

Article Information

Authors: Andrea Beatty, Chelsea Payne, Shannon Hatheier
Service: Banking & Finance, Banking & Finance Litigation
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CBA's gamble lands them \$150,000 out of pocket

The Commonwealth Bank of Australia has been fined for its role in funding David Harris' multi-year gambling binge, two years after the Hayne Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry first heard the case.

Over two years after the Hayne Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry heard the case of David Harris, the Commonwealth Bank of Australia (**CBA**) has been fined for its role in funding Harris' multi-year gambling binge.

On 22 October 2020 the Federal Court of Australia ordered CBA to pay a penalty of \$150,000 for contraventions of the responsible lending provisions of the National Consumer Credit Protection Act (**NCCP Act**). The penalty was issued in respect of the bank's failure to take account of, and adequately respond to, notifications by a customer, Mr Harris, that he was a problem gambler.

According to court documents, CBA increased Mr Harris' credit limit from \$27,1000 to \$35,100 only three months after Mr Harris notified a staff member that he did not wish to increase his credit limit until he was able to get his gambling under control. Mr Harris subsequently ended up in serious debt due to a gambling binge funded by the bank's credit cards. The court stated that CBA had failed to take reasonable steps to verify Mr Harris' financial situation before offering and approving a credit card limit increase. The bank's misconduct was held to have contravened sections 128(d), 130(1), 131(1) and 133(1) of the NCCP Act.

ASIC commenced proceedings on the matter in March earlier this year to which CBA responded by agreeing to the facts and allegations a month later. In arriving at a penalty, the Court took into consideration CBA's admission and high level of cooperation with ASIC in investigating the matter. In coming to his conclusion, Murphy J noted that having regard to the nature and gravity of the contraventions, a penalty of \$150,000 would adequately serve as a deterrent.

CBA has admitted that the breach was the consequence of inadequate systems and processes intended to manage problem gambler notifications. They have since taken corrective measures to address the systems failures and finalise a hardship agreement with Mr Harris. According to CBA, customers can elect to block gambling purchases on their credit or debt card and can seek confidential support from its specialised community wellbeing team.

Despite limited access to venues during COVID-19, a survey conducted by the Australian Institute of Family Studies has revealed a noticeable increase in the incidence of gambling throughout the pandemic. It is therefore essential that financial institutions are responsive to customer difficulties and have adequate systems to respond to such notifications.