

## Decision and reasons for decision

Disciplinary action against the bookmaker registration holders Campbell Raymond McCutcheon and Casey Lawlor McCutcheon, trading as bookmaking partnership MintBet, under ss 4.5A.14(4) of the *Gambling Regulation Act 2003*.

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**Delegate**                      **Scott May**  
**Deputy Chief Executive Officer**  
**Victorian Gambling and Casino Control Commission**

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**Date of decision**        2 April 2024

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**Date of reasons**        2 April 2024

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**Decision**                      Pursuant to the Instrument of Revocation and Delegation dated 1 November 2023 and effective 13 November 2023, I, Scott May, Deputy CEO of the Victorian Gambling and Casino Control Commission, make this decision under ss 4.5A.14(4) of the *Gambling Regulation Act 2003*.

For the reasons attached to this decision, I have found there is a ground for disciplinary action and decided to take disciplinary action against the bookmaker registration holders Campbell Raymond McCutcheon and Casey Lawlor McCutcheon, trading as bookmaking partnership MintBet, by imposing a fine of \$100,000 to be paid within 28 days or another period as agreed by the VGCCC.

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**Signed**



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**Scott May**  
**Deputy Chief Executive Officer**  
**VGCCC**

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## 1 Introduction

- 1.0 This is the Victorian Gambling and Casino Control Commission (**VGCCC's**) decision and reasons for decision regarding disciplinary action taken against the bookmaker registration holders Campbell Raymond McCutcheon and Casey Lawlor McCutcheon, trading as bookmaking partnership MintBet (**MintBet**), under ss 4.5A.14(4) of the *Gambling Regulation Act 2003 (Vic)* (**the Act**).
- 1.1 Pursuant to the Instrument of Revocation and Delegation dated 1 November 2023 and effective 13 November 2023, I, Scott May, Acting CEO of the VGCCC, make this decision under ss 4.5A.14(4) of the Act.
- 1.2 On 20 September 2023, the VGCCC issued a notice to MintBet pursuant to ss 4.5A.14(2) of the Act to show cause why disciplinary action should not be taken on the grounds specified in the notice (**Notice**).
- 1.3 MintBet responded to the Notice by letter dated 18 October 2023 (**MintBet Response**) and has also responded, by way of production of documents and the provision of information, to several requests for information issued by the VGCCC.
- 1.4 The VGCCC has considered in detail the MintBet Response and the other material produced to it by MintBet.

## 2 Decision

- 2.1 I have found there is a ground for disciplinary action and decided to take disciplinary action against the bookmaker registration holders Campbell Raymond McCutcheon and Casey Lawlor McCutcheon, trading as bookmaking partnership MintBet, by imposing a fine of \$100,000 payable within 28 days of the date of this decision or another period as agreed by the VGCCC.

## 3 Background

- 3.1 Campbell Raymond McCutcheon and Casey Lawlor McCutcheon were approved as members of the bookmaking partnership MintBet by the VGCCC on 24 July 2019.
- 3.2 On 21 October 2022, the VGCCC received a complaint from the Complainant<sup>1</sup> regarding his gambling with MintBet during the period 18 to 20 October 2022 (**Complaint**).
- 3.3 The Complaint was made after these events:
- (1) The Complainant opened an account with MintBet on 18 October 2022 at 5.28pm. According to the Complainant, at the time he created his account with MintBet, he had self-excluded from approximately 64 other bookmakers. The Complainant does not allege that MintBet was aware of this information at the time of the account creation. The VGCCC notes that BetStop<sup>2</sup> was not available at the time of the account creation, which may have helped mitigate the risk for the Complainant and MintBet.
  - (2) The Complainant placed his first bet on 18 October 2022 at 5.30pm and placed his last bet on 20 October 2022 at 8.45pm (the **betting period**).
  - (3) During the betting period, the Complainant:
    - (a) deposited a total of \$31,149 across 46 separate deposits into his MintBet account;

<sup>1</sup> The Complainant is not referred to by name in these reasons for decision for the purpose of privacy.

<sup>2</sup> BetStop is the national self-exclusion register for all phone and online betting providers.

- (b) made total withdrawals of \$0; and
  - (c) made a total of 327 bets, comprising 35 winning bets totalling \$38,893.50 and 292 losing bets totalling \$70,042.50 leading to a net loss of \$31,149.
- (4) The bets were placed during three sessions, the longest of which was 14 hours, as set out in the below table<sup>3</sup>:

	Session time range	Duration (in hours)	Number of bets	Average bet size	Bets per hour
1	18 October 2022 (5pm) – 19 October 2022 (3am)	9.5	116	\$352	12
2	19 October 2022 (11am) – 20 October 2022 (1am)	14	165	\$211	12
3	20 October 2022 (9am) – 20 October 2022 (9pm)	12	46	\$63	4

- (5) The Complainant's deposited funds into his account are set in the following table<sup>4</sup>:

	Session time range	Number of deposits	Average deposit size
1	18 October 2022 (5pm) – 19 October 2022 (3am)	22	\$859
2	19 October 2022 (11am) – 20 October 2022 (1am)	16	\$631
3	20 October 2022 (9am) – 20 October 2022 (9pm)	8	\$269

- (6) On 18 October 2022, MintBet communicated a “welcome offer” to the Complainant shortly after the opening of his account. In the welcome offer, MintBet offered to match 50% of the deposits made up to \$150 (i.e. \$75 in bonus bets). The Complainant utilised this offer at 2.31am on 19 October 2022.
- (7) MintBet made a subsequent offer to the Complainant on 20 October 2022 at 6.25pm. MintBet offered to match 100% of the deposits made up to \$2,000 (i.e. \$2,000 in bonus bets). At this stage, the Complainant had engaged in approximately 33 hours of gambling in a 48-hour period and placed more than 300 bets.
- (8) After placing his last bet on 20 October 2022 at 8.45pm, the Complainant sent an email to MintBet on 21 October 2022 at 2.09am in which he identified himself as a vulnerable person and a compulsive gambler who had previously self-excluded from a number of other bookmakers. The Complainant complained that MintBet had ignored “red-flag behaviours for a potential problem gambler” by allowing him to spend over \$30,000 in a short period.

<sup>3</sup> Information in table from MintBet letter to VGCCC dated 23 June 2023, page 4.

<sup>4</sup> Information in table from MintBet letter to VGCCC dated 23 June 2023, pages 4-5.

- (9) MintBet closed the Complainant's account on 21 October 2022 at 12.04pm due to the contents of the email received from the Complainant.
- (10) During the betting period there was no proactive intervention or interaction with the Complainant by MintBet at any stage to ascertain whether the Complainant was experiencing harm from Problem Gambling or to ensure the Complainant was not experiencing a loss of control from their gambling.

#### 4 Basis for disciplinary action

4.1 The grounds for disciplinary action under ss 4.5A.14(1)(ea) of the Act include where *“there have been repeated breaches by the registered bookmaker of the bookmaker’s Responsible Gambling Code of Conduct”*.

4.2 MintBet has adopted the Victorian Bookmakers Association (**VBA**) Code of Conduct (**Code**) as its Responsible Gambling Code of Conduct pursuant to ss 4.5A.10A of the Act. All VBA members adopting the Code are required as a condition of their membership to VBA to strictly implement and adhere to it.

4.3 The sections of the Code that are relevant to the ground for disciplinary action are:

- (1) Glossary, definition of Problem Gambling:

**Problem Gambling** occurs when a customer has difficulties in managing their gambling activities, particularly the scope and frequency of gambling and the amount of time spent gambling, with negative impacts potentially including:

- (a) extreme financial losses relative to their sources of income;
- (b) adverse personal effect on the customer, his or her family and friends; and/or
- (c) adverse effect on employers and work performance;

- (2) Glossary, definition of Responsible Gambling:

**Responsible Gambling** occurs in a regulated environment where the potential for harm associated with gambling is minimised and people make informed decisions about their participation in gambling. Responsible gambling occurs as a result of the collective actions and shared ownership of individuals, communities, the gambling industry and the government to achieve outcomes that are socially responsible and responsive to the concerns of the broader community.

- (3) Section 3 of the Code, the Responsible Gambling commitment:

*This Code aims to help protect individuals and the community and minimise the harms associated with Problem Gambling. Each VBA Member is committed to:*

- *operating their business in a manner which reduces harm associated with Problem Gambling, by creating a responsible gambling culture and environment in line with:*
  - *applicable legislation*
  - *the Ministerial Direction*
  - *the Rules*
  - *best practice; and*
  - *community expectations*

- (4) Section 4 of the Code, Protecting the consumer to promote Responsible Gambling and to minimise harm:

*VBA Members must have appropriate measures in place consistent with this Code to ensure customers can enjoy gambling and that systems are in place to help ensure that vulnerable individuals do not experience a loss of control from their*

*gambling. This includes having policies, procedures and a culture of compliance in their business that promotes Responsible Gambling.*

*For individuals, Responsible Gambling means gambling for pleasure and entertainment, being aware of their likelihood of losing, understanding the associated risks, exercising control over their gambling activity, gambling in a manner that is in balance with other activities in their lives and not causing problems or harm for themselves or others.*

- (5) Section 6(a), Interaction with customers and Problem Gambling support services, Customers:

*Each VBA Member will ensure that:*

- *they do not accept any bets from any customer displaying indicators of distress that may be related to Problem Gambling, which may include:*
  - *gambling for an extended period*
  - *changing gambling patterns*
  - *increasing deposit frequency*
  - *escalating sums of money deposited*
  - *thinking they can control outcomes or believe myths*
  - *accusing the VBA Member of changing payouts or rigging systems*
  - *admitting being drunk or under the influence of other drugs*
  - *exhibiting signs of distress such as crying or swearing*
  - *expressing guilt or remorse for gambling*
  - *verbally abusing staff*
  - *making threats to property or staff*
  - *making remarks that may indicate serious overspending*
  - *repeatedly commenting about family problems*
  - *showing concern about losses and payouts*
  - *indicating they need a break from gambling*
  - *repeatedly self-excluding from gambling; and*
  - *disclosing problems with gambling.*
- *they direct any customer who appears to show indicators of Problem Gambling to:*
  - *Gambler's Help or Gambling Help on 1800 858 858 or at [www.gamblershelp.com.au](http://www.gamblershelp.com.au) or [www.gamblinghelponline.org.au](http://www.gamblinghelponline.org.au); or*
  - *Gambler's Help Youthline on 1800 262 376.*

4.4 The particulars in relation to the ground for disciplinary action set out in the Notice are not restated in full in these reasons. In summary, the particulars are that:

- (1) MintBet repeatedly breached the Code by:
- (a) accepting bets from a customer displaying indicators of distress that may be related to Problem Gambling<sup>5</sup> (section 6(a)) (**Breach 1**).
  - (b) failing to have appropriate systems in place to help ensure that vulnerable individuals do not experience a loss of control from their gambling (section 4) (**Breach 2**); and

4.5 The VGCCC considers that the breaches above amounts to a repeated contravention the Code. Details of the reasons are provided below.

4.6 For the avoidance of doubt, the VGCCC finds that repeated breaches have occurred both because section 6(a) was repeatedly breached and because two sections of the Code were breached.

<sup>5</sup> References to Problem Gambling in these reasons for decision are a reference to Problem Gambling as defined in the Code.

- 4.7 Arguably, the failures leading to the breaches of sections 6(a) and section 4 of the Code indicate that MintBet did not operate its business in a manner which reduces harm associated with Problem Gambling in contravention of section 3. However, in this instance, I have not made a finding about the alleged breach of section 3 set out in the Notice.

**Breach 1 – Accepting bets from a customer displaying indicators of distress that may be related to Problem Gambling**

- 4.8 Section 6(a) of the Code obliges MintBet to ensure it does not accept any bets from any customer displaying indicators of distress that may be related to Problem Gambling<sup>6</sup>. The Code goes on to then list a range of non-exhaustive indicators.
- 4.9 This is a harm minimisation measure designed to create a vital intervention to protect customers whose behaviour suggests they are suffering harm from Problem Gambling – that is, to stop them gambling.
- 4.10 The VGCCC considers that gambling for an extended period indicates that a customer may be experiencing Problem Gambling. The definition of Problem Gambling in the Code critically references this as extracted below:
- Problem Gambling occurs when a customer has difficulties in managing their gambling activities, particular the scope and frequency of gambling and the **amount of time spent gambling...** (my emphasis)*
- 4.11 MintBet does not dispute that the indicator of distress ‘gambling for an extended period’ occurred in the case of the Complainant but submitted that:
- Working through each of the potential indicators at the time that the Complainant was operating the account with MintBet, of the 17 potential indicators listed, the Complainant was only showing signs of one element (gambling for extended periods) and based on the limited data available this was not presenting as unusual for this customer, particularly if considered with the other potential indicators of distress<sup>7</sup>.*
- 4.12 MintBet submits that each element listed in the Code is just one form of behaviour that *may* indicate distress related to Problem Gambling but that no one element is, in of itself, determinative of distress related to Problem Gambling<sup>8</sup>. In addition, MintBet stated that it,
- does not consider that having a customer present with a single indicator of distress from problem gambling when several other indicators are not present suggests that it breached the VBA Code and certainly does not reflect multiple breaches based on the same Complaint<sup>9</sup>.*
- 4.13 This argument suggests that there must be multiple, different indicators of distress present to trigger the requirement to refuse bets under the Code. I do not agree that there must be more than one indicator present – such a narrow interpretation is not reasonable and would not further the objects of the Act or Code because it limits the application of the harm minimisation measure to only circumstances where more than one indicator is present.
- 4.14 When there is an extended period of gambling present such as in this case, and as admitted by MintBet, MintBet was obliged under the Code to refuse to accept the Complainant’s bets.

<sup>6</sup> Section 6(a) of the Code is “Each VBA Member will ensure that they do not accept any bets from any customer displaying indicators of distress that may be related to Problem Gambling, which may include...”.

<sup>7</sup> MintBet 24 November 2023 letter page 8 MintBet says the Complainant was “only showing signs of one element (gambling for extended periods)”.

<sup>8</sup> MintBet Response page 7.

<sup>9</sup> MintBet Response page 8.

- 4.15 Additionally, MintBet has offered no reasonable explanation as to why the extended period of gambling for the three sessions was not alone considered a sufficient basis to warrant concern about or constitute Problem Gambling, or how it is *not* related to Problem Gambling. The VGCCC does not accept MintBet’s explanation that there was no sufficient data to inform itself that Problem Gambling may be present. This is because gambling occurred for an extended period over three days – for 9.5, 14 and 12 hours per session during which time bets were placed intensively at a rate of approximately every five minutes in Session 1 and Session 2. This data on the extended period of gambling was in the possession of MintBet.
- 4.16 Notwithstanding that MintBet does not dispute that the Complainant gambled for an extended period of time, the VGCCC also considers it appropriate to make some observations in relation to extended periods of gambling in the context of the Complainant.
- 4.17 There are no terms in the Code or Act which specify what ‘gambling for an extended period’ is, but common industry practice and reasonable community expectations inform what may reasonably be considered extended periods of gambling. For example<sup>10</sup>,
- (1) the Melbourne Casino Responsible Gambling Codes of Conduct effective from September 2023 mandate a break of fifteen minutes after a three-hour gambling period<sup>11</sup>.
  - (2) The Tabcorp Wagering (Vic) Pty Ltd Code effective from June 2023 identifies gambling for three hours or more without a break as indicating ‘extended and intensive gambling’<sup>12</sup>.
  - (3) The Australian Institute for Family Studies recent report on online gambling participation identifies that the median length of regular online bettors’ most recent online betting sessions was 2.5 hours and continuous gambling exceeding five – six hours falls outside the bandwidth of common gambling behaviour<sup>13</sup>.
- 4.18 The Complainant’s betting sessions on each day in the betting period have exceeded all of these. In summary, the VGCCC finds that there was an extended period of gambling which may be related to Problem Gambling, given the following:
- (1) gambling occurred for periods of 9.5 hours, 14 hours and 12 hours for each of the respective days;
  - (2) gambling occurred for a total of 35 hours in an approximately 50-hour period.
- 4.19 Given the extended period of gambling in Session 1, MintBet could have intervened or inquired into the matter with the Complainant in order to comply with obligations under the Code. For example, it could have:
- (1) detected the extended period of gambling;
  - (2) inquired into the matter by contacting the Complainant to inquire into the issue and seek information about whether they were in control of their gambling; and

<sup>10</sup> The VGCCC notes that the above references appear in documents dated after the betting period, but it nevertheless finds them to be a suitable outline of community and industry expectations for the purpose of these decision and reasons.

<sup>11</sup> See Crown Melbourne Ltd ‘Crown Playsafe Code of Conduct’ December 2023, page 17;

[www.vgccc.vic.gov.au/sites/default/files/gr23\\_984651\\_crown\\_playsafe\\_code\\_of\\_conduct\\_dl\\_dec23.pdf](http://www.vgccc.vic.gov.au/sites/default/files/gr23_984651_crown_playsafe_code_of_conduct_dl_dec23.pdf)

<sup>12</sup> See Tabcorp Wagering (Vic) Pty Ltd Code ‘Responsible Gambling Code of Conduct’ June 2023, pages 6, 16, [www.vgccc.vic.gov.au/sites/default/files/tab\\_vic\\_rg\\_code\\_of\\_conduct\\_-\\_june\\_2023.pdf](http://www.vgccc.vic.gov.au/sites/default/files/tab_vic_rg_code_of_conduct_-_june_2023.pdf)

<sup>13</sup> Australian Institute of Family Studies, ‘Regular online betting in Australia, 2022; National Gambling Trends Study’ October 2023, Figure 3: Length of most recent online betting session among regular online bettors, [https://aifs.gov.au/sites/default/files/2023-10/AGRC\\_2\\_Regular-online-betting-2022.pdf](https://aifs.gov.au/sites/default/files/2023-10/AGRC_2_Regular-online-betting-2022.pdf).

- (3) not accept bets unless the bookmaker can satisfy themselves that Problem Gambling is **not** occurring or evident.
- 4.20 I also note that section 6(a) of the Code requires a bookmaker to ensure that they direct any customer who ‘appears to show’ indicators of Problem Gambling to Gambler’s Help. The Complainant was not directed to Gamblers Help during the betting period.
- 4.21 The VGCCC finds that by accepting 165 bets in Session 2 and 46 bets Session 3, MintBet repeatedly breached section 6(a) of the Code. The repeated nature of the breach occurred every time a bet was accepted in Session 2 or Session 3, or alternatively, because bets were accepted on both of those days.

### **Breach 2 – inadequate systems for ensuring vulnerable individuals do not experience a loss of control from their gambling**

- 4.22 In addition, Breach 2 is established in that MintBet failed to ensure that systems are in place to ensure vulnerable individuals do not experience a loss of control from their gambling (breach of section 4 of the Code).
- 4.23 This is because, at a minimum, to ensure compliance with the above provisions of the Code, particularly in an online or account-based environment, appropriate and adequate systems and processes must be in place to monitor individual customer behaviour and player data (including patterns) to detect indicators of distress and Problem Gambling to ensure vulnerable individuals do not experience a loss of control from their gambling. The systems and processes must have the capacity to appropriately monitor and alert a bookmaker when any indicator of distress that may be related to Problem Gambling, either by itself or in combination with other indicators, is identified and causes or triggers the required intervention under section 6(a) of the Code.
- 4.24 MintBet had some systems or processes operating at the time of the Complainant’s betting period but these were inadequate in this instance. Fundamentally, systems must be adequate to comply with the Code.
- 4.25 MintBet submits<sup>14</sup> that active monitoring of customers and play data for the purpose of detecting Problem Gambling occurred by way of:
- (1) the referral of certain bets from BetMakers Technology Group Limited (**BetMakers**)<sup>15</sup> to ensure that they were “*within the appropriate risk limits which MintBet was prepared to accept*”;
  - (2) “*the manual consideration of customer activity as it presents in the live scoreboard of activity in the BetMakers system*” (**aggregate scoreboard**); and
  - (3) staff awareness of a draft Transaction Monitoring Policy (**Draft Policy**)<sup>16</sup> in conjunction with their knowledge, training and experience.
- 4.26 Matters highlighted at subparagraphs 4.25(1) to 4.25(3) are not an answer to, nor an adequate substitute for, the system expectations outlined at paragraph 4.23.

<sup>14</sup> See MintBet Response.

<sup>15</sup> MintBet 24 November 2023 letter: MintBet described BetMakers as a “wagering platform provider”, and that MintBet used the wagering platform to operate its bookmaking business as well as using BetMakers to provide a “Managed Trading Service” to MintBet.

<sup>16</sup> MintBet 24 November 2023 letter stated that, during the betting period, the draft Transaction Monitoring Policy was relevant in relation to the responsible gambling requirements including the red flags.

- 4.27 MintBet claims to use BetMakers as part of its system for detecting Problem Gambling. MintBet has made submissions to the VGCCC of its utilisation of the BetMakers risk referrals tool<sup>17</sup>, as well the aggregate scoreboard to monitor for Problem Gambling.
- 4.28 MintBet submits that the Draft Policy was in place to guide staff in ensuring compliance with the Code. The VGCCC notes that the Draft Policy provides;

*Where any RG or AML/CTF Red Flag indicator is identified, it is incumbent on MintBet staff, contractors and agents to assess all transactions and act as required.*

*In incidents of RG Red Flags, relevant staff, contractors and agents are expected to monitor the customer and interact with them if appropriate. They will then inform Casey McCutcheon who will record the incident and further correspond with the customer, including by advising the customer about available responsible gambling tools and resources.*

- 4.29 I note that the Draft Policy does not give any indication as to how the responsible gambling 'Red Flag' indicators are detected and it does not specify the requirement for refraining from accepting a bet where an indicator of problem gambling is identified (i.e. it does not reflect the requirements of the Code).
- 4.30 The VGCCC does not take issue with MintBet utilising different systems and processes to comply with the obligations under the Code, so long as such systems are adequate. The fact is that no system operated in this instance to ensure that vulnerable individuals did not experience a loss of control from their gambling.
- 4.31 Having regard to the above, the VGCCC finds that MintBet failed to have adequate systems in place and, as a result, it did not ensure that vulnerable individuals do not experience a loss of control from their gambling, in contravention of section 4 of the Code.

## **5 Disciplinary Action**

- 5.1 In light of the above, the VGCCC concludes that the two breaches of the Code identified in paragraph 4.4 above gives rise to a ground for disciplinary action within the meaning of ss 4.5A.14(1)(ea) of the Act. Given the view that there are repeated breaches, the VGCCC may and has decided to take disciplinary action against MintBet pursuant to ss 4.5A.14(4) of the Act.

## **6 Appropriateness of a fine**

- 6.1 Ss 4.5A.14(1) provides that the disciplinary action that the VGCCC may take is any of the following:
- (a) *the cancellation or suspension of the bookmaker's registration;*
  - (b) *the variation of the conditions of the bookmaker's registration;*
  - (c) *the issuing of a letter of censure; and*
  - (d) *the imposition of a fine not exceeding an amount that is 50,000 the value of a penalty unit fixed by the Treasurer under s 5(3) of the Monetary Units Act 2004 (Vic).*
- 6.2 At the date of the relevant conduct, the value of a penalty unit was \$184.92, meaning that the maximum penalty that may be imposed is \$9,246,000. As at the date of this decision, one penalty unit is currently \$192.31, meaning that the maximum fine that may be imposed is \$9,615,500. Given the Act is unclear as to which penalty unit should apply, in this

<sup>17</sup> The referrals were for bets representing an unacceptable financial risk to MintBet which included bets that increased in bet size (one of the indicators of distress) as well as exceeding MintBet's risk tolerance.

instance, the VGCCC is proceeding on the basis that the relevant time is the period in which the contravention occurred.

6.3 Ss 4.5A.14(5) entitles the VGCCC to take disciplinary action against MintBet as it sees fit.

6.4 The VGCCC considers that a letter of censure would not be a sufficient and proportionate action in the circumstances and would not achieve the objectives of general and specific deterrence referred to below.

6.5 Ultimately, the VGCCC has concluded that disciplinary action in the form of a fine is warranted for the following reasons.

- (1) Firstly, general deterrence would not be achieved by anything less than a fine. Registered bookmakers must understand that there are financial consequences for committing repeated breaches of the relevant Responsible Gambling Code of Conduct (see s 4.5A.10A) particularly where bookmakers can derive not insignificant revenue from conduct of this nature; and
- (2) Secondly, specific deterrence would not be achieved by anything less than a fine. MintBet must be deterred from again engaging in the same conduct described in this decision, and to encourage MintBet to seek to redress gaps in its processes.

## 7 Number of fines

7.1 As a preliminary matter, the VGCCC considers that despite determining there are two breaches of the Code, there is one ground for disciplinary action against MintBet for which the VGCCC served a single notice to show cause under ss 4.5A.14(3). Therefore, the VGCCC will issue a single fine under ss 4.5A.14(4).

## 8 Setting the fine in this case

8.1 The VGCCC has set out its general approach to setting a fine when taking disciplinary action in other determinations, but it does not repeat that here<sup>18</sup>. Rather, the VGCCC provides its reasons for concluding that a fine of \$100,000 is an appropriate penalty in all the circumstances of this case.

8.2 As discussed in paragraph 6.2 above, the maximum fine available when taking disciplinary action against a registered bookmaker is 50,000 times the value of a penalty unit. Taking the penalty unit at the time of the contravening conduct of \$184.92, the maximum penalty that may be imposed in this case is \$9,246,000.

8.3 The size of the maximum penalty that may be imposed indicates that the Parliament intended for serious consequences to be available to the VGCCC when a ground of disciplinary action is established and in taking disciplinary action warranting the imposition of a fine.

8.4 The need for deterrence, both specific and general, weighs heavily on the VGCCC when setting the appropriate level of fine on MintBet. The fine must be high enough to deter future contraventions of the Code by MintBet and other bookmakers, and cannot be considered the cost of doing business, particularly where non-compliance with its code may result in not insignificant revenue for MintBet.

<sup>18</sup> See the VGCCC's reasons for decision in disciplinary action taken against the casino operator for the 'China Union Pay' process ([https://www.vgccc.vic.gov.au/sites/default/files/vgccc\\_decision\\_-\\_china\\_union\\_pay\\_0.pdf](https://www.vgccc.vic.gov.au/sites/default/files/vgccc_decision_-_china_union_pay_0.pdf)) and Responsible Service of Gambling failings ([https://www.vgccc.vic.gov.au/sites/default/files/reasons\\_for\\_decision\\_rsg\\_da.pdf](https://www.vgccc.vic.gov.au/sites/default/files/reasons_for_decision_rsg_da.pdf)).

- 8.5 At the very least, the fine should exceed \$31,149 as that was the total profit or benefit earned by MintBet when it accepted bets from the Complainant over the weekend in question.
- 8.6 However, the VGCCC considers that the conduct is such that it falls within the lower end of the scale of the maximum penalty. The VGCCC considers that a fine of \$100,000 is appropriate, which translates to just over 1% of the maximum penalty. However, a fine at the lower range should not be misunderstood to suggest that the contraventions giving rise to the ground for disciplinary action were not serious.
- 8.7 The size of MintBet is relevant when considering the appropriate level of penalty. MintBet is a small partnership bookmaker employing approximately 13 staff.
- 8.8 As stated above, general and specific deterrence are important factors in the setting of an appropriate fine. The need for deterrence is particularly high given the circumstances in this case where the period of gambling extended over multiple days in an intensive manner, without the required (and any) intervention by MintBet.
- 8.9 Indeed, on this point, there is an aggravating factor. Instead of intervening, an offer to match bets to the value of \$2,000 was made by MintBet during the betting period (see paragraphs 3.3(6) to 3.3(7)) after the Complainant had bet for approximately 33 hours over the weekend. That is, instead of intervening or inquiring into the welfare of the Complainant, the only action taken by MintBet was to offer an inducement.
- 8.10 The VGCCC has considered the submissions made by MintBet in relation to its systems to monitor for problem gambling, including the use of BetMakers and its aggregate scoreboard. The existence of some systems, albeit not adequate, is considered a mitigating factor that weighs in favour of a fine in the lower range of the maximum penalty.
- 8.11 I also recognised that that that the betting did not persist beyond the three days and that MintBet did act promptly to close the Complainant's account after he specifically identified himself to be a Problem Gambler. I also note that this is the first contravention of this nature for MintBet.

## **9 Review of Decision**

- 9.1 Under ss 4.5A.15(h) a person whose interests are affected by a decision to take disciplinary action against a registered bookmaker may apply to the Victorian Civil and Administrative Tribunal for review.
- 9.2 An application for review must be made within 28 days after the day the decision was made.