there following everybody that's smart in on the same bets that you're betting on. That's why you want to remain anonymous when you're betting. That's the whole idea behind bowling, is to remain anonymous, because if everyone sits there and the traders are sitting there using bowling accounts to get on themselves, that's what they do, they would bet in their name, but obviously if you're a trader and you're following every smart punter in, you then become smart yourself, and then how - you know, when - so when their accounts get closed down, what's the first thing they do? They get bowler accounts and that's why it's so widespread. It's just - everyone is following everyone in. It's like a pyramid, like, smart blokes at the top and they're following them in and they're following them in, you know, that's what happens.

Q. So the conduct was justified, in your view?

A. Well, yes. Like, it's - that's what bowling is. It's - you know, it's --

Q. It's tricking everybody.

A. As hard - as hard - as harsh as it, you know, may sound to you, it's part of punting. Like, it's - that's what everyone does.[896]

Involvement in the Bookmaker account of *"Paul Williams"*

6.416 Several intercepted communications were either shown or played to Azzopardi about his involvement in the Bookmaker account of *"Paul Williams."* The records for the account show that the full name on the account was *"Paul Williams (paulywine)".*

6.417 The account was provided to Azzopardi in an exchange of MSN messages on 18 February 2013. Williams informed him in those messages that he had set up the account by using his *"middle name".* He also told Azzopardi: *"Just tell them I got confused and thought I put in my full name".*[897]

6.418 With reference to those communications, Azzopardi confirmed that Williams had used a different name *"so we could open up another account".* [898]

6.419 A series of four telephone conversations relating to the account were then played.

6.420 The first telephone conversation occurred at 14:05:36 on 23 February 2013 and included the following:

AZZOPARDI: We'll have to work out, fucking there better not be a problem getting that money out.

WILLIAMS: No, no, it'll be sweet mate, Think they alwa-, they always pay the fuckers.

…

AZZOPARDI: never know, fuck it's fift-, there's fifty thousand in there now?

WILLIAMS: Yeah what's the difference if it's fifty five thousand or twenty five hundred? They gotta fucking pay.

AZZOPARDI: Yeah, yeah but, what happens if it's not in your name, 'cause you've already had an account there?

WILLIAMS: Yeah. Oh I'd just say I fucking I just opened the account, fucking, no they'll pay. I'll, I'll just verify it by my Passport or something …

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[896] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 675:9-676:22

[897] Ex 105 AC, Exchange of MSN messages between Anthony Williams and Darren Azzopardi, 18 February 2013

[898] PIC Transcript, D S Azzopardi, 19 December 2013, p. 681:12-681:18

…

AZZOPARDI: fucking, the sooner you do it the better.[899]

6.421 The second telephone conversation occurred at 14:48:02 on 23 February 2013 and included the following:

WILLIAMS: Yeah what were you gonna say?

AZZOPARDI: Oh get the money out of this account. That's what I was gonna tell ya.[900]

6.422 The third telephone conversation occurred at 18:06:31 on 23 February 2013 and included the following:

AZZOPARDI: Mate you're not gonna believe this.

…

AZZOPARDI: Bookmaker.com rang me.

WILLIAMS: Rang you?

AZZOPARDI: Yep.

WILLIAMS: And said what?

AZZOPARDI: She goes is this Paul? I go sorry, she goes oh Paul I'm just letting you know, can you give us your bank details, we're closing your account, we, we've worked out your account's not viable. So um, we're just letting you know, so if you could give us your bank details in due course that'd be great.

WILLIAMS: What?

AZZOPARDI: I've gone what, I nearly fucking mate, I-I shivered all the way through me.

WILLIAMS: Yeah and what'd you say?

AZZOPARDI: I went oh, okay no worries thank you and hung up.[901]

6.423 Azzopardi confirmed that the three telephone conversations were associated and explained that he was *"betting through"* the *"Paul Williams"* account. He said that he received a telephone call from Bookmaker *"for some reason".* He said that he *"shivered all the way through"* because he was *"shocked"* by the call. He denied that he shivered all the way through because he realised that

[899] Ex 337 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 23 February 2013
[900] Ex 339 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 23 February 2013
[901] Ex 102 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 23 February 2013

he was in the process of getting caught by the corporate bookmaker. He said he was shocked because they rang him and not the account holder.[902]

6.424 A fourth telephone conversation occurred at 18:23:41 on 23 February 2013. It included the following:

AZZOPARDI: Did you send 'em the email?

WILLIAMS: Yeah I sent an email.

AZZOPARDI: What'd you say?

WILLIAMS: I just said, dear Jade as per conversation please make payment into this bank account.

…

AZZOPADI: This is them again, what do I tell them?

WILLIAMS: Well what do you say? Fucking they know it's you.

…

AZZOPARDI: Okay, they said I sa-, is she goes oh we just found out we don't have your ID?

WILLIAMS: Yeah.

AZZOPARDI: I said that's fine, I said I'll tell you what you turn my account off so I couldn't do it, I said so turn it back on for half an hour, she goes well you won't be able to bet, I said no that's good, you turn it back on, I'll do the ID, and then we'll be sweet.

WILLIAMS: -Laughs- Yeah, oh well I don't have any of my shit here but I need my Passport.

AZZOPARDI: -Sighs- Oh fuck.

WILLIAMS: Like I, yeah, I-I can't send my fucking Driver's Licence, I'll send my Driver's Licence they're gonna like, email it to me anyway, at least, at least if I send my Passport, it doesn't have (ui)

AZZOPARDI: Where's your Passport?

WILLIAMS: At work.

…

WILLIAMS: Yeah. If I send my Li-, Driver's Licence they're gonna know it's fucking me, it's got same licence number and everything. At least if I send my Passport it doesn't have any of that shit on it, it's just got my name.

[902] PIC Transcript, D S Azzopardi, 19 December 2013, p. 682:11-682:44

AZZOPARDI: Yeah okay.[903]

6.425 The following questions and answers then occurred:

> *Q. And is it correct to say that this all relates to an account in the name of Paul Williams?*
>
> *A. It is an account in Paul Williams' name, correct.*
>
> *Q. Who is a non-existent person?*
>
> *A. Well, it was his name backwards, basically.*
>
> *Q. Right. But it wasn't Anthony Williams, it was Paul Williams?*
>
> *A. I don't know whether it was Paul Tony Williams or Tony Paul, or Anthony Paul, Paul Anthony.*
>
> *Q. And the middle name was used specifically to deceive the company, correct, that it wasn't Anthony Williams?*
>
> *A. It was just done to open an account.*
>
> *…*
>
> *Q. It was a deliberate decision made not to use Anthony Williams' name because he too, like you, couldn't open an account with Bookmaker, right, at that stage?*
>
> *A. Yeah, he probably already had one, but I don't --*
>
> *Q. Yes, so he couldn't have another one?*
>
> *A. Yeah, but like I said, according to their rules, any multiple accounts get pushed back into the original account.*[904]

6.426 Azzopardi went on to say that the money that was in the account was paid out by Bookmaker and was left with Williams.[905] He said it was left with Williams because he did not want a large of sum of money put into his own bank account and agreed that he did not want a record of the money going into his account. As to why he had to exercise caution, he said that: *"Well, I do panic a lot. I do get anxious. You know, just erring on the side of caution."* He also said that he suffered from anxiety.[906]

6.427 Azzopardi was shown the records for the *"Paul Williams"* account.[907] He agreed that they showed bets that he had placed with his money through the

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[903] Ex 104 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 23 February 2013

[904] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 683:27-684:8

[905] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 684:30-685:5

[906] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 692:19-693:17

[907] Ex 340 AC, Bookmaker.com.au account records for Paul Williams

account.[908] The following questions and answers then occurred about whether he could have placed the bets with Bookmaker in his own name:

Q. And they were bets that you could not have put on with Bookmaker.com in your own name; correct?

A. Yeah, not entirely, because - oh. There's - there's horse bets in here which would have been taken. I don't totally know what - they're small bets. There are a lot of small bets. There's a lot of horse bets, so no, but - probably not totally correct but --

Q. Are there a number of bets there that you could not have placed in your own name through Bookmaker.com?

A. Yeah - I don't really know what they're thinking on a race-by-race, meeting-by-meeting basis, but obviously it'd come down to the trader on the day.

…

Q. Can you see the bets down towards the bottom of the page - well, on a quick look it seems that all of those are greyhound bets, aren't they?

A. Correct.

Q. Yes. Are some of those bets that you could not have made in your own name?

A. The account had at the top of the page $1,900, so the bets are fairly small, so --

Q. Towards the bottom of the page there seem to be some fairly substantial bets?

A. Yeah, well - 1,000 at $2.80, yes I could have that in my name. The Shepparton bet 2,000 at $4.40, probably half as much. So it's not - so yes and no.

Q. Being specific, do you say that you could not have placed the $2,000 bet on Curt Connors on Shepparton race 8?

A. Well, it all - it actually depends - like, traders get - traders do a job, like every bookmaker hires traders, it's their job to look after a certain meeting. Now - and this is only talking through experience. Certain meetings hold certain volumes. Certain - like, on a Saturday at Randwick, bookmakers will just open the floodgates because they know they win a fortune and that's what they do. So I'm saying that on this Shepparton meeting, say they had four dog traders but they had their best trader on, there's a chance that maybe it could have been accepted because he's willing to back his own judgment, which he should be doing anyway. So, yeah, I'm not - yeah, I'm not - yeah, I'm not saying that you're wrong, I'm just saying there are circumstances that do exist.

[908] PIC Transcript, D S Azzopardi, 19 December 2013, p. 685:7-685:19

…

Q. I'm asking you a direct question. Could you, as Mr Azzopardi, have placed $2,500 on the greyhound race through Bookmaker or not?

A. Yeah, if - if the price was shorter, yes.[909]

6.428 Azzopardi agreed that he displayed a degree of panic in the telephone calls. At one point he said that he panicked because Bookmaker had called him.[910] He also agreed that there was a *"chance"* that he could have lost the money and that he was fearful, *"to an extent"*, that Bookmaker had worked out that the person *"Paul Williams"* had not placed the bets that were placed on the account. He said that he was worried that they might not pay, *"because the account was in a name that he* [Williams] *might not have been able to provide ID for"*.[911]

6.429 Azzopardi was shown advice that the Commission had received from Bookmaker. The advice stated as follows:

> *Darren Azzopardi had an account with bookmaker.com.au which was closed on 27/07/2012. The client was restricted on greyhounds before the account was closed. If Darren Azzopardi was using the accounts 'seydler1' and 'paulywine' to place greyhound bets we would not have accepted the bets. We would have closed the accounts and as per our terms, we would have been entitled to request our money back*.[912]

6.430 Azzopardi agreed that his account with Bookmaker was closed on 27 July 2012 and that before it was closed he had been subject to restrictions on greyhounds.[913]

6.431 The following questions then occurred:

Q. And that if you were using those accounts - Seydler1 and paulywine - to place greyhound bets, they would not have accepted the bets?

A. Well, that's sort of contradictory because on the sentence before he's saying he's restricting my bets and the sentence after he's saying he would not have accepted my bets. So he's actually contradicting himself.

Q. I see. And so you would say that's just wrong, that Bookmaker.com might have accepted your bets?

A. Well, yeah, it says here the client was restricted on greyhounds before the account was closed.

Q. Yes. And then the account was closed?

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[909] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 685:21-687:24

[910] PIC Transcript, D S Azzopardi, 19 December 2013, p. 691:10-691:47

[911] PIC Transcript, D S Azzopardi, 19 December 2013, p. 690:26-691:47

[912] Ex 341 AC, Emails between Commission and Bookmaker.com.au, 16 December 2013

[913] PIC Transcript, D S Azzopardi, 19 December 2013, p. 688:22-688:36

A. But the account was closed because I blew them up, not because - not because I'd won too much or anything along those lines.

Q. And you see it then says: We would have closed the accounts and as per our terms, we would have been entitled to request our money back.

…

Q. Do you see that?

A. "We would have closed the account as per our terms. We would have been entitled to" - well, I don't know what their rules say, but they've accepted the bets on.

Q. But they've accepted the bets on the basis of a false pretence, haven't they, Mr Azzopardi? Isn't that just as obvious as the facts that we're sitting here talking to each other?

A. But they're a bookmaker, though.

Q. I see.

A. Bookmakers take bets, that's what they do.

Q. So is it the case that you're not prepared to answer the question I asked you?

A. Well, I don't think it's that obvious, that's all, in my opinion.[914]

Involvement in relation to Smith's Sportingbet account

6.432 Azzopardi confirmed that Smith's Sportingbet account had been used to place bets on his behalf on the greyhound Imry Bale.[915] The bets were placed as a result of an exchange of MSN messages Azzopardi had with Williams on 5 November 2012.[916] The MSN messages included as follows:

AZZOPARDI: have we got a sportingbet or a centrebet account?

WILLIAMS: We have plenty

AZZOPARDI: need to back one!!

…

AZZOPARDI: race 6 no 5 meadows imry bale!!

AZZOPARDI: $2000 at $7.[917]

[914] PIC Transcript, D S Azzopardi, 19 December 2013, p. 688:38-689:2

[915] PIC Transcript, D S Azzopardi, 19 December 2013, p. 654:9-654:27

[916] PIC Transcript, D S Azzopardi, 19 December 2013, p. 654:19-654:27

[917] Ex 98 AC, MSN exchange between Anthony Williams and Darren Azzopardi, 5 November 2012

6.433 The bets placed on Smith's account were as follows:

5/11/2012	*Greyhounds*	*The meadows 6*	*5 Imry Bale*	*Fixed 500*
5/11/2012	*Greyhounds*	*The meadows 6*	*5 Imry Bale*	*Fixed 1000.*[918]

6.434 Azzopardi said that he would *"probably"* not have been able to place the bets with Sportingbet at those odds.[919]

6.435 Azzopardi said that he did not have an account with Sportingbet. He said that his account with Sportingbet would have been closed *"years ago".* He was asked why his account had been closed down and said, *"Because I'd beat them. They don't like people that beat them".* He said that he contacted Williams for an account, as he was *"trying to get a bet on at a price available to everyone else".*[920]

INVOLVEMENT IN RELATION TO WILLIAMS SISTER'S ACCOUNTS

6.436 Azzopardi was played a telephone conversation from 16 February 2012, which he confirmed took place between himself and Williams. During the telephone conversation Williams provided Azzopardi with the login details for an account he had set up in his sister's name with the corporate bookmaker DynaBet. The following conversation then occurred:

> *AZZOPARDI: … I can't ring 'cause it's a chick's name, fuck.*
>
> *WILLIAMS: It's a ch-, (ui) sister's, um, can you get your mum to ring?*
>
> *AZZOPARDI: She's not here.*[921]

6.437 In Azzopardi's evidence the following questions and answers occurred about that part of the conversation:

> *Q. There's discussion there about using Mr Williams' sister's account. Do you agree with that?*
>
> *A. Yes.*
>
> *Q. I think you've agreed - I think you suggested the sister was [MC22]?*[922]
>
> *A. Yes.*
>
> *Q. Part of the conversation concerns the fact that neither of you can ring up and I gather that's because neither of you are a woman?*
>
> *A. That's correct.*

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[918] Ex 328 AC, Sportingbet account records for Marc Smith

[919] PIC Transcript, D S Azzopardi, 19 December 2013, p. 654:42-654:47

[920] PIC Transcript, D S Azzopardi, 19 December 2013, p. 651:2-651:44

[921] Ex 273 AC, Transcript of telephone call between Anthony Williams and Darren Azzopardi, 16 February 2013

[922] The real name of this person is subject to a non-publication order by the Commission

…

Q. The idea is, isn't it, in order to place that bet through that account it was necessary for someone to be a woman, in other words, to pretend that your bet was a bet being placed by a woman, namely, [MC22]?

A. Yeah, well, it would look very silly if a bloke rang up and said that they were [MC22].

Q. Yes, and this is where we come back to surely you would have to agree that there was an element of trick to that. You were tricking the betting agency in believing that [MC22] was placing the bet when you in fact you were placing the bet. Do you have trouble with agreeing with that proposition?

A. Well, you can't ring up and - you can't ring up and say - you know, with a male voice and say you're a female.

Q. Yes. It was necessary for them to believe it was [MC22] to place the bet?

A. Yeah, I'm not sure.

THE COMMISSIONER: Q. I think you might have said "yes, not sure".

A. Yeah, I don't --

Q. What's the answer?

A. Yeah, I don't - yeah, it just doesn't - you just wouldn't ring up with a female's account and pretend, you know what I mean? Like, it just doesn't - the person on the end of the - on the other line is - you know, you're basically --

Q. There's no –

A. Yeah, yeah, you're trying to remain anonymous. There's no use ringing up in a male's voice pretending you're a female.[923]

BRADLEY SMYTH

6.438 Smyth was the director of risk and trading at Sportingbet Australia Pty Limited, which ran both Sportingbet and Centrebet. He said that he was in charge of *"the daily risk assessment that comes in the day-to-day operation of the bookmaking business"*.[924] He said that risk assessment included assessing the risk that the corporate bookmaker was prepared to take as a wager from an individual.[925]

[923] PIC Transcript, D S Azzopardi, 19 December 2013, pp. 678:13-679:36

[924] PIC Transcript, B A Smyth, 20 December 2013, p. 713:42-713:47

[925] PIC Transcript, B A Smyth, 20 December 2013, p. 714:5-714:9

6.439 Smyth said that there were no hard and fast rules about placing limits on individual punters. He said:

> *A. We know our customer, basically. Particularly if they're a credit customer, we - and we look at their patterns every day, their betting patterns, their strengths and that's where we determine what limits we are prepared to take from an individual.*[926]

6.440 Smyth said that most customers were *"smaller punters"* and that *"their limits are well within our parameters".* He said that it was only when a customer got to a *"certain level"* that *"we need to address the predetermined limits".* He said that that was done *"on a case-by-case basis"*.[927]

6.441 Smyth denied that his company was only prepared to take bets from "*mug punters"* and that it routinely closed down or limited the accounts of successful punters. He said that Sportingbet had *"plenty of winning customers"* on its system and had not closed down an account of a winning customer for *"years".* He said that it was not the *"business practice"* of Sportingbet to close down accounts because they became profitable for the accounts holders.[928] He said it was a *"bad look"* from a *"PR"* perspective for *"bookmakers to close accounts"*.[929]

6.442 Smyth said that Sportingbet would, from time to time, place restrictions on the types of bets that the customer might be able to place. He said that Sportingbet did that as part of its *"risk management"* processes.[930] The restrictions were *"standard"* but could be customised to individual customers. He said that a standard restriction was to remove the ability of certain customers to obtain fixed prices. In such cases, he said that those customers were still able to bet with Sportingbet on the full range of tote or pari-mutuel products.[931] The pari-mutuel products were the three TABS, NSW TAB, VIC TAB and TattsBett, which did not provide fixed odds and which only provided final dividend prices.[932]

6.443 Smyth said that the process by which customers would come to be known and have restrictions placed on their accounts was known as *"profiling"*. There were seven categories of profiling.[933]

6.444 Smyth said that one case in which restrictions might be placed concerned arbitrages. The term arbitrage referred to *"betting exchanging where you can lay runners … at a lower price that you can back with Sportingbet".*[934] An arbitrager was *"someone who is laying a runner or an exchange and backing it*

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[926] PIC Transcript, B A Smyth, 20 December 2013, p. 715:3-715:7
[927] PIC Transcript, B A Smyth, 20 December 2013, p. 715:18-715-28
[928] PIC Transcript, B A Smyth, 20 December 2013, p. 715:30-716:6
[929] PIC Transcript, B A Smyth, 20 December 2013, p. 784:14-784:20
[930] PIC Transcript, B A Smyth, 20 December 2013, pp. 719:40-720:3
[931] PIC Transcript, B A Smyth, 20 December 2013, pp. 720:13-721:3
[932] PIC Transcript, B A Smyth, 20 December 2013, p. 721:5-721:12
[933] PIC Transcript, B A Smyth, 20 December 2013, p. 762:21-762:23
[934] PIC Transcript, B A Smyth, 20 December 2013, p. 720:20-720:37

back on Sportingbet".[935] Smyth said that, while Sportingbet actively discouraged the practice, it would not close down the account of an arbitrager.[936] He said that Sportingbet had a *"particular profile for identified arbitragers which removes their ability to take fixed odds".*[937] He also said that arbitrager accounts were easy to identify, because, unlike normal accounts, *"they always take fixed odds and never take a parimutuel product".*[938]

6.445 As to the restrictions that might be employed in individual cases, Smyth said that Sportingbet had a *"tool called factoring".* He explained what that meant in the following questions and answers:

> *Q. … Are there any other forms of restrictions that are employed in individual cases?*
>
> *A. We have another tool called factoring which basically restricts the amount an individual can back any particular runner or football team to win.*
>
> *Q. Does that mean that you limit the amount they can wager across the board?*
>
> *A. Yes, based on the odds at the time.*
>
> *Q. And that's a limit on the amount put up by the punter as a wager, rather than a limit on the amount they can win?*
>
> *A. Well, it's determined by the odds at the time, so if a customer is factored so they could win $2,000, it will calculate what the maximum stake is for that runner based on the odds at the time and calculate the stake for the customer.*[939]

6.446 In some cases Smyth said that Sportingbet might *"take specific products away"* from customers. For example, a customer might able to bet on *"Sports only"* events or they might be restricted from betting on thoroughbred racing or they might be informed that they cannot bet on a specific sporting event, for example, *"on Czechoslovakian soccer"*.[940] He said that Sportingbet might also prevent a customer from obtaining *"best tote"* prices, being the highest dividend declared by any of the three TABS, or might make a customer choose a tote rather than get the best tote price.[941]

6.447 Smyth said that all accounts were subject to some form of restriction. He said that *"no-one has an unlimited amount they can win"*.[942] Smyth also said that

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[935] PIC Transcript, B A Smyth, 20 December 2013, p. 747:48-748:3
[936] PIC Transcript, B A Smyth, 20 December 2013, p. 748:29-748:43
[937] PIC Transcript, B A Smyth, 20 December 2013, p. 720:36-720:37
[938] PIC Transcript, B A Smyth, 20 December 2013, p. 749:18-749:35
[939] PIC Transcript, B A Smyth, 20 December 2013, p. 721:16-721:32
[940] PIC Transcript, B A Smyth, 20 December 2013, p. 722:3-722:35
[941] PIC Transcript, B A Smyth, 20 December 2013, p. 723:9-723:19
[942] PIC Transcript, B A Smyth, 20 December 2013, p. 750:7

"we don't take specific sports away from people". He said *"we… factor them back"*, that is, restrict them as to how much they can win.[943]

DIFFERENCES BETWEEN TELEPHONE AND INTERNET CUSTOMERS

6.448 Smyth gave evidence about there being certain differences between the restrictions that applied as between telephone customers and internet customers. Smyth said that the reason for that was that Sportingbet treated its *"digital business"* and its *"telephone business"* as two separate businesses.[944]

6.449 When dealing with a telephone customer, Smyth said that the customer would ring Sportingbet and speak to an operator. The operator would see an *"operator comment"* about restrictions applying to the account, for example, *"Sports only … Can't bet on AFL"*, and would inform the customer of those restrictions, for example, that the account was *"a sport-only account".*

6.450 Smyth said that the position was different for internet customers. Smyth said that until recently it had been part of Sportingbet's licence with the Northern Territory government that customers had to be able to win $1,000 on the races. He said that they were able to do that online.[945]

6.451 Asked why Sportingbet would place a restriction on a telephone customer but not on an internet customer, Smyth said that IT issues meant that *"we weren't able to do it at the time".*[946]

6.452 Smyth also gave the following evidence about whether the two types of customers knew about the restrictions that were placed on their account:

> *A. If it's a telephone customer they're contacted by our telephone operator or account manager and told, and if it's an internet or digital customer, when they log into the account, there's a pop-up and/or an email which tells them to contact customer service.*[947]

6.453 He also said that internet customers who were subject to betting restrictions would be unable to place bets online that exceeded those limits. He said that a customer who was restricted to winning $1000 would be informed of the maximum they were allowed to bet, if they attempted to place a bet that was within the restrictions.[948]

TERMS AND CONDITIONS OF SPORTINGBET

6.454 Smyth was taken to the terms and conditions of Sportingbet, which were set out in a 49-page document.[949] The version he was shown was current as at June 2013. Smyth could not say if the rules had changed substantially since

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[943] PIC Transcript, B A Smyth, 20 December 2013, p. 761:39-762:10
[944] PIC Transcript, B A Smyth, 20 December 2013, pp. 722:37-723:7
[945] PIC Transcript, B A Smyth, 20 December 2013, p. 722:31-722:35
[946] PIC Transcript, B A Smyth, 20 December 2013, pp. 722:48-723:5
[947] PIC Transcript, B A Smyth, 20 December 2013, p. 721:44-721:48
[948] PIC Transcript, B A Smyth, 20 December 2013, p. 735:9-735:24
[949] Ex 352, Terms and Conditions Sportingbet

January 2012. However, he said that he would have been aware of any substantial changes had they been *"trading-related … betting-related"*.[950]

6.455 Smyth said that he was not personally familiar with all the terms and conditions but knew that customers were required to accept the terms and conditions when they opened an account. He said that the terms and conditions were freely available on Sportingbet's website and were available *"if a customer ever wanted to refer back"* to them.[951]

6.456 Smyth was asked about Rule 5, which was headed *"Client Identification Requirement and Consequences"*. The Rule stated as follows:

> *5. In line with all Australian Financial Institutions under the Anti-Money Laundering and Counter-terrorism Financing Act 2006 (Cwlth), all Sportingbet Betting Account holders are required to provide Sportingbet with adequate identification for the purposes of complying with the Act*.[952]

6.457 Smyth said he was not in a position to explain the reason for the requirement but noted that it was relevant to an anti-money laundering department at Sportingbet.[953]

6.458 Smyth confirmed that Rule 20 of the terms and conditions of Sportingbet prohibited customers from having more than one account.[954] Rule 20 provided as follows:

> *20. A Client may only have one Sportingbet Betting account, unless otherwise agreed to by Sportingbet. If a Client has additional Sportingbet Betting Accounts, then the Sportingbet Betting Account Balances of all associated Sportingbet Betting Accounts shall be transferred into the original Sportingbet Betting Account …*[955]

6.459 Smyth gave the following evidence about why Sportingbet had such a rule:

> *A. One of the risk management practices that Sportingbet has is a "Know your customer" risk practice, so we know that if Bill Smith is ringing to have a bet, that it's Bill Smith. We like to know that we are dealing with the person that the account holder - that the account name is in and that's why we have one account per customer.*[956]

6.460 Smyth also confirmed that Rule 10 reserved to Sportingbet the right to close an account without any explanation and that it could operate when the rules were breached.[957] Rule 10 provided in part as follows:

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[950] PIC Transcript, B A Smyth, 20 December 2013, p. 757:13-757:43

[951] PIC Transcript, B A Smyth, 20 December 2013, pp. 716:38-717:32

[952] Ex 352, Terms and Conditions Sportingbet

[953] PIC Transcript, B A Smyth, 20 December 2013, p. 717:39-717:47

[954] PIC Transcript, B A Smyth, 20 December 2013, p. 718:11-718:14

[955] Ex 352, Terms and Conditions Sportingbet

[956] PIC Transcript, B A Smyth, 20 December 2013, p. 718:17-718:22

[957] PIC Transcript, B A Smyth, 20 December 2013, p. 754:14-754:20

10. In addition, Sportingbet reserves the right to close a Client's Sportingbet betting Account and refund the balance on their account without further explanation …[958]

6.461 With reference to Rule 41(p) Smyth also confirmed that bonus (or free) bets had to be *"turned over"* before the money could be withdrawn from the account.[959] The following questions and answers occurred:

Q. And by "turn over", does that mean, for example, I'm a new customer, I take up one of your promotional - what they call a free bet, that bet loses, that's the end of the promotional deal?

A. Yes.

Q. If that bet wins, can I ring up Sportingbet and give my bank details and say, "Please transfer that money into my account"?

A. Not unless it's been turned over once.

Q. And by "turn over" you mean you've got to bet it again?

A. Yes.

Q. Has it ever been the case - how long have you been at Sportingbet?

A. Over 10 years - 10 or 11 years.

Q. To your knowledge, in that period has there ever been a rule where you have to turn it over, such a promotional bet or free bet, more than once before you can withdraw the proceeds?

A. I think so, I'm not a hundred per cent sure but I think so.[960]

"BOWLERS"

6.462 Smyth gave the following definition of a *"bowler"*:

A. A bowler would be a third party account that is placing transactions for party A. So party A would put in party B as an account into a bookmaking organisation but the bets that are placed on party B's account are actually for party A.[961]

6.463 Smyth said that he could not comment on whether the use of *"bowler accounts"* was an industry wide practice but said that Sportingbet invested *"quite a bit of time and money into resources and systems to try and minimise the effect of bowlers … to make it difficult for … second and third-party accounts to be*

[958] Ex 352, Terms and Conditions Sportingbet

[959] PIC Transcript, B A Smyth, 20 December 2013, p. 759:12-759:33

[960] PIC Transcript, B A Smyth, 20 December 2013, pp. 759:35-760:12

[961] PIC Transcript, B A Smyth, 20 December 2013, p. 718:31-718:35

opened".[962] When asked what the attitude of the company was to *"bowler accounts"*, he said:

> *A. … we actively discourage them, if that's a correct way of answering it. We wish we could eradicate it but … we can't.*[963]

6.464 The resources employed by Sportingbet on *"bowler accounts"* included software that could be used to find linked accounts. This software was provided by a third party. Smyth said that three departments within Sportingbet were *"equipped with the ability to monitor"* the software, *"to try and find linked accounts".* An example of attempting to find linked accounts was to see whether there was any common telephone numbers or common addresses or common internet providers on accounts in different names.[964]

STEPHEN FLETCHER

6.465 Smyth provided the Commission with the following advice by email on 6 December 2013 concerning Fletcher:

> *The long and the short of it is Steve's* [Stephen Fletcher's] *account at Sportingbet has been Sport Only since 08 September 2005. That means that we would* [not] *have knowingly accepted Racing bets from Steve unless there was some sort of prior arrangement which overrides this account T&C.*
>
> *To my knowledge there was no arrangement of this type in place*.[965]

6.466 Smyth confirmed that it was his understanding on 6 December 2013 that, since 8 September 2008, Fletcher could not or was not permitted to make bets with Sportingbet on horse races. He also confirmed that the sentence contained in his advice of 6 December 2013, "*That means that we would have knowingly …"* should have read: *"That means that we would* [not] *have knowingly …"*[966]

6.467 Smyth was shown an email he sent to the Commission on 12 December 2013, with the subject *"Gentlemen We Have a Problem".* The body of the email read:

> *Steve Fletcher has funded his account and had $1 on a horse yesterday. He is obviously going to say that he can bet on races here. Please see the screen shot below which also shows the account comments*. [967]

6.468 The screenshot of Fletcher's Sportingbet account showed the following entry on 7 December 2013 at 01:56:

Event	***Bet***	***Type***	***Competitor***	***Win***	***Place***	***Win Pr***
Caufield	*Race 5*	*Fixed*	*5. Rescue Mission*	*1.00*	*0.00*	*7.00*[968]

[962] PIC Transcript, B A Smyth, 20 December 2013, p. 718:37-718:46
[963] PIC Transcript, B A Smyth, 20 December 2013, p. 719:11-719:14
[964] PIC Transcript, B A Smyth, 20 December 2013, p. 719:21-719:38
[965] Ex 360 AC, Email from Brad Smyth, 6 December 2013
[966] PIC Transcript, B A Smyth, 20 December 2013, p. 724:5-724:17
[967] Exhibit 361 AC, Email from Brad Smyth, 12 December 2013

6.469 Smyth confirmed that on 7 December 2013 Fletcher had placed a bet on his Sportingbet account at fixed odds at $1 on the horse Rescue Mission in Race 5 at Caulfield.[969]

6.470 Smyth was asked to reconcile the ability of Fletcher to place a bet on a horse racing event at fixed odds in circumstances where his account was restricted to sports only. He explained that there were IT issues at Sportingbet. He said that Sportingbet under its licence with the NT Government was required to enable its customers to win a minimum of $1000 on races and $500 on trots. Those conditions had since been lifted. However, he said that Sportingbet had not been able to make necessary adjustments to its IT system. Smyth also said that the bet that Fletcher had placed was placed over the internet and not over the phone and said that the $1 bet that Fletcher placed could only have been placed *"in error"*, had Fletcher placed the bet over the telephone. By error he meant circumstances where a telephone operator at Sportingbet failed to read the comment applying to Fletcher's account, *"no racing – sport only".*[970]

6.471 Smyth said that the most that Fletcher could have bet on the event online, at the odds being offered, was *"just short of $200"*. He calculated that by reference to the requirement that the account could win *"around"* $1,000. He said that $1,000 was not a precise limit and agreed the limits would not apply to some events, like the Melbourne Cup or the Cox Plate. He said that the limits *"wouldn't get to $5,000"* but would *"get over $1,000"*.[971]

6.472 As to the restrictions that applied to Fletcher's account, there were four. These were stated in the comments section of the account as follows:

> *$1500 maximum bet until he pays his account off – 22 Dec 10*
>
> *Check prices NBA to win 2k only overnight – 12 Nov 08*
>
> *Steve Fletcher's account – 14 Feb 07*
>
> *No racing – Sport only – 08 Sep 05.* [972]

6.473 Smyth said that the first of those restrictions was no longer relevant, as Fletcher had paid his account in full.[973]

6.474 Smyth said that second restriction applied to betting on National Basketball Association events. The reference to 2k was a reference to winning $2,000. That restriction continued to apply. However, Smyth said that there was some flexibility to the restriction. He said:

> *A. … a senior bookmaker could override that, so it's not something that's absolutely set in concrete. If it suited the book at the time and Mr Fletcher*

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[968] Exhibit 361 AC, Email from Brad Smyth, 12 December 2013

[969] PIC Transcript, B A Smyth, 20 December 2013, p. 724:25-724:33

[970] PIC Transcript, B A Smyth, 20 December 2013, p. 725:9-725:37

[971] PIC Transcript, B A Smyth, 20 December 2013, p. 728:9-728:42

[972] Exhibit 361 AC, Email from Brad Smyth, 12 December 2013

[973] PIC Transcript, B A Smyth, 20 December 2013, p. 725:44-725:47

wanted to have more on it, then the operator can make the choice to take a larger wager, but that is a - that's a guide for our operators on the telephone.[974]

6.475 Smyth said that the third restriction was there to identify the account. Smyth said that there were *"a lot of Steve Fletchers"* on the system and that comment was included on the account to identify the account.[975]

6.476 Smyth said that the fourth restriction, *"No racing – Sport only"*, continued to apply. As to whether the restriction could also be overridden, he gave the following evidence:

A. As I said, it would - it should only be done in error, Mr Hamill. It should not be - a senior operator could, yes, still do it, but they would want to have a - quite a good reason to do so.

Q. Well, if it suited the company in terms of the odds and the tote pool, then a senior operator could take the bet from Mr Fletcher; correct?

A. Yes.

Q. So that these restrictions are not hard and fast?

A. No. [976]

6.477 Smyth said that the reference to *"racing"* in the comment *"no racing"* was generic and referred to all three racing codes, that is, greyhound racing, harness racing and thoroughbred racing.[977]

6.478 Smyth said that Fletcher would have been notified by telephone of the restrictions applying to his account on or about the date the comments were added to his account. In the case of the restriction, *"No racing – Sport only",* he said that Fletcher would have been notified on 8 September 2005. However, he did not know if any record was made of a telephone call actually having been made to Fletcher.[978] Later in his evidence the following questions and answers occurred:

Q. And you suggested that Mr Fletcher would have been advised of that by telephone?

A. Yes.

Q. But there's no way of ever being able to work that out now, apparently?

A. No.

Q. You don't know if that's right or not?

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[974] PIC Transcript, B A Smyth, 20 December 2013, p. 726:26-726:32

[975] PIC Transcript, B A Smyth, 20 December 2013, p. 727:9-727:16

[976] PIC Transcript, B A Smyth, 20 December 2013, p. 727:25-727:36

[977] PIC Transcript, B A Smyth, 20 December 2013, p. 738:23-738:25

[978] PIC Transcript, B A Smyth, 20 December 2013, pp. 727:38-727:46, 734:22-734:44

A. No.

Q. You don't know whether he was advised by telephone or not?

A. No. No.

Q. What do you say to the suggestion he was not advised by telephone?

A. I can't argue against. All I can speak to is what our practice is.[979]

6.479 Smyth also said that he could not argue against Fletcher's claim that he was never informed that he was barred from placing bets on racing events. [980] He said that the normal practice in 2005 was to contact the account holder by telephone and inform them of any restrictions applying to their account.[981]

6.480 Smyth said that, if Sportingbet became aware that an account in someone else's name was being used by Fletcher or by some other person, Sportingbet would *"mirror"* the same restrictions to that account as applied to the user's own account. Sportingbet would not however close down the account. [982]

6.481 Smyth was then shown a series of accounts that had been used to place bets by persons other than the account holders.

6.482 Smyth was asked about the bets that Fletcher placed on Williams' Sportingbet account on 26 February 2012.[983] These included a $7,000 and a $8,000 bet on a rugby match and several bets on greyhound events valued at between $10 and $1,500. Smyth said that Fletcher was entitled to bet on sporting events and would have been able to bet on the rugby match. He could not say how much the bookmaker would have taken from Fletcher on the bet, as he was unsure of the *"book"* at the time.[984]

6.483 As for the other bets that were placed on the account on 26 February 2012, Smyth observed that they were *"racing bets"* and said that *"ideally"* they *"wouldn't have been accepted".* That would have been the case for a bet that was placed by Fletcher over the phone and, if Sportingbet's computer system was working properly, for a bet that he might have placed over the internet. He said that *"ideally",* if the bet was placed over the phone, the operator would have picked up that Flecther's account with Sportingbet was a *"sport-only account"* and informed Fletcher that he was unable to bet on the racing events.[985]

6.484 Smyth was then asked about bets that Fletcher placed on Immens' Sportingbet account in the period between 28 September 2012 and 14 October 2012.

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[979] PIC Transcript, B A Smyth, 20 December 2013, p. 771:22-771:40

[980] PIC Transcript, B A Smyth, 20 December 2013, p. 772:28-772:30

[981] PIC Transcript, B A Smyth, 20 December 2013, p. 772:6-772:30

[982] PIC Transcript, B A Smyth, 20 December 2013, p. 729:19-729:40

[983] Ex 369 AC, Sportingbet account records for Anthony Williams (extract)

[984] PIC Transcript, B A Smyth, 20 December 2013, p. 730:23-730:29

[985] PIC Transcript, B A Smyth, 20 December 2013, p. 731:3-731:36

6.485 Smyth said that he could not speak to Fletcher's ability to bet $20,000 on the Ryder's Cup but said that the bet may have been accepted, depending on the risk and liability at the time.[986]

6.486 However, Smyth indicated that he was certain that Sportingbet would not have accepted any of the horse racing bets from Fletcher.[987] The following question and answer occurred, as to his degree of certainty:

> *Q. Given I think we've seen a certain degree of flexibility surrounding these limitations, with what degree of certainty can you give that evidence, really?*
>
> *A. Well, certainly the bulk of the bets I've seen there, and I would suggest all of the bets, Mr Hamill, are to win more than the $1,000, that is, the system default and the fact that we saw on a previous screen that Mr Fletcher's account was "no racing - sport only", the racing bets could have and should have been rejected.*[988]

6.487 Smyth also rejected Fletcher's evidence that Sportingbet would or might have taken the bets from him personally (including the $17,000 on Proisir, the $20,578 bet on Travinator and the $2,500 bet on Alzora) that he placed on Immens' account. Smyth said that Sportingbet would not have accepted the bets, *"in light of the rules that were applied to Mr Fletcher's account"*, that he was restricted to *"no racing – sport only".*[989]

6.488 The following questions and answers occurred as to the ability of Fletcher to have placed the bets over the internet on his own account:

> *Q. And again going back to just - taking by way of example that $20,578 bet on Travinator, had he, Mr Fletcher, gone on to his internet account and placed the bet online, as opposed to on the telephone, what would have happened then?*
>
> *A. Again, due to the system, he would have been able to back that runner to win about or on $1,000.*
>
> *Q. And does the computer program itself reject the bet and tell the customer online "Restricted to $1,000", or does that then go to one of the analysts to say, "Oh, well, maybe we will, maybe we won't"?*
>
> *A. No, the system will notify the customer of the reduced stake, so the maximum amount allowed is X, which is then demonstrated to the customer and they can accept or reject that reduced stake.*[990]

6.489 Smyth was asked about bets that were placed on the Sportingbet accounts of Groves, Besant, Zeibots, Seagg and other persons and was asked, with reference to certain bets placed on those accounts, whether Sportingbet would have accepted the bets from Fletcher. He said that Sportingbet would not have

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[986] PIC Transcript, B A Smyth, 20 December 2013, p. 733:9-733:14

[987] PIC Transcript, B A Smyth, 20 December 2013, pp. 732:7-733:24

[988] PIC Transcript, B A Smyth, 20 December 2013, p. 733:26-733:34

[989] PIC Transcript, B A Smyth, 20 December 2013, p. 733:36-734:15

[990] PIC Transcript, B A Smyth, 20 December 2013, p. 735:9-735:24

accepted any racing bets from Fletcher, which were placed on those accounts. He said that, had Fletcher placed those bets over the internet on his own account, the system would have permitted him to bet to win $1,000 only. Smyth said that Fletcher would only have been able to place the bets on his own account over the telephone, if an error was made by the operator. However, he was entitled to place bets on sporting events and could have placed the bets on sporting events, for example, rugby league matches, that were placed on some of the accounts.[991]

6.490 Smyth also said Sportingbet would not have knowingly accepted the bets from Fletcher operating through a *"bowler account".* [992]

6.491 Smyth was also played two telephone calls in which Fletcher rang Sportingbet and placed a bet on Immens' account. In Smyth's opinion, the operator would not have accepted the bets, had the operator known that the person they were talking to was Fletcher.[993]

DARREN AZZOPARDI

6.492 Smyth said that he knew of Azzopardi. Before giving evidence he had provided the Commission with a screenshot of Azzopardi's Sportingbet account. The screenshot included the following information under the heading "*Operator Comments"*:

> *Dogs and trots to win $500 – 15 Jun 12*
>
> *Same IP as [MC21][994] – 100% all trots and dogs and 50% racing exotics – 02 Jun 09*.[995]

6.493 Smyth gave the following evidence about those comments:

> *Q. And can you tell us what restrictions were placed on him?*
>
> *A. As you can see there with the top comment "Dogs and trots to win $500" and then the below comment, it makes reference to another party, and you'll see there "100% all trots and dogs and 50% racing exotics", so that's the retail levels of that account. When I say "retail levels", that's the amount of the wager of Mr Azzopardi that was being bet back into the parimutuel pools.*
>
> *…*
>
> *Q. What does that mean "Same IP as [MC21]"?*[996]

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991 PIC Transcript, B A Smyth, 20 December 2013, pp. 735:26-740:13

992 PIC Transcript, B A Smyth, 20 December 2013, pp. 737:48-738:3, 738:36-738:38, 740:3-740:6

993 PIC Transcript, B A Smyth, 20 December 2013, p. 783:19-783:40

994 The real name of this person is subject to a non-publication order by the Commission

995 Ex 362 AC, Screenshot of Sportingbet account of Darren Azzopardi

996 The real name of this person is subject to a non-publication order by the Commission

A. He's betting from the same - I'm not an IT man, I'm sorry, Mr Hamill, but he's betting from the same internet connection, for want of a better word, as [MC21].

Q. Is that a case where the security measures of Sportingbet had linked a connection or suspected a connection between Mr Azzopardi and [MC21]?

A. Yes.

Q. And therefore, what happened?

A. The decision was made to retail 100 per cent of all Mr Azzopardi's trots and dogs bets and 50 per cent of his racing exotics were going back.

Q. And that happened in June of '09?

A. That's the date stamp that's on there, Mr Hamill, yes.

Q. And then the next restriction is on the 15th of June 2012 and that was to restrict dogs and trots to win $500?

A. Yes.

Q. Do you know why those restrictions were placed or can you only say that they were placed?

A. I can't see it from there, I'm sorry, Mr Hamill.[997]

6.494 Smyth was then shown the Sportingbet accounts of Williams and Smith and was asked if Sportingbet would have accepted certain bets that were placed on the account from Azzopardi in his own name.

6.495 Williams' account included bets that had been placed on a series of greyhound events on 19 February 2013 and bets on other events, such as soccer, that had been placed on other dates.[998] The bets on the greyhounds included bets at fixed prices and tote prices.

6.496 As to the bets that were placed at fixed prices, Smyth said that Azzopardi would have been restricted to winning $500, as per the comments on his account. As to the bets that were placed at tote prices, he said that the bets *"would have been taken but retailed in line with the comments"* that were on Azzopardi's account, that is, *"put back into the parimutuel pool"*.[999] The following questions and answers then occurred about retailing:

Q. The effect of taking that step would be to reduce the odds on the –

A. It basically negates it, Mr Commissioner, so whatever the client wins, Sportingbet wins the same amount of money, so the offset's zero.

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[997] PIC Transcript, B A Smyth, 20 December 2013, pp. 741:12-742:7

[998] Ex 363 AC, Sportingbet account records for "Tony Williams"

[999] PIC Transcript, B A Smyth, 20 December 2013, p. 742:29-742:47

Q. But would it have the effect, or be likely to have the effect of reducing the price, the odds?

A. It does. Mathematically it has to, Mr Commissioner.[1000]

6.497 Where bets were retailed, Smyth said that Sportingbet obtained a commission from the pari-mutuel agency. Smyth said that they received between 4 and 5.3 per cent, and up to 5.5 per cent.[1001]

6.498 If Sportingbet had known that an account in another person's name was being used by Azzopardi to place the bets, Smyth said that the same set of limits would apply to that account as applied to Azzopardi's account. [1002]

6.499 Smith's account had been used to place two bets of $500 and $1,000 on the greyhound *"Imry Bale"* at fixed price odds on 5 November 2012.[1003] The following questions and answers occurred about whether Sportingbet would have accepted the bets from Azzopardi:

Q. Thank you. Would those bets have been taken from Mr Azzopardi?

A. To win a maximum of $500.

Q. But those bets are in the sum of $500 and $1,000?

A. Yeah, and the odds there is $4, so the first one's to win $3,000 and the second one's to win $1,500; so over that $500 limit.

Q. So the bets - is it correct to say those particular bets in those amounts would not have been taken from Mr Azzopardi?

A. No, would - just a bet to win $500.

Q. And I take it the same applies if Sportingbet knew that bets were being placed by Mr Azzopardi through someone else's account?

A. Yes.[1004]

ACCOUNT VERIFICATION PROCESS

6.500 Smyth gave the following evidence on the account verification process for when bets were made by a customer over the telephone:

Q. …. When a telephone bet is made, does the operator do anything to verify the person who is calling or is it simply a verification of the account that is being used?

[1000] PIC Transcript, B A Smyth, 20 December 2013, p. 743:47-744:8

[1001] PIC Transcript, B A Smyth, 20 December 2013, p. 770:29-770:44

[1002] PIC Transcript, B A Smyth, 20 December 2013, p. 743:19-743:22

[1003] Ex 328 AC, Sportingbet account of Marc Smith

[1004] PIC Transcript, B A Smyth, 20 December 2013, pp. 744:45-745:15

A. Internally we use the first name, so each account's got a PIN name - a PIN number and then, again, ideally, we like to say, "Hello Max" or, "Yes, Max", or whatever it may be, and the reason we do that is if the caller's name isn't Max and then by some reason the operator has typed in the wrong PIN number, it quite often gets picked up by the caller at the time and they go, "No, no, it's not Max, it's Brad" and then they can go through the process again. So again, sometimes it doesn't happen, there is human error, but primarily it's PIN number 1234, "Hello, Max" and then Max may be able to say, "Listen, it's not Max".

Q. Is that to verify the identity of the caller?

A. It's to identify that the caller is the caller relating to that specific account.[1005]

6.501 The following questions and answers occurred during the examination by counsel for Fletcher:

Q. Can I ask you then about the process that occurs when somebody rings up to place a bet through their account. The operator requires of them a PIN number; correct?

A. Yes.

Q. And then they type that PIN number into your system and the field pops up on the computer; correct?

A. Yeah, their client screen comes up on the --

Q. The client screen comes up?

A. Yeah.

Q. The operator sees that the name of the account is in a person's name; correct?

A. Yes. Yes.

Q. Then typically, in accordance with company policy, the operator says the name - the first name - of the owner of the account?

A. Yes.

Q. As I understand your evidence, the main reason why that is done is to make sure that the correct account is open; correct?

A. Yes, to make sure that the person on the phone – that the account that is being accessed by the Sportingbet operator coincides with the gentleman or lady that's on the phone.

Q. Or the account that's being - the account that relates to the PIN number?

[1005] PIC Transcript, B A Smyth, 20 December 2013, p. 745:27-745:45

A. Yes. Yeah.

Q. It's a secondary consideration as to whether or not the person on the phone is indeed the first name mentioned; correct?

A. Yes.

Q. That's a secondary consideration?

A. Yes.

Q. In fact, if the person actually said, "Well, look, actually, Max is not here at the moment, he's down the shop", the operator would probably still take the bet; correct?

A. No, no, not unless - no. If it was someone knowingly trying to access Max's account, no, they would be pulled up, ideally.

Q. Ideally?

A. Yep.

Q. Certainly who Max is betting for is not the subject of any inquiry; right?

A. No.

Q. And on occasions you know, or the company knows, that the caller is not betting on their own behalf; correct?

A. Yes.[1006]

EVIDENCE GIVEN IN CROSS-EXAMINATION AND RE-EXAMINATION

6.502 Smyth was cross-examined by counsel for Williams, Smith and Fletcher and was then re-examined by Counsel Assisting.

6.503 The following questions and answers occurred in cross-examination by counsel for Williams:

Q. Right. And in that experience you're conversant with commission agents?

A. Yes.

Q. And you're conversant with people that don't want people to know their identity with the bookmakers?

A. Yes.

Q. And so they use other people to bet for them?

[1006] PIC Transcript, B A Smyth, 20 December 2013, pp. 768:28-769:39

A. Yes.

Q. And there can be many reasons for that, can't there?

A. Yes.

Q. For instance, it might be a Paul McGirr-owned horse and I'm having a bet on it and I don't want everybody to know I'm backing it, something like that?

A. Yes.

Q. And nobody sees anything wrong with that in the racing industry, do they?

A. No.[1007]

6.504 In examination by counsel for Smith, Smyth gave the following evidence about what Sportingbet would do if it became aware of a *"bowler account"*:

Q. … you were asked if you became aware of a bowler account, whether you'd close that or not and I thought you said that you wouldn't?

A. We endeavour to place the account rules that were mentioned before, the profiles or the - how the original account is managed on subsequent accounts.

Q. I take it from that that your evidence is that if you became aware of an account which was in fact a bowler account --

A. Yes.

Q. -- that is, it's in the name of someone but someone else is using it, you wouldn't close it down?

A. I'm not saying we haven't but it's not the first port of call.

Q. You spend - Sportingbet, that is, spends a lot of money in trying to put checks and balances in place to identify bowler accounts?

A. Yes.

Q. And I think you said in your earlier evidence you wish you could eradicate it?

A. That comes down to "know your customer", yes.

Q. Well, if you became aware of a bowler account being used why wouldn't you close it down?

A. We apply - as I said, we apply the restrictions that were on the first account on any subsequent accounts.[1008]

[1007] PIC Transcript, B A Smyth, 20 December 2013, p. 755:2-755:23

6.505 In examination by counsel for Fletcher, Smyth said that he did not know if there was any rule that said that a customer could not put a bet on for somebody else.[1009]

6.506 He said that Sportingbet did make inquiries as to whether the money that was being used by an account holder was their money or someone else's money but said that the practice was not *"standard"*.[1010]

6.507 He agreed that Sportingbet would normally accept a bet from a gambler who wanted to put a bet on for his wife or friend.[1011] He also accepted that there were people who carried on a business of placing bets on behalf of others, such as a bookmaker employing another person to place bets on behalf of the bookmaker with another bookmaker, and said that a reason why that might occur was that the gambler did not want to be identified.[1012] He agreed that the person placing the bet would, in those circumstances, get paid.[1013]

6.508 He was then asked about commission agents. The following questions and answers occurred:

> *Q. Yes. The amount of money the commission agents have available to them can be quite a large amount of the pool; correct?*
>
> *A. If you're saying that the commission agents sometimes have to move a large amount of money, yes*.[1014]
>
> …
>
> *Q. Does Sportingbet take bets from people that they know to be commission agents?*
>
> *A. Yes.*
>
> *Q. So in that sense you're taking bets from people when you don't know who the bets really belong to; right?*
>
> *A. No*
>
> *Q. Do you agree with that?*
>
> *A. Yes.*[1015]
>
> …

[1008] PIC Transcript, B A Smyth, 20 December 2013, pp. 760:36-761:18
[1009] PIC Transcript, B A Smyth, 20 December 2013, p. 763:23-763:26
[1010] PIC Transcript, B A Smyth, 20 December 2013, p. 763:28-763:35
[1011] PIC Transcript, B A Smyth, 20 December 2013, p. 763:37-763:40
[1012] PIC Transcript, B A Smyth, 20 December 2013, pp. 763:47-764:12
[1013] PIC Transcript, B A Smyth, 20 December 2013, p. 764:19-764:21
[1014] PIC Transcript, B A Smyth, 20 December 2013, p. 764:28-764:32
[1015] PIC Transcript, B A Smyth, 20 December 2013, pp. 764:41-765:3

Q. In a sense, then, for instance, Sportingbet dealing with a commission agent who has an account in their own name, betting on behalf of a third party, that's a bowler account, isn't it?

A. Yes.

Q. You don't want to eradicate them though, do you?

A. No.[1016]

6.509 Smyth also said that it was sometimes the case that Sportingbet knew who the principal gambler was behind a *"bowler account"* and knew that they were unsuccessful punters and agreed that Sportingbet liked that business and would not try to eliminate or place restrictions on those accounts.[1017]

6.510 The following questions and answers then occurred:

Q. In fact, you pay people to find that sort of work for you, don't you?

A. Not specifically commission accounts, no.

Q. Well, what you do is you have people that are called --

A. Business development managers.

Q. All right, business development managers, and they go out and they try and find customers for your agency; correct?

A. Yes.

Q. And they get paid a commission when people contract with your company that have been identified as potential customers by the business development manager; correct?

A. Yes.

Q. And you know that often they find customers who are losing punters for you; correct?

A. Yes.

Q. People who are working for you or as your agents also locate commission agents, or bowlers, to sign up as well; correct?

A. They don't set out to do so but it does happen.

Q. It happens enough for you to know that at any one time you would have a range of such people on your books; right?

A. Yes.

[1016] PIC Transcript, B A Smyth, 20 December 2013, pp. 765:14-765:21

[1017] PIC Transcript, B A Smyth, 20 December 2013, pp. 765:29-766:3

Q. And you don't know who they're betting for, do you?

A. No.

Q. Sometimes?

A. Sometimes, no.

Q. Sometimes you do know who they're betting for; right?

A. Yes.[1018]

6.511 The following questions and answers also occurred:

Q. Yes. Taking commission agents as an example, Sportingbet allows the commission agents to use their account with Sportingbet so that a range of other people can utilise it to place bets on Sportingbet; right?

A. Yes.

Q. The fact that somebody is betting with you on behalf of others is not something that would normally trigger the closing down of an account; correct?

A. Yes.

Q. Sometimes it might cause you to impose restrictions that mirror other accounts; correct?

A. Yes.

Q. But not always?

A. No.

Q. Sometimes you let people bet with you, knowing that they are bowlers, and you don't take any action on their account; correct?

A. If you're putting bowlers and commission agents together, then yes.

Q. What's the difference? May I suggest the difference? Commission agents are professionals and bowlers are not always professionals?

A. That's not a definition I use, but yes.

Q. Is there any other difference between a bowler and a commission agent?

A. Definition-wise, no.

[1018] PIC Transcript, B A Smyth, 20 December 2013, pp. 765:29-766:43

Q. All right. So, for instance, isn't it the case that your organisation provides an incentive, such as free bets, to a commission agent to attract their principal to your business?

A. There's nothing restricting a commission agent from getting free bets, no. They'd be entitled to them.

Q. Well, I'm suggesting to you it's not just them utilising the normal free bet arrangements, but your organisation provides positive incentives on occasion to commission agents, so that they can channel the bets of mug punters - the big ones - to your company. What do you say about that?

A. I don't like the term "mug punters", but yes.

…

Q. To take up the Commissioner's query, you pay people who you might term to be a bowler for that purpose; correct?

A. Yes.[1019]

6.512 In re-examination by Counsel Assisting, the following questions and answers occurred about the distinction between bowlers and commission agents:

Q. In terms of dealing with the person on the other end of the phone or the person on the other end of the computer transaction --

A. Yes.

Q. -- is there a difference between knowing that you are dealing with a commission agent and not knowing you are dealing with a bowler?

A. With a commission agent you go with your eyes wide open that you know there will be third-party transactions on the account. With a bowler, it's not until those third-party transactions occur on that account that they are labelled a bowler.

Q. And a number of examples were given to you in which Sportingbet would determine to accept a bet, even though it knew that the person on the end of the phone or on the other end of the computer transaction was placing a bet for Max, who was down at the shop, or a professional gambler, or someone else, and you said that you agreed that there were circumstances in which Sportingbet would accept that bet?

A. We do have customers who have other parties that have given consent for other parties to access their account. They might be overseas, or whatever it is, and they own a horse together, "Could I have $500 on my account and $500 on John's account", or whatever it may be, but there's – we do have authorisation from those customers.

Q. But that is not what you were agreeing to, is it, when Mr Boulton was asking you those questions earlier? You weren't talking about that sort of

[1019] PIC Transcript, B A Smyth, 20 December 2013, pp. 767:3-768:19

clear arrangement. I thought you were talking about more generally or am I wrong?

A. Could you just ask the question again?

Q. Yes.

A. Forgetting my last answer, the question from the start?

Q. Well, I was asking you about the examples that Mr Boulton gave you in which, for example, "Max is down at the shop"?

A. Yes.

Q. Or a commission agent was acting on behalf of a professional gambler and Sportingbet knew that and would accept those bets?

A. Yes.

Q. When I asked you about that, your answer was directed to occasions where there was some specific arrangement in place, but that's not what you were saying to Mr Boulton, is it, earlier? I thought you were giving a more general agreement that sometimes Sportingbet would accept such bets?

A. Well, we have been known to accept such bets, yes.

Q. Yes. And the example you have just given me is quite different; that's a very specific example where it's all set up in advance?

A. Yes.

Q. And that's not what you were talking about when Mr Boulton was asking you the questions?

A. I did say to Mr Boulton that, you know, ideally our operators would pick up that, you know, it's not Max on the phone and ask him - and the person on the phone be questioned about it.

Q. In all of the examples given to you by the various counsel who asked you questions along the lines of, "What if there was someone behind the gambler? Would you accept that bet?", none of the examples provided to you included, "What if the ultimate gambler was Stephen Fletcher?" I want you to add that into those questions.

A. The answer then would be as I answered your questions before with regard to those other accounts. You know, Stephen Fletcher's account was a sport-only account, as we saw on the screen there, and if we had have known that a third party was betting on behalf of Steve, the same restrictions would have been applied to that account.[1020]

[1020] PIC Transcript, B A Smyth, 20 December 2013, pp. 781:25-783:12

ANTHONY QUINN

6.513 Quinn was the commercial manager for Luxbet.

TERMS AND CONDITIONS

6.514 Quinn was taken to the terms and conditions of Luxbet account holders, dated March 2011.[1021] He confirmed that they were current throughout 2012 and applied equally to telephone and internet betting accounts.[1022] He was taken to a specific part of the document which stated as follows:

> *B. Lawful Use of Luxbet Accounts*
>
> *(i) Generally*
>
> *1. You acknowledge that Luxbet only permits you to have one Luxbet Account, unless otherwise agreed in writing by an authorised representative of Luxbet. …*
>
> *…*
>
> *2. You agree that as the Luxbet Account holder, you are the only permitted person to use your Luxbet Account.* [1023]

6.515 Quinn confirmed that the conditions were in place throughout 2012 and was asked about the basis on which those terms existed.[1024] He gave the following evidence:

> *A. Yes. We require that for three reasons. The first is from a legal perspective we're required to admit - to adhere to that term. The second reason being - would be from a market integrity point of view, and the third would be from a commercial risk point of view.*
>
> *Q. I want to take those in turn. When you say there are legal reasons, can you explain what that is?*
>
> *A. Yes. So the two legal reasons I would conclude is, one is our Northern Territory licence and the second is with regard to - referred to on the previous page, the Commonwealth requirement for the Anti-Money Laundering and Counter-Terrorism Financing Act, which as a reporting entity we are also required to adhere to.*
>
> *Q. Thank you. You talked about the second reason being one of market integrity. Can you explain what you mean by that?*
>
> *A. Market integrity - so we wager on certain sporting events and racing events. From time to time those authorities who operate those events advise us of particular people or set of rules in which those people are not*

[1021] Ex 347, Terms and Conditions Luxbet, March 2011

[1022] PIC Transcript, A N Quinn, 20 December 2013, p. 788:16-788:23

[1023] Ex 347, Terms and Conditions Luxbet, March 2011

[1024] PIC Transcript, A N Quinn, 20 December 2013, pp. 788:45-788:47, 789:22-789:26

allowed to wager with our organisation. An example might be an AFL player betting on an AFL match or a soccer player betting on a soccer match.

Q. The third reason you mentioned I think was commercial?

A. Yes. From a commercial risk point of view, we are a subsidiary of a public company, Tabcorp Holding Limited, of which people make investments and buy shares and expect a commercial return and as such, the requirement for us to identify the individual who we are dealing with enables us to appropriately manage that commercial risk and provide a commercial return to our parent company.[1025]

"BOWLERS "

6.516 Quinn gave the following definition of the term *"bowler"*:

A. So relative to Luxbet, we register an identity or we create an account for a party, say party A, and we're required to verify that party, which is party A. Unbeknownst to us, party B, which is a different person, may take advantage of that person's registered account to wager on particular events which we cover - unbeknownst to us.[1026]

6.517 The following questions and answers then occurred on the corporate position of Luxbet towards *"bowler accounts"*:

Q. Thank you. Does Luxbet have a position - a corporate position - on the use of bowler accounts?

A. Yes. From our view that's - would expose to an offence under the AML Act and also under our NT licence.

Q. When you say AML, you're talking about the Anti-Money Laundering --

A. Anti-Money Laundering and Counterterrorism Financing Act, the Act and the rules associated with that Act.

Q. You also I think in that answer said it would also mean you were breaching your licence. Is that what you said?

A. Correct. Under our licence we are required to adhere to that Act.[1027]

SETTING LIMITS

6.518 Quinn said that Luxbet accumulated information over time that allowed it to create profiles on particular customers. From time to time, based on the information it gathered, he said that Luxbet imposed limitations or restrictions

[1025] PIC Transcript, A N Quinn, 20 December 2013, pp. 789:27-790:13
[1026] PIC Transcript, A N Quinn, 20 December 2013, p. 790:21-790:27
[1027] PIC Transcript, A N Quinn, 20 December 2013, pp. 790:44-791:11

on particular customers.[1028] Speaking in general terms about the nature of the limitations or restrictions, he said:

> *A. They can be limited with regard to - limitation with regard to the total amount of the stake, in terms of what they're able to bet on any given event; a limitation with regard to the type of product that they're able to bet on, in the sense that we offer a diverse range of products and services*.[1029]

6.519 Quinn explained that the limitations or restrictions might take the form of restricting customers to tote versus fixed odds betting or to certain products such as particular sports.[1030]

STEPHEN FLETCHER

6.520 Quinn did not personally know Fletcher but knew his Luxbet account. He said that his account was restricted in *"two manners"*:

> *A. … One, he was restricted in approximately September 11th* [2011] *to the type of product and amount that he could stake on racing events and in January of 2013 he was restricted in terms of his ability to bet on a product which we refer to as "sports multis"*.[1031]

6.521 He explained the nature of the first restriction in the following terms:

> *A. So the tote-only restriction and wagering restriction, one is a reflection on the type of product that he can bet on. So with a tote-only classification, he's only allowed to receive what we refer to as the "middle tote" of the three totes that were previously discussed this morning, and the total amount was a total amount payout of $1,000, excluding the stake that he would wager on that event.*[1032]

6.522 Quinn said that the second restriction was that Fletcher was restricted from betting *"on sports multis, which are multiple sports events bet into one event … So a soccer match into an AFL match into a rugby league match, amalgamated as one bet"*.[1033]

6.523 Quinn said that there were no particular sports in relation to which Luxbet would not take a bet from Fletcher. However, Quinn also said that any bets on sports were *"very closely monitored by our sporting bookmakers and limited for a limited stake to limit our commercial risk"*. He also said that Fletcher would be allowed to bet on the tennis but only for *"a very minimal amount"*.[1034]

6.524 Quinn said that there was nothing on the face of the account statement for Fletcher's account to show that he was subject to those restrictions.[1035]

[1028] PIC Transcript, A N Quinn, 20 December 2013, p. 791:13-791:24
[1029] PIC Transcript, A N Quinn, 20 December 2013, p. 791:29-791:34
[1030] PIC Transcript, A N Quinn, 20 December 2013, pp. 791:20-792:4
[1031] PIC Transcript, A N Quinn, 20 December 2013, p. 792:18-792:23
[1032] PIC Transcript, A N Quinn, 20 December 2013, p. 792:26-792:32
[1033] PIC Transcript, A N Quinn, 20 December 2013, p. 797:30-797:36
[1034] PIC Transcript, A N Quinn, 20 December 2013, p. 797:38-797:46
[1035] PIC Transcript, A N Quinn, 20 December 2013, p. 796:42-796:44

However, he said that Fletcher was advised by email of the two restrictions that were imposed on his account.[1036]

6.525 Quinn was asked about certain bets that Fletcher placed on his own Luxbet account.[1037]

6.526 On 29 December 2012 Fletcher placed a bet of $250 at fixed odds of $5.50, and won $1,375. Quinn noted that the amount returned included the original stake and accepted that Fletcher had won a little over $1,000. When asked: *"That's a little over $1,000, isn't it"* he replied: *"Yes. So when I said $1,000, it's approximate $1,000"*.[1038]

6.527 The following question and answer then occurred:

> *Q. How is the line drawn?*
>
> *A. So the NT regulator sets, as was previously advised, a minimum bet placement that we're here to honour, which we stick by at Luxbet, which is $1,000 for horses and $500 for dogs and greyhounds.*[1039]

6.528 On 22 February 2012 Fletcher placed a bet of $1,000 at fixed odds of $280, and won $2,800. The profit made by Fletcher was $1,800, excluding the stake.[1040]

6.529 The following questions and answers occurred about that bet:

> *Q. How does that get through the system?*
>
> *A. Well, in terms of getting through the system, the $1,000 is a rough estimate of what we'll accept from a commercial risk perspective. It's not programmed into our computer system and it's a manual calculation, which is undertaken by our bookmakers at the intercept*. [1041]
>
> *…*
>
> *Q. So $800 is within the margin of error for $1,000?*
>
> *A. Well, I think that my comment to that would be that would be a commercial risk that we bore ourselves too, as a bookmaker, as a general rule, we should not have accepted.*
>
> *Q. How does that happen on the ground, like, does someone make a call in the --*
>
> *A. Yes. So as a - when he was restricted from the point of view of stake and classification, he's identified as a customer that we intercept and the*

[1036] PIC Transcript, A N Quinn, 20 December 2013, pp. 796:44-797:2
[1037] Ex 358 AC, Luxbet account records for Stephen Fletcher
[1038] PIC Transcript, A N Quinn, 20 December 2013, p. 793:2-793:11
[1039] PIC Transcript, A N Quinn, 20 December 2013, p. 793:13-793:17
[1040] PIC Transcript, A N Quinn, 20 December 2013, p. 794:10-794:16
[1041] PIC Transcript, A N Quinn, 20 December 2013, p. 793:41-793:46

decision is left to the individual bookmaker. So it's a manual calculation which they make, as opposed to a computer-system-generated amount.[1042]

DARREN AZZOPARDI

6.530 Quinn did not personally know Azzopardi but knew his Luxbet account.[1043]

6.531 Quinn said that he had consulted Luxbet's wagering system notes on Azzopardi's account before attending the Commission and saw that *"there were no hard-set restrictions"* on his account.[1044] However, he said that Azzopardi was classified as a *"hard client"*.[1045] He gave the following evidence of what that meant:

> *Q. What does that mean?*
>
> *A. So relative to the third indication or method by which we evaluate our individual customers regarding commercial risk, we would deem Mr Darren Azzopardi's account as one which would require the attention of the individual bookmaker to closely watch and monitor and as such he is classified as "hard".*
>
> *Q. In terms of his ability to place bets, how does it manifest itself, that restriction?*
>
> *A. So the restriction or monitoring is based on - by the individual bookmaker associated with each individual event and it takes into consideration the amount of stake, the appropriate odds and the size and robustness of the event itself on which that person is betting on*.[1046]

6.532 Quinn also said that there was nothing on the face of the account statement for Azzopardi's account to show that he was a *"hard client"*.[1047]

BETS PLACED ON THE ACCOUNTS OF ZEIBOTS AND GROVES

6.533 Quinn was shown the account statements for Zeibots' Luxbet account and was asked if Luxbet would have accepted the bets from Fletcher in Fletcher's own name. Quinn said that there were both bets which fell within the restrictions that applied to Fletcher's account and bets which fell outside those restrictions.[1048]

[1042] PIC Transcript, A N Quinn, 20 December 2013, p. 794:18-794:30
[1043] PIC Transcript, A N Quinn, 20 December 2013, p. 795:44-795:45
[1044] PIC Transcript, A N Quinn, 20 December 2013, p. 796:7-796:10
[1045] PIC Transcript, A N Quinn, 20 December 2013, p. 796:16-796:21
[1046] PIC Transcript, A N Quinn, 20 December 2013, p. 796:15-796:2
[1047] PIC Transcript, A N Quinn, 20 December 2013, p. 796:35-796:38
[1048] PIC Transcript, A N Quinn, 20 December 2013, p. 798:21-798:25

6.534 As to a bet that was placed on 16 November 2012 for $500 at fixed odds of $4.00, he said that Luxbet *"might have allowed that intercept to go through based on the margin of error associated with the $1,000"*.[1049]

6.535 As to a further bet that was placed on 16 November 2012 for $1000 at fixed odds of $2.70, which would have returned a profit of $1,700, he said that *"margin of error on that one would have been $700"*. He confirmed that that bet might also have been accepted.[1050]

6.536 As to a bet that absolutely would not have been accepted by Luxbet, Quinn identified a third bet that was placed on 16 November 2012 for $250 at fixed odds of $5.50.[1051]

6.537 Quinn was next shown the accounts statement of Groves' Luxbet account. The bets placed on it included as follows:

> *Caulfield Race 3 #7 Bloomingdale Miss: AUD $1,000 Win Fixed @ 5.00*
>
> *Randwick Farm Race 4 #12 Urquidez: AUD $1,500 Win Fixed @ 6.50*
>
> *Belmont Race 9 #11 Tax a Million: AUD $2,500 Win Fixed @ 3.60*
>
> *Sandown Race 2 #3 Westchester: AUD $1,000 Win Fixed @ 3.40*
>
> *Sandown Race 3 #1 Brungle Cry: AUD $3,000 Win Fixed @ 1.50*
>
> *Mount Gambier Race 7: AUD $3,000 $400 Quinella STAB 1, 4*
>
> *Kalgoorlie Race 3#3 Kalahahni AUD: 1,000 Win Fixed @ 3.50*

6.538 Going through the same process, he was asked to identify which if any bets Luxbet would not have accepted from Fletcher. He said:

> *A. … the first bet, as you can see, would be a $1,000 wager on a $5 chance to return $5,000, less the original stake of $1,000 would net a profit of $4,000. That wouldn't be accepted. The same with the second. The same with the third, fourth, fifth, sixth, seventh.*
>
> *…*
>
> *A. Kalgoorlie Race 3 we would not have; greyhound racing Horsham 1 we would not have; Scone 8 we would not have; London Games shotput we would not have; Morphettville 1 we would not have; Morphettville 1 again, that's the payout; Moonee Valley Race 5 we would not have; Kembla Grange we would not have; Kembla Grange we would not have; Moonee Valley we would not have; Canterbury we would not have. Morphettville I can't tell because it depends on the dividend LuxDiv. Mr Burgess I cannot because of the LuxDiv, but if I conclude from the actual success of that*

[1049] PIC Transcript, A N Quinn, 20 December 2013, p. 799:10-799:12

[1050] PIC Transcript, A N Quinn, 20 December 2013, p. 799:15-799:28

[1051] PIC Transcript, A N Quinn, 20 December 2013, p. 799:30-799:34

event, it delivered a return of $1,000; so the majority of those bets we would not accept.[1052]

6.539 As to Azzopardi, Quinn agreed that his position was more complex as there were no specific restrictions based upon him. Quinn said that he would not be able to comment on whether Azzopardi could have secured any particular bet, without knowing the event and the commercial risk at the time.[1053]

[1052] PIC Transcript, A N Quinn, 20 December 2013, p. 800:15-800:39

[1053] PIC Transcript, A N Quinn, 20 December 2013, pp. 800:41-801:8

prevent
detect
investigate

prevent
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Police Integrity Commission

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