

Gaming giant accused of bid to pay off rival

EXCLUSIVE

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GAMING giant Tabcorp tried to persuade a rival not to bid for Victoria's lucrative poker machine licence with a \$20 million inducement, court documents show.

The statement of claim lodged by Clubs Victoria as part of a dispute with its former president, Leon Wiegard, alleges that Tabcorp offered a lump sum of \$5 million and annual payments of \$1.5 million over 10 years if the Government maintained the status quo and renewed Tabcorp's poker machine licence beyond 2012.

The offer was allegedly made by Tabcorp managing director Elmer Funke Kupper on March 7 this year, the same day *The Age* revealed that Clubs Victoria had launched a bid to operate poker machines and break the duopoly held by Tabcorp and Tatts Group.

Clubs Victoria, which represents 400 non-profit gaming venues, said Mr Wiegard received an updated offer from Mr Funke Kupper five days later, with two new conditions.

The documents lodged by Clubs Victoria in the Supreme Court state that the conditions were: "(Clubs Victoria) refrain from participating in any bidding process for gaming licences; and issue a press release by 4pm that day (March 12) stating that the plaintiff (Clubs Victoria) supported the current gaming licence structure and that there should be no changes."

The secret deal was scuppered at 3.57pm that day after Clubs Victoria chief executive Margaret Kearney did not respond to the revised terms and the deal was pulled by Mr Funke Kupper, according to the documents.

Clubs Victoria's lawyers claim to have copies of all email correspondence with Tabcorp



executives, which are expected to attract scrutiny from the Australian Securities and Investments Commission and the Australian Competition and Consumer Commission.

Several commercial law experts told *The Age* Tabcorp's alleged conduct could breach Trade Practices Act provisions relating to anti-competitive behaviour and exclusive dealing. This carries fines of up to \$10 million or three times the value of the breach.

Melbourne Law School's director of competition law studies, Caron Beaton-Wells, said interfering in a tender bid was a similar offence to price-fixing under the Trade Practices Act. But Ms Beaton-Wells said Tabcorp's executives were unlikely to face criminal charges.

"The ACCC has been campaigning for criminal sanctions for serious forms of cartel conduct, which would include rigging bids for tenders, but anything that is currently the subject of litigation would not attract criminal penalties," she said.

But the State Government may ask the Victorian Commission for Gambling Regulation to examine the allegations, possibly threatening Tabcorp's bid to renew its \$700 million wagering and sports betting licence.

The listed company is still smarting from the State