

TRIM ID: CD/23/2956

31 March 2023

Ms Naomi Murray
Nominee/General Manager
Mordialloc Sporting Club

By email only: manager@mordyhg.com.au

Dear Ms Murray

Disciplinary action pursuant to section 3.4.25 of the *Gambling Regulation Act 2003*

On 4 November 2022, the Victorian Gambling and Casino Control Commission (**the VGCCC**) issued a Notice to Show Cause (**the Notice**) to the Mordialloc Sporting Club Inc (**MSC**), in accordance with section 3.4.25 of the *Gambling Regulation Act 2003* (**the Act**).

The Notice was issued in relation to multiple alleged breaches of sections 3.6.6B and 3.6.6C of the Act, which requires that gaming tax is payable within 7 days after the end of the calendar month with the tax relates.

It is alleged that MSC failed to remit gaming tax as required by the Act in May, June and September 2022.

Response to the Notice

In accordance with the terms of the Notice, according to 3.4.25(2) of the Act, MSC was provided with 28 days to respond to the Notice and MSC responded on 9 November 2022 (**the Response**).

The Response submitted:

- MSC was under cashflow pressures due to the 3-year legal proceeding against the previous committee, which resulted in a legal cost of \$50,000.
- MSC notified the VGCCC of its difficulty in paying the gaming taxes for April and May 2022 and submitted a weekly payment plan.
- For the September 2022 gaming taxes, due to the change in tax rate thresholds, the tax amount was much higher than expected.
- MSC has paid most of the tax obligations and, at the time, submitted another payment plan for the remaining outstanding balance.

After assessing the Response, the VGCCC sent a further letter to MSC on 28 December 2022 advising that a follow-up audit would be conducted by inspectors from the VGCCC's Venue Operations team in January 2023 in relation to findings from a recent venue inspection. Given

this, the VGCCC advised that it would postpone its decision on taking disciplinary action until the issues raised by the Venue Operations team were addressed.

On 8 March 2023, the VGCCC's Venue Operations team sent a letter to MSC, in response to the follow-up audit in January, directing it deposit \$10,000 into the account used for the payment of cheques, to mitigate the risk of funds not being available to pay any future tax obligations. MSC was given 28 days from 8 March 2023 to comply with this direction.

On 24 March 2023, the VGCCC noted MSC had maintained a level greater than \$10,000 in the account since 23 February 2023, therefore adequately responding to the direction of the VGCCC.

VGCCC's decision and reasons for the decision

After considering the Responses and actions taken by MSC to address the Venue Operations audit findings, the VGCCC has determined that there are grounds for taking disciplinary action against MSC pursuant to section 3.4.25 of the Act. This is because the MSC breached its gaming tax obligations under the Act in May, June and September 2022 by not paying gaming tax within 7 days after the end of the calendar month to which the tax relates.

Key considerations I have taken into account in arriving at what disciplinary action to take include:

- MSC has failed to comply with its obligations to pay gaming tax in a timely manner and on several occasions;
- The need to specifically deter MSC and other venue operators from acting in a similar fashion and the need for ongoing compliance;
- Subsequent to the breaches, MSC has taken reasonable action, cooperated with the regulator and paid all the outstanding gaming taxes and penalty interest in full;
- The unusual circumstances that led to a cash flow problem at the MSC, which impacted its ability to pay required gaming taxes, that being the legal proceedings against the previous committee;
- The impact of the change in committee members during the times that gaming tax was due and payable;
- MSC complied with the direction issued by the VGCCC on 8 March 2023 and that MSC has not had a similar breach since September 2022.

Given the above, I have determined that the disciplinary action to be taken in relation to this matter is a fine of **\$10,000**. However, I have decided this fine will be effectively suspended on condition that the MSC pays the required monthly gaming tax for the venue within 7 days after the end of each calendar month to which the tax relates, for one year.

If the MSC fails to pay the requisite gaming tax as outlined above, for any month in the next year, the fine shall become immediately payable. However, should the MSC comply with this requirement, the fine shall become spent and is not required to be paid.

I also remind you of your obligations contained within the VGCCC's Accounting and Auditing Venue Requirements, in relation to the maintenance of a nominated gaming account and the processes to ensure that all future gaming venue tax obligations can be met. It is paramount that you understand these requirements and comply with them at all times.

A copy of this decision will be retained by the VGCCC and will be taken into consideration should further grounds for disciplinary action be established in future.

Should you require further information, please contact the VGCCC on 1300 182 457.

Yours sincerely



Jason Cremona

Director

Regulatory Services Division