QORTI CIVILI PRIM' AWLA

ONOR. IMHALLEF MARK CHETCUTI LL.D.

Illum l-Erbgha, 24 ta' Ottubru, 2018

Numru 1

Rikors Guramentat Nru. 958/2015

Avukat Stephen Muscat bhala mandatarju specjali ta' Hugo Jose' assenti minn Malta

vs

EveryMatrix Limited

Il-Qorti,

Rat ir-rikors guramentat tal-attur nomine tad-9 ta' Ottubru, 2015 li jghid hekk:

1. Il-kumpanijja intimata hija kumpanija registrata f'Malta, u licenzjata u irregolata mill-Malta Gaming Authority;

2. Il-kumpanijja intimata topera u thaddem is-sit elettroniku Kingplayer.com li hija online casino li toffri lill-plejers, bhar-rikorrenti mandanti, selezzjoni varjata ta' loghob tal-casino fuq l-internet, mahluqa minn fornituri ta' software. L-imsemmi sit elettroniku joffri wkoll loghob b'live dealer u loghob tal-casino ghall-mobajl, kif ukoll sezzjoni separata ghall-imhatri fuq sports;

3. Fit-13 ta' Mejju 2015, ir-rikorrent mandanti fetah kont fuq l-imsemmi sit elettroniku, iddepozita tlett mitt ewro (€300.00) u ircieva bonus ex gratia ta' tlett mitt ewro (€300.00) skont it-termini u kundizzjonijiet applikabbli fuq l-istess sit elettronlku;

4. Ir-rikorrenti mandanti laghab zewg (2) loghbiet tal-casino offruti fuq Kingplayer.com, specifikament 'King of Chicago' u 'Dead or Alive,' u minnhom rebah total ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820), li l-kumpanija intimata qeda unilateralment tirrifjuta li thallas wara li r-rikorrent mandanti avvicina lill-istess kumpanija intimata biex jitlobha l-pagament tas-somma msemmija;

5. Il-kumpanijja intimata qeda issostni li wara li wettqet l-investigazzjonijiet necessarji, allegatament osservat mudell car ta' abbuz tal-bonus fid-depoziti fil-kont tar-rikorrenti mandanti. Barra minn hekk, il-kumpanija intimata allegat illi mudelli identici gew skoperti fost id-depoziti tar-rikorrenti mandanti u fid-depositi ta' utenti ohra li jinkludu, izda mhumiex limitatament ghal, imhatri u selezzjoni ta' loghob, kif ukoll depoziti sottomessi fl-istess perjodu ta' zmien limitat, li wasslet ghall-invokazzjoni ta' klawsoli 7, 10 u 13 tat-termini u kundizzjonijiet li jirregolaw il-bonuses u klawsola 11 tat-termini u kundizzjonijiet li jirregolaw is-sit elettroniku imsemmi b'mod generali;

6. Klawsola 7 u klawsola 10 tat-termini u kundizzjonijiet li jirregolaw ii-bonuses jirreferu ghal 'imgieba qarrieqa' u klawsola 11 tat-termini u kundizzjonijiet li jirregolaw is-sit elettroniku b'mod generali tirreferi ghal 'kolluzjoni, qerq, frodi u attivita kriminali' allegazzjonijiet serji hafna li sallum il-kumpanija intimata ghadha ma pprovat b'ebda mod. Barra min hekk, l-attentat tal-kumpanija intimata li tiggustifika u/jew tispjega l-agir illegittimu taghha li ma thallasx is-somma ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820), legittimament dovuti lir-rikorrenti mandanti, ma jistghux jikkostitwixxi prova ta' kolluzjoni, qerq, frodi u/jew attivita kriminali da parti r-rikorrenti mandanti jew bl-ebda mod jiggustifikaw suspett ragjonevoli.

7. Il-kumpanija intimata qeda ukoll tinvoka klawsola 13 tat-termini u kundizzjonijiet li jirregolaw ii-bonuses u unilaterlament qeda tarroga lilha nnifisha d-dritt li tiddeciedi li thallas jew li ma thallasx. Fl-ewwel lok, klawsola bhal din fejn parti f'kuntratt tista' tagixxi unilateralment hija nulla, ma torbotx u ma tistax tigi infurzata peress li hija fundamentalment inkompatibbli ma' kuntratt sinallagmatiku, anke jekk dato ma non concesso il-kumpanija intimata tista' tibbaza ruhha fuq klawsola bhal din, ir-rikorrenti mandanti jissottometti li fil-verita fit-termini tal-klawsola in kwistjoni, ma jezisti l-ebda suspett ragjonevoli fuq l-allegazzjonijiet maghmula mill-istess kumpanija intimata, kif imsemmi qabel, u ghalhekk il-kumpanija intimata qeda tagixxi b'mala fede.

8. Il-kumpanija intimata giet imsejha thallas l-imsemmija somma ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820) dovuti lir-rikorrenti mandanti, anke b'ittra ufficjali, datata 15 ta' Gunju 2015, u minkejja din l-ittra ufficjali il-kumpanija intimata baqghet ma hallsitx.

9. Ghalhekk qeghda ssir din il-kawza.

Ghar-ragunijiet kollha suesposti, tghid il-kumpanija intimata ghaliex din l-Onorabbli Qorti ma ghandhiex:

1. Tiddikjara li l-kumpanija intimata ghandha thallas lir-rikorrenti s-somma ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820);

2. Tikkundanna il-kumpanija intimata thallas is-somma ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820) lir-rikorrenti nomine

Bl-ispejjez, inkluzi dawk tal-ittra ufficjali datata 15 ta' Gunju 2015 u tal-mandat ta' sekwestru li qed tigi pprezentata kontestwalment, u bl-imghax kummercjali, kontra il-

kumpanija intimata li r-rapprezentanti guridici taghha huma minn issa msejha in subizzjoni.

Rat ir-risposta guramentata tas-socjeta konvenuta li tghid hekk:

1. Illi huwa minnu illi s-socjeta intimata hija socjeta registrata f'Malta u Iicenzjata u irregolata mill-Malta Gaming Authority.

2. Illi huwa minnu wkoll illi s-socjeta intimata topera s-sit elettroniku Kingplayer.com permezz ta' liema sit toffri, fost affarijiet ohra, loghob ta' casino.

3. Illi kuntrarju ghal dak li qed jigi premess mir-rikorrent nomine, mhuwiex minnu illi s-socjeta konvenuta ghandha thallas lir-rikorrent s-somma ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820).

4. Illi s-socjeta intimata qeghdha tirrifjuta Ii thallas dan l-ammont stante illi r-rikorrent kisser it-termini u kundizzjonijiet li jirregolaw il-bonuses u l-loghob tal-casino offruti fuq is-sit elettroniku Kingplayer.com u ghaldaqstant ir-rikorrent nomine ma ghandu l-ebda dritt jitlob il-hlas ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820).

5. Illi wara li rceviet I-ittra ufficali datata 16 ta' Gunju 2015, is-socjeta intimata spjegat ir-ragunijiet ghall-inadempjenza taghha permezz tal-ittra responsiva taghha datata 22 ta' Gunju 2015 (kopja allegata u rnmarkata Dok. 'EM1'), liema ragunijiet jinkludu I-fatt illi r-rikorrent mandanti, b'mod frawdolenti, abbuza mis-sistema tal-bonus offruta fuq l-istess sit elettroniku, u dan bi ksur ta' bosta klawzoli tat-termini u kundizzjonijiet li jirregolaw il-Ioghbiet offruti fuq l-istess sit, li jinkludu inter alia klawzoli 7, 10 u 13 tat-termini u kundizzjonijiet li jirregolaw ii-bonuses u klawzola 11 tat-termini u kundizzjonijiet genera li illi jirregolaw is-sit elettroniku.

6. Illi di piu, klawzola 3 tat-termini u kundizzjonijiet li jirregolaw iI-bonuses tispecifika illi: “Deliberately circumventing bonus conditions is an infraction of our terms and conditions and general casino rules".

7. Illi t-termini u kundizzjonijiet (inkluz il-klawzola 13 tat-termini u kundizzjonijiet Ii jirregolaw iI-bonuses) li jinsabu fuq is-sit elettroniku gew accettati mir-rikorrent mandanti fl-intier taghhom minghajr kwalunkwe rizerva u ghaldaqstant ma ghandu l-ebda dritt jiddetta liema klawzoli ghandhom jigu invokati jew le mis-socjeta intimata.

8. Illi ghalkemm huwa minnu illi permezz tal-klawzoia 13 tat-termini u kundizzjonijiet li jirregolaw iI-bonuses is-socjeta intimata ghandha d-dritt, f'kaz li hemm xi dubju dwar il-ksur ta' xi plejer tat-termini u kundizzjonijiet li jirregolaw il-Ioghob fuq is-sit elettroniku Kingplayer.com, li tiddeciedi li thallas jew li ma thallasx, fil-kaz tar-rikorrent mandanti, mhemm assolutament l-ebda dubju li huwa kiser I-imsemmija termini u kundizzjonijiet permezz tal-agir frawdolenti tieghu. Ghaldaqstant ghandhom jigu invokati l-klawzoli 7 u 10 tat-termini u kundizzjonijiet li jirregolaw iI-bonuses u klawzola 11 tat-termini u kundizzjonijiet generali illi jirregolaw is-sit elettroniku, f'termini ta' liema mhemm l-ebda hlas li ghandu jigi effettwat mis-socjeta intimata ghall-xi rebh li sehh b'rizultat ta' qerq u frodi (kopja tat-termini u kundizzjonijiet, kemm tal-bonuses kif ukoll dawk generali, hawn allegata u mmarkata Dok. 'EM2').

9. Illi s-socjeta intimata qatt ma agixxiet in mala fede, anzi huwa car illi r-rikorrent mandanti huwa in malafede u dana hekk kif se jirrizulta fit-trattazjoni ta' din l-kawza.

10. Illi l-investigazzjonijiet imsemmija fl-ittra responsiva tas-socjeta rikorrenti hawn allegata, liema investigazzjonijiet huma accennati f'paragrafu 5 tar-rikors guramentat promotorju, fil-fatt saru mid-Dipartiment ta' Frodi tas-socjeta intimata u l-ezitu ta' dawn l-investigazzjonijiet ser jigi pprezentat waqt is-smigh tal-kawza.

11. Illi ghar-ragunijiet fuq esposti u li dwarhom ser jingiebu x-xhieda fil-kors tas-smigh ta' din il-kawza, dina l-Onorabbli Qorti ghandha tirrespingi t-talbiet kollha imressqa mir-rikorrent nomine stante illi huma nfondati fil-fatt u fid-dritt u dan bl-ispejjez kontra l-istess rikorrent nomine li qed jigi ingunt in subizzjoni.

12. Illi ghalhekk ukoll is-socjeta intimata ma ghandhiex tigi ordnata minn din l-0norabbli Qorti li thallas is-somma ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820).

13. Salvi eccezzjonijiet ulterjuri hekk kif permessi mil-ligi

Rat l-atti u n-noti ta’ sottomissjonijiet;

Rat li l-kawza thalliet ghas-sentenza.

Ikkunsidrat

Provi

Aldexandru-Alin Bidescu declared that he is head of Risk and Fraud in the Group of Companies of which defendant company forms part. Defendant Company constantly monitors players’ activity in order to identify any unlawful and/or irregular behaviour such as money laundering, fraud and cheating. New players registering for the first time on the Kingplayer.com website and open an account are given a cash bonus which is credited to their account for them to play games. All bonus amounts are one time payments and are strictly limited to one person per household. With reference to plaintiff’s player activity they noticed a pattern of several players working together and abusing the bonuses simply to have at least one of the players winning a substantial amount. This pattern of collusive playing was not a coincidence (see transaction logs on page 27 et seq). The players were using similar classes of IP address which show the country and the location where the players were. All player deposits were made in the same amount of €300 and all these players were located in the same city of Santo Antonio dos Cavaleiros. The players’ usernames were in

the same format and all had a Gmail domain. All accounts were created in the same period and bets, placed in connection with the games, were similar to each other. All these players placed almost identical bets to each other until the bonus money was all used up. Once all the bonus money was used up, none of these players placed subsequent bets or deposits. They then opened up a new account and the playing pattern remained the same. It is highly likely that the funding of each of the new accounts was effected from the same machine. This can be confirmed by Neteller's representatives once they are relieved from their data protection obligations. This behavioural pattern is common in the remote gaming industry where several players' accounts are opened from the same device in order to receive multiple bonuses which are then used to play bets. More bonuses means more bets which equals an increased (though irregular) chance of winning. These players act in concert to gain an unfair advantage by increasing their chances of winning without necessarily using their own funds and abusing the bonus system instead. Any abuse or manipulation of this bonus system constitutes a serious breach of the Bonus Terms and Conditions and as such defendant company is authorised to void or freeze all the winnings obtained fraudulently in terms of Clause 6 of the Bonus Terms and Conditions and Clause 11 of the website's General Terms and Conditions of use. Based on the above, defendant company decided to void plaintiff's unlawful activity and not to award any winnings.

Under cross-examination witness answered that the alleged cheating related only to the bonus system. When a player registers and deposits say €300 he is given a bonus of another €300. The IP address is an internet protocol which gives you the address of the player. When the plaintiff wanted to withdraw the money they received some sparks telling them about association between players. The log-ins by the different players were made over an appreciative period of time. The times are different but the purpose and location were the same. As regards the format of the Gmail address there was a pattern and the players were from the same location. Every single IP address has the same class so they are dealing with the same physical machine. Jose Silva and Marisa Basilio both have 82.154 and again Maria Dias and Francisco Marcos. Most of the usernames are also the same. The IP Class does not change and it indicates the particular machine being used and the last set

of numbers changes every time a player enters in the computer. All the players made the deposit using the Neteller method.

Dr Claudia Sammut, direttur tas-socjeta intimata, xehdet li huma joperaw gaming websites u huma licenzjati mal-Malta Gaming Authority. Huma ghandhom terms and conditions approvati mill-MGA ghal min ikun irid juza s-sit taghhom (Dok. CS1 u 2). Meta wiehed jirregistra maghhom, hu jdahhal id-dettalji personali tieghu u jindika li jaccetta dawn il-kondizzjonijiet li jikkontrollaw il-loghob tieghu. Hu jittikja kaxxa li qed jaccetta dawn il-kondizzjonijiet ghax altrimenti ma jinfetahx account. Meta jinfetah account player jiddepozita flus u huma jaghtuhom one time bonus bhala promotion. It-terms u conditions japplikaw anke ghal dan il-bonus. Huma jaghtu bonus lil persuna wahda ghal kull apparat u dana biex jaraw li ma jkunx hemm frodi ghax jista' jkollok players li jinghaqdu u jifthu accounts flimkien 'player collusion' biex ikollhom aktar cans jirbhu u jaqsumhom bejniethom. Hemm cans ukoll li l-istess persuna tiftah multiple accounts. Huma ghandhom monitoring software approvat mill-MGA li jigbor id-data tal-players u juri l-accounts li kienu simili ghal dak li jirrigwarda dettalji tal-players, l-ammonti li gew depozitati, il-mod kif gew depozitati ezempju via Neteller, l-IP address li kien l-istess. L-IP address huwa li s-sit gie accessat mill-istess device/computer u dana huwa kkonfermat minn Neteller, il-payment provider. Ghandna nies specjalizzati fid-dipartiment tal-frodi. F'dan il-kaz ir-rikorrent ma kienx ilmenta mal-MGA kif inhi l-procedura imma kien mill-ewwel kitbilhom permezz tal-avukati tieghu.

Fuq kontroezami wiegbet li meta l-MGA tghidilhom li l-player ghandu ragun, huma jhallsu. Hi kienet tkellmet mal-Head of Fraud li nvestiga l-kaz u qal li l-player ma ghandux ragun. Is-software taghhom jaqbad patterns ta' meta jkun hemm frodi u ma jaqbadhomx fuq haga wahda.

Kevin O'Neil, rapprezentant tal-MGA, xehed li hu Manager Player Support, fejn huma jilqghu l-ilmenti tal-players anke on-line meta jkun hemm xi dispute mal-operatur jew website u jaghmluha ta' medjaturi. Huma qatt ma rcevew ilment minghand ir-rikorrent u huwa stramb kif ir-rikorrent ma ghamilx uzu minn dina l-

procedura. It-terms and conditions ta' dina l-website huma approvati mill-MGA. Klawzola 11 dwar player collusion hija wahda regolari.

Fuq kontroezami wiegeb li huma jircievu madwar tliet mitt ilment fix-xahar u dawn ma jkunx xi haga li tista ssolviha fi ftit minuti imma jridu nvestigazzjoni. Isibha difficili li jemmen li r-rikorrent ma kienx jaf li tezisti dina l-procedura ta' redress.

Dr Michele Magro xehed li l-MGA tagixxi bhala medjatur, izda jista' jkun hemm kazi fejn hemm ksur tal-Ligi Maltija dwar il-Gaming u l-materja imbaghad tigi riferuta lil Enforcement Department jew lil Compliance Department. L-azzjoni issir fil-konfront tal-operatur billi huma ma jirregolawx lil players. Huma jistghu jiehdu azzjoni kontra l-operatur jekk jirrifjuta li jhallas.

Svetoslav Lyudmilov Aleksiev declared that he is employed by Paysafe Bulgaria EOOD as Senior Fraud Manager. One of the products offered by Paysafe Financial Services Ltd, an indirect subsidiary of Paysafe Group, is an e-money account (NETELLER Account). PFSL collects the customer's money into its bank account and credits the customer's NETELLER account with the equivalent amount of e-money. On line retailers using NETELER services can accept payments from NETELLER accounts offered by PFSL. Claimant opened a Neteller account with PFSL on 12th September 2011. Defendant started using Neteller services on 23rd June 2009.

From an investigation into their system he confirmed that:
1. All the individuals mentioned in Annex A (a fol. 89) have registered a Neteller account with PFSL.
2. Between 26/06/2014 and 13/05/2015 all these individuals made a payment in the amount of €300 to defendant company (Annex B for transaction confirmations).
3. The individuals stated in Annex A have used common IP addresses and devices as set out in Annex C.

Dr Claudio Overend, legal consel mal-kumpanija konvenuta, spjega kif tahdem is-sistema tal-bonus u qal li jkun hemm hafna abbuzi f'dan ir-rigward, ghalhekk huma

ghandhom it-terms and conditions u mezzi ta' kontroll. Qabel ma player jigi registat maghom irid jaccetta dawn it-terms and conditions. Il-players indikati a fol. 89 uzaw l-istess apparat u IP address biex fethu l-kont u ghamlu d-depozitu. Fir-rigward tal-Annex C a fol. 97 qal li jidher li huma qed juzaw l-istess IP Address u common device kif ikkonfermat minn Neteller. Huma gejjin minn l-istess lokalita'. L-istess apparat jista jkollu IP address differenti skond minn fejn taqbad mal-Internet, pero d-device huwa l-istess.

In kontroezami wiegeb li f'lokalita wahda ezempju bhal Malta jew l-Portugal ma hemmx IP address wiehed. Neteller qalu li hemm common device ghal kull wiehed minn dawk il-players. Jista' jkollok device wiehed imma aktar minn IP address wiehed. Il-punt krucjali hawn huwa li huma kienu qed juzaw a common device anke jekk ikollhom IP addresses differenti. Id-device ikun qed jintuza minn post partikolari avvolja l-IP address ikun qed jirreferi ghal pajjiz differenti, bhala ma tista tuza mobile f'Malta u l-IP address tieghek ikun fl-Amerika.

Hugo Jose' testified that he had opened an account with defendants and deposited €300 and received a bonus of €300. He played two games and won €25,820 which defendant company refused to pay alleging fraud and collusion. In view of this he approached some internet sites, Gambling Grumbles and Askgamblers with a view to obtain an opinion of defendant's company refusal to pay. He got a favourable view (see JH1 and JH2) from Gambling Grumbles.

As regards the analysis made by defendant company he states:
The IP addresses are different. In some of them the first five numbers match, but all of them have different numerical figures which means that the accounts in question were registered on different devices even though in the same geographical region;
There are about 1 billion gmail users yet defendant company found collusion in a sample fo 13 users.
Defendants say that all these accounts were created in the same period whereas the analysis shows that they were created in a period of months not days.
The opening balance is always the same amount as the bonus.

Konsiderazzjonijiet ta' din il-Qorti

Hugo Jose', rapprezentat f'dina l-kawza mill-mandanti tieghu, qed jitlob is-somma ta' hamsa u ghoxrin elf tmien mija u ghoxrin ewro (€25,820) fuq zewg loghbiet fuq is-sit elettroniku (Casino) Kingplayer.com,. Il-kumpanija intimata qieghda tirrifjuta li thallas.

Il-kumpanija intimata wiegbet li hija rrifjutat li thallas dan l-ammont stante illi r-rikorrent kiser it-termini u kundizzjonijiet li jirregolaw il-bonuses u l-loghob tal-casino offruti fuq s-sit elettroniku taghha Kingplayer.com. Il-kumpanija intimata taghmel referenza ghar-risposta taghha (Dok. EM1 a fol. 11) li hija kienet baghtet ghall-ittra ufficjali tar-rikorrent fejn tat ir-ragunijiet ghaliex hija kienet qed tirrifjuta li thallas is-somma mitluba. Dawn kienu jinkludu l-fatt illi r-rikorrent, b'mod frawdolenti, abbuza mis-sistema tal-bonus offruta fuq l- istess sit elettroniku, bi ksur inter alia tal- klawzoli 7, 10 u 13 tat-termini u kundizzjonijiet li jirregolaw il-bonuses u klawzola 11 tat-termini u kundizzjonijiet generali illi jirregolaw is-sit elettroniku.

It-termini u kundizzjonijiet li jirregolaw il-bonuses li jinsabu fuq is-sit elettroniku u dawk li jirregolaw is-sit elettroniku huma approvati mill-MGA u gew accettati mir-rikorrent fl-intier taghhom minghajr ebda rizerva meta fetah il-kont mal-kumpanija intimata.

Fid-dokument EM2, li hu l-Bonus Terms and Conditions, hemm ipprovdut fost l-ohrajn hekk:

Klawzola 3 li tirregola il-bonuses tispecifika illi: "Deliberately circumventing bonus conditions is an infraction of our terms and conditions and general casino rules. Players who attempt to breach our terms and conditions, or general rules, face banning and confiscation of all winnings.

Klawzola 7: KINGPLAYER reserves the right to refuse the issuing of bonuses or cancel such bonuses should fraudulent behaviour be suspected.

Klawzola 10: Kingplayer.com management reserves the right to void any bonuses and/or winnings obtained by fraudulent behaviour (enfazi tal-Qorti).

Fir-risposta taghha l-kumpanija intimata ddikjarat li fil-kaz in ezami, "after carrying out the necessary investigations, the Company has observed a clear pattern of bonus abuse in your client's casino account deposits. Identical patterns have been detected among your client's deposits and other users' deposits which include, but are not limited to, betting and game selection as well as deposits being submitted within the same limited time-frame".

Illi mill-provi prodotti jirrizulta li meta player kien jirregistra biex jilghab fuq is-sit elettroniku tal-kumpanija intimata, hu jdahhal id-dettalji personali tieghu u jindika li qed jaccetta il-kondizzjonijiet li jikkontrollaw il-loghob tieghu. Meta jinfetah kont il-player jiddepozita somma flus u jinghata one time bonus bhala promozzjoni, generalment ekwivalenti ghall-ammont li jkun iddepozita. Il-bonus jinghata lil persuna wahda ghal kull apparat u dana biex il-Casino jara li ma jkunx hemm frodi ghax jista jkollok players li jinghaqdu u jifthu accounts flimkien, dik li tissejjah 'player collusion', biex huma jkollhom aktar chances li jirbhu, imbaghad jaqsmu r-rebh bejniethom. Hemm cans ukoll li l-istess persuna tiftah aktar minn kont wiehed. Il-Casino pero ghandhu monitoring software approvat mill-MGA li jigbor id-data tal-players, juri l-accounts li fethu, dettalji tal-players, l-ammonti li gew depozitati, il-mod kif gew depozitati (ezempju via Neteller f'dan il-kaz), l-IP address u d-device li ntuza. Is-software jaqbad patterns ta' loghob fejn jista' juri li hemm frodi u dan jaghmlu mhux fuq pattern wiehed.

Illi fil-kaz in ezami r-rikorrent ma thallasx mill-kumpanija intimata billi qed jigi allegat li kien hemm player collusion bi ksur tat-terms and conditions tal-kumpanija.

Aldexandru-Alin Bidescu, kap tar-Risk and Fraud fil-Group of Companies li minnha l-kumpanija intimata tifforma parti, xehed li:

> With reference to plaintiff's player activity they noticed a pattern of several players working together and abusing the bonuses simply to have at least one of the players winning a substantial amount. This pattern of collusive playing was not a coincidence (see transaction logs on page 27 et seq.). The players were using similar classes of IP address which show the country and the location where the player were. All player deposits were made in the same amount of €300 and all these players were located in the same city of Santo Antonio dos Cavaleiros. The players' usernames were in the same format and all had a Gmail domain. All accounts were created in the same

period and bets, placed in connection with the games, were similar to each other. All these players placed almost identical bets to each other until the bonus money was all used up. Once all the bonus money was used up, none of these players placed subsequent bets or deposits. They then opened up a new account and the playing pattern remained the same. It is highly likely that the funding of each of the new accounts was effected from the same machine. All the players made the deposit using the Neteller method.

Svetoslav Lyudmilov Aleksiev, xehed li r-rikorrent fetah Neteller account maghhom minn fejn saru l-pagamenti u mill- investigazzjoni li ghamlu fis-sistema taghhom dwar dana l-kont irrizultalhom li:

1. All the individuals mentioned in Annex A (a fol. 89) have registered a Neteller account with PFSL.
2. Between 26/6/2014 and 13/5/2015 all these individuals made a payment in the amount of €300 to defendant company (Annex B for transaction confirmations).
3. The individuals stated in Annex A have used common IP addresses and devices as set out in Annex C.

Ir-rikorrent jikkontesta d-decizjoni tal-kumpanija intimata u dwar l-analisi li hija ghamlet sostna li:

Jghid li d-data partikolari u unika li dwarha s-socjeta intimata kellha ggib prova kienet id-data tat-13 ta'Mejju 2015 (id-data meta r-rikorrent fetah il-kont) u mhux data ohra.

L-IP addresses huma differenti. Fi ftit minnhom hemm l-ewwel hames numri li huma l-istess imma l-kumplament ma jaqblux, u dan ifisser li ma kienx qed jintuza l-istess device anke jekk gejjin mill-istess lokalita.

Hemm daqs biljun persuna li ghandhom gmail address u l-fatt li nstabu 13 b'indirizz simili ma jfissirx li kien hemm pattern u collusion.

Dawn l-accounts ma nfethux flimkien fi zmien ftit granet jew gimghat imma fuq perijodu ta' xhur.

L-opening balance generalment ikun l-istess ammont kif ukoll il-bonus moghti.

Fil-fehma tal-Qorti, l-kumpanija intimata, fuq bazi ta' probabilita', rnexxilha tipprova li kien hemm pattern ta' player collusion f'dan il-kaz. Dan il-pattern inqabad permezz ta' software li ghandha l-kumpanija intimata u gie notat li dan ma kienx ristrett ghal cirkostanza wahda imma kien hemm diversi fatturi ohra li flimkien jindikaw pattern tal-loghob, kif kien qed isir u minn min. Is-software tal-kumpanija intimata qabad

pattern fid-data tal-players li laqghbu fis-site taghha. Il-pattern ma jinqabadx f'gurnata wahda, ghalhekk huwa pattern, ghax juri stampa mifruxa fuq diversi granet u diversi modalitajiet.

Il-pattern kien jinkludi s-segwenti:
The players were using similar classes of IP addresses (fol. 27).
All these players were located in the same city of Santo Antonio dos Cavaleiros (fol. 27).
All player deposits were made in the same amount of €300 (fol. 29-30, u 90 et seq.).
The players' usernames were in the same format and all had a Gmail domain (fol. 31 para 3, 97).
All accounts were created in the same period.
Bets placed in connection with the games were similar to each other.
All these players placed almost identical bets to each other until the bonus money was all used up.
Once all the bonus money was used up, none of these players placed subsequent bets or deposits.
They then opened up a new account and the playing pattern remained the same.
The funding of each of the new accounts was effected from the same machine.
All the players made the deposit using the Neteller method (fol. 89), xhieda ta' Svetoslav Lyudmilov Aleksiev).

Ghalkemm cirkostanza wahda waheda mhijiex determinati, kollha flimkien jiffurmaw pattern li hu indikativ ta' collusion. Jirrizulta illi l-istess indirizz ta' IP u/jew l-istess apparat elettroniku gie wzat sabiex isiru d-depoziti biex jinfetah il-kont u jinghataw il-bonus (ara Annex C). L-ewwel hames numru tal-IP huma l-istess bhala hames numri tal-indirizzi ta' IP li gew identifikati f'isem Hugo Jose u anke ta' individwi ohra fit-transcation logs. Ghalkemm l-IPs kienu simili u mhux identici, l-ewwel hames numri tal-IP jindika l-komputer partikolari li kien qed jintuza. Gie uzat l-istess apparat u f'xi okkazzjonijiet anke l-istess apparat gie wzat fl-istess hin minn Hugo Jose u individwi. Apparti dana pero huwa important il-fatt, kif ikkonfermat mir-rapprezentant ta' Paysafe li l-individwi kollha imsemmija f'Annex A fethu kont ma' Neteller u kollha ghamlu pagament ta' €300.

Ghalhekk fil-fehma tal-Qorti gie pruvat li kien qed tintuza sistema li biha kienet qed isir rebh kontra t-termini u kondizzjonijiet tal-Casino. Ghalkemm sar rebh tal-ammont miltub, dan pero b'mod illegali, u ghalhekk is-socjeta rikorrenti ghandha dritt li tirrifjuta skond dawk il-kondizzjonijiet li taghmel il-pagament.

It-talba tar-rikorrent ghalhekk ma tistax tigi milqugha.

Decide

Ghal dawn il-motivi l-Qorti tiddeciedi billi tichad it-talbiet tar-rikorrent nomine, bl-ispejjez kontra tieghu.

Onor. Mark Chetcuti LL.D.
Imhallef

Anne Xuereb
Deputat Registratur