
TRANSCRIPT OF PROCEEDINGS

COMMISSIONER: HON. RAY FINKELSTEIN AO QC

**IN THE MATTER OF A ROYAL COMMISSION
INTO THE CASINO OPERATOR AND LICENCE**

MELBOURNE, VICTORIA

09.34 AM, MONDAY, 28 JUNE 2021

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Counsel for Crown Resorts Limited	MR MICHAEL BORSKY QC MS CATHERINE BUTTON QC
Counsel for Victorian Commission for Gambling and Liquor Regulation	MR PETER ROZEN QC
Counsel for Consolidated Press Holdings	MR OREN BIGOS QC MR NOEL HUTLEY SC MS KATHERINE BRAZENOR MR TOM O'BRIEN MS FIONA CAMERON
Counsel for the State of Victoria	MR PETER GRAY QC

08:55 1 **HOUSEKEEPING**

08:57 2

08:57 3

09:34 4 **COMMISSIONER:** A few things before we start the evidence.

09:34 5 Firstly, I want to record that Mr Walsh's evidence

09:34 6 concluded early on Friday due to his circumstances. As a

09:34 7 result it has been decided that we won't require his

09:34 8 further attendance. That might change if Crown takes

09:34 9 a different position but at the moment we don't require

09:34 10 his further attendance.

09:34 11

09:34 12 The second matter concerns you, Mr Borsky. We received

09:34 13 correspondence on Friday, I guess with a short statement

09:34 14 from Mr Maher, which at some stage I will tender so it is

09:35 15 part of the evidence. But that's not the difficulty.

09:35 16 The difficulty is together with the statement we received

09:35 17 quite a number of emails with, I think, the content of

09:35 18 every single email redacted. So we have emails that say

09:35 19 from and to, and the first one that I've got says "All,

09:35 20 (blank), regards". The second one says "Dear" and

09:35 21 "regards" and so has no content whatsoever. There are

09:35 22 three ways of looking at it. It is likely the contents

09:36 23 are important for me, so the question is, can I get to

09:36 24 read them. There are two legally interesting ways: one

09:36 25 is that the contents for outside my ruling of what you

09:36 26 don't produce, that is because the subject matter is

09:36 27 likely, having regard to the contents of Mr Maher's

09:36 28 statement and the previous evidence, one is that the

09:36 29 contents are likely to do with contraventions or possible

09:36 30 contraventions, and you remembered my March ruling was

09:36 31 you have to provide those. The second possibility is

09:36 32 that they are to do with disclosure, in which case

09:36 33 they've been waived, not the contents, and the third

09:36 34 thing is I just revoke my March ruling and get them that

09:37 35 way.

09:37 36

09:37 37 I would like you to think about that, and not now, but at

09:37 38 some convenient point today or tomorrow morning, so we

09:37 39 can discuss it, I don't want to leave it undone. If

09:37 40 there is a waiver, they are public.

09:37 41

09:37 42 **MR BORSKY:** I beg your pardon?

09:37 43

09:37 44 **COMMISSIONER:** If there is a waiver, they will become public.

09:37 45 If they are in the first category ---

09:37 46

09:37 47 **MR BORSKY:** Understood.

09:37 1
09:37 2 COMMISSIONER: Okay.
09:37 3
09:37 4 MR BORSKY: I will educate myself about that as immediately
09:37 5 as I'm able.
09:37 6
09:37 7 COMMISSIONER: Have a look at the emails. You will learn
09:37 8 nothing.
09:37 9
09:37 10 MR BORSKY: I take your word to the extent of the redactions.
09:37 11 I will educate myself as to the possible justifications for it as
09:37 12 immediately as I'm able.
09:37 13
09:37 14 On the question of waiver, though, Commissioner ---
09:37 15
09:37 16 COMMISSIONER: I'm talking about a narrow waiver.
09:37 17
09:37 18 MR BORSKY: Our narrow waiver being the question of
09:37 19 disclosure of the jackpots tax issue to this Commission. That's
09:38 20 the extent of our waiver as settled, if I may put it that way,
09:38 21 respectfully, between you and Crown.
09:38 22
09:38 23 COMMISSIONER: No, I was talking about the waiver in the
09:38 24 letter when you said there was a mistaken omission from the
09:38 25 schedules.
09:38 26
09:38 27 MR BORSKY: Yes.
09:38 28
09:38 29 COMMISSIONER: That is, the instructions about disclosure, if
09:38 30 a waiver.
09:38 31
09:38 32 MR BORSKY: Yes, in relation to the jackpot tax issue.
09:38 33
09:38 34 COMMISSIONER: Correct. Well, that's the subject of the
09:38 35 waiver ---
09:38 36
09:38 37 MR BORSKY: I need to educate myself about it, but it is
09:38 38 possible that a view has been taken that the extent of the
09:38 39 redactions are to cover other questions of disclosure to the
09:39 40 Commission which still would, as I understand it, be within the
09:39 41 scope of your March ruling.
09:39 42
09:39 43 COMMISSIONER: Then there won't be a waiver, then they are
09:39 44 required to be disclosed, they will be privileged. If they go to
09:39 45 contraventions or possible contraventions.
09:39 46
09:39 47 MR BORSKY: Yes. If that is the carveout to your March ruling.

09:39 1
09:39 2 COMMISSIONER: And the whole topic is disclosure about
09:39 3 disclosure of contraventions --- it has no other subject.
09:39 4
09:39 5 MR BORSKY: I follow.
09:39 6
09:39 7 COMMISSIONER: If they are talking about Saturday's football
09:39 8 game you can redact that, but if the subject matter is actual or
09:39 9 possible contraventions, you are required to disclose and it will
09:39 10 be privileged.
09:39 11
09:39 12 MR BORSKY: I follow. With respect.
09:39 13
09:39 14 COMMISSIONER: At some stage.
09:39 15
09:39 16 MR BORSKY: I will seek instructions and we will address it as
09:39 17 soon as we can.
09:39 18
09:39 19 COMMISSIONER: Thank you very much. Okay.
09:40 20
09:40 21 MS NESKOVCIN: Commissioner, the next witness is Michelle
09:40 22 Fielding. She is in the witness box waiting to be sworn.
09:40 23
09:40 24 COMMISSIONER: Sorry for the delay.
25
26
27 **MS MICHELLE LOUISE FIELDING, AFFIRMED**
28
29
30 **EXAMINATION-IN-CHIEF BY MS NESKOVCIN**
31
32
09:40 33 MS NESKOVCIN: Good morning. Could you state your full
09:40 34 name?
09:40 35
09:40 36 A. Michelle Louise Fielding.
09:40 37
09:40 38 Q. Your business address?
09:40 39
09:40 40 A. 8 Whiteman Street, Southbank.
09:40 41
09:40 42 Q. You are currently the Group Executive General Manager,
09:40 43 regulatory and compliance, at Crown Resorts Ltd?
09:40 44
09:40 45 A. That is correct.
09:40 46
09:40 47 Q. You qualified as a lawyer in the mid-2000s?

09:40 1
09:40 2 A. Yes, correct.
09:40 3
09:40 4 Q. You joined Crown in October 2008 as the general manager
09:40 5 of compliance?
09:40 6
09:40 7 A. No, that's not correct.
09:40 8
09:40 9 Q. What was your role?
09:41 10
09:41 11 A. I started in Crown at 1997. And left in 2005. Returned in
09:41 12 2008 as the manager of compliance.
09:41 13
09:41 14 Q. Am I right about when you qualified as a lawyer?
09:41 15
09:41 16 A. Yes.
09:41 17
09:41 18 Q. So you started at Crown before you were a lawyer, you
09:41 19 qualified and then you came back in 2008, and sorry I didn't catch
09:41 20 the title at that point?
09:41 21
22 A. Compliance Manager.
23
24 Q. Thank you. By March 2017 you were the Group General
25 Manager, regulatory and compliance, is that correct?
26
27 A. Yes.
28
29 Q. I understand you had a period of time away from Crown?
30
31 A. That was what I just referred to.
32
09:41 33 Q. Thank you. At some point your title changed to Group
09:41 34 Executive General Manager, regulatory and compliance. When
09:41 35 was that approximately?
09:41 36
09:41 37 A. 1 January this year.
09:41 38
09:42 39 Q. Thank you. Most of the questions I am going to ask you
09:42 40 therefore concern your previous role as Group General Manager,
09:42 41 regulatory and compliance. Is it all right if I just call that your
09:42 42 role as compliance manager?
09:42 43
09:42 44 A. That's fine.
09:42 45
09:42 46 Q. Thank you. As compliance manager you were responsible
09:42 47 for ensuring overall operational compliance at the casino?

09:42 1
09:42 2 A. That is correct.
09:42 3
09:42 4 Q. And that included overseeing the effectiveness of
09:42 5 compliance activities and frameworks across Crown?
09:42 6
09:42 7 A. Yes.
09:42 8
09:42 9 Q. It also included ensuring the maintenance of the casino
09:42 10 licence?
09:42 11
09:42 12 A. That's correct.
09:42 13
09:42 14 Q. You were responsible for liaising with government
09:42 15 representatives?
09:42 16
09:42 17 A. Yes.
09:42 18
09:42 19 Q. And responding to regulatory requests?
09:42 20
09:42 21 A. Yes.
09:42 22
09:42 23 Q. You also performed general advice work providing advice
09:42 24 to the business?
09:42 25
09:42 26 A. (Inaudible).
09:42 27
09:42 28 Q. As the compliance manager you are the contact point
09:42 29 between Crown and the VCGLR the regulator?
09:42 30
09:42 31 A. To a level, at an operational level, rather than at
09:42 32 an executive level.
09:42 33
09:43 34 Q. What's the difference?
09:43 35
09:43 36 A. So for matters in day-to-day operations, because my team
09:43 37 deals with things like the casino boundary approvals and game
09:43 38 rules, et cetera, we deal with people at an operational level.
09:43 39
09:43 40 COMMISSIONER: Can you push the microphone closer.
09:43 41
09:43 42 A. Sorry.
09:43 43
09:43 44 MS NESKOVICIN: Would that mean you are the first point of
09:43 45 contact until something needs to be escalated?
09:43 46
09:43 47 A. Not all things needed to be escalated, there were things that

09:43 1 would start at a senior level that the CEO or my manager would
09:43 2 deal with instead of me.
09:43 3
09:43 4 Q. All right. You are also the primary contact for police
09:43 5 requests in relation to information regarding criminal activity at
09:43 6 the casino?
09:43 7
09:43 8 A. My team is, yes.
09:43 9
09:43 10 Q. You were involved in the Sixth Casino Review?
09:43 11
09:43 12 A. Yes.
09:43 13
09:43 14 Q. That included attending meetings and having various
09:43 15 discussions with the VCGLR?
09:43 16
09:43 17 A. That's correct.
09:43 18
09:44 19 Q. You are also involved in the implementation of the Sixth
09:44 20 Review recommendations?
09:44 21
09:44 22 A. Yes.
09:44 23
09:44 24 Q. In your role as compliance manager I understand you
09:44 25 initially reported to Debra Tegoni?
09:44 26
09:44 27 A. That's correct.
09:44 28
09:44 29 Q. She was the Executive General Manager, legal and
09:44 30 regulatory services?
09:44 31
09:44 32 A. Yes.
09:44 33
09:44 34 Q. And then you reported to Mr Joshua Preston?
09:44 35
09:44 36 A. Yes.
09:44 37
09:44 38 Q. When did the changeover occur, roughly?
09:44 39
09:44 40 A. I think it was March 2017.
09:44 41
09:44 42 Q. Was that because Ms Tegoni left?
09:44 43
09:44 44 A. Yes.
09:44 45
09:44 46 Q. Or was there an organisational restructure?
09:44 47

09:44 1 A. No, she left and Mr Preston took over as Chief Legal
09:44 2 Officer.
09:44 3
09:44 4 Q. As I understand it, now the Chief Legal Officer role has
09:44 5 been removed and replaced with some other role?
09:44 6
09:44 7 A. That's correct.
09:44 8
09:44 9 Q. What has it been replaced with?
09:44 10
09:44 11 A. Nothing at the property level but they've recently hired
09:45 12 a Chief Legal Officer for Crown Resorts. So the general
09:45 13 managers at each property are reporting through to that role.
09:45 14
09:45 15 Q. So there is a new Chief Legal Officer at Crown Resorts
09:45 16 Ltd?
09:45 17
09:45 18 A. That's correct.
09:45 19
09:45 20 Q. Commencing when?
09:45 21
09:45 22 A. I think she started this week.
09:45 23
09:45 24 Q. And at the property level there is a general manager who
09:45 25 reports to her?
09:45 26
09:45 27 A. That's correct.
09:45 28
09:45 29 Q. Who is it for Crown Melbourne?
09:45 30
09:45 31 A. Jan Williamson.
09:45 32
09:45 33 Q. Thank you. Due to the organisational restructure I
09:45 34 understand you now report to Mr Blackburn, the Chief
09:45 35 Compliance and Financial Crimes Officer?
09:45 36
09:45 37 A. That's correct.
09:45 38
09:45 39 Q. When did that take effect?
09:45 40
09:45 41 A. About two months ago, approximately.
09:45 42
09:45 43 Q. You are also a member of several committees. I want to go
09:46 44 through those briefly with you, Ms Fielding. You are the Chair of
09:46 45 the Persons of Interest Committee?
09:46 46
09:46 47 A. Yes.

- 09:46 1
09:46 2 Q. That's the committee that is responsible for reviewing
09:46 3 information about Persons of Interest, as the name suggests, and
09:46 4 considering whether patrons should be allowed or prevented from
09:46 5 entering the casino?
09:46 6
09:46 7 A. Yes.
09:46 8
09:46 9 Q. Is that for all casinos or just the Melbourne casino?
09:46 10
09:46 11 A. It was for the Melbourne casino but it is now a group
09:46 12 committee.
09:46 13
09:46 14 Q. You are also a member of the Whistleblowers Committee?
09:46 15
09:46 16 A. Yes.
09:46 17
09:46 18 Q. The Executive Risk and Compliance Committee for Crown
09:46 19 Melbourne?
09:46 20
09:46 21 A. Yes.
09:46 22
09:46 23 Q. The AML Committee?
09:46 24
09:46 25 A. No.
09:46 26
09:46 27 Q. Were you previously a member of this committee?
09:46 28
09:46 29 A. For a period of time, yes.
09:46 30
09:46 31 Q. What period of time was that?
09:46 32
09:46 33 A. Just roughly 2012 to 2019. Just guessing.
09:46 34
09:46 35 Q. And you are a member of the Responsible Gaming
09:47 36 Management Committee?
09:47 37
09:47 38 A. No.
09:47 39
09:47 40 Q. Were you a previous member of that committee?
09:47 41
09:47 42 A. I think I attended one meeting.
09:47 43
09:47 44 Q. You are not a member but a regular attendee or invitee of
09:47 45 the Crown Melbourne Compliance Committee?
09:47 46
09:47 47 A. Yes.

09:47 1
09:47 2 Q. Has that always been the case in your capacity as
09:47 3 compliance manager?
09:47 4
09:47 5 A. No.
09:47 6
09:47 7 Q. When did you start to attend such meetings on a regular
09:47 8 basis?
09:47 9
09:47 10 A. I would say either late 2019 or 2020.
09:47 11
09:47 12 Q. Prior to that did you attend on an as-needs basis, for
09:47 13 example, if you needed to present a paper or if the committee
09:47 14 required your attendance?
09:47 15
09:47 16 A. I don't think so.
09:47 17
09:47 18 Q. Who, representing compliance as a function at the
09:47 19 management level, attends the compliance committee meetings
09:48 20 prior to ---
09:48 21
09:48 22 A. It was Joshua Preston and prior to that it was Debra Tegoni.
09:48 23
09:48 24 Q. Thank you. I'm going to move to the topic involving the
09:48 25 China Arrests Investigation.
09:48 26
09:48 27 A. (Nods head).
09:48 28
09:48 29 Q. I understand that as compliance officer you were initially
09:48 30 the primary contact for receiving responses to requests from
09:48 31 VCGLR in relation to what became known as the China Arrests
09:48 32 Investigation?
09:48 33
09:48 34 A. Yes, I think I received about the first ten requests.
09:48 35
09:48 36 Q. That would be usual in your capacity as compliance
09:48 37 manager?
09:48 38
09:48 39 A. Yes.
09:48 40
09:48 41 Q. You are aware, aren't you, that Mr Timothy Bryant has
09:48 42 made a statement and given evidence to the Commission
09:48 43 regarding Crown's dealings with the regulator in relation to the
09:48 44 China Arrests Investigation?
09:48 45
09:48 46 A. Yes, I am.
09:48 47

09:48 1 Q. Have you had an opportunity to read his statement?
09:48 2
09:48 3 A. I read his statement, yes.
09:48 4
09:48 5 Q. Did you see his evidence or read the transcript of his
09:49 6 evidence?
09:49 7
09:49 8 A. No.
09:49 9
09:49 10 Q. I will take you to some aspects of his evidence if I may.
09:49 11
09:49 12 Operator, if you could please call up VCG.9999.0001.0002.
09:49 13 Please go to page 9. Ms Fielding ---
09:49 14
09:49 15 COMMISSIONER: Hang on a second, my screen is not working.
09:49 16 Black.
09:50 17
09:50 18 MS NESKOVICIN: Paragraph 31 of Mr Bryant's statement is on
09:50 19 the screen, and it appears the requests for information start at this
09:50 20 point. As you will see, this is one of the first requests that was
09:50 21 made to you on 25 September from Mr Considine. If you take a
09:50 22 moment to briefly look at paragraphs (a) to (d), look at the
09:50 23 documents requested. You see that?
09:50 24
09:50 25 A. Yes.
09:50 26
09:50 27 Q. On 5 October there was a follow-up email sent to you, Ms
09:50 28 Fielding, requesting the documents set out in (a) to (d); do you
09:50 29 see that?
09:50 30
09:50 31 A. Yes, I do.
09:50 32
09:50 33 Q. So the timing of these requests appear to be shortly after
09:50 34 Mr Preston did his presentation to the VCGLR in relation to the
09:50 35 China arrests; do you recall that?
09:50 36
09:51 37 A. I was aware he did that, yes.
09:51 38
09:51 39 Q. Did you assist him in preparing for that presentation?
09:51 40
09:51 41 A. No, I didn't.
09:51 42
09:51 43 Q. But you are aware he did it?
09:51 44
09:51 45 A. Yes.
09:51 46
09:51 47 Q. It was after the detainees in China had been released?

09:51 1
09:51 2 A. I don't recall the dates.
09:51 3
09:51 4 Q. Take it from me it was.
09:51 5
09:51 6 A. I accept that.
09:51 7
09:51 8 Q. Prior to their release Crown, it is fair to say, was sensitive
09:51 9 about creating documents and what it said about the China --- the
09:51 10 detainees and the detentions in China; do you agree that?
09:51 11
09:51 12 A. I assume that, but I didn't have any carriage or involvement
09:51 13 in the matter.
09:51 14
09:51 15 Q. Looking at paragraphs 31 and 32, you notice there is some
09:51 16 similarities between Mr Preston's presentation and the documents
09:51 17 that the VCGLR requested production of? Did you notice that at
09:51 18 the time?
09:51 19
09:51 20 A. No, I don't think I saw Mr Preston's presentation until
09:51 21 a later point in time.
09:51 22
09:51 23 Q. I see. But you understood this was an investigation the
09:52 24 VCGLR were undertaking and it was important?
09:52 25
09:52 26 A. Yes.
09:52 27
09:52 28 Q. According to Mr Bryant's statement you didn't respond to
09:52 29 these requests prior to late October 2017; did you notice that?
09:52 30
09:52 31 A. I thought it was November.
09:52 32
09:52 33 Q. Well, yes, so it was not until November 2017 that you
09:52 34 responded to these requests?
09:52 35
09:52 36 A. I didn't respond to them. Mr Preston responded to them.
09:52 37
09:52 38 Q. But they were addressed to you?
09:52 39
09:52 40 A. Yes, they were.
09:52 41
09:52 42 Q. And you didn't show the courtesy of responding to
09:52 43 acknowledge receipt?
09:52 44
09:52 45 A. I don't recall.
09:52 46
09:52 47 Q. The documents weren't produced, were they?

09:52 1
09:52 2 A. I'm sorry?
09:52 3
09:52 4 Q. Prior to November 2017 the documents were not produced
09:52 5 in response to these requests?
09:52 6
09:52 7 A. No, I don't believe so.
09:52 8
09:52 9 Q. Operator, could you go over the page to paragraph 33.
09:53 10 Have a look at 33(b), Ms Fielding. Mr Bryant says that according
09:53 11 to the records Mr Considine sent you an email on 8 November in
09:53 12 response to a voice mail message you'd received, advising that
09:53 13 Crown would be in a position to provide all requested documents
09:53 14 by the end of November or the first week of December 2017; do
09:53 15 you see that?
09:53 16
09:53 17 A. Yes, I do.
09:53 18
09:53 19 Q. At that point in time you are responding to the requests. So
09:53 20 can you explain why you mentioned Mr Preston a moment ago?
09:53 21
09:53 22 A. So there were ten requests up to and including these ones.
09:53 23 The first eight I believe I had responded to within seven days and
09:53 24 then the last two, Mr Preston responded to. None of the
09:53 25 documents requested were in my control. I was requesting them
09:53 26 from other people and assisting him. But Mr Preston responded
09:53 27 to them, to my knowledge. So I would have checked with Josh to
09:53 28 say where is this at, and then they have given me those date
09:54 29 frames because I don't think there was a due date for these two
09:54 30 requests.
09:54 31
09:54 32 Q. There was no due date, but equally there was no response
09:54 33 to say "We got your emails and we are attending to the request".
09:54 34
09:54 35 A. Yeah. I'll take your word for that. I think they did set a due
09:54 36 date then of 4 December and we provided them the week earlier.
09:54 37
09:54 38 Q. Thank you. If we go to paragraph 40 on page 12, please,
09:54 39 operator.
09:54 40
09:54 41 As you say, Mr Preston responded. Sorry, I will go back a step.
09:54 42 These were email requests. On the previous page, operator,
09:54 43 paragraph 39, by January 2018 --- on 4 January the VCGLR
09:55 44 issued its first section 26 notice?
09:55 45
09:55 46 A. Yes.
09:55 47

09:55 1 Q. It says that on the same date the VCGLR issued a separate
09:55 2 request for unredacted versions of the documents Crown had
09:55 3 provided in its 27 November 2017 response.
09:55 4
09:55 5 A. Yes.
09:55 6
09:55 7 Q. That's the timing, as you said, the VCGLR asked for
09:55 8 documents by 4 September. You provided some on
09:55 9 27 November?
09:55 10
09:55 11 A. Mr Preston did.
09:55 12
09:55 13 Q. Oh, I see. So my question was going to be about the
09:55 14 redactions. Did you know that documents had been redacted at
09:55 15 that point?
09:55 16
09:55 17 A. I don't know. I wouldn't have made the decision about the
09:55 18 redaction of documents.
09:55 19
09:55 20 Q. Thank you.
09:55 21
09:55 22 Then over the page, please, operator, we see in paragraph 40 that
09:55 23 Mr Preston responds to the first notice on 29th, so 19 January and
09:56 24 1 February.
09:56 25
09:56 26 Operator, could we just scroll down to paragraph 41, we see
09:56 27 a second notice, second section 26 notice on 2 February and
09:56 28 paragraph 42, Mr Preston responds to that.
09:56 29
09:56 30 And then, operator, if we could please go to paragraph 50 on
09:56 31 page 16. On 22 March 2018 the VCGLR issued a section 26
09:56 32 notice to Crown requiring it to provide information relating to
09:56 33 a letter to police, et cetera. And you see Ms Fielding on
09:56 34 paragraph 51 that on 27 March 2018 Crown's lawyers,
09:56 35 MinterEllison, provided the documents to VCGLR.
09:56 36
09:56 37 From this point on, Ms Fielding were you aware that
09:57 38 MinterEllison had taken over corresponding with the VCGLR
09:57 39 and responding to the section 26 notices on behalf of Crown?
09:57 40
09:57 41 A. I'm not sure.
09:57 42
09:57 43 Q. Was that because you can't remember or you didn't have
09:57 44 any involvement at the time?
09:57 45
09:57 46 A. I didn't have any involvement.
09:57 47

09:57 1 Q. Can I just confirm what, if any, involvement you had either
09:57 2 with the production of documents, the collation of documents, or
09:57 3 responding to the VCGLR from this point --- from the beginning
09:57 4 of 2018?

09:57 5
09:57 6 A. I don't recall that I did.

09:57 7
09:57 8 Q. So Mr Preston took over this, did he?

09:57 9
09:57 10 A. Yes.

09:57 11
09:57 12 Q. And so as compliance manager, why did it not involve you
09:57 13 in some way?

09:57 14
09:57 15 A. I didn't have that access to any of the China documents.
09:57 16 They were all held and the whole process was managed by the
09:58 17 legal department.

09:58 18
09:58 19 Q. Sorry, I didn't catch the last few words.

09:58 20
09:58 21 A. It was all managed by the legal department.

09:58 22
09:58 23 Q. But you said something else about from something?

09:58 24
09:58 25 A. No.

09:58 26
09:58 27 Q. This might be something you don't know about either but,
09:58 28 operator, if we could please go to paragraph 89 on page 32. This
09:58 29 is in May 2019. Actually, paragraph 90 is what I want to take
09:58 30 you to.

09:58 31
09:58 32 At around this time the VCGLR requested that Crown explain
09:58 33 why each of the documents provided on 18 March 2019 was not
09:59 34 provided within the time frames specified in the notices dated 2
09:59 35 February, 23 August and 14 November 2018, and I will come
09:59 36 back to that in a moment.

09:59 37
09:59 38 Just to set some context, operator, if you could go over the
09:59 39 page to paragraph 93, on 12 June 2019 the VCGLR received
09:59 40 a letter from Minters enclosing material and responding to their
09:59 41 letter of 29 May 2019. So can I just provide some context,
09:59 42 Ms Fielding, just assume this to be the case: VCGLR had been
09:59 43 issuing various notices, including notices that were mentioned in
09:59 44 paragraph 90 throughout 2018, in February, August and
10:00 45 November. And documents responsive to those notices were
10:00 46 provided on 18 March 2019, and the VCGLR requested
10:00 47 an explanation as to why they had not been provided within the

10:00 1 time frames specified in the notice. Do I take it that that's a topic
10:00 2 on which you have no knowledge and would be able to assist the
10:00 3 Commission as to why that was the case?
10:00 4
10:00 5 A. That's correct.
10:00 6
10:00 7 Q. Again, that was a matter that Mr Preston was responsible
10:00 8 for?
10:00 9
10:00 10 A. Yes.
10:00 11
10:00 12 Q. Have you seen, Ms Fielding, the final report by the VCGLR
10:00 13 in relation to the China arrests?
10:00 14
10:00 15 A. I've received it, I've not read it. I have read parts of it, but I
10:00 16 haven't read the whole document.
10:00 17
10:00 18 Q. It is a significant report, a significant matter, isn't it,
10:01 19 Ms Fielding.
10:01 20
10:01 21 A. Yes, it is.
10:01 22
10:01 23 Q. And you haven't taken the time to read the report?
10:01 24
10:01 25 A. It's not that I've taken the time, I don't have the time. Any
10:01 26 capacity I've had, I've been preparing for this and other work that
10:01 27 had to be done.
10:01 28
10:01 29 Q. The report has been available for four weeks or so.
10:01 30
10:01 31 A. Yes.
10:01 32
10:01 33 Q. From what you have seen of it, have you noticed that it
10:01 34 raises various matters in relation to the way in which Crown
10:01 35 responded to the VCGLR in the course of its investigation?
10:01 36
10:01 37 A. I believe so.
10:01 38
10:01 39 Q. And they are matters that would concern and be of interest
10:01 40 to you in your capacity as compliance manager?
10:01 41
10:01 42 A. They would be, but these were matters that were being
10:01 43 dealt with by people higher than me in the hierarchy.
10:01 44
10:01 45 Q. But the relationship with the regulator is important to you?
10:01 46
10:01 47 A. Absolutely.

10:01 1
10:01 2 Q. And to Crown?
10:01 3
10:01 4 A. Yes.
10:01 5
10:02 6 Q. And maintaining a good respect of openness and trust and
10:02 7 respect is important to you?
10:02 8
10:02 9 A. Yes.
10:02 10
10:02 11 Q. Regardless of who within the organisation is dealing with
10:02 12 the regulator at any point in time?
10:02 13
10:02 14 A. Yes.
10:02 15
10:02 16 Q. And understand that if things have broken down in that
10:02 17 relationship, you would want to be able to repair it?
10:02 18
10:02 19 A. Yes.
10:02 20
10:02 21 Q. Well, can I take you to a part of the report to see if you've
10:02 22 read this, please.
10:02 23
10:02 24 Operator, the document is VCG.0001.0001.0001.
10:02 25
10:02 26 Given that you personally haven't had time to read it, Ms
10:02 27 Fielding, have you asked anyone in your team to read it and
10:02 28 provide you with a report of some kind?
10:02 29
10:02 30 A. No, I haven't.
10:02 31
10:02 32 Q. Operator, could we please go to internal page 118. I'm
10:03 33 looking for paragraph 727. Just have a quick look at the
10:03 34 introductory paragraphs under this heading, Ms Fielding, and see
10:03 35 if this was one of the sections that you have read?
10:03 36
10:03 37 A. It looks familiar to me. I may have. Not sure.
10:03 38
10:03 39 Q. Can I direct you to paragraph 730.
10:03 40
10:03 41 Operator, could you please scroll up to 730, 732. Thank you.
10:03 42 Can we go back up the page so all of 730 is on the screen. Thank
10:04 43 you.
10:04 44
10:04 45 Can I just ask you to read 730 to yourself please, Ms Fielding.
10:04 46
10:04 47 A. Yes.

- 10:04 1
10:04 2 Q. I want to focus on the last few words:
10:04 3
10:04 4 *..... Crown's approach has been both changeable and, at*
10:04 5 *times, unnecessarily belligerent.*
10:04 6
10:05 7 Do you recall reading that, if you did, when you scanned the
10:05 8 report?
10:05 9
10:05 10 A. I don't think so.
10:05 11
10:05 12 Q. It is a concern, isn't it, to have the regulator describe
10:05 13 Crown's approach to the investigation as belligerent?
10:05 14
10:05 15 A. Yes.
10:05 16
10:05 17 Q. And I take it that you haven't been able to inform yourself
10:05 18 as to why that might have been the case and whether there was
10:05 19 a basis for that?
10:05 20
10:05 21 A. No.
10:05 22
10:05 23 Q. Going back to --- I won't take you through this any further,
10:05 24 Ms Fielding. It appears you haven't had a chance to read it, but it
10:05 25 elaborates or draws on some of the matters that you have seen in
10:05 26 Mr Bryant's report regarding the approach during the
10:05 27 investigation, which was one of delay, incomplete production,
10:06 28 redaction of documents and production being dictated by
10:06 29 discovery in the China arrests class action; you recall those
10:06 30 themes in Mr Bryant's statement?
10:06 31
10:06 32 A. Yes.
10:06 33
10:06 34 Q. You can take it from me that they are picked up on and
10:06 35 noted by the VCGLR and not appreciated in that report. My
10:06 36 question to you was going to be this: in relation to redactions of
10:06 37 document, do you as compliance manager understand that is not
10:06 38 the appropriate way to respond to section 26 notices issued by the
10:06 39 Commission?
10:06 40
10:06 41 A. Not as part of the role of compliance manager, no. The
10:06 42 redactions of documents are largely dealt with by the legal
10:06 43 department. I have had minor involvement in certain things but
10:06 44 as a general rule that is not something that is part of my role.
10:06 45
10:06 46 Q. So it's not part of your role to respond to section 26 notices
10:07 47 at all?

10:07 1
10:07 2 A. Yes, it is, but I wasn't the person making decisions about
10:07 3 redactions.
10:07 4
10:07 5 Q. I just want to understand the process within Crown. If you
10:07 6 get a section 26 notice, not just in the China Arrests Investigation,
10:07 7 do you then consult with the legal team to see whether or not the
10:07 8 documents should be redacted?
10:07 9
10:07 10 A. It depends on the content of the notice. Some documents
10:07 11 are the ones that I have in my access and I might provide them. If
10:07 12 it is documents that come from legal or are related to a legal
10:07 13 matter then they would look at them and decide if redactions
10:07 14 were necessarily.
10:07 15
10:07 16 Q. So in the latter case, the legal department decide if
10:07 17 redactions are necessary?
10:07 18
10:07 19 A. (Nods head).
10:07 20
10:07 21 Q. Dealing with ones that come to you personally. Do you
10:07 22 understand as compliance manager that redactions are not
10:07 23 an appropriate way to respond to section 26 notices unless it is
10:07 24 something like a secrecy provision or redaction for legal
10:08 25 professional privilege?
10:08 26
10:08 27 A. I just don't think that is something --- I just don't think that
10:08 28 is something in my purview, I don't think that is something I
10:08 29 control or decide.
10:08 30
10:08 31 Q. Not for you?
10:08 32
10:08 33 A. No. I have done it. I'm not saying I don't, but it is not
10:08 34 something generally that is within my purview.
10:08 35
10:08 36 Q. Well, I don't know what you mean by purview, do you
10:08 37 mean it is not something you would do or not something you
10:08 38 have to worry about?
10:08 39
10:08 40 A. Both.
10:08 41
10:08 42 Q. Thank you. The comment had been made in relation to
10:08 43 delays and incomplete production, you must appreciate that
10:08 44 delays and the way in which Crown responded, having regard to
10:08 45 the matters set out in Mr Bryant's statement, unnecessarily
10:08 46 prolonged and frustrated the investigation?
10:08 47

10:08 1 A. I don't have a personal understanding of that, but I
10:08 2 understand that is what Mr Bryant is saying.

10:08 3

10:08 4 Q. You can understand the basis for that given what you have
10:09 5 read in his statement?

10:09 6

10:09 7 A. Yes.

10:09 8

10:09 9 Q. There is also the comment made about the timing of
10:09 10 production being dictated by the class action. Now, I know you
10:09 11 weren't involved, but you can see why the regulator would be
10:09 12 upset about that?

10:09 13

10:09 14 A. If that's the case, yes.

10:09 15

10:09 16 Q. Because you would understand, as compliance manager,
10:09 17 that if you get a section 26 notice you have to do everything
10:09 18 within your power to respond?

10:09 19

10:09 20 A. That's right.

10:09 21

10:09 22 Q. I will come back to that report in a moment, Ms Fielding. I
10:09 23 just want to go to Mr Cremona's statement now. You understand
10:09 24 that Mr Jason Cremona has also prepared a statement and given
10:09 25 evidence to this Commission?

10:09 26

10:09 27 A. Yes, I do.

10:09 28

10:09 29 Q. That was in relation to Recommendation 17 arising out of
10:09 30 the Sixth Casino Review?

10:09 31

10:09 32 A. Yes.

10:09 33

10:09 34 Q. You've had an opportunity to read Mr Cremona's
10:09 35 statement?

10:09 36

10:09 37 A. Yes, I did.

10:09 38

10:09 39 Q. You were personally involved in implementing
10:10 40 Recommendation 17 on behalf of Crown?

10:10 41

10:10 42 A. No, I wasn't. That was done by Louise Lane and Joshua
10:10 43 Preston again.

10:10 44

10:10 45 Q. But you were the contact point ---

10:10 46

10:10 47 A. Yes, I was.

10:10 1
10:10 2 Q. --- for Crown in relation to that?
10:10 3
10:10 4 A. Yes.
10:10 5
10:10 6 Q. You understood Recommendation 17 from reading the
10:10 7 Sixth Review report?
10:10 8
10:10 9 A. Yes.
10:10 10
10:10 11 Q. And you understood that when that report was provided
10:10 12 Crown accepted the recommendation?
10:10 13
10:10 14 A. Yes, I did.
10:10 15
10:10 16 Q. Operator, could we please call up VCG.9999.0001.0001. If
10:10 17 we could please go to page 8. Sorry, page 7, paragraph 20. You
10:11 18 see Recommendation 17 set out as part of paragraph 20 of
10:11 19 Mr Cremona's statement, Ms Fielding?
10:11 20
10:11 21 A. Yes, I do.
10:11 22
10:11 23 Q. Ms Fielding, did you understand at the time from having
10:11 24 read and been involved in the Sixth Review that
10:11 25 Recommendation 17 was intended to address the VCGLR's
10:11 26 concern about Crown having robust processes in place for the
10:11 27 identification of junket players to ensure greater visibility of
10:11 28 junket players and mitigate AML risks?
10:11 29
10:11 30 A. Yes, I understood that paragraph and what that intention
10:11 31 was, but I think it was approached from a different position.
10:11 32
10:11 33 Q. By Crown?
10:11 34
10:11 35 A. Yes.
10:11 36
10:11 37 Q. So you understood at the time that --- what it meant, along
10:12 38 the lines of what I put to you, but Crown decided to put it from
10:12 39 a different angle, looking at it through the AML program?
10:12 40
10:12 41 A. No, not so much that, more that Crown addressed it from
10:12 42 the basis of the recommendation in that there was to be a genuine
10:12 43 review, and then implement what the outcome of that genuine
10:12 44 review was.
10:12 45
10:12 46 Q. So what you have just omitted from that description are the
10:12 47 words "in the recommendation" itself, "with input from

10:12 1 AUSTRAC"?

10:12 2

10:12 3 A. Yes. And external assistance.

10:12 4

10:12 5 Q. Thank you. That was something you had an awareness at
10:12 6 the time that you were at odds with the regulator as to what they
10:12 7 required and how you were going to approach it?

10:12 8

10:12 9 A. No, I don't think we were at odds, I thought that they
10:13 10 wanted us to do a genuine review, and then the outcome of that
10:13 11 review would be what dictated the outcome of Recommendation
10:13 12 17.

10:13 13

10:13 14 Q. You understood they wanted you to do a genuine review
10:13 15 with output --- input from AUSTRAC --

10:13 16

10:13 17 A. Yes.

10:13 18

10:13 19 Q. --- that would firstly involve having a discussion with
10:13 20 AUSTRAC about Recommendation 17; correct?

10:13 21

10:13 22 A. Yes.

10:13 23

10:13 24 Q. And providing them with the internal control statements
10:13 25 that they were required to have input on?

10:13 26

10:13 27 A. Yes.

10:13 28

10:13 29 Q. Thank you. I want to talk about Mr Cremona's dealings
10:13 30 with Crown in relation to this issue. If we could first go to
10:13 31 paragraph 30, operator. He attended a meeting on 25 September
10:14 32 2018 together with the VCGLR's Acting CEO, Steve Thurston,
10:14 33 and Rowan Harris. And together with Crown there was
10:14 34 Mr Walsh, Mr Preston, you, Ms Fielding and Ms Bauer.

10:14 35

10:14 36 A. Yes.

10:14 37

10:14 38 Q. Do you recall that meeting?

10:14 39

10:14 40 A. Vaguely, yes.

10:14 41

10:14 42 Q. In the statement at paragraph 32, he says that the minutes
10:14 43 record that in relation to Recommendation 17:

10:14 44

10:14 45 *Crown noted that it had spoken to senior Americas from*
10:14 46 *AUSTRAC regarding this recommendation.*

10:14 47

10:14 1 Do you see that?
10:14 2
10:14 3 A. Yes, I do.
10:14 4
10:15 5 Q. I take it you don't dispute that was said at the meeting?
10:15 6
10:15 7 A. No, I don't dispute it.
10:15 8
10:15 9 Q. But in fact at that point in time Crown had not spoken to
10:15 10 AUSTRAC about Recommendation 17?
10:15 11
10:15 12 A. I don't know. Joshua Preston maintained the relationship
10:15 13 with AUSTRAC and met with them and spoke to them.
10:15 14
10:15 15 Q. And the next meeting according to Ms Cremona's statement
10:15 16 occurred on 31 October 2018.
10:15 17
10:15 18 That's at paragraph 42, please, operator.
10:15 19
10:15 20 If we could please go to paragraph 40 first, you are noted as
10:15 21 a person attending the meeting on behalf of Crown with
10:16 22 Ms Bauer?
10:16 23
10:16 24 A. Yes.
10:16 25
10:16 26 Q. If we could scroll down to paragraph 42, please, operator,
10:16 27 the minutes of the meeting record that:
10:16 28
10:16 29 AUSTRAC has not expressed concern with Crown's
10:16 30 *procedures in respect of the junkets ICS and regulates*
10:16 31 *Crown through its AML Program.*
10:16 32
10:16 33 Do you see that?
10:16 34
10:16 35 A. Yes, I do.
10:16 36
10:16 37 Q. I take it you don't disagree that was said on behalf of Crown
10:16 38 at the meeting?
10:16 39
10:16 40 A. No, I don't.
10:16 41
10:16 42 Q. Was that you or Ms Bauer?
10:16 43
10:16 44 A. I assume by me.
10:16 45
10:16 46 Q. Was that a matter that you had personal knowledge of?
10:16 47

- 10:16 1 A. I think Mr Preston had pressed that point.
10:16 2
10:16 3 Q. So he asked you to convey that, did he?
10:16 4
10:16 5 A. Yes, I believe so.
10:16 6
10:16 7 Q. But do you accept that in making that statement, you had
10:16 8 firstly conveyed to the VCGLR that AUSTRAC had been
10:16 9 consulted in relation to Recommendation 17 and specifically in
10:16 10 relation to the ICS?
10:16 11
10:16 12 A. No, I didn't.
10:16 13
10:16 14 Q. Do you accept that by saying that you conveyed that
10:17 15 impression?
10:17 16
10:17 17 A. In this paragraph here, no, no, I don't.
10:17 18
10:17 19 Q. Why not?
10:17 20
10:17 21 A. Because that's not talking about Recommendation 17, that's
10:17 22 just a general comment that AUSTRAC has not expressed
10:17 23 concern with Crown's ICSs before.
10:17 24
10:17 25 Q. Had AUSTRAC reviewed Crown's ICSs?
10:17 26
10:17 27 A. No, I don't imagine they would have. They may have ---
10:17 28 sorry, I take that back, sorry, I don't know.
10:17 29
10:17 30 Q. So you made a statement about something you didn't know
10:17 31 anything about.
10:17 32
10:17 33 A. No, I made a statement based on information I'd been given
10:17 34 information about by Mr Preston.
10:17 35
10:17 36 Q. And you don't accept what I put to you because your point
10:17 37 is that comment there has nothing to do with Recommendation
10:17 38 17?
10:17 39
10:17 40 A. Well, I didn't take it to be, no.
10:17 41
10:17 42 Q. Were there any other recommendations that were relevant
10:17 43 to the --- were there any other recommendations arising out of the
10:17 44 Sixth Review that Crown was in the process of implementing that
10:18 45 were relevant to or related to internal control statements?
10:18 46
10:18 47 A. Recommendation 4.

- 10:18 1
10:18 2 Q. Can you recall what Recommendation 4 was about?
10:18 3
10:18 4 A. I think it was 4, I think it was about having a cover
10:18 5 sheet for the --- I can't. I would have to check. But I think it was
10:18 6 4.
10:18 7
10:18 8 Q. Recommendation 4, VCGLR recommends by 1 January
10:18 9 2019, Crown undertake a robust internal control review to ensure
10:19 10 the department is aware of all projects for which regulatory
10:19 11 approvals might be relevant.
10:19 12
10:19 13 A. Yes.
10:19 14
10:19 15 Q. Any other recommendations that related to internal control
10:19 16 statements?
10:19 17
10:19 18 A. I don't think so.
10:19 19
10:19 20 Q. Having been reminded about what Recommendation 4 was
10:19 21 about, and having looked at what Recommendation 17 was about,
10:19 22 do you not accept the statement that appears, and that was made
10:19 23 on 31 October 2018, would not have been understood by the
10:19 24 VCGLR to relate to Recommendation 17?
10:19 25
10:19 26 A. No. No, I don't.
10:19 27
10:19 28 Q. After the meeting on 31 October it appears that the VCGLR
10:19 29 invited Crown to seek clarification about the recommendation if
10:19 30 it needed it and according to Mr Cremona's statement Crown did
10:19 31 not seek clarification or request any elaboration in relation to
10:20 32 Recommendation 17?
10:20 33
10:20 34 A. That's correct.
10:20 35
10:20 36 Q. The next event I want to take you to is January 2019. This
10:20 37 is going forward to paragraph 63, please, operator, on page 20.
10:20 38 You see there that Mr Bryant --- sorry, Mr Cremona says that:
10:20 39
10:20 40 *On 18 January 2019, Rowan Harris received a progress*
10:20 41 *update in relation to the recommendations.*
10:20 42
10:20 43 Do you see that?
10:20 44
10:20 45 A. Yes, I do.
10:20 46
10:20 47 Q. This was an update that you provided personally?

10:20 1
10:20 2 A. Yes, I did.
10:20 3
10:20 4 Q. Operator, if we could please go to VCG.0001.0002.6038.
10:21 5 If we could go to _0008. Before we go there, is this a document
10:21 6 you prepared, Ms Fielding?
10:21 7
10:21 8 A. Yes, it is.
10:21 9
10:21 10 Q. And _0008, looking at Recommendation 17, what you said
10:21 11 at this point in the third column, proposing action update:
10:21 12
10:22 13 *Crown has met with AUSTRAC to discuss this*
10:22 14 *recommendation. A new joint AML Program across*
10:22 15 *Crown's Australian resorts is being developed and will be*
10:22 16 *reviewed by an external party. AUSTRAC is being kept*
10:22 17 *informed of progress.*
10:22 18
10:22 19 A. Yes.
10:22 20
10:22 21 Q. Was that information you obtained from Mr Preston?
10:22 22
10:22 23 A. Yes, it was.
10:22 24
10:22 25 Q. So you had no personal knowledge at this point as to
10:22 26 whether or not Crown had met with AUSTRAC to discuss
10:22 27 Recommendation 17?
10:22 28
10:22 29 A. No, I didn't.
10:22 30
10:22 31 Q. You've seen Mr Bryant's statement where he effectively
10:22 32 says that at this point in time there had been no meeting with
10:22 33 AUSTRAC to discuss Recommendation 17.
10:22 34
10:22 35 A. Mr Cremona 's statement?
10:22 36
10:22 37 Q. Sorry, Mr Cremona's statement.
10:22 38
10:22 39 A. Yes, I do see that he said that.
10:22 40
10:22 41 Q. Do you dispute that?
10:22 42
10:22 43 A. I don't know of it one way or the other. I think he goes on
10:22 44 to say that when he spoke to AUSTRAC they did mention that
10:22 45 they talked about Recommendation 17.
10:22 46
10:23 47 Q. Yes, we are about to come to that. That was later in the

10:23 1 piece. This is January 2019.
10:23 2
10:23 3 A. Oh, okay.
10:23 4
10:23 5 Q. Please go back to Mr Cremona's statement, please,
10:23 6 operator. Paragraph 65 on page 21, this is a meeting on 20
10:23 7 February 2019 that Mr Cremona had with representatives of
10:24 8 AUSTRAC, including Briony Olmedo, do you see that?
10:24 9
10:24 10 A. Yes, I do.
10:24 11
10:24 12 Q. I will give you a moment to read paragraph 65 if you wish.
10:24 13 I want take you to paragraph 66 of Mr Cremona's notes of the
10:24 14 meeting, let me know when you're ready.
10:24 15
10:24 16 A. Yes, that's fine.
10:24 17
10:24 18 Q. Over the page of 66. Mr Cremona says that his notes of the
10:24 19 meeting record that Ms Olmedo said AUSTRAC had not seen nor
10:24 20 been consulted with on the suitability of the ICSs; do you see
10:24 21 that?
10:24 22
10:24 23 A. Yes, I do.
10:24 24
10:24 25 Q. You don't dispute that?
10:24 26
10:24 27 A. No.
10:24 28
10:24 29 Q. And then paragraph 69, Mr Cremona is copied in on
10:25 30 an email to AUSTRAC. Then if you go to paragraph 71, on the
10:25 31 same day Mr Cremona was copied into an email from Mr Harris
10:25 32 to you, Ms Fielding, which updated Crown on the VCGLR's
10:25 33 discussions with AUSTRAC and outlined the VCGLR's
10:25 34 intentions and expectations in respect of AUSTRAC involvement
10:25 35 in relation to Recommendation 17; do you see that?
10:25 36
10:25 37 A. Yes, I do.
10:25 38
10:25 39 Q. At paragraph 72 Mr Cremona says that he does not recall
10:25 40 Crown responding to this email.
10:25 41
10:25 42 A. Yes, I see that.
10:25 43
10:25 44 Q. Do you agree that you did not respond to that email?
10:25 45
10:25 46 A. I actually did. I drafted a response to it and sent it to
10:25 47 Mr Preston but he didn't progress it.

10:25 1
10:25 2 Q. Thank you. The next substantive matter I want to take you
10:26 3 to is the meeting on 13 March at paragraph 77. This was
10:26 4 a meeting that Mr Cremona attended with other representatives of
10:26 5 Crown.
10:26 6
10:26 7 A. (Nods head).
10:26 8
10:26 9 Q. You and Mr Preston attended this meeting, along with
10:26 10 Ms Bauer; do you see that?
10:26 11
10:26 12 A. No, I don't. Where does it say who attended? I don't think
10:26 13 Mr Preston attended.
10:26 14
10:26 15 Q. If you look at 78, it is over two pages.
10:26 16
10:26 17 Operator, if you could now go over to the next page.
10:26 18
10:26 19 A. Oh, okay.
10:26 20
10:26 21 Q. Do you recall that Mr Preston also attended?
10:26 22
10:26 23 A. Yes, but I don't think Ms Bauer did.
10:26 24
10:26 25 Q. I see.
10:26 26
10:26 27 A. I don't think there were meetings where both Josh and
10:26 28 Sonja were both there.
10:26 29
10:26 30 Q. I see. What is your recollection of who attended, just you
10:26 31 and Mr Preston?
10:26 32
10:27 33 A. Yes, I believe so.
10:27 34
10:27 35 Q. This was the first time Mr Preston had attended one of
10:27 36 these meetings?
10:27 37
10:27 38 A. Yes, it was.
10:27 39
10:27 40 Q. He was based in Perth at the time?
10:27 41
10:27 42 A. Yes.
10:27 43
10:27 44 Q. Mr Cremona expresses surprise that Mr Preston is there
10:27 45 because it is a working level meeting. What was your
10:27 46 explanation for why Mr Preston was there?
10:27 47

10:27 1 A. Sorry, to clarify, when you said he was based in Perth, he
10:27 2 spent far more time based in Melbourne than he did in Perth.
10:27 3 Josh wanted to come to the meeting. He wanted to speak to them
10:27 4 about Recommendation 17.
10:27 5
10:27 6 Q. What in particular did he want to --- what did he tell you he
10:27 7 wanted to convey to the VCGLR in relation to Recommendation
10:27 8 17?
10:27 9
10:27 10 A. I don't recall him saying anything specific, I just recall him
10:27 11 saying he wanted to attend the next meeting if he was here.
10:27 12
10:27 13 Q. So it was unusual for him to attend such meetings?
10:27 14
10:27 15 A. I think so.
10:27 16
10:28 17 Q. The impression of, looking at the meeting, there was this
10:28 18 mismatch between the VCGLR pushing its interpretation of
10:28 19 Recommendation 17 and Mr Preston talking in terms of AML
10:28 20 programming, you're nodding your head, you do agree with that?
10:28 21
10:28 22 A. I do agree with that.
10:28 23
10:28 24 COMMISSIONER: Do you know why Mr Preston didn't want to
10:28 25 follow the recommendation and do something else? Did he
10:28 26 explain to you why?
10:28 27
10:28 28 A. No, he never said he didn't want to follow the
10:28 29 recommendation ---
10:28 30
10:28 31 COMMISSIONER: I'm trying to work out why he didn't want to
10:28 32 follow it.
10:28 33
10:28 34 A. He had a fixation on the program, being the AUSTRAC's
10:28 35 document for monitoring Crown but ---
10:28 36
10:28 37 COMMISSIONER: He went out of his way to resist what the
10:28 38 VCGLR wanted. I'm trying to work out why.
10:28 39
10:28 40 A. Yeah.
10:28 41
10:28 42 COMMISSIONER: What was his motive?
10:28 43
10:28 44 A. Yeah, I never recall him saying he didn't want to do it or
10:28 45 saying anything about resisting it. I see from the timing and the
10:29 46 events, that that's absolutely how it appears, but he never said
10:29 47 that.

10:29 1
10:29 2 COMMISSIONER: That's how it appears it happened?
10:29 3
10:29 4 A. He never said that.
10:29 5
10:29 6 MS NESKOVICIN: Ms Fielding, as compliance officer, you had
10:29 7 an understanding of the importance of the internal control
10:29 8 statements?
10:29 9
10:29 10 A. Yes.
10:29 11
10:29 12 Q. It was the way the regulator regulated the casino?
10:29 13
10:29 14 A. That's right.
10:29 15
10:29 16 Q. And ensured the casino's compliance with what the
10:29 17 regulator wanted?
10:29 18
10:29 19 A. Yes.
10:29 20
10:29 21 Q. And you also understood, didn't you, that an internal
10:29 22 control statement about the junket program said nothing about
10:29 23 junket players?
10:29 24
10:29 25 A. No.
10:29 26
10:29 27 Q. It didn't --- it didn't --- it was addressing the probity
10:29 28 processes around junket operators ---
10:29 29
10:29 30 A. Yes.
10:29 31
10:29 32 Q. --- not understanding and knowing where the money comes
10:29 33 from in terms of junket players. That is not something that was
10:29 34 regulated by this internal control statement?
10:30 35
10:30 36 A. No.
10:30 37
10:30 38 Q. Didn't you appreciate that there was a mismatch about what
10:30 39 was going on with Mr Preston talking about the AML program
10:30 40 and VCGLR's pressing its recommendation about the junkets
10:30 41 ICS?
10:30 42
10:30 43 A. Yes, for that meeting, definitely I agree with what
10:30 44 Mr Cremona says about that meeting. Certainly ---
10:30 45
10:30 46 Q. What did you say to Mr Preston about the error of his
10:30 47 ways?

10:30 1
10:30 2 A. I did say to him that he had to address the ICSs.
10:30 3
10:30 4 Q. What did he say?
10:30 5
10:30 6 A. And he agreed with that.
10:30 7
10:30 8 Q. Next, can I take you to paragraph 97 of Mr Cremona's
10:30 9 statement. He says he received an update from you and noted
10:30 10 that upon reviewing comments from Crown in relation to
10:30 11 Recommendation 17 there was no indication from Crown's
10:30 12 update that it had sought AUSTRAC's views in relation to the
10:30 13 suitability of the ICS. And, over the page at paragraph (b), that
10:31 14 only preliminary discussions had taken place with AUSTRAC on
10:31 15 the ICSs. And you will see that he's extracted the response from
10:31 16 Crown in relation to Recommendation 17; do you see that?
10:31 17
10:31 18 A. Yes, I do.
10:31 19
10:31 20 Q. Did you prepare that response?
10:31 21
10:31 22 A. The table? Likely.
10:31 23
10:31 24 Q. Pardon?
10:31 25
10:31 26 A. Likely.
10:31 27
10:31 28 Q. Again was that on information provided by Mr Preston?
10:31 29
10:31 30 A. Yes.
10:31 31
10:31 32 Q. So, at this point in time, you understood there had been
10:31 33 some discussions with AUSTRAC?
10:31 34
10:31 35 A. From Mr Preston, yes.
10:31 36
10:31 37 Q. Were you aware that AUSTRAC still hadn't been provided
10:31 38 with any internal control statements?
10:31 39
10:31 40 A. No, I don't think I understood whether the ICSs had gone or
10:31 41 not.
10:31 42
10:31 43 Q. I see. Now, continuing the chronology for a moment.
10:31 44 Paragraph 101, Mr Cremona says:
10:31 45
10:32 46 *Following this, Rowan Harris had a conversation with*
10:32 47 *Briony Olmedo at AUSTRAC and prepared the file note*

10:32 1 *and the file note is extracted below*
10:32 2
10:32 3 You see Ms Olmedo had told Mr Harris that there had been one
10:32 4 brief conversation with Crown in relation to AUSTRAC's input
10:32 5 into Recommendation 17, no internal control statements had been
10:32 6 provided to AUSTRAC for its review and that AUSTRAC had
10:32 7 not pushed Crown for them. Do you see that?
10:32 8
10:32 9 A. Yes, I do.
10:32 10
10:32 11 Q. And you are not in a position to dispute any of that?
10:32 12
10:32 13 A. No, I'm not.
10:32 14
10:32 15 Q. The next thing I wanted to take you to was paragraph 105.
10:32 16 Mr Cremona says that basically in light of all of that VCGLR
10:32 17 sends a letter to Crown on 23 May and I will give you a chance to
10:33 18 have a read of that. I particularly want to draw your attention to
10:33 19 the fourth paragraph, please. Let me know when you've read that.
10:33 20
10:33 21 A. Yes, I've read that.
10:33 22
10:33 23 Q. Mr Preston took offence at that, didn't he?
10:33 24
10:33 25 A. Not the fourth paragraph, no. The fifth paragraph he took
10:33 26 offence to.
10:33 27
10:33 28 Q. The one:
10:33 29
10:33 30 Based on discussions with Commission staff and Crown's
10:33 31 *written updates, Crown appears reluctant to undertake*
10:33 32 *a review of any relevant internal control statements*
10:33 33 *with input from AUSTRAC.*
10:33 34
10:33 35 A. Yes.
10:33 36
10:33 37 Q. So if we go to paragraph 106 of Mr Cremona's statement,
10:33 38 please, operator. Mr Cremona says that:
10:33 39
10:34 40 *On the morning of 24 May 2019, I got a telephone call*
10:34 41 *from Michelle Fielding responding pretty aggressively to*
10:34 42 *the letter that had been sent to Joshua Preston that day.*
10:34 43
10:34 44 Do you agree that you responded aggressively in the telephone
10:34 45 call?
10:34 46
10:34 47 A. Yes.

10:34 1
10:34 2 Q. Why was that?
10:34 3
10:34 4 A. I'd been asked to call him and give him Josh's views and to
10:34 5 make clear to him how unhappy Josh was.
10:34 6
10:34 7 Q. And Mr Preston, as you've just said, was unhappy about the
10:34 8 fifth paragraph, the VCGLR's impression that Crown appeared
10:34 9 reluctant to undertake a review of any relevant ICSs with input
10:34 10 from AUSTRAC even though Mr Preston hadn't sought input
10:34 11 from AUSTRAC in relation to the ICSs.
10:34 12
10:34 13 A. So what that concerned was a meeting with Mr Cremona
10:34 14 two days earlier where I had said to him on multiple occasions
10:35 15 that he --- he raised his concerns about Josh talking about the
10:35 16 program in the previous meeting, and I assured him that
10:35 17 regardless, Crown has met and satisfied or will satisfy all of its
10:35 18 recommendations as they are written, and by the due date. And I
10:35 19 said that to him multiple times during that meeting. And then
10:35 20 Crown had, through Louise Lane, undertaken the review of the
10:35 21 relevant ICSs. So it was the AUSTRAC issue obviously that
10:35 22 remains. But because I had given him those assurances and the
10:35 23 ICSs had been reviewed, Josh was fairly annoyed, to put it
10:35 24 lightly.
10:35 25
10:35 26 Q. So you chose to ignore the issue about input on the ICSs
10:35 27 from AUSTRAC and respond aggressively?
10:35 28
10:35 29 A. Well, I didn't choose to respond aggressively. I was asked
10:35 30 to respond in a very firm manner.
10:35 31
10:36 32 Q. Mr Cremona says that, looking at the fifth line, you said
10:36 33 that Mr Preston was "furious" --
10:36 34
10:36 35 A. He was.
10:36 36
10:36 37 Q. --- and would most probably call the minister.
10:36 38
10:36 39 A. Yes.
10:36 40
10:36 41 Q. What was Mr Preston going to say to the Minister?
10:36 42
10:36 43 A. I don't know. That was a discussion between him and
10:36 44 another member of staff at Crown.
10:36 45
10:36 46 Q. You found out about that through another member of staff
10:36 47 at Crown, not Mr Preston?

10:36 1
10:36 2 A. No, no, Mr Preston.
10:36 3
10:36 4 Q. But he didn't tell you what he was going to say to the
10:36 5 Minister?
10:36 6
10:36 7 A. No.
10:36 8
10:36 9 Q. Do you think it is an appropriate thing to do, to ring
10:36 10 an investigator or person at the VCGLR and threaten to call the
10:36 11 minister?
10:36 12
10:36 13 A. I don't think it is a threat.
10:36 14
10:36 15 Q. I withdraw that then. Do you think it is an appropriate
10:36 16 thing to do, in response to implementing the VCGLR's
10:36 17 recommendations, to say you are going to elevate it to the
10:36 18 Minister?
10:36 19
10:36 20 A. Not really, and to be honest with you I was uncomfortable
10:37 21 with it.
10:37 22
10:37 23 Q. Why did you do it?
10:37 24
10:37 25 A. Because that's what he asked me to do.
10:37 26
10:37 27 Q. You would always do what Mr Preston asked you to do,
10:37 28 would you?
10:37 29
10:37 30 A. No, and there were more extenuating circumstances than
10:37 31 that.
10:37 32
10:37 33 Q. What way?
10:37 34
10:37 35 A. The person he was talking to was also in my office and
10:37 36 prompting me to say that while I was on the phone with Jason.
10:37 37
10:37 38 Q. You're on the phone to Mr Cremona and he was prompting
10:37 39 with sending you notes or something, was he?
10:37 40
10:37 41 A. I don't remember it was notes, but I remember him telling
10:37 42 me they were going to escalate to the Minister.
10:37 43
10:37 44 COMMISSIONER: Who was the person?
10:37 45
10:37 46 A. Chris Reilly.
10:37 47

10:37 1 MS NESKOVCIN: What was his role?
10:37 2
10:37 3 A. He either works in --I think it's corporate affairs I think is
10:37 4 the title.
10:37 5
10:37 6 Q. It is concerning, Ms Fielding, that you recognised that was
10:37 7 not an appropriate thing to do but you did it anyway?
10:37 8
10:37 9 A. Look, I don't think I recognised it at that point in time that
10:37 10 it wasn't an appropriate thing to do. I was just uncomfortable
10:37 11 with that, it didn't sit well with me.
10:37 12
10:37 13 Q. But you did it anyway. Do you see the concern?
10:37 14
10:38 15 A. Yes.
10:38 16
10:38 17 Q. In any event, as Mr Cremona's statement mentions, the
10:38 18 VCGLR eventually accept that Crown had complied with
10:38 19 Recommendation 17 but sitting here now, what do you consider
10:38 20 to be Crown's failings in relation to how it dealt with
10:38 21 Recommendation 17 and the VCGLR?
10:38 22
10:38 23 A. In what regard specifically?
10:38 24
10:38 25 Q. Well, we've seen from Mr Cremona's statement the
10:38 26 impression that conversations with Crown had left the VCGLR.
10:38 27 It made clear what it wanted to happen. You made clear to
10:38 28 Mr Preston what would need to happen. There needed to be a
10:38 29 review of the ICSs, it's not just the AML program. Crown chose
10:39 30 to ignore or didn't act on one of the matters in the
10:39 31 recommendations, which was seeking input from AUSTRAC and
10:39 32 you've given your explanation for that, but it was clear that that is
10:39 33 what the VCGLR required. And you accept, don't you, that if the
10:39 34 VCGLR put forward a recommendation like that, they have
10:39 35 a purpose, they have --- and it is important to them and it is
10:39 36 something that Crown should do?
10:39 37
10:39 38 A. I do think that he did send the ICSs to AUSTRAC, but I
10:39 39 completely accept that should have happened well before it did.
10:39 40
10:39 41 Q. So are there any other failings that you can identify, looking
10:39 42 back on this now, to give the Commissioner the assurance that
10:39 43 that is not something that would be repeated in the future?
10:39 44
10:39 45 A. No, it wouldn't, I wouldn't ring Jason in that tone again,
10:39 46 whether I was asked to or not. Or anybody else at the regulator,
10:40 47 for that matter.

10:40 1
10:40 2 Q. Now, going back to the final investigation report in relation
10:40 3 to the China arrests, I know you hadn't had an opportunity to
10:40 4 review the report in detail, but assuming that --- leaving aside the
10:40 5 findings in relation to the circumstances that led to the arrests,
10:40 6 focussing only on what the report says about how Crown dealt
10:40 7 with the regulator in the course of that investigation, and what
10:40 8 you've seen in Mr Bryant's statement; do you accept there were
10:40 9 failings on Crown's part in how it dealt with the regulator
10:40 10 throughout the course of that investigation?
10:40 11
10:40 12 A. I just don't have any knowledge of it. I'm happy to accept if
10:41 13 what Mr Bryant said occurred, occurred, then, yes, but I don't
10:41 14 have any knowledge of it.
10:41 15
10:41 16 Q. But you can see the basis for their concerns? If there is
10:41 17 delay, incomplete production, belligerence?
10:41 18
10:41 19 A. Yes, if that occurred, it is unacceptable, yes.
10:41 20
10:41 21 Q. Part of change involves self-reflection, looking back,
10:41 22 looking at where you went wrong and making sure it doesn't
10:41 23 happen again. How is the Commissioner to have the faith and
10:41 24 assurance that this wouldn't happen again when you, Ms Fielding,
10:41 25 haven't even read the report?
10:41 26
10:41 27 A. I explained why I haven't read the report. It's not that I'm
10:41 28 choosing not to, I haven't had the capacity to do that.
10:41 29
10:41 30 Q. When are you planning to do that?
10:41 31
10:41 32 A. As soon as I have the capacity to read it.
10:41 33
10:41 34 Q. Do you accept, looking back on the relationship between
10:41 35 Crown and the regulator over the last three years, that it has
10:41 36 deteriorated?
10:42 37
10:42 38 A. I would actually say that in more recent times it has
10:42 39 improved quite significantly at my level. I can't talk about the
10:42 40 relationship at a holistic level between Crown and the VCGLR
10:42 41 but my dealings with Mr Cremona and his manager,
10:42 42 Mr Fitzpatrick have been much more positive and open over
10:42 43 more recent times.
10:42 44
10:42 45 Q. Looking at the relationship more broadly, what do you
10:42 46 think needs to change to improve the relationship?
10:42 47

10:42 1 A. I think that we are --- historically and holistically haven't
10:42 2 been as transparent as we should have been. I think that a lot
10:42 3 more attention could have been and should have been applied to
10:42 4 that. I think that is largely the crux of it.
10:42 5

10:42 6 Q. Is there anything ---
10:42 7

10:42 8 COMMISSIONER: Would it be fair to say that looking back
10:42 9 over the relationship, there are a series of deficiencies: one, you
10:42 10 weren't cooperative; two, you weren't frank; three, you weren't
10:43 11 forthright; and if that is right, you would agree, wouldn't you, that
10:43 12 all of that has to change?
10:43 13

10:43 14 A. Yes, two and three. I'm not sure I would say that we
10:43 15 weren't cooperative. I think largely we were. I accept there were
10:43 16 failings in that, but we certainly weren't frank and forthright, I
10:43 17 accept that completely.
10:43 18

10:43 19 Q. I'm about to move to another topic.
10:43 20

10:43 21 COMMISSIONER: We'll break now. Back in 10 minutes, come
10:43 22 back at five to.
10:43 23

10:43 24

10:43 25 **ADJOURNED** **[10.43AM]**
11:00 26

11:00 27

11:00 28 **RESUMED** **[11.00AM]**
11:00 29

11:00 30

11:00 31 MS NESKOVCIN: Commissioner, in a moment I'm going to
11:00 32 show Ms Fielding some privileged documents ---
11:00 33

11:00 34 COMMISSIONER: Crown privileged documents?
11:00 35

11:00 36 MS NESKOVCIN: Crown privileged documents. And to avoid
11:00 37 certain parties having to vacate the room, we have taken a very
11:00 38 sophisticated approach of disconnecting their terminals. I will
11:00 39 get to that in a moment, that is just by way of explanation for
11:00 40 people who come back and see that their monitors might not be
11:00 41 working.
11:00 42

11:00 43 COMMISSIONER: They tried that this morning.
11:00 44

11:00 45 MR BORSKY: Not that sophisticated!
11:00 46

11:00 47 MS NESKOVCIN: So just before I go to that, a bit more context.

11:00 1
11:00 2 Ms Fielding, what I want to do now is explore the division
11:00 3 between, or separation of the roles of compliance and legal to
11:00 4 understand who does what. I will provide a bit of context. You
11:01 5 might have noticed in Mr Bryant's statement leading up to the
11:01 6 finalisation of the report in late December 2020 the VCGLR,
11:01 7 having seen what has gone on in the NSW Inquiry, write to
11:01 8 Crown with a list of propositions and ask them to agree to them.
11:01 9
11:01 10 A. Yes.
11:01 11
11:01 12 Q. And Crown responds on 20 January 2021. Operator, could
11:01 13 we go to the document that is in December,
11:01 14 VCG.0001.0002.3412. That is the document rhyme referring to
11:01 15 as inviting comments on a number of propositions. Part of it was
11:02 16 extracted in Mr Bryant's statement. Over the page, please,
11:02 17 operator.
11:02 18
11:02 19 I'm not going to ask you about the detail about this for context. If
11:02 20 I could please ask the operator to call up MEM.5002.0006.3452.
11:02 21 If we could go to the bottom of the page, which is the start of the
11:02 22 email chain, you will see this is an email from a person at
11:03 23 MinterEllison to you and Ms Siegers and others.
11:03 24
11:03 25 A. (Nods head).
11:03 26
11:03 27 Q. It appears to provide a copy of a letter from VCGLR
11:03 28 inviting Crown to respond to a series of matters. In the second
11:03 29 paragraph your name is mentioned. There are comments in here
11:03 30 about privileged documents. If we just scroll up, you respond on
11:03 31 20 January 2021.
11:03 32
11:03 33 A. Yes.
11:03 34
11:03 35 Q. Do I take it you received the letter I showed you of 22
11:03 36 December 2020?
11:03 37
11:03 38 A. Yes.
11:03 39
11:03 40 Q. You have also received a draft of Crown's response?
11:03 41
11:03 42 A. Yes.
11:03 43
11:03 44 Q. Did you review the response in its entirety?
11:03 45
11:03 46 A. No, I didn't.
11:03 47

11:03 1 Q. Were you just asked to review it for a specific purpose?
11:03 2
11:03 3 A. Yes.
11:03 4
11:03 5 Q. At this point Mr Preston had left Crown, I believe?
11:04 6
11:04 7 A. Yes, I believe he had.
11:04 8
11:04 9 Q. Who had effectively stepped into his role in ---
11:04 10 (overspeaking) --- to VCGLR in relation to the China Arrests
11:04 11 Investigation?
11:04 12
11:04 13 A. I think Mary Manos.
11:04 14
11:04 15 Q. But you hadn't taken on the role of actually providing
11:04 16 instructions to MinterEllison to respond to the VCGLR ---
11:04 17
11:04 18 A. (Nods head).
11:04 19
11:04 20 Q. --- and deal with their invitation to address the
11:04 21 propositions?
11:04 22
11:04 23 A. No.
11:04 24
11:04 25 Q. You are aware, aren't you, of the China arrests class action
11:04 26 in the Federal Court was commenced in late 2017 and is
11:04 27 ongoing?
11:04 28
11:04 29 A. Yes, I am.
11:04 30
11:04 31 Q. Do you have any involvement in relation to that piece of
11:04 32 litigation?
11:04 33
11:04 34 A. No, I don't.
11:04 35
11:04 36 Q. So you neither provide instructions to the lawyers?
11:04 37
11:04 38 A. No, I don't.
11:04 39
11:04 40 Q. Nor do you receive advice from the lawyers or counsel
11:05 41 briefed in the class action?
11:05 42
11:05 43 A. No, I don't.
11:05 44
11:05 45 Q. Could you just briefly explain how the division between
11:05 46 compliance and legal actually works?
11:05 47

11:05 1 A. It has been quite different depending on who I've been
11:05 2 reporting to at the time. So Debra Tegoni had a very strict
11:05 3 concept of me not providing legal advice unless she had directed
11:05 4 such, and didn't want me to mark emails legally privileged unless
11:05 5 she directed. Josh Preston had an opposing approach. He
11:05 6 thought I should be marking my emails legally privileged,
11:05 7 et cetera.

11:05 8

11:05 9 Q. Can I interrupt you, do you hold a practicing certificate?

11:05 10

11:05 11 A. Yes, I do. And Steve Blackburn, who I currently report to,
11:06 12 his view is that I do compliance work and I'm not hired as
11:06 13 a lawyer and I won't be doing any legal work.

11:06 14

11:06 15 Q. So how then do matters get allocated as to you and your
11:06 16 responsibility, and something that goes to legal and if you ---
11:06 17 we've seen how that worked with the China Arrests Investigation.
11:06 18 Essentially that was handled by legal. Generally, is there a way
11:06 19 that the work is divided depending on what it is or perhaps the
11:06 20 complexity or materiality?

11:06 21

11:06 22 A. If it is a legal matter it will go to legal. The China matter
11:06 23 obviously became a litigation matter so it was dealt with by legal.
11:06 24 But it was dealt with by legal before it became a litigation matter,
11:06 25 so Debra Tegoni had carriage of it at the time that the staff were
11:06 26 arrested in China. So it was always a legal matter.

11:06 27

11:06 28 I will be frank with you, it is quite a blurred line and quite
11:07 29 a difficult thing to explain.

11:07 30

11:07 31 Q. And that's why I'm raising it with you because it seems that
11:07 32 matters are handled by legal that have a material bearing on your
11:07 33 area as compliance manager and the relationship with the
11:07 34 regulator, but you are not across it.

11:07 35

11:07 36 A. That's right.

11:07 37

11:07 38 Q. Can we explore that a little more through some examples
11:07 39 for the Commissioner, please. The Compliance Committee, I
11:07 40 asked you about that at the start. And you said --- I have to
11:07 41 remember ---

11:07 42

11:07 43 A. I didn't have any involvement in it until more recent times.

11:07 44

11:07 45 Q. Yes, late 2019, I think you said.

11:07 46

11:07 47 A. Yeah, or 2020, I'm not sure.

11:07 1
11:07 2 Q. We'll go back and have a look. And so --- let's have a look
11:07 3 at some of the Compliance Committee minutes so you can
11:07 4 perhaps contextualise some of that for us.
11:07 5
11:07 6 A. Sure.
11:07 7
11:07 8 Q. We've looked at Crown's records produced to the
11:07 9 Commission. As far as we can see, the Compliance Committee
11:08 10 met four times in 2019, February, May, August and November.
11:08 11 Take that from me. I realise you may not have been either
11:08 12 a present or a member at that time. And then in 2020 it appears
11:08 13 that the committee met in January, June, August and November.
11:08 14
11:08 15 A. Okay.
11:08 16
11:08 17 Q. The first document I want to take you to is the minutes of
11:08 18 the meeting in August 2019. Sorry, I withdraw that. It is the
11:08 19 diligent pack, so it's the pack of material that goes to the
11:08 20 committee. It is a privileged document so I won't be reading
11:08 21 parts of it into the transcript --
11:08 22
11:08 23 A. Sure.
11:08 24
11:08 25 Q. --- I will be showing you it on the screen.
11:08 26 VRW.502.003.1871.
11:08 27
11:08 28 You see that is the Crown Melbourne Compliance Committee, 6
11:09 29 August 2019. You see the attendees there. Actually, you are
11:09 30 invited. We would have to check the minutes to see if you
11:09 31 actually attended that meeting. I'm not sure about that. Just have
11:09 32 a quick look at the agenda, if you don't mind. So there is
11:09 33 compliance and regulatory and all of the matters set out there.
11:09 34 You note paragraph 4, the topic there?
11:09 35
11:09 36 A. Yes.
11:09 37
11:09 38 Q. All right. Operator, if we could now move to the internal
11:09 39 page 42. That is a report on some of the matters under item 3.
11:09 40 Have a look briefly at the second heading --
11:09 41
11:09 42 A. Yes.
11:09 43
11:09 44 Q. --- what is described there, it seems to be an update on those
11:09 45 matters. So the point I'm trying to make is, these matters were
11:10 46 reported to the committee.
11:10 47

11:10 1 A. Yes.
11:10 2
11:10 3 Q. According to the pack, it was in that detail. And then if we
11:10 4 go to page --- on my notes, 214.
11:10 5
11:10 6 A. No, there likely wouldn't have been that many pages.
11:10 7
11:10 8 Q. No, it didn't seem right. I'm not sure if you can search,
11:10 9 operator, but I'm after the litigation update. Yes, all right, thank
11:10 10 you. Go to the next page. These are all redacted, operator? Yes.
11:10 11 Let me try the May document. Operator, CRW.502.003.1663.
11:11 12 Again, please note the agenda.
11:11 13
11:11 14 A. Yes.
11:11 15
11:11 16 Q. You were invited. I don't know if you attended. If we go to
11:11 17 page 33 --- internal page 33, please, operator --- you see the
11:11 18 update there on those matters?
11:11 19
11:11 20 A. Yes.
11:11 21
11:11 22 Q. And then page 51, please, operator. Not what I saw when I
11:11 23 called it up.
11:11 24
11:11 25 A. I'm familiar with it. I know what it is you are referring to.
11:11 26
11:11 27 Q. What I want to understand is, who does the update on the
11:11 28 regulatory matters? Who does the update on the litigation
11:12 29 matters? So perhaps if you could answer those.
11:12 30
11:12 31 A. So at this point while Mr Preston was there I wrote the
11:12 32 updates for the regulatory report, but then he heavily edited it.
11:12 33 The litigation report was written by either himself or
11:12 34 Ms Williamson in the legal department.
11:12 35
11:12 36 Q. My impression of the material that goes to the committee is
11:12 37 that it is rather brief.
11:12 38
11:12 39 A. Either in relation to regulatory, or just assume that is the
11:12 40 case with the litigation update. So what I wanted to try and
11:12 41 understand is, when you actually get to the committee, what level
11:12 42 of discussion is there about the detail behind the reports?
11:12 43
11:12 44 A. Some of the matters are discussed in more detail, especially
11:12 45 if it is the first time it is coming to the committee. It is a matter
11:12 46 that's gone to the committee over and over, it is probably
11:12 47 discussed minutely, if at all, it could be taken as read. But other

11:13 1 things more substantially.

11:13 2

11:13 3 Q. Someone has assisted us. I thank you for that. This is the

11:13 4 section we should have seen in relation to the litigation update.

11:13 5 You are not aware of this, it seems, Ms Fielding, but by this stage

11:13 6 significant advice had been provided to Crown in relation to the

11:13 7 topic that you see on the screen.

11:13 8

11:13 9 A. Okay.

11:13 10

11:13 11 Q. And there are also updates to the board of Crown Resorts

11:13 12 Ltd from our review of the minutes of the various meetings.

11:13 13 Crown Resorts Ltd have more extensive meetings than Crown

11:13 14 Melbourne Ltd.

11:13 15

11:13 16 A. Okay.

11:13 17

11:13 18 Q. The Compliance Committee is therefore an avenue for

11:13 19 directors of Crown Melbourne Ltd to have some insight into

11:13 20 litigation matters.

11:13 21

11:13 22 A. Yes.

11:13 23

11:13 24 Q. Do those comments that you just made still apply, that if

11:14 25 a matter is new on the agenda it might be discussed in detail, but

11:14 26 then it just becomes like a rolling item, it might not attract the

11:14 27 same level of discussion?

11:14 28

11:14 29 A. Yeah, I think from that point on they would talk to the

11:14 30 update, rather than the history and substance of the matter.

11:14 31

11:14 32 Q. The detail of advice given to the company in relation to

11:14 33 matters such as that which you see on the screen, does the

11:14 34 committee get into that sort of detail?

11:14 35

11:14 36 A. Not that I can recall. They might be given an overview or

11:14 37 outcome, but I don't recall them going through it in any great

11:14 38 detail.

11:14 39

11:14 40 Q. Similarly, with the regulatory matters, the detail of what

11:14 41 has actually gone to the regulator by Crown in response to, for

11:14 42 example, that December 2020 letter, does that get tabled at

11:14 43 a Compliance Committee meeting?

11:14 44

11:14 45 A. Sorry, what is the December 2020 letter?

11:14 46

11:15 47 Q. December 2020, VCGLR writes to Crown and says "Do

11:15 1 you agree with these propositions", the response is given in
11:15 2 January 2021. Would that response be tabled at a meeting so that
11:15 3 there is some insight by the committee members about how
11:15 4 Crown is responding to the regulator on those things?
11:15 5
11:15 6 A. Yeah, I'm not sure what the process behind that is. It could
11:15 7 have been that those things are circulated to the board members.
11:15 8 I don't know.
11:15 9
11:15 10 Q. Let's fast-forward.
11:15 11
11:15 12 COMMISSIONER: Although they may have but you don't know
11:15 13 whether the correspondence was circulated, but it certainly was
11:15 14 not raised at a compliance committee meeting?
11:15 15
11:15 16 A. It may have been as an update to the litigation report in the
11:15 17 compliance papers but I can't recall, to be honest.
11:15 18
11:15 19 COMMISSIONER: Unlikely?
11:15 20
11:15 21 A. No, I don't think necessarily unlikely ---
11:15 22
11:15 23 COMMISSIONER: If documents are tabled, the minutes should
11:15 24 be recording that.
11:15 25
11:15 26 A. No, the documents wouldn't be tabled. No.
11:16 27
11:16 28 MS NESKOVCIN: As far as I can see such documents haven't
11:16 29 been tabled ---
11:16 30
11:16 31 A. Yeah.
11:16 32
11:16 33 Q. --- and I was wondering if there were offline discussions
11:16 34 between, say, Mr Preston, Ms Manos and committee members.
11:16 35 Let's go to 2020 and see if you are more involved at that point
11:16 36 and whether you can answer that.
11:16 37
11:16 38 A. I can't answer that, to be honest with you. I wouldn't know
11:16 39 if they were having offline discussions with the board members.
11:16 40 It wouldn't be --- there wouldn't be a offline Compliance
11:16 41 Committee meeting, if that's what you are referring to ---
11:16 42
11:16 43 Q. No.
11:16 44
11:16 45 A. --- but whether they were conferring with the directors at
11:16 46 different points on different things, I don't know.
11:16 47

11:16 1 Q. By way of example for 2020, operator, if we could please
11:16 2 go to CRW.502.003.2315.
11:16 3
11:17 4 Since you become a member, do you shift from the bottom line to
11:17 5 the top line?
11:17 6
11:17 7 A. I don't think I ever became a member. I think the members
11:17 8 are always the board.
11:17 9
11:17 10 Q. I see. So the agenda is broadly the same as the previous
11:17 11 agendas. Operator, if we could please go to internal page 12.
11:17 12 And perhaps back a page as well. That is essentially the report
11:17 13 on regulatory matters.
11:17 14
11:17 15 A. Yes.
11:17 16
11:17 17 Q. And again, similar sort of level of detail to what we've seen
11:17 18 in the past?
11:17 19
11:17 20 A. Yes.
11:17 21
11:17 22 Q. Operator, if we could please go to page 66. Take it from
11:17 23 me that it is a similar level of detail --
11:17 24
11:18 25 A. Sure.
11:18 26
11:18 27 Q. --- to what we've seen in the past. What we've also seen
11:18 28 from the correspondence is that there are detailed letters that are
11:18 29 going to the VCGLR in relation to the China Arrests
11:18 30 Investigation that subsequently become a topic of criticism by the
11:18 31 VCGLR, hence the comment about belligerence. There are very
11:18 32 detailed advices going to Crown or at least to the legal people
11:18 33 within Crown in relation to the China arrests action. It's not clear
11:18 34 whether that detail is reported to the committee. You personally
11:18 35 haven't seen some of these matters. I'm suggesting to you they
11:18 36 have a material bearing on you as compliance manager, the
11:18 37 relationship with the regulator. Is that a concern that you share or
11:19 38 concern --- I'm putting it to you, is that a concern, do you share
11:19 39 it?
11:19 40
11:19 41 A. Look, I would rather know than not, make no mistake. But
11:19 42 I think the way you could probably characterise it is that Josh and
11:19 43 Debra before him were considered the most senior compliance
11:19 44 person, and they were the people that were largely having
11:19 45 carriage of these matters, especially through these meetings and
11:19 46 with dealing with the board. So I think from a compliance
11:19 47 perspective, their view would have been that the most senior

11:19 1 compliance person was dealing with them and was across them.

11:19 2

11:19 3 Q. But what we've also seen is that the most senior person
11:19 4 dealing with compliance has taken the wrong approach to
11:19 5 compliance. So how does the organisation --- what
11:19 6 improvements could you see to the organisational structure to
11:19 7 make sure there is better oversight of that, so it doesn't get to the
11:19 8 point where the relationship is broken and no one can repair it?

11:19 9

11:19 10 A. Yeah, well, I think Crown has done that significantly.
11:20 11 Some of the things they really needed to do I think are being
11:20 12 done. I think I no longer report into the operational business at
11:20 13 Crown Melbourne, I'm reporting to Steve Blackburn at Crown
11:20 14 Resorts. So I'm no longer reporting into the legal department at
11:20 15 all. So those blurred lines are largely been fixed there. I also
11:20 16 think it is a really positive step in more modern times that they've
11:20 17 brought in external people that aren't from the casino industry,
11:20 18 such as Mr McCann and Mr Blackburn. Because I think part of
11:20 19 what went wrong with Crown's culture, without being aware of it
11:20 20 itself, was it became a little bit too insular and that is the casino
11:20 21 industry as a whole rather than just Crown. It thought that what it
11:20 22 was doing was what it should have been doing and didn't sort of,
11:20 23 I don't think, appreciate that it wasn't in the state it should have
11:21 24 been in.

11:21 25

11:21 26 Q. You have mentioned two matters which don't seem to me
11:21 27 to address the organisational structure between legal and
11:21 28 compliance with legal having --- I understand what you say about
11:21 29 now reporting in to Mr Blackburn and you have clearer lines
11:21 30 there --

11:21 31

11:21 32 A. Yes.

11:21 33

11:21 34 Q. --- but if legal continue to deal with compliance matters that
11:21 35 you might need to have insight into, that is not going to happen
11:21 36 with the current organisational structure, is it?

11:21 37

11:21 38 A. Well, I think that is something that has to be worked
11:21 39 through. Betty Ivanoff, who is now taking over legal, started this
11:21 40 week I think. But it is certainly something we could address and
11:21 41 look at. I don't object to that in any way or detract from what you
11:21 42 are saying.

11:21 43

11:21 44 Q. I'm asking you for insight or suggestions into to how you
11:21 45 think that could be improved, having regard to your experience
11:21 46 there over many years.

11:21 47

11:21 1 A. I think probably that any material that goes to the regulator
11:22 2 I could review before it went.
11:22 3
11:22 4 Q. What about the Compliance Committee? So under the
11:22 5 Casino Control Act Crown Melbourne is required to have two
11:22 6 committees, the Audit Committee and Compliance Committee.
11:22 7 You are looking at me --- have I misunderstood?
11:22 8
11:22 9 A. Yeah, I think so. I think it is under the Management
11:22 10 *Agreement Act*.
11:22 11
11:22 12 Q. Thank you. That wasn't a test.
11:22 13
11:22 14 A. (Laughs).
11:22 15
11:22 16 Q. And so, leaving aside the Audit Committee, that doesn't
11:22 17 seem to be their jurisdiction.
11:22 18
11:22 19 A. No.
11:22 20
11:22 21 Q. If the Compliance Committee isn't exercising the right
11:22 22 oversight over the people who have dealing with compliance
11:22 23 matters, we might see history repeat itself?
11:22 24
11:22 25 A. No, I don't think so. Like I said, the company considered
11:22 26 Josh and Debra to be the most senior compliance person, so
11:22 27 I think they thought that compliance was being dealt with by the
11:22 28 most senior compliance person. That is now separated. Betty
11:23 29 Ivanoff will be in a different stream to what I'm in. So I don't
11:23 30 think that is the case but I accept your point, and as I said, I can
11:23 31 ensure that I review any material that goes to the regulator.
11:23 32
11:23 33 Q. I understand. Thank you.
11:23 34
11:23 35 I'm not going to move to another topic, Commissioner. It might
11:23 36 involve at least one privileged material. I would just ask for
11:23 37 clarification as to the status of the privilege claims in relation to
11:23 38 advice recently received from the Board of Crown Resorts Ltd
11:23 39 into what concerns the China UnionPay card and other matters.
11:24 40
11:24 41 MR BORSKY: Commissioner, I can confirm that no claim for
11:24 42 privilege in relation to the China UnionPay advice has been or is
11:24 43 taken and pressed. I am instructed that there has been
11:24 44 an application for an NPO made only to restrict publication of the
11:24 45 identities of some relatively speaking junior staff members. But I
11:24 46 hope that answers my learned friend's question on privilege.
11:24 47

11:24 1 COMMISSIONER: I'm not sure the ambit of the discussion. Are
11:24 2 we just talking about counsel's opinion or the documents that are
11:24 3 referred to in counsel's opinion that were supplied together with
11:24 4 or after the opinion was provided?

11:24 5

11:24 6 MR BORSKY: Commissioner, I'm instructed that Crown does
11:25 7 not make a claim for privilege in relation to the China UnionPay
11:25 8 issue. So from the outside of it coming to the attention of senior
11:25 9 managers at Crown, it has investigated, disclosed to this
11:25 10 Commission and taken as open and frank a position as it could,
11:25 11 which included not claiming privilege in relation to it.

11:25 12

11:25 13 COMMISSIONER: I get it. This is probably a misdirected
11:25 14 question, but I thought that Crown didn't obtain that advice, I
11:25 15 thought the directors obtained the advice and it might not be your
11:25 16 privilege to give up. Now, unless you know that the directors,
11:25 17 separately represented by separate law firm, had got the advice,
11:25 18 take exactly the same position as you, I'm comfortable with that.
11:25 19 But at the moment I fear you are giving away something you
11:25 20 don't own.

11:25 21

11:25 22 MR BORSKY: Well, I can't speak to any claim that
11:26 23 an individual director or group of directors may wish.

11:26 24

11:26 25 COMMISSIONER: I thought it was --- the way that I read the
11:26 26 advice, or the covering correspondence, I can't recall which, it
11:26 27 was advice obtained by the Board ---

11:26 28

11:26 29 MR BORSKY: That is so.

11:26 30

11:26 31 COMMISSIONER: --- through the Board's lawyers.

11:26 32

11:26 33 MR BORSKY: That is so. There is obviously a dual capacity. I
11:26 34 understand your question, with respect. As I say, I appear on
11:26 35 behalf of Crown. I'm instructed that Crown makes no claim for
11:26 36 privilege. I can't answer the question about whether some board
11:26 37 member or members may ---

11:26 38

11:26 39 COMMISSIONER: Or the whole board, really. It is likely that
11:26 40 whoever ABL were acting for, it's a joint privilege. One can't
11:26 41 give it up. All of them have to give it up, because one can claim
11:26 42 joint privilege and prevent the others from --- I know, I thought
11:26 43 exactly the same thing. Yes.

11:26 44

11:26 45 MR BORSKY: I can't improve my answer.

11:27 46

11:27 47 COMMISSIONER: But your solicitor can make a phone call.

11:27 1 Send an email. Maybe they are watching it online. Does
11:27 2 anybody know what the ---
11:27 3
11:27 4 MS NESKOVCIN: We have been trying to make inquiries of the
11:27 5 directors through their solicitors and we haven't had a response.
11:27 6 So my ---
11:27 7
11:27 8 COMMISSIONER: That's not a way to deal ---
11:27 9
11:27 10 MS NESKOVCIN: --- inquiry to the air was about as effective as
11:27 11 saying in this room what sort of response --- because the directors
11:27 12 aren't here today. We will continue to try and obtain a response.
11:27 13 I think I can still manage to press on dealing with this document
11:27 14 as a document that won't be read into the transcript or shown on
11:27 15 any screen.
11:27 16
11:27 17 COMMISSIONER: Yes.
11:27 18
11:27 19 MS NESKOVCIN: The other documents, as Mr Borsky has
11:27 20 said ---
11:27 21
11:27 22 COMMISSIONER: They are Crown documents.
11:27 23
11:27 24 MS NESKOVCIN: Yes, and there is no claim for privilege.
11:27 25
11:28 26 COMMISSIONER: We can do the documents and be careful
11:28 27 about the opinion until we sort that out. That will work okay
11:28 28 from your perspective?
11:28 29
11:28 30 MR BORSKY: That must be right, with great respect. The
11:28 31 anterior --- the documents coming --- they are ours and my
11:28 32 instructions remain as they were, and those instructing me are
11:28 33 placing urgent phone calls to others --- other firms and it may be
11:28 34 that very shortly we'll be able to address it.
11:28 35
11:28 36 COMMISSIONER: I can take a warranty from your instructing
11:28 37 solicitor. We'll see how we go.
11:28 38
11:28 39 MS NESKOVCIN: Thank you. I will start by showing
11:28 40 Ms Fielding some aspects of the document on the screen and then
11:28 41 we may need to make some logistical changes so other monitors
11:28 42 are switched on and they can then follow the rest of the
11:28 43 documents.
11:28 44
11:29 45 COMMISSIONER: Yes.
11:29 46
11:29 47 MS NESKOVCIN: Thank you for bearing with us, Ms Fielding,

11:29 1 in these administrative matters.
11:29 2
11:29 3 A. Not at all.
11:29 4
11:29 5 Q. Operator, please call up CRW.900.002.0001. While we are
11:29 6 waiting, Ms Fielding, are you aware that earlier this year the
11:29 7 board of Crown Resorts Ltd had sought advice from counsel in
11:29 8 relation to a practice at Crown Melbourne between 2012 and
11:29 9 2016 involving Crown receiving payment at Crown Towers Hotel
11:29 10 from international VIP customers using a credit or debit card,
11:30 11 usually the China UnionPay card, with the funds then being made
11:30 12 available to the patron for gaming at the casino?
11:30 13
11:30 14 A. Yes.
11:30 15
11:30 16 Q. You were interviewed by counsel for the purpose of that
11:30 17 advice?
11:30 18
11:30 19 A. I'm not sure who it was, but there were people from ABL
11:30 20 so, yes, perhaps.
11:30 21
11:30 22 Q. Have you had an opportunity to review this advice?
11:30 23
11:30 24 A. Yes, I have.
11:30 25
11:30 26 Q. Operator, could we please go to paragraphs 47 on page ---
11:30 27 internal page 12. You see a reference there to a person at the
11:31 28 beginning of paragraph 47 proposing a process whereby Crown
11:31 29 Towers would raise a room charge and immediately it would be
11:31 30 settled and cash would be released at the cage?
11:31 31
11:31 32 A. Yes, I do.
11:31 33
11:31 34 Q. You see there that pre-approval was required from two
11:31 35 individuals mentioned in the second sentence?
11:31 36
11:31 37 A. Yes, I do.
11:31 38
11:31 39 Q. And that advice had been sought from you and
11:31 40 Ms Tegoni ---
11:31 41
11:31 42 A. Yes.
11:31 43
11:31 44 Q. --- that's the internal and legal compliance teams?
11:31 45
11:31 46 A. Yes.
11:31 47

11:31 1 Q. Paragraph 48 refers to an email that you sent on 9 August
11:31 2 2012?
11:31 3
11:31 4 A. Yes.
11:31 5
11:31 6 Q. I am going to come back to those documents, but just so we
11:31 7 can deal with this document and then leave it.
11:31 8
11:31 9 You are aware, aren't you, that essentially this advice confirmed
11:31 10 what you had said in your advice on 9 August 2012, that it was
11:32 11 a potential breach of section 68 of the Casino Control Act?
11:32 12
11:32 13 A. Yes. I haven't read that again, but, yes, I understand that to
11:32 14 be the case.
11:32 15
11:32 16 Q. Counsel had identified an issue that you had already
11:32 17 considered in 2012, 2013?
11:32 18
11:32 19 A. That's right.
11:32 20
11:32 21 Q. In paragraph 56, please, operator.
11:32 22
11:32 23 There is another reference to an email you sent on 11 September,
11:32 24 Ms Fielding?
11:32 25
11:32 26 A. Yes, that's right.
11:32 27
11:32 28 Q. We'll come back to that shortly.
11:32 29
11:32 30 Operator, could we go to paragraph 193. That's internal page 47.
11:33 31 I will give you an opportunity to read the next few paragraphs if I
11:33 32 might, Ms Fielding.
11:33 33
11:33 34 A. Yes.
11:33 35
11:33 36 Q. Operator, could you go over the page, please.
11:33 37
11:34 38 I will give you an opportunity to look at paragraphs 194, 195 and
11:34 39 196, Ms Fielding. Let us know when you want the operator to
11:34 40 scroll down the page.
11:34 41
11:34 42 A. How far do you want me to go? 196?
11:34 43
11:34 44 Q. 196, please.
11:34 45
11:34 46 A. Sure. Yes.
11:34 47

11:35 1 Q. You see the reference in the fourth line of Ms Tegoni's
11:35 2 email to Mr O'Connor of 7 October 2014?

11:35 3

11:35 4 A. Yes.

11:35 5

11:35 6 Q. We jump to paragraph 211 at the end of page 51, please,
11:35 7 operator. And this email, I want to suggest is referred to here
11:35 8 again. It says, and i will take you to the email:

11:35 9

11:35 10 *We note Ms Tegoni, in advice*

11:35 11

11:35 12 Then you are mentioned as a person to whom the advice might
11:35 13 have been received, right?

11:35 14

11:35 15 A. Yes.

11:35 16

11:35 17 Q. I want to ask, when we come to it, whether you did receive
11:36 18 it and the reason I'm asking is because of the reference in 211.

11:36 19

11:36 20 A. No, I don't think I've ever received it.

11:36 21

11:36 22 Q. I think we can take down that document now and we can go
11:36 23 to the documents that everyone can see on the screen. I'm not
11:36 24 sure if any terminals need to be plugged in, and a person will
11:36 25 move around the room to do that. Thank you.

11:36 26

11:36 27 Now I want to go to the actual advice that you --- that you were
11:36 28 mentioned in the advice that you gave.

11:36 29

11:36 30 Operator, please call up CWN.514.063.0229.

11:36 31

11:37 32 The email starts at the bottom of this page. If you could go to
11:37 33 that, please, operator. You see that is an email from you. I
11:37 34 should say that these names need to be redacted. Email from you
11:37 35 on 9 August to Mr Sanders, copied to Ms Tegoni, and the
11:37 36 background to this was as set out in the advice that I took you to
11:38 37 at paragraph 47. There was a proposal for a process for the credit
11:38 38 card to be used at Crown Towers to raise a charge which would
11:38 39 immediately be settled and funds made available at the cage; do
11:38 40 you recall that?

11:38 41

11:38 42 A. Sorry. Yes, I recall what you are saying.

11:38 43

11:38 44 Q. So you say in your email:

11:38 45

11:38 46 *You asked Debra and I, whether it was possible to hold*
11:38 47 *a patron's credit card as either:*

- 11:38 1
 11:38 2 A. *Surety for the issuance of credit; or*
 11:38 3 B. *For the issuance of chips to a patron.*
 11:38 4
 11:38 5 *As previously discussed, it would be preferable to have*
 11:38 6 *these transactions occur 50 metres away from any*
 11:38 7 *entrance to the casino.*
 11:38 8
 11:38 9 I just interrupt, is that because of section 81AA of the Casino
 11:38 10 *Control Act?*
 11:38 11
 11:38 12 A. That's right.
 11:38 13
 11:38 14 Q. And you mention:
 11:38 15
 11:38 16 The business' preference is to keep the transactions at the
 11:38 17 *Cage (and on the casino floor).*
 11:38 18
 11:38 19 A. That's right.
 11:38 20
 11:39 21 Q. Presuming you had been told that by somebody?
 11:39 22
 11:39 23 A. Yes, I assume so. I have no recollection of the matter at all.
 11:39 24 I think it is about 10 years ago.
 11:39 25
 11:39 26 Q. You say:
 11:39 27
 11:39 28 In summary:
 11:39 29
 11:39 30 1. *The law prevents the taking of a cash advance from*
 11:39 31 *a credit card both on the gaming floor and within 50m of*
 11:39 32 *an entrance to the Casino*
 11:39 33
 11:39 34 2. *The law further prevents the provision of cash or chips*
 11:39 35 *as part of a transaction involving a credit card or debit*
 11:39 36 *card*
 11:39 37
 11:39 38 3. *However, Crown is provided with a specific exemption*
 11:39 39 *to s 68(2), where the following two conditions are*
 11:39 40 *satisfied:*
 11:39 41
 11:39 42 a. *The chips are provided on credit to a person not*
 11:39 43 *ordinarily resident in Australia; and*
 11:39 44
 11:39 45 b. *That person is participating in a Junket or Premium*
 11:39 46 *Player arrangement.*
 11:39 47

- 11:39 1 There you are referring to section 68(2); are you not?
 11:39 2
 11:39 3 A. Yes --- actually I think the exemption is 68(8).
 11:39 4
 11:39 5 Q. So in paragraph 3, the reference to section 68(2) should be
 11:39 6 a reference to 68(8)?
 11:40 7
 11:40 8 A. No. I don't think so.
 11:40 9
 11:40 10 Q. Where am I missing --- in 3 it says an exempt to section
 11:40 11 68(2) ---
 11:40 12
 11:40 13 A. Yeah, the exemption is contained in 68(8).
 11:40 14
 11:40 15 Q. You then say:
 11:40 16
 11:40 17 *There is therefore a risk that the Regulator may take the*
 11:40 18 *view that to take advantage of exemption it must be the*
 11:40 19 *casino operator providing the credit and not the bank.*
 11:40 20 *We would argue in reply (if the matter arises), that the*
 11:40 21 *chips are being sold on credit as facilitated by and for the*
 11:40 22 *benefit of the casino operator and accordingly, in our*
 11:40 23 *view, the exemption should apply.*
 11:40 24
 11:40 25 And then the next paragraph, I'm not sure if that has been cut out,
 11:40 26 but:
 11:40 27
 11:40 28 *3(a) above does not specify that the provision of credit*
 11:40 29 *must be the casino operator's extension of credit (rather*
 11:40 30 *than a bank for instance).*
 11:40 31
 11:40 32 You are just identifying an argument there.
 11:40 33
 11:40 34 And then you say:
 11:40 35
 11:40 36 *Noting the above risks, you could in summary:*
 11:41 37
 11:41 38 *a) Sell and provide chips from a credit card (or use the*
 11:41 39 *card as surety);*
 11:41 40
 11:41 41 *b) To International Patrons only (who are not ordinarily*
 11:41 42 *resident in Australia);*
 11:41 43
 11:41 44 *c) Who are participating in a junket or Premium Player*
 11:41 45 *arrangement; and*
 11:41 46
 11:41 47 *d) You can then deposit those chips into the patron's*

11:41 1 *deposit account in the normal course of dealing.*
11:41 2
11:41 3 See that?
11:41 4
11:41 5 A. Yes.
11:41 6
11:41 7 Q. Can I suggest to you, Ms Fielding, that what you thought
11:41 8 and conveyed by this advice is that you didn't think the
11:41 9 arrangement --- leaving aside junket premium players for
11:41 10 a moment --- you didn't think the arrangement was permitted
11:41 11 because it essentially (a) involved the provision of credit by the
11:41 12 casino?
11:41 13
11:41 14 A. No, I don't agree with that. I think what I'm saying is the
11:41 15 casino can provide credit under that exemption. It was permitted
11:42 16 to.
11:42 17
11:42 18 Q. Sorry, but the concern that you were raising was actually
11:42 19 credit by a bank, not the casino.
11:42 20
11:42 21 A. Yeah, saying that that's a risk, that it could be construed
11:42 22 that way.
11:42 23
11:42 24 Q. Well, it's just not that it could be construed that way,
11:42 25 weren't you saying that that's what you thought the right position
11:42 26 was?
11:42 27
11:42 28 A. No, I'm saying that's a risk. That's what I'm saying.
11:42 29
11:42 30 COMMISSIONER: Leaving aside the precise words you used
11:42 31 there, in what possible circumstance under this arrangement, as
11:42 32 you knew it, was Crown providing credit to anybody? They were
11:42 33 getting cash, they were giving a voucher, so you were not ---
11:42 34 nobody was indebted to you at all. I'm just trying to work out ---
11:42 35
11:42 36 A. No, that's correct.
11:42 37
11:42 38 COMMISSIONER: In other words, it is correct because you
11:42 39 weren't providing credit and you knew it?
11:42 40
11:42 41 A. Yes, that's correct, but the chips were being provided on
11:42 42 credit.
11:42 43
11:42 44 COMMISSIONER: They were being paid for?
11:42 45
11:42 46 A. That's what I'm saying.
11:42 47

11:42 1 COMMISSIONER: The time it takes to walk from the hotel desk
11:43 2 over to the register, the 3 minutes or 2 minutes or 1 minute
11:43 3 trip --- you can't be serious about that?

11:43 4
11:43 5 A. No, I'm not saying that. The time this email is written, and
11:43 6 again I had zero recollection of this email, nothing in it says
11:43 7 anything about going to the hotel. I'm not sure that when this was
11:43 8 written I had any understanding of the process at the hotel.

11:43 9
11:43 10 MS NESKOVCIN: But you later understood that that process
11:43 11 occurred?

11:43 12
11:43 13 A. But that's in a different --- when this was written I don't
11:43 14 think this was --- I don't know again, I've got no recollection of
11:43 15 this at all, but I don't think there is anything in there that talks
11:43 16 about anything occurring at the hotel.

11:43 17
11:43 18 Q. I see.

11:43 19
11:43 20 A. Unless I'm wrong, but that's how I read it.

11:43 21
11:43 22 Q. So you find out later that involves taking payment at the
11:43 23 hotel?

11:43 24
11:43 25 A. Yes, and in that email, which is the second one, I think I
11:43 26 just appear to be talking about a discrete issue with section 81AA
11:44 27 being away from the casino.

11:44 28
11:44 29 Q. And you didn't marry the two points?

11:44 30
11:44 31 A. I really don't know. I have no recollection of either of them
11:44 32 at all.

11:44 33
11:44 34 Q. Were you trying to convey that you thought the process that
11:44 35 you outlined in this advice was permitted, or were you trying to
11:44 36 convey that you didn't think it was permitted, there were risks,
11:44 37 but it was a matter for the business either to decide whether or
11:44 38 not it was prepared to take on those risks?

11:44 39
11:44 40 A. Largely I think that is right. I was saying there is a risk that
11:44 41 that could go wrong. We've got an arguable position, but I'm
11:44 42 not --- I certainly, in reading this now, I don't get the impression
11:44 43 that I am saying that it is a great idea bump ahead. I can see that
11:44 44 I'm highlighting that there is a problem.

11:44 45
11:44 46 Q. I agree with you, with respect. It seems to me you are not
11:44 47 speaking in strong language.

11:44 1
11:45 2 A. No.
11:45 3
11:45 4 Q. You have softened it to say the exemptions should apply,
11:45 5 and you don't sound confident because you weren't?
11:45 6
11:45 7 A. No.
11:45 8
11:45 9 Q. So you speak in terms of risk instead of saying
11:45 10 "You can do it", you are identifying arguments but there are
11:45 11 risks?
11:45 12
11:45 13 A. Yeah. And, again, I don't recall it, but I do note that I've
11:45 14 marked it "Confidential and legally privileged", so it either would
11:45 15 have been written with, by or at the direction of Debra Tegoni,
11:45 16 because I wouldn't have done that in any other event.
11:45 17
11:45 18 COMMISSIONER: Does that mean you don't want to take
11:45 19 responsibility for this?
11:45 20
11:45 21 A. No, absolutely not. I'm saying I don't recall it, but I'm
11:45 22 saying it would have been be a co-authored concept --- I
11:45 23 absolutely take responsibility, it's not good enough, I accept that,
11:45 24 100 per cent.
11:45 25
11:45 26 COMMISSIONER: It is worse than that, isn't it, because if you
11:45 27 look at the paragraph below 1, 2 and 3, the full paragraph:
11:45 28
11:45 29 We would argue in reply (if the matter arises)
11:45 30
11:45 31 Ie, if we get caught.
11:45 32
11:46 33 A. Basically.
11:46 34
11:46 35 COMMISSIONER: And if you weren't getting caught, you
11:46 36 would get away with it, and if you get caught, you knew you were
11:46 37 in trouble.
11:46 38
11:46 39 A. Basically.
11:46 40
11:46 41 COMMISSIONER: I just want to ask you another thing too
11:46 42 about the process. Once you knew it was conducted at the hotel
11:46 43 desk rather than in the casino proper, you knew that the hotel was
11:46 44 going to issue a fake receipt, that is record something which is
11:46 45 quite false?
11:46 46
11:46 47 A. I don't know, to be honest. I have no recollection of either

11:46 1 of these two emails.
11:46 2
11:46 3 COMMISSIONER: But if you have of known ---
11:46 4
11:46 5 A. No, it's not convenient, it is honestly the truth.
11:46 6
11:46 7 COMMISSIONER: If you had have known that the hotel would
11:46 8 issue fake receipts to allow this process to take place, you would
11:46 9 think as a lawyer you should have said, "Don't do that" ---
11:46 10
11:46 11 A. Yes.
11:46 12
11:46 13 COMMISSIONER: --- "it is not proper to issue false
11:46 14 documentation"?
11:46 15
11:46 16 A. Yes, absolutely.
11:46 17
11:46 18 COMMISSIONER: Did you say that?
11:46 19
11:46 20 A. No, I didn't.
11:46 21
11:46 22 COMMISSIONER: Why not?
11:46 23
11:46 24 A. Well, I can't tell you. I don't recall, I don't know what
11:47 25 carriage I have, I don't know who is the decision-maker, I just
11:47 26 don't know.
11:47 27
11:47 28 COMMISSIONER: Did you have carriage of anything in your
11:47 29 operations? It's either Ms Tegoni or Mr Preston or somebody?
11:47 30 You seem like you can't do anything.
11:47 31
11:47 32 A. I'm quite happy to accept my responsibility. I do that. I say
11:47 33 that.
11:47 34
11:47 35 COMMISSIONER: At the moment you are not accepting
11:47 36 responsibility for anything.
11:47 37
11:47 38 A. I just don't know is my answer. But I'm not trying to shed
11:47 39 my responsibility, I assure you.
11:47 40
11:47 41 MS NESKOVCIN: Could we go to the next document that we
11:47 42 were just discussing, the later email in September.
11:47 43
11:47 44 Operator, CWN.514.063.5838. This is the email you mentioned
11:47 45 a moment ago where you are talking about the distance between
11:47 46 the gaming floor and the tower's front desk?
11:47 47

11:47 1 A. Yes.
11:47 2
11:47 3 Q. You are identifying which terminals would be okay to use
11:47 4 because they would be more than 50 m away from the gaming
11:48 5 floor?
11:48 6
11:48 7 A. That's right.
11:48 8
11:48 9 Q. I think you said a moment ago that you didn't understand at
11:48 10 the time that the matter on which you advised in August 2012
11:48 11 would involve taking payment at the Crown Towers?
11:48 12
11:48 13 A. Well, I didn't know what I understood at the time because I
11:48 14 don't have a recollection of it.
11:48 15
11:48 16 Q. Right, but I take it you've read this email recently?
11:48 17
11:48 18 A. Yes, I have.
11:48 19
11:48 20 Q. And I can't explain for the big gap --
11:48 21
11:48 22 A. No, neither can I.
11:48 23
11:48 24 Q. So you don't think something has been deleted there?
11:48 25
11:48 26 A. No, I think it is part of the document system, it put the gap
11:48 27 in. I don't think it is anything that has been deleted.
11:48 28
11:48 29 Q. At the time you don't recall reading the email below that
11:48 30 had been copied to you? It's not clear how it comes to you. If
11:48 31 you go to the email at the bottom of the page, you are not
11:48 32 an addressee and you are not copied in.
11:48 33
11:49 34 A. No.
11:49 35
11:49 36 Q. Presumably somebody sent something to you that included
11:49 37 what we now see at the bottom of the screen?
11:49 38
11:49 39 A. Yes.
11:49 40
11:49 41 Q. I take it you can't recall who did that or when?
11:49 42
11:49 43 A. No, but again I think that it appears from later documents
11:49 44 that Debra Tegoni had carriage of this matter but she's not
11:49 45 a recipient either.
11:49 46
11:49 47 Q. I see. Do you agree that when you now read that email

11:49 1 below, and we can go over the next page, that it talks about --- it's
11:49 2 from the same person that asked you the question in August 2012
11:49 3 and it talks about payment and vouchers being taken at Crown
11:49 4 Towers; did you notice that?

11:49 5
11:49 6 A. Yes, I do know that.

11:49 7
11:49 8 Q. And again you didn't realise that what you were being
11:49 9 asked about at the time involved the practice that was touched
11:49 10 upon in the advice that we started with?

11:49 11
11:49 12 A. I don't know. Like I said, I had no recollection before I was
11:50 13 shown the email. So I assume so, because I'm assuming I read it.
11:50 14 I just don't know.

11:50 15
11:50 16 Q. But at some point, we see from the advice that counsel has
11:50 17 given that there was a practice of this kind, namely taking
11:50 18 payment at Crown Towers, providing a voucher for chips to be
11:50 19 made available at the cage.

11:50 20
11:50 21 A. Yes.

11:50 22
11:50 23 Q. When did you become aware of that?

11:50 24
11:50 25 A. I got an email sent to me, gosh, I'm going to guess about
11:50 26 two months ago, from a staff member where somebody was
11:50 27 highlighting that, and it concerned me obviously, and I forwarded
11:50 28 it on to the legal department and to the CEO.

11:50 29
11:50 30 Q. Prior to that you weren't aware of it?

11:50 31
11:50 32 A. I have no recollection or knowledge of it at all.

11:50 33
11:50 34 Q. Who do you think should have been aware of that?

11:51 35
11:51 36 A. In what capacity?

11:51 37
11:51 38 Q. It is a breach of the Act.

11:51 39
11:51 40 A. I accept that.

11:51 41
11:51 42 Q. And it's been going on for years.

11:51 43
11:51 44 A. Yes.

11:51 45
11:51 46 Q. It had been going on for years and you are the compliance
11:51 47 manager.

11:51 1
11:51 2 A. Yes.
11:51 3
11:51 4 Q. These are all breaches of section 68 and 81AA. It is your
11:51 5 area. Why did you not know?
11:51 6
11:51 7 A. I didn't know that it was a breach of section 81.
11:51 8
11:51 9 Q. Well, it wasn't because you went and did the measurement
11:51 10 to make sure it wasn't.
11:51 11
11:51 12 A. No, but there was definitely a breach of section 68, I accept
11:51 13 that.
11:51 14
11:51 15 Q. Yes, and why didn't you know?
11:51 16
11:51 17 A. I don't know.
11:51 18
11:51 19 Q. Have you not gone back to look to say, well, how did I not
11:51 20 know about this, this is serious?
11:51 21
11:51 22 A. Well, again, I'm now conscious that I don't want to sound
11:51 23 like I'm shirking off to Debra or to Josh, but it was obviously
11:51 24 something that Debra was across, but I don't see that she liaised
11:51 25 with me beyond that first email.
11:51 26
11:51 27 Q. You said in your interview with counsel for this advice that
11:51 28 Ms Debra Tegoni told you to stay clear of China UnionPay?
11:52 29
11:52 30 A. That was in 2016, 2017 I think.
11:52 31
11:52 32 Q. Why does she say that?
11:52 33
11:52 34 A. I don't know, she just told me that if Roland came and
11:52 35 pressed it, to keep away from it.
11:52 36
11:52 37 Q. You didn't say "Why, Ms Tegoni, what do you mean?"
11:52 38
11:52 39 A. I may have, I don't know. I don't recall that.
11:52 40
11:52 41 Q. Wouldn't the legal person coming to see you to say, "If
11:52 42 Roland comes to see you, stay clear of this, put your antenna up"
11:52 43 and --- make you inquisitive about what the issue is about, why
11:52 44 you needed to be aware of it?
11:52 45
11:52 46 A. And I may have, I don't know.
11:52 47

11:52 1 Q. Operator, could we please go to CRW.523.0001.0030.
11:52 2 This, Ms Fielding, scrolling down to the bottom of the page, is
11:53 3 an email from Ms Tegoni of October 2014 to Mr O'Connor,
11:53 4 which is referred to in paragraph 211 and the other paragraph I
11:53 5 took you to, and the suggestion in counsel's advice was that you
11:53 6 had seen this. That was my interpretation of the advice, and I'm
11:53 7 now showing it to you to ask if you do recall having seen it.

11:53 8
11:53 9 A. No, I don't.

11:53 10
11:53 11 Q. Because this advice --- you have seen it in preparing for
11:53 12 your evidence today?

11:53 13
11:53 14 A. Yes, I have.

11:53 15
11:53 16 Q. It certainly makes clear that Ms Tegoni thought that this
11:53 17 practice was prohibited?

11:53 18
11:53 19 A. Yes.

11:53 20
11:53 21 Q. Do you have any explanation for why, notwithstanding
11:53 22 Ms Tegoni's advice, this practice continued at the casino?

11:53 23
11:53 24 A. No.

11:53 25
11:53 26 Q. Has anybody asked you to investigate that?

11:53 27
11:53 28 A. No.

11:53 29
11:53 30 Q. So, to your knowledge, counsel's advice having been
11:53 31 received, what inquiries are being made about who should take
11:54 32 responsibility for this practice having occurred?

11:54 33
11:54 34 A. Well, I don't know. I think the investigation was what
11:54 35 occurred through counsel so that they believed that
11:54 36 an investigation had been carried out into this matter. I'm not
11:54 37 sure about your question beyond that.

11:54 38
11:54 39 Q. Well, I'm just trying to find out, does that mean the case is
11:54 40 closed or does it mean someone is actually going to look back to
11:54 41 see what went wrong so we can make sure we don't make the
11:54 42 same mistakes again?

11:54 43
11:54 44 A. I'm not sure what they intended to do with the advice after
11:54 45 they received it and I haven't had a discussion with anyone about
11:54 46 that.

11:54 47

- 11:54 1 Q. No one has come to speak to you about that?
11:54 2
- 11:54 3 A. No.
11:54 4
- 11:54 5 Q. Who is the person responsible for it? You say it's not you
11:54 6 because it's not a compliance matter?
11:54 7
- 11:54 8 A. No, well, the board asked for the investigation to be carried
11:54 9 out. I wasn't privy to that. I don't know what their instruction
11:54 10 was, and I don't know what discussions they've had about it since
11:54 11 that time.
11:54 12
- 11:54 13 Q. So you've just been interviewed ---
11:55 14
- 11:55 15 A. Yes.
11:55 16
- 11:55 17 Q. Do you regard this as something that falls within your
11:55 18 purview as compliance manager?
11:55 19
- 11:55 20 A. Compliance with section 68, yes, I would.
11:55 21
- 11:55 22 Q. So what have you done to go back and make sure that the
11:55 23 same practice isn't occurring in a different way with different
11:55 24 cards, that you are not breaching section 68 of the Act?
11:55 25
- 11:55 26 A. I haven't undertaken any investigation. Like I said, it was
11:55 27 carried out by the Board, and it has come to me in this form and
11:55 28 I'm not sure what their intent is beyond that, but I take your point
11:55 29 and I'm happy to do that. But it's not something that has come to
11:55 30 me in terms of this is what the board settled on and this is what
11:55 31 we need to do from here. But I'm more than happy to do that.
11:55 32
- 11:55 33 Q. What I'm trying to suggest to you that matters don't just
11:55 34 have to fall on your lap.
11:55 35
- 11:55 36 A. I appreciate that.
11:55 37
- 11:55 38 Q. As compliance manager, you should be looking at your
11:55 39 compliance framework and making sure that it is robust --
11:55 40
- 11:55 41 A. Yes.
11:55 42
- 11:55 43 Q. --- and that these things don't occur again, but you haven't
11:55 44 done that?
11:55 45
- 11:56 46 A. No, but I've been conscious that it is somebody else's
11:56 47 investigation and making sure I'm not interfering in that or

11:56 1 intervening, especially given that I'm a player and I don't want to
11:56 2 look like somebody who is trying to alter the course. But I
11:56 3 absolutely take your point and that is something that will be done.

11:56 4

11:56 5 Q. It's not just about this investigation. It is about a broader
11:56 6 issue --

11:56 7

11:56 8 A. Yes, I know.

11:56 9

11:56 10 Q. --- about section 68 and you haven't thought about that?

11:56 11

11:56 12 A. No.

11:56 13

11:56 14 Q. I was going to go back to the advice but I won't do that. I'm
11:57 15 instructed the directors don't claim privilege over the advice. We
11:57 16 can now call that up on the screen.

11:57 17

11:57 18 MR BORSKY: Lest there be any misunderstanding, that hasn't
11:57 19 emanated from us since your inquiries, Commissioner. No doubt
11:57 20 some at ABL return others' calls more quickly than they return
11:57 21 the phone calls from those instructing me!

11:57 22

11:57 23 MS NESKOVCIN: That's correct, I'm instructed that a response
11:57 24 has been received from Arnold Bloch Leibler in relation to the ---

25

26 MR BORSKY: Yes, but it is certainly consistent with the
27 position, as I put it, which is that at no stage has Crown claimed
28 or foreshadowed that it would claim privilege in relation to this
29 issue; to the contrary, once it became known to senior levels
30 within the organisation, the opposite approach was adopted.

31

11:57 32 MS NESKOVCIN: Operator, could you please call up
11:57 33 CRW.900.002.0001. If we could go to internal page 4.

11:58 34 Paragraph 11. The next page, please, operator. Counsel advised,
11:58 35 and you can see on screen, Ms Fielding:

11:58 36

11:58 37 *We observe immediately that internal legal advice was*
11:58 38 *obtained, and revealed a risk that the CUP process*
11:58 39 *breached section 68(2) of the CCA.*

11:58 40

11:58 41 The footnote reference there is to your email of 9 August 2012
11:58 42 and to some other documents; do you see that?

11:58 43

11:58 44 A. Yes, I do.

11:58 45

11:58 46 Q.

11:58 47

11:58 1 Crown decided to run that risk. While Crown staff from
11:58 2 *the gaming business professed to abide by compliance*
11:58 3 *and legal advice, Michelle Fielding (in the compliance*
11:59 4 *team) suggested that internal advice was provided in the*
11:59 5 *context of a culture that placed significant pressure on the*
11:59 6 *compliance team (and perhaps also the legal team) to*
11:59 7 *achieve the desires of the commercial side of Crown's*
11:59 8 *business.*
11:59 9
11:59 10 Do you agree that is the effect of what you conveyed in your
11:59 11 interview to the persons you spoke to at ABL?
11:59 12
11:59 13 A. No.
11:59 14
11:59 15 Q. Have you in the course of preparing for your evidence
11:59 16 today seen a file note prepared in relation to your meeting at ABL
11:59 17 on 19 May 2021?
11:59 18
11:59 19 A. Yes, I did.
11:59 20
11:59 21 Q. You've had an opportunity to look at that?
11:59 22
11:59 23 A. Yes, I have.
11:59 24
11:59 25 Q. Do you agree that it reflects the gist of what you discussed
11:59 26 at that interview?
11:59 27
11:59 28 A. In some parts, but in other parts grossly not.
11:59 29
11:59 30 Q. Did you say "grossly"?
11:59 31
11:59 32 A. Yes.
11:59 33
11:59 34 Q. Operator, if we could please call up CRW.900.004.0064. If
12:00 35 we could go to paragraph 5 at the bottom of the page. The note
12:00 36 records:
12:00 37
12:00 38 *Since the CUP*
12:00 39
12:00 40 Sorry, I don't want you to mention names of people who were
12:00 41 there ---
12:00 42
12:00 43 A. Okay, sure.
12:00 44
12:00 45 Q. --- but was somebody there taking notes?
12:00 46
12:00 47 A. There --- I don't know who the people were, there were

12:00 1 a few people in the room. I was just asked to attend a meeting.
12:00 2
12:00 3 Q. There was somebody there with a laptop that was taking
12:00 4 notes as you went ---
12:00 5
12:00 6 A. I think so, yes.
12:00 7
12:00 8 Q. And people making handwritten notes?
12:00 9
12:00 10 A. Possibly, yes.
12:00 11
12:00 12 Q. Paragraph 5 says:
12:00 13
12:00 14 *Since the CUP era between 2012-2016, there has been*
12:00 15 *massive cultural change at Crown.*
12:00 16
12:00 17 A. Yes.
12:00 18
12:00 19 Q.
12:00 20
12:00 21 *At the time, there was significant pressure on Compliance*
12:00 22 *to conform to what the commercial side of the business*
12:00 23 *wanted. When the commercial side of the business*
12:01 24 *wanted to get an idea across the line, they would ask*
12:01 25 *a very specific narrow question and not disclose the*
12:01 26 *whole picture.*
12:01 27
12:01 28 A. Yes.
12:01 29
12:01 30 Q. Do you agree you said that?
12:01 31
12:01 32 A. I don't the first line is right but the second line is. Yes.
12:01 33
12:01 34 Q. Which part of the first line is not right?
12:01 35
12:01 36 A. It wasn't that I was saying there was significant pressure to
12:01 37 conform to the commercial side. I actually didn't offer this up at
12:01 38 all and I certainly don't say it is an excuse for anything. The
12:01 39 question was specifically put to me that other people interviewed
12:01 40 have said that there was significant pressure applied by the
12:01 41 commercial departments to compliance and legal. Would you
12:01 42 agree that that is correct? And I said, well, yes, at times there
12:01 43 were. So that is definitely not my language and it certainly wasn't
12:01 44 my suggestion.
12:01 45
12:01 46 Q. So you were asked a specific question that other people
12:01 47 have said at times there is pressure to conform --- was "conform"

12:02 1 the word that you used ---

12:02 2

12:02 3 A. I don't remember the exact language, but right ---

12:02 4

12:02 5 Q. At what times did you feel that there was pressure brought
12:02 6 upon you by the commercial side of the business to get an idea
12:02 7 across the line, to approve something?

12:02 8

12:02 9 A. Look, I don't remember specific occasions but I do
12:02 10 remember it at times being argumentative and pushing back and
12:02 11 going back and forth between me and other people. And I think
12:02 12 at 6, while we're not stating names, they were some of the people
12:02 13 that were involved in that conduct.

12:02 14

12:02 15 Q. You agree with the things set out in paragraph 6?

12:02 16

12:02 17 A. Yes.

12:02 18

12:02 19 Q. You said you don't remember specific occasions. You
12:02 20 recall in the junket review process undertaken by Deloitte that
12:02 21 you were interviewed in that process?

12:02 22

12:03 23 A. Yes.

12:03 24

12:03 25 Q. And you made a number of comments in relation to
12:03 26 Compliance's role in relation to the junket approvals? And
12:03 27 historically, Compliance didn't really have a seat at the table
12:03 28 when it came to junket ---

12:03 29

12:03 30 A. That's right.

12:03 31

12:03 32 Q. --- junket approvals. I think you were suggesting that that
12:03 33 had changed over time?

12:03 34

12:03 35 A. No, not for the approvals. We notified the regulator of
12:03 36 a new junket operator, but no, we weren't involved in the
12:03 37 approvals. Sorry, could I just correct something I said about
12:03 38 paragraph 6? When I said that I accept that, I don't agree that I
12:03 39 said that Jason didn't have a significant appetite for risk. Yeah,
12:03 40 I don't think I said that. The rest of it is ---

12:03 41

12:03 42 Q. Did you mention anything about his appetite for risk?

12:03 43

12:03 44 A. No, I don't think I did.

12:03 45

12:04 46 Q. So Compliance didn't have a significant role in relation to
12:04 47 junket approvals?

12:04 1
12:04 2 A. No.
12:04 3
12:04 4 Q. That was something you thought needed to change?
12:04 5
12:04 6 A. So in the way junkets are going to be done going forward,
12:04 7 someone from our team will be --- oh, there is no junkets,
12:04 8 premium players now going forward, someone in our team will
12:04 9 be reviewing the participants before they are approved to
12:04 10 commence.
12:04 11
12:04 12 Q. And that is something that historically hasn't occurred?
12:04 13
12:04 14 A. That's right.
12:04 15
12:04 16 Q. When premium players have come before --- there is now
12:04 17 a process with the Persons of Interest Committee. Prior to the
12:04 18 establishment of that committee, if you were consulted about
12:04 19 whether or not a premium player should be allowed to be a patron
12:04 20 of the casino, was that an area where you thought there was
12:04 21 pressure brought to bear on the compliance or the legal team?
12:04 22
12:04 23 A. I don't recall. They could have brought people to me to
12:05 24 discuss but I don't recall it. When you say prior to the POI
12:05 25 Committee, we've had the POI Committee at Melbourne for
12:05 26 about 20 years.
12:05 27
12:05 28 Q. But it was not a formalised committee, is that the point?
12:05 29
12:05 30 A. No, look, it had regular meetings and so on. It wasn't a
12:05 31 group committee until more recent times. But Crown Melbourne
12:05 32 had a POI Committee for 20 years.
12:05 33
12:05 34 Q. It didn't have a charter or a ---
12:05 35
12:05 36 A. No, it was something organic that started because I
12:05 37 suggested we were getting requests about patrons and some of
12:05 38 them were unsavoury, and we should stop and say we didn't want
12:05 39 to deal with these people and that's where it started from.
12:05 40
12:05 41 Q. Did you notice, in the course of being part of that group or
12:05 42 committee, that that is an example of where pressure was brought
12:05 43 to bear to compliance to approve or not speak up ---
12:05 44
12:05 45 A. No, in the POI Committee, I think --- I mean, I don't have
12:05 46 the exact data, but you would find most people that went to the
12:06 47 POI Committee were actually banned. It's not the case that

12:06 1 a great deal of them were allowed to return to the business.
12:06 2
12:06 3 Q. So you can't remember any specific occasions, but you do
12:06 4 --- you did agree that you did agree with the proposition that the
12:06 5 commercial side of the business can sometimes bring pressure to
12:06 6 bear on legal and compliance?
12:06 7
12:06 8 A. Yes.
12:06 9
12:06 10 Q. And what do you attribute that to?
12:06 11
12:06 12 A. Demands on them, I suppose. They want to --- they have
12:06 13 initiatives that they want to commence and, you know, they
12:06 14 probably don't like them being held up or blocked.
12:06 15
12:06 16 Q. And the business model?
12:06 17
12:06 18 A. In what regard do you mean?
12:06 19
12:06 20 Q. Well, you tell me what you understand is the business
12:06 21 model and whether you think any aspect of the business model
12:06 22 becomes relevant to commercial pressure or pressure that the
12:06 23 commercial side of the business might apply on compliance?
12:06 24
12:06 25 A. As in their requirement to generate revenue, is that what
12:07 26 you mean by that?
12:07 27
12:07 28 Q. How would you describe Crown's business model at
12:07 29 present? Let's go back. How would you describe Crown's
12:07 30 business model when it had junkets?
12:07 31
12:07 32 A. I'm not really sure I understand the question. Do you mean
12:07 33 in regards to the VIP department? Like which department are
12:07 34 you referring to?
12:07 35
12:07 36 Q. Let's take that. Let me help you.
12:07 37
12:07 38 A. Yes.
12:07 39
12:07 40 Q. Crown's business model is to make money at all cost?
12:07 41
12:07 42 A. I would not accept that.
12:07 43
12:07 44 Q. Crown's business model is to focus on junkets and premium
12:07 45 players?
12:07 46
12:07 47 MR BORSKY: Commissioner, is my friend putting that Crown's

12:07 1 business model presently as at today?
12:07 2
12:07 3 COMMISSIONER: No, she's not doing that at all.
12:08 4
12:08 5 MR BORSKY: The question was put in present tense, that's the
12:08 6 reason I rise, to seek clarification.
12:08 7
12:08 8 MS NESKOVCIN: I'm going backward to help the witness come
12:08 9 forward.
12:08 10
12:08 11 MR BORSKY: If they are to be interpreted from the period 2012
12:08 12 to 2016, which is the period referred to in the filenote, I will sit
12:08 13 down.
12:08 14
12:08 15 COMMISSIONER: We'll start out off with that period.
12:08 16
12:08 17 MS NESKOVCIN: We will start off initially with 2012 to 2016.
12:08 18 What observations would you make about Crown's business
12:08 19 model at that time?
12:08 20
12:08 21 A. Well, there was definitely pressure for the business to
12:08 22 succeed commercially. I wouldn't have put it in the words that
12:08 23 you did, but definitely there were --- it is a commercial business.
12:08 24 It exists to be commercial.
12:08 25
12:08 26 Q. And so, in existing to be commercial, did it have a specific
12:08 27 focus on a particular area, project, commitment to the market?
12:08 28
12:08 29 A. It would have many, but, yes, junkets were one of them.
12:08 30
12:09 31 Q. Moving forward past 2016, I'm trying to explore with you
12:09 32 the relationship between compliance and the business side. Is
12:09 33 there anything about Crown's business model that you see as not
12:09 34 compatible with compliance or comprising the role that
12:09 35 compliance might have?
12:09 36
12:09 37 A. In today's term? No.
12:09 38
12:09 39 Q. Is there a reason for that, the absence of junkets?
12:09 40
12:09 41 A. No, I think the company has had a very hard look at itself
12:09 42 and had to learn some very tough lessons over the last 12 months,
12:09 43 and I think that the reality of that is that they acknowledge that
12:09 44 they've had to make significant change and they've done that.
12:09 45 We'll still continue to deal with premium players who are
12:09 46 a similar class but don't have an intermediary. But the controls
12:09 47 and systems around that now are quite significant. So, there is

12:10 1 a great deal of due diligence whereas there was no requirement to
12:10 2 undertake due diligence on premium players previously, whereas
12:10 3 now the due diligence will mirror what the due diligence for
12:10 4 junket operators should have been.

12:10 5

12:10 6 Q. Okay. So that will involve looking at, for example,
12:10 7 criminal history?

12:10 8

12:10 9 A. Yes.

12:10 10

12:10 11 Q. Anything else?

12:10 12

12:10 13 A. There is a whole series of processes. So there will be
12:10 14 a source of wealth, source of funds for these people, and the SPR
12:10 15 process, a significant player review, will be undertaken on them
12:10 16 where Crown does a check looking at publicly available
12:10 17 information, and then asking for declarations regarding source of
12:10 18 funds where it is not something that Crown is able to identify
12:10 19 through other means.

12:10 20

12:10 21 Q. And ---

12:10 22

12:10 23 A. Sorry, when you say police background check, it is a Dow
12:11 24 Jones check that reports those significant matters.

12:11 25

12:11 26 Q. I was going to raise that with you. So you are going to
12:11 27 continue the Dow Jones check, and if that raises issues about
12:11 28 convictions and so on you will take that into account?

12:11 29

12:11 30 A. That's right.

12:11 31

12:11 32 Q. We saw through the junket issues that previously, Crown's
12:11 33 practice when it came to allegations of serious misconduct were
12:11 34 approached on the basis that they needed to be proven. Is that
12:11 35 still part of the process?

12:11 36

12:11 37 A. No. That hasn't been part of the process for a while now.
12:11 38 But, yes, that was definitely the case historically, is that we would
12:11 39 want the patron charged before we told them they couldn't come
12:11 40 into the building.

12:11 41

12:11 42 Q. And that's changed?

12:11 43

12:11 44 A. Yes, it has and for some time.

12:11 45

12:12 46 Q. What is the test now?

12:12 47

- 12:12 1 A. Now we have a tool called PDA, and it has weightings for
12:12 2 different categories. And patrons that are going to come before
12:12 3 the POI Committee, all their details are entered into that, so it
12:12 4 talks about whether we've had law enforcement requests, whether
12:12 5 their transactions on the floor have raised suspicions. There is
12:12 6 a whole series of categories in that. It comes out with a rating of
12:12 7 low, medium or high. People who come out as medium all come
12:12 8 to the POI Committee. People who are high are circulated
12:12 9 straight away and don't wait for a committee meeting.
12:12 10
- 12:12 11 Q. When you say they are circulated?
12:12 12
- 12:12 13 A. Yes, to the POI Committee.
12:12 14
- 12:12 15 Q. I see. And at any point does somebody make executive
12:12 16 decisions that it is not even necessary to go to the POI
12:12 17 Committee, this person just doesn't pass the first stage?
12:12 18
- 12:12 19 A. Yes, so Steven Blackburn is reviewing the process
12:13 20 document and the charter for that, that's one of the purposes he is
12:13 21 reviewing it for. Because I think there will be threshold people
12:13 22 that don't even go to the committee.
12:13 23
- 12:13 24 Q. Have you had input into that?
12:13 25
- 12:13 26 A. Not yet. I'm not sure what part of the process it is. I've
12:13 27 liaised with him, I've sent him the documents he's asked for
12:13 28 regarding the charter and the process documents and answered
12:13 29 questions he's given me with regards to that.
12:13 30
- 12:13 31 Q. So as Chair of the POI Committee, you don't get to make
12:13 32 executive decisions that somebody --- you don't even need to
12:13 33 waste time with the committee and you can say no to this person?
12:13 34
- 12:13 35 A. No. I think when he comes to a view on what his
12:13 36 recommendations are, we'll definitely be engaging through them.
12:13 37
- 12:13 38 Q. My question was a different one, and that is, what is your
12:13 39 authority as Chair of the POI Committee? Do you get to make
12:13 40 executive decisions or veto people?
12:13 41
- 12:13 42 A. No, I don't think I do. And I think one of the changes that
12:13 43 Steven intends to suggest, or propose, is that the voting members
12:14 44 of that committee are going to only be the CEOs of each of the
12:14 45 properties.
12:14 46
- 12:14 47 Q. Operator, can we call back up the note that we just had.

12:14 1 My screen has gone off. I'm not sure if everyone else's has. I
12:14 2 wanted to go to paragraph 7, Ms Fielding, over the page. Do you
12:14 3 see what is set out in paragraph 7?

12:14 4
12:14 5 A. No, that's not accurate either.

12:14 6
12:14 7 Q. What about the first sentence:

12:14 8
12:14 9 *There were times when persons within the commercial*
12:14 10 *side of the business would go to the executive to override*
12:14 11 *advice given or the position taken by Compliance.*

12:14 12
12:14 13 A. Yes.

12:14 14
12:14 15 Q. When would that happen?

12:14 16
12:14 17 A. I don't recall it happening frequently but I recall a couple of
12:15 18 instances. I remember Josh questioning me about saying no to
12:15 19 the business about a particular trade promotion, and he said he
12:15 20 didn't have an issue with it and was going to go back and tell
12:15 21 them that.

12:15 22
12:15 23 Q. Anything else?

12:15 24
12:15 25 A. No, nothing specific. Like I said, it's not a common thing
12:15 26 but it did happen. The second sentence is what is incorrect.

12:15 27
12:15 28 Q. Yes. Paragraph 8 says that you were shown some advices
12:15 29 and you say that you can't remember the detail even now having
12:15 30 seen them.

12:15 31
12:15 32 A. Yes.

12:15 33
12:15 34 Q. If we could go over the page, please, operator. I want to
12:16 35 ask you about paragraph 18 at the end of the document. Can you
12:16 36 take a moment to read that, please, Ms Fielding.

12:16 37
12:16 38 A. Yes, I've read that.

12:16 39
12:16 40 Q. Is that what you said at the meeting?

12:16 41
12:16 42 A. Look, it's not a transcript but I may have said something
12:16 43 along those lines, yes.

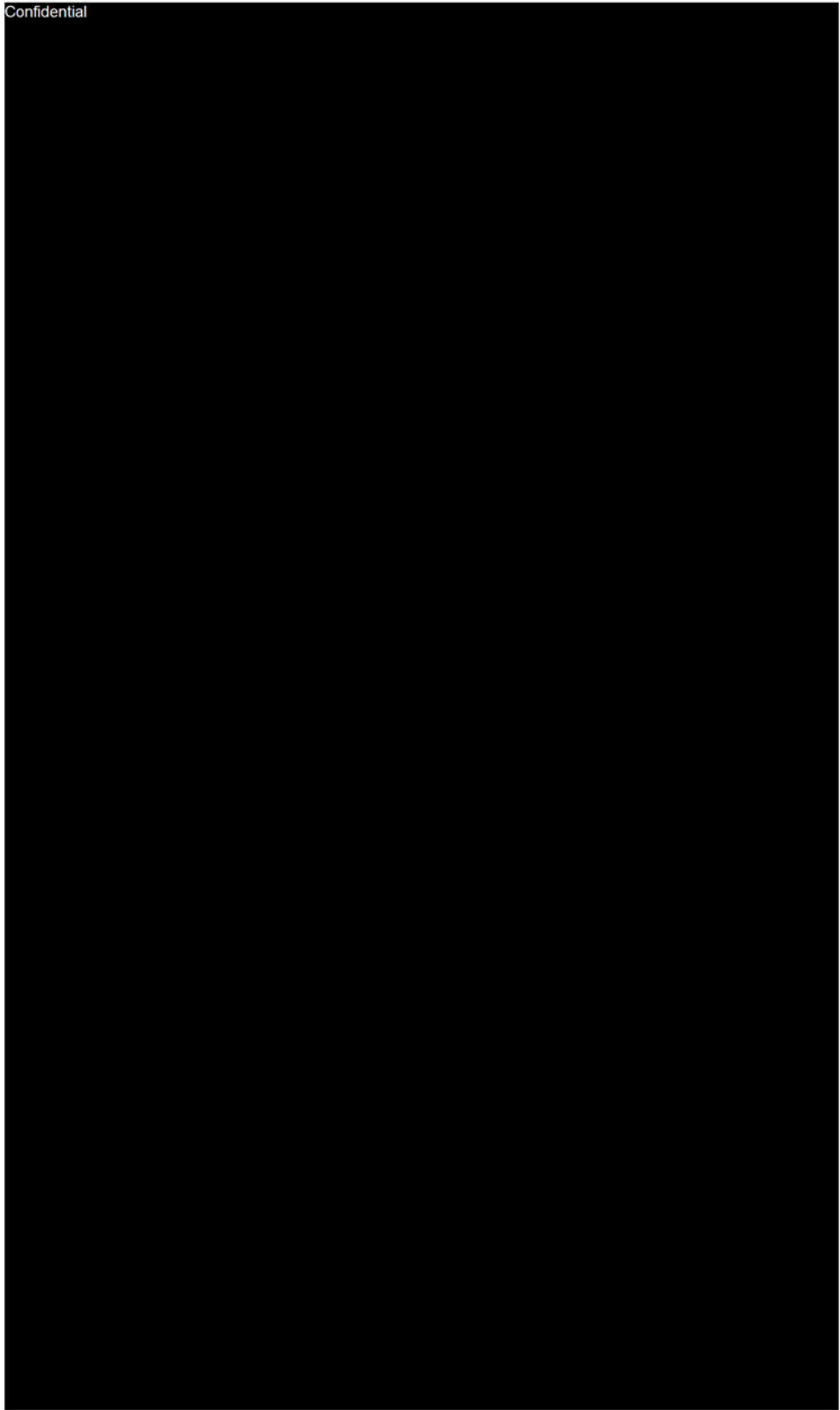
12:16 44
12:16 45 Q. What did you mean by "Compliance would try to comply
12:16 46 with the spirit of the law and not breach the laws of foreign
12:16 47 countries"?

12:16 1
12:16 2 A. I know there was an example years back with New Zealand
12:16 3 and advertising, and we ceased that practice. So --- if something
12:16 4 was known to us specifically. We generally didn't look at laws of
12:17 5 foreign countries.
12:17 6
12:17 7 Q. You didn't?
12:17 8
12:17 9 A. No, I didn't.
12:17 10
12:17 11 Q. You mentioned you'd had some understanding about
12:17 12 New Zealand?
12:17 13
12:17 14 A. Yes, because I think we got a letter of complaint about
12:17 15 something we did, years and years ago.
12:17 16
12:17 17 Q. You understand that promoting gambling in New Zealand
12:17 18 is an offence?
12:17 19
12:17 20 A. I think that is what it was about. I didn't deal with it, but,
12:17 21 yes, I recall it.
12:17 22
12:17 23 Q. Crown has recently ceased operating or closed its office in
12:17 24 New Zealand?
12:17 25
12:17 26 A. I don't know.
12:17 27
12:17 28 Q. Prior to that it had an office in New Zealand?
12:17 29
12:17 30 A. I don't know.
12:17 31
12:17 32 Q. You --- you know that there was a complaint made --
12:17 33
12:17 34 A. Yes.
12:17 35
12:17 36 Q. --- so you must know that there was an office in New
12:17 37 Zealand.
12:17 38
12:17 39 A. No.
12:17 40
12:17 41 Q. So it might have just been advertising in New Zealand?
12:17 42
12:17 43 A. Yes, that's right.
12:17 44
12:17 45 Q. But you are not aware of an office in New Zealand and
12:17 46 what the people in that office were up to?
12:17 47

12:17 1 A. No.
12:17 2
12:17 3 Q. Is that not your --- you don't take control or you are not
12:17 4 responsible for compliance in overseas jurisdictions?
12:17 5
12:17 6 A. In some, but, no, not in New Zealand.
12:17 7
12:18 8 Q. Which jurisdictions are you responsible for?
12:18 9
12:18 10 A. Melbourne and Sydney largely. I was supposed to have had
12:18 11 carriage of Perth, but not. Just hired a general manager there that
12:18 12 will start on 12 July. I have some oversight of the London office.
12:18 13
12:18 14 Q. And not Hong Kong?
12:18 15
12:18 16 A. I had a staff member move to Hong Kong after the China
12:18 17 arrests, and he would facilitate paperwork and assist them in
12:18 18 an administrative sense and provide advice to them on
12:18 19 an ongoing basis.
12:18 20
12:18 21 Q. How many people were working in the Hong Kong office
12:18 22 at that time?
12:18 23
12:18 24 A. I don't know.
12:18 25
12:18 26 Q. There was a few, wasn't it?
12:18 27
12:18 28 A. I think so.
12:18 29
12:19 30 Q. I will now move to another topic which involves the tax
12:19 31 issues which is a matter over which privilege is claimed --
12:19 32
12:19 33 COMMISSIONER: Okay.
12:19 34
12:19 35 MS NESKOVCIN: And certain persons that are present in the
12:19 36 room will not be able to remain, namely the State and the
12:19 37 VCGLR, so it might be convenient to take a short break.
12:19 38
12:19 39 COMMISSIONER: Yes, and we'll reorganise the room. Okay.
12:19 40 10 minutes.
12:19 41
12:19 42
12:19 43 **ADJOURNED** **[12.19PM]**
12:26 44
12:28 45
46
47

12:34 1 **RESUMED** **[12.34PM]**
12:34 2
12:34 3
12:34 4 **HEARING IN CAMERA**
12:34 5
12:34 6
12:34 7 MS NESKOVCIN: Commissioner, the room has been
12:34 8 downsized. CPH has been asked to leave. The State and
12:34 9 VCGLR are no longer present. I've taken Ms Fielding to
12:34 10 a number of documents this morning that haven't already been
12:34 11 tendered. Rather than waste time now, we will prepare a list.
12:34 12 The parties should assume that anything I've taken Ms Fielding to
12:34 13 that hasn't previously been tendered will be tendered and we will
12:34 14 attend to that administratively.
12:34 15
12:34 16 COMMISSIONER: Thank you. Can we include in that any
12:35 17 more documents you are going to take Ms Fielding to in ---
12:35 18
12:35 19 MS NESKOVCIN: Yes, please. Some may already be tendered
12:35 20 and that would assist us to try and work that out.
12:35 21
12:35 22 COMMISSIONER: Yes.
12:35 23
12:35 24 MS NESKOVCIN: Can I also mention, for everybody's benefit,
12:35 25 we've discussed how we might proceed in terms of timing
12:35 26 because parties have had to leave and come back later. We
12:35 27 thought we would continue until 12.45, have a break, resume the
12:35 28 private session and parties who want to come back later will have
12:35 29 to wait until we are finished. They are aware of that.
12:35 30
12:35 31 COMMISSIONER: Okay.
12:35 32
12:35 33 Confidential
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Confidential

ADJOURNED

[2.39PM]

14:49 1 **RESUMED** **[2.49PM]**
14:49 2
14:49 3
14:49 4 COMMISSIONER: Thank you. Are we all sorted?
14:50 5
14:50 6 MS NESKOVCIN: Yes, Commissioner. The State are on their
14:50 7 way, but they didn't want to cross-examine.
14:50 8
14:50 9 COMMISSIONER: No questions.
14:50 10
14:50 11 MS NESKOVCIN: I understand Mr Rozen has some questions.
14:50 12
14:50 13 COMMISSIONER: Okay.
14:50 14
14:50 15
14:50 16 **CROSS-EXAMINATION BY MR ROZEN**
14:50 17
14:50 18
14:50 19 MR ROZEN: Thank you, Commissioner.
14:50 20
14:50 21 Ms Fielding, my name is Mr Rozen and I represent the VCGLR.
14:50 22 In response earlier today to a question from the Commissioner,
14:50 23 you accepted that there had been a lack of frankness in the
14:50 24 relationship between Crown and the VCGLR; do you recall that?
14:50 25
14:50 26 A. Yes, I do.
14:50 27
14:50 28 Q. You also agreed, or completely accepted is how you put it,
14:50 29 that Crown had not been forthright in its relationship?
14:50 30
14:50 31 A. Yes.
14:50 32
14:50 33 Q. Do you say that that is the case through the entire time
14:50 34 you've been at Crown or is there a particular period that you have
14:50 35 in mind when you give that description?
14:50 36
14:51 37 A. I don't think it is all things in all ways, I think it is just in
14:51 38 instances Crown should have been far more open and transparent
14:51 39 than it was. I think in recent times it is trying very hard to be far
14:51 40 more transparent.
14:51 41
14:51 42 Q. When you say "recent times", are you referring to 2021 or
14:51 43 an earlier?
14:51 44
14:51 45 A. Largely 2021 and the late part of 2020.
14:51 46
14:51 47 Q. It's a serious matter, isn't it, a lack of frankness and

14:51 1 forthrightness on the part of a company such as Crown where it is
14:51 2 a licensed operator? Do you agree with that?

14:51 3

14:51 4 A. Yes, I do.

14:51 5

14:51 6 Q. Have you had cause in your time, or perhaps more recently
14:51 7 to reflect on why there has been a lack of frankness and
14:51 8 forthrightness?

14:51 9

14:51 10 A. Yes, and there are a couple of reasons for that that I can
14:51 11 see. Primarily it is what I was saying earlier. I'm sorry, I'm not
14:51 12 sure if you were in the room when I was saying it or not, but
14:52 13 I think it had become quite insular. I think it didn't realise that
14:52 14 the culture and its relation with the regulator wasn't what it ought
14:52 15 to have been. Again, I don't think say that specifically of Crown,
14:52 16 I say that of the industry. And then when people were being
14:52 17 replaced, they were getting people from industry, from other
14:52 18 casinos, who had the same way of thinking. And I think it is
14:52 19 almost like the boiling frog analogy, it crept up on them without
14:52 20 realising it is how I see it. And then there were some other things
14:52 21 that caused them not to be as open as they could be. And I can
14:52 22 tell you what they are but I don't want to say it like I'm excusing
14:52 23 it because there is no excuse for it. It's up to you if you want to
14:52 24 hear them or not but I don't say it by way of excuse.

14:52 25

14:52 26 Q. I do, and I will tell you why, Ms Fielding, because this
14:52 27 Commission, and for that matter my client are now concerned
14:53 28 with the future --

14:53 29

14:53 30 A. Sure.

14:53 31

14:53 32 Q. --- and to understand why things have happened the way
14:53 33 they've happened in the past, you would agree, is important --

14:53 34

14:53 35 A. Yes.

14:53 36

14:53 37 Q. --- when trying to predict how things might transpire in the
14:53 38 future. So if you would provide us with that information, it
14:53 39 would be appreciated.

14:53 40

14:53 41 A. One of the main reason, I think, that things that could have
14:53 42 gone to the VCGLR, but didn't, historically, like I said, now
14:53 43 I don't think that is the case. The conversations I have with
14:53 44 Xavier Walsh since he took over as the chair at the beginning of
14:53 45 January, I might be wrong, or late 2020, is about who at the
14:53 46 VCGLR we should report these matters to, or who we should
14:53 47 have these discussions with. He is incredibly committed to being

14:53 1 open in that regard. So I'm talking about in times historically.
14:53 2 One of the main things that was causing the problem was the
14:54 3 VCGLR's speed of response. So sometimes we would ask them
14:54 4 a question and you would follow it up for a number of years
14:54 5 before you would get a response and that created a problem for
14:54 6 them.

14:54 7

14:54 8 Q. Can you think of an example of that?

14:54 9

14:54 10 A. The approval of the gaming machine and the surveillance
14:54 11 ICSs.

14:54 12

14:54 13 Q. I see. It has equally been the case, hasn't it, the VCGLR
14:54 14 has from time to time had to wait for responses from Crown?

14:54 15

14:54 16 A. Absolutely.

14:54 17

14:54 18 Q. You mention Mr Xavier Walsh and the sense of
14:54 19 commitment to an open relationship with the regulator that you
14:54 20 have experienced from him. Have you read the report of the
14:54 21 disciplinary action that Crown have recently been subjected to?

14:54 22

14:54 23 A. Yes, I did.

14:54 24

14:54 25 Q. That's where they were fined a million dollars ---

14:54 26

14:54 27 A. Yes.

14:54 28

14:54 29 Q. --- in respect of matters relating to junkets. Did you note in
14:54 30 that the Commission's concern specifically about Mr Walsh and
14:54 31 his approach to those proceedings?

14:54 32

14:55 33 A. Yes, I did.

14:55 34

14:55 35 Q. And have you spoken to him about those matters?

14:55 36

14:55 37 A. I think I did at the time because I think --- I suppose again
14:55 38 we might have had a --- I don't know how to phrase it. I didn't
14:55 39 see that he was trying not to be open or cooperative. I think he
14:55 40 was stating matters as he saw them, and I accept that that might
14:55 41 have been construed differently.

14:55 42

14:55 43 Q. Well, without wanting to argue the toss about that, you
14:55 44 would accept that the regulator's perception of those matters is
14:55 45 important regardless of the opinion you might have about them?

14:55 46

14:55 47 A. Absolutely, yes.

14:55 1

14:55 2 Q. And does the regulator's concerns, as expressed in the
14:55 3 disciplinary action reasons, cause you to reflect that perhaps
14:55 4 things aren't presently going as well as you might hope?

14:55 5

14:55 6 A. No, because again the intention absolutely is there. I accept
14:56 7 what you are saying, that they may have seen that differently than
14:56 8 we did, but the intention is a real commitment, and I was talking
14:56 9 earlier about attendance at Compliance Committee meetings and
14:56 10 so on, which I didn't do until more recent times. And it's been
14:56 11 a real education with regards to hearing from the Board directly
14:56 12 what their views are. They are very emphatic about his openness
14:56 13 and are quite committed to it. I haven't seen Xavier waver from
14:56 14 that at all. I appreciate what you are saying, I do, and I accept
14:56 15 what you are saying, but my own view is they are absolutely
14:56 16 committed to changing that. They've shown me no signs of
14:56 17 wavering on that. They've not had a single thing where they've
14:56 18 said "Hang on, maybe not that one", that has not occurred in this
14:56 19 time since they've committed to having a significant cultural
14:56 20 change.

14:56 21

14:56 22 Q. I understand. Can I just take you back to a couple of
14:57 23 matters without going over ground that has already been
14:57 24 addressed. The first concerns the advice that you and Ms Tegoni
14:57 25 were asked to give in relation to the CUP question, you were
14:57 26 asked earlier today.

14:57 27

14:57 28 A. (Nods head).

14:57 29

14:57 30 Q. You are nodding. You know what I am talking about.

14:57 31

14:57 32 A. Yes.

14:57 33

14:57 34 Q. Without the need to go to the email advice again, you will
14:57 35 recall there was some speculation there about what attitude the
14:57 36 regulator might have to the matter.

14:57 37

14:57 38 A. Yes.

14:57 39

14:57 40 Q. I'm paraphrasing, but the advice was that "The regulator
14:57 41 might have some concerns, but if they do, this is the defence we
14:57 42 might be able to match"?

14:57 43

14:57 44 A. That's right.

14:57 45

14:57 46 Q. Did you turn your mind to asking the regulator what its
14:57 47 attitude was?

14:57 1
14:57 2 A. I couldn't say, because I don't remember --- the it was 10
14:57 3 years ago, I don't remember the event at all. When I was shown
14:57 4 the documents I don't recall them at all.
14:57 5
14:57 6 Q. Let's see if we can explore that a bit further. You didn't
14:58 7 seek the regulator's view at the time, did you?
14:58 8
14:58 9 A. I expect not, no.
14:58 10
14:58 11 Q. That would have been one way of finding out its attitude,
14:58 12 wouldn't it?
14:58 13
14:58 14 A. It certainly would have been.
14:58 15
14:58 16 Q. Are you able to assist us in understanding why you didn't
14:58 17 seek the regulator's view?
14:58 18
14:58 19 A. No, again, it was 10 years ago, I don't recall at all, but I
14:58 20 completely accept they should have and I think today
14:58 21 100 per cent they would have.
14:58 22
14:58 23 Q. You've anticipated my next question. Why do you say
14:58 24 that? I'll just explain the next question to you if I could. I
14:58 25 suggest to you that the regulator's view wasn't sought at the time
14:58 26 was because you didn't want to know what the answer would be
14:58 27 in case it was a negative. Do you accept that is a likely
14:58 28 explanation?
14:58 29
14:58 30 A. That is likely.
14:58 31
14:58 32 Q. And I take it you say that it would be different now, that
14:58 33 you would seek the regulator's view and that's because of the
14:58 34 changes you've been describing to the Commission?
14:58 35
14:58 36 A. Absolutely, yes.
14:58 37
14:58 38 Q. The final matter I want to ask you concerns the response to
14:59 39 the Sixth Review. I know you were asked a number of questions
14:59 40 earlier about Recommendation 17; do you recall being asked
14:59 41 about that?
14:59 42
14:59 43 A. Yes, I do.
14:59 44
14:59 45 Q. Would you agree with me that throughout the various
14:59 46 meetings and discussions, correspondence you received from the
14:59 47 VCGLR, that the representatives of the regulator were polite in

14:59 1 their responses to Crown?
14:59 2
14:59 3 A. Largely, yes.
14:59 4
14:59 5 Q. And reasonable in trying to understand if there was some
14:59 6 lack of understanding on Crown's part about what it is that the
14:59 7 recommendation was suggesting Crown should do?
14:59 8
14:59 9 A. Yes.
14:59 10
14:59 11 Q. Crown's response on the other hand, I suggest to you, was
14:59 12 one of a lack of cooperation.
14:59 13
14:59 14 A. No, I wouldn't say --- I wouldn't say that. I --- I suppose it
15:00 15 comes down to what parts of it and what elements of it you are
15:00 16 referring to. But through large parts of that, we weren't actually
15:00 17 seeking clarification, and I think when you look at the minutes of
15:00 18 those meetings, they say the VCGLR to provide clarity. And in
15:00 19 one set of those minutes it actually said Crown has asked for
15:00 20 clarity, and I marked that up and said I don't think Crown did,
15:00 21 and they accepted that and removed it. And that's why --- there
15:00 22 was a generic line, there were parts of it where they were looking
15:00 23 for clarity, rather than us.
15:00 24
15:00 25 Q. I will put it as plainly as I can, Ms Fielding. It is difficult,
15:00 26 reading the minutes and correspondence, to understand what
15:00 27 Crown's endgame was.
15:00 28
15:00 29 A. Yeah.
15:00 30
15:00 31 Q. It looks, I suggest to you, that there was a bit of
15:01 32 game-playing going on.
15:01 33
15:01 34 A. No, I don't think so, I really don't. I completely accept that
15:01 35 the ICSs should have gone to AUSTRAC long before they did. I
15:01 36 didn't get the impression from Josh that he didn't want --- sorry,
15:01 37 Mr Preston --- that he didn't want to send them or he was
15:01 38 avoiding it. I think he just left it too late. I think he had capacity
15:01 39 issues and he left it too late. But I think when you add that to the
15:01 40 fact that he kept bringing up the AML program it creates
15:01 41 a different impression to what it was. I accept that.
15:01 42
15:01 43 Q. You accept that from the perspective of the regulator it was
15:01 44 quite a frustrating process?
15:01 45
15:01 46 A. Yes, I do.
15:01 47

15:01 1 Q. The Seventh Casino Review is around the corner. No
15:01 2 doubt there will be recommendations in that. Do you say that the
15:01 3 response of Crown to recommendations that might emerge from
15:01 4 the Seventh Casino Review process will be different to what was
15:02 5 experienced during the Sixth?

15:02 6
15:02 7 A. I say absolutely to that. We've heard loud and clear what
15:02 8 the view is on that and I think Crown will take a very different
15:02 9 approach.

15:02 10
15:02 11 Q. The other matter in relation to the Sixth Casino Review is,
15:02 12 as you will know, in addition to the 21 recommendations I think
15:02 13 it was that were made, there were a number of other suggestions,
15:02 14 if I can use that term, you are nodding, I think you know what I
15:02 15 mean ---

15:02 16
15:02 17 A. Yes.

15:02 18
15:02 19 Q. --- propositions that Crown could take, for example, in
15:02 20 relation to responsible gambling. Looking back on that time, are
15:02 21 you able to tell us in broad terms, and perhaps you may not
15:02 22 because it may be too general, but are you able to tell us what the
15:02 23 attitude of Crown was to those soft recommendations, if I can call
15:02 24 them that?

15:02 25
15:02 26 A. Yes. I went through the report and extracted a number of
15:02 27 them. I think I might have all of them, but I could be wrong, and
15:03 28 I put them in a sheet and I've had a couple of meetings with
15:03 29 people in the business about progressing some of those. The
15:03 30 problem with it is that we've then had ILGA Inquiries and Royal
15:03 31 Commissions et cetera and it probably hasn't been picked up for
15:03 32 a while. But I fully intend to go back to those.

15:03 33
15:03 34 Q. They are the matters, thank you, Commissioner.

15:03 35
15:03 36 COMMISSIONER: Thank you.

15:03 37
15:03 38 MR BORSKY: No questions in re-examination.

15:03 39
15:03 40

15:03 41 **QUESTIONS BY THE COMMISSIONER**

15:03 42
15:03 43

15:03 44 COMMISSIONER: Can I just ask a couple of things,
15:03 45 Ms Fielding. I'm interested about the change in attitude ---

15:03 46
15:03 47

A. Sure.

15:03 1
15:03 2 COMMISSIONER: --- at all levels within Crown. Is it fair to
15:03 3 say looking at it dispassionately or objectively, the change in
15:04 4 attitude wasn't so much that the company and its senior personnel
15:04 5 thought the way we did things in the past was unsatisfactory and
15:04 6 we just have to change how we are going to deal with the world
15:04 7 in the future, but you actually didn't have a choice about it; you
15:04 8 had people gunning for you from everywhere.
15:04 9
15:04 10 A. (Nods head).
15:04 11
15:04 12 COMMISSIONER: So the attitude of the board now could, tell
15:04 13 me if you agree with me or not, is not an attitude that was as a
15:04 14 result of self-reflection, but of external forces which means
15:04 15 Crown has literally no choice about it at all?
15:04 16
15:04 17 A. No, I don't agree because I think those external forces, I
15:04 18 take your point that have seriously had an impact, but I think it
15:04 19 was almost the wake-up call to make them self-reflect and look at
15:04 20 themselves and say, "we probably haven't done things as we
15:05 21 ought to have" without --- I don't think they really realised it at
15:05 22 the time.
15:05 23
15:05 24 COMMISSIONER: One of the things I take from your interview
15:05 25 with the ABL team when they were speaking to you ---
15:05 26
15:05 27 A. (Nods head).
15:05 28
15:05 29 COMMISSIONER: --- leaving aside the accuracy of file notes
15:05 30 because I accept what you say, it is not a transcript ---
15:05 31
15:05 32 A. No.
15:05 33
15:05 34 COMMISSIONER: --- of what was said, but the pretty clear
15:05 35 impression is that the commercial side of the business was
15:05 36 paramount. So that if the commercial side wanted something
15:05 37 done, short of it being a death penalty offence doing it, it was
15:05 38 done.
15:05 39
15:05 40 A. Yeah, look I wouldn't go as far as saying just short of
15:05 41 a "death penalty", but I know what you are saying. They were the
15:05 42 dominant interest for a number of years. I wouldn't say that
15:05 43 today.
15:05 44
15:05 45 COMMISSIONER: I get that. I'm just trying to work out what
15:05 46 happened in the past.
15:05 47

15:05 1 A. Yes.
15:06 2
15:06 3 COMMISSIONER: So if there was a choice between running
15:06 4 a risk, even a serious risk, but not a death penalty risk, and
15:06 5 increasing the business or maximising returns, then the business
15:06 6 side decision-making always came out on top?
15:06 7
15:06 8 A. No, not always, but I think if there was grey areas, they
15:06 9 largely went into the grey areas in terms of if there was not
15:06 10 something specifically that says you can't do this, then they were
15:06 11 of the view you could.
15:06 12
15:06 13 COMMISSIONER: If it was clear-cut and you couldn't do it,
15:06 14 then you wouldn't run the risk.
15:06 15
15:06 16 A. That's right.
15:06 17
15:06 18 COMMISSIONER: But if there was room to move ---
15:06 19
15:06 20 A. Then they would.
15:06 21
15:06 22 COMMISSIONER: You took the chances?
15:06 23
15:06 24 A. Yes. Not always, I don't want to say it as a blanket thing,
15:06 25 not always, but I take your point, yes.
15:06 26
15:06 27 COMMISSIONER: As a general proposition, that's how the
15:06 28 business operated?
15:06 29
15:06 30 A. Yes. Yes, I take that.
15:06 31
15:06 32 COMMISSIONER: On the change in attitude, manifesting itself
15:06 33 from say 2020 say ---
15:06 34
15:07 35 A. Yes.
15:07 36
15:07 37 COMMISSIONER: --- I'm interested in your take on this: the
15:07 38 community thinks that gambling harms a not insignificant section
15:07 39 of the population, the vulnerable?
15:07 40
15:07 41 A. Yes.
15:07 42
15:07 43 COMMISSIONER: And governments take that very seriously
15:07 44 and from time to time try and do things about it to overcome the
15:07 45 things that they can deal with?
15:07 46
15:07 47 A. Yes.

15:07 1
15:07 2 COMMISSIONER: And not only does the Government take it
15:07 3 seriously, but the community takes it very seriously as well.
15:07 4
15:07 5 A. Yes.
15:07 6
15:07 7 COMMISSIONER: Crown did nothing until February this year.
15:07 8 Does that tell you something about the real attitude of the
15:07 9 company.
15:07 10
15:07 11 A. I'm not sure I take your point. What do you mean they
15:07 12 didn't do until February this year.
15:07 13
15:07 14 COMMISSIONER: They started to look at what changes, if any,
15:07 15 should be made in February/March or even later.
15:07 16
15:07 17 A. For responsible gambling services?
15:08 18
15:08 19 COMMISSIONER: Correct.
15:08 20
15:08 21 A. No, I don't think I accept that. They've had responsible
15:08 22 gaming initiatives for many, many years. Unless I've missed your
15:08 23 point, I'm sorry.
15:08 24
15:08 25 COMMISSIONER: Yeah, we may see things a bit differently.
15:08 26 I will let it go. I don't have any question. Do you have any
15:08 27 questions arising?
15:08 28
15:08 29 MS NESKOVCIN: Nothing arising from me.
15:08 30
15:08 31 MR BORSKY: May I ask a question arising from that,
15:08 32 Commissioner?
15:08 33
15:08 34 COMMISSIONER: Well, because you passed last time, you can
15:08 35 have one go this time.
15:08 36
15:08 37
15:08 38 **RE-EXAMINATION BY MR BORSKY**
15:08 39
15:08 40
15:08 41 MR BORSKY: Thank you.
15:08 42
15:08 43 Ms Fielding, are you aware that Crown commissioned
15:08 44 an independent advisory panel to report to it in relation to
15:08 45 responsible gaming?
15:08 46
15:08 47 A. Yes, I am.

15:08 1
15:08 2 Q. Do you know when Crown received the report from that
15:08 3 panel?
15:08 4
15:08 5 A. No, I don't.
15:08 6
15:08 7 Q. Does it sound about right to you that it was August last
15:08 8 year?
15:08 9
15:08 10 A. Could be, yes.
15:08 11
15:08 12 Q. Have you been involved in any of the consideration or
15:08 13 implementation of the recommendations from that report?
15:08 14
15:08 15 A. No, I haven't.
15:08 16
15:08 17 Q. Right.
15:08 18
15:08 19 MS NESKOVCIN: If Ms Fielding could be excused? Thank
15:09 20 you, Ms Fielding.
15:09 21
15:09 22 COMMISSIONER: Thank you very much, Ms Fielding.
15:09 23
15:09 24
15:09 25 **THE WITNESS WITHDREW**
15:09 26
15:09 27
15:09 28 MS NESKOVCIN: Thank you very much. We will resume
15:09 29 again tomorrow with Mr Murphy at 9.30 am. That will be
15:09 30 a private hearing.
15:09 31
15:09 32 COMMISSIONER: Is the whole of the hearing private?
15:09 33
15:09 34 MS NESKOVCIN: Yes, it will.
15:09 35
15:09 36 COMMISSIONER: All right.
15:09 37
15:09 38 At some stage tomorrow morning will you be able to get back to
15:09 39 me, Mr Borsky, on the --- I've started to take it up with
15:09 40 Mr Kozminsky to tell him that he is the cause of the problem but
15:09 41 you still have an issue at your end as well.
15:09 42
15:09 43 MR BORSKY: I understand that and we are giving that
15:09 44 consideration and the answer to your question is yes. We will
15:09 45 have an answer in the morning.
15:09 46
15:09 47 COMMISSIONER: Thank you. Adjourned till 9.30 in the

15:09 1 morning. Thank you.

15:09 2

3

4 **HEARING ADJOURNED AT 3.09 PM UNTIL TUESDAY,**
5 **29 JUNE 2021 AT 9.30 AM**

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