

COMMISSIONER: THE HONOURABLE RAY FINKLESTEIN AO QC

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

MELBOURNE, VICTORIA

WITNESS STATEMENT OF JASON PATRICK O'CONNOR

INTRODUCTION

- 1 My name is Jason Patrick O'Connor. I am employed by Crown Melbourne Limited, a subsidiary of Crown Resorts Limited (**Crown**) as Director - Innovation and Strategy.
- 2 I make this statement to address a number of matters which have been raised at the Royal Commission that relate to me. More specifically, Mr Timothy Bryant, Team Leader (Investigations) in the Compliance Division of the Victorian Commission for Gambling and Liquor Regulation (the **VCGLR**), gave evidence before the Royal Commission on 17 May 2021 in relation to an interview he conducted with me on 8 March 2018 (the **VCGLR Interview**) and subsequent testimony given by me during the Independent Liquor and Gaming Authority Inquiry (the **ILGA Inquiry**) in September 2020. Mr Bryant's evidence suggested that I may have been untruthful at the VCGLR Interview, in circumstances where my testimony in September 2020 at the ILGA Inquiry differed in some respects.
- 3 It is in these circumstances that I sought leave to appear in the Royal Commission, and now make this statement to deal with those matters.
- 4 Except where I indicate otherwise, I make this statement based on my own knowledge. Where I depose to matters based on information provided to me by other persons following my enquiries of them, I believe that information to be true and correct.

BACKGROUND

- 5 I am a Chartered Accountant. I hold a Bachelor of Business degree with a major in accounting from RMIT University in Melbourne and a Graduate Diploma in Applied Finance and Investment from the Securities Institute of Australia (now FINSIA). I have also recently completed the Company Directors Course in order to qualify for graduate membership of the Australian Institute of Company Directors.
- 6 I have been employed by Crown Melbourne Limited, or a related body corporate, since about 6 January 1997. At Crown, I have worked in various senior strategy, commercial and finance roles, including having been seconded to a Crown joint venture in Canada for three years, as its Chief Financial Officer.
- 7 I was the Executive General Manager of VIP International and then Group Executive General Manager of VIP International at Crown from 2011 until about 13 October 2016. That role involved managing and overseeing the VIP International business unit of Crown's three wholly-owned casinos (in Melbourne, Perth and London).
- 8 As I explain further below, I was detained by Chinese authorities on 13 October 2016, and from that date no longer performed my role as Group Executive General Manager of VIP International for Crown. I was appointed to my current role in February 2019.
- 9 In my role as Group Executive General Manager of VIP International at Crown, and from about May 2013, I reported directly to Mr Barry Felstead, who was then the Chief Executive Officer of

Crown Perth. I continued to report to Barry when his role changed to Chief Executive Officer of Australian Resorts in August 2013. My role was based in Melbourne.

- 10 I hold a "Category A" Casino Special Employee Licence (the **Victorian Licence**) under the *Casino Control Act 1991* (Vic) (the **Victorian CCA**), and have done so since 1997 when I commenced employment with Crown Melbourne Limited. I have applied to renew the Victorian Licence, but the application has been put on hold, initially pending the outcome of the ILGA Inquiry and, subsequently, pending the outcome of this Royal Commission.

THE VCGLR INTERVIEW

- 11 On my return from China in August 2017, I did not return to work at Crown immediately. I was given leave, as I required significant time to recover from my experience of being detained in China. As it transpired, I was on leave from August 2017 until February 2019.
- 12 Soon after I returned from China, but I cannot now precisely recall when, Mr Joshua Preston, then Crown's Chief Legal Officer - Australian Resorts, informed me that the VCGLR wanted me to attend the VCGLR offices to discuss with me the circumstances surrounding my arrest in China. MinterEllison was engaged by Crown and also acted for me and I met with either Mr Richard Murphy or his colleagues before the VCGLR Interview. I have no recollection of those meetings and I have only been able to confirm that any took place by having regard to my personal Google Calendar at around this time.
- 13 While the VCGLR wanted to meet with me as early as October 2017, I did not feel ready to do so. I recall Mr Preston suggesting a deferral and offering to speak with the VCGLR to delay the discussion. My understanding is that the VCGLR then agreed to defer the meeting.
- 14 As matters transpired, on 21 February 2018, the VCGLR issued a formal notice (the **Notice**) under s 26(1)(c) of the Victorian CCA requesting me to attend the offices of the VCGLR at a mutually agreed time and date for an interview.
- 15 I do not recall receiving a copy of the Notice at the time, but I have obtained a copy while preparing this statement.
- 16 The Notice relevantly provided:
- On 10 July 2017, Crown Melbourne Limited notified the VCGLR pursuant to section 57 of the [Victorian CCA] that you were convicted by the Shanghai [Baoshan] District Court of contraventions of Article 303, Clause 1 and Article 25, Clause 1 of the *Criminal Law of the People's Republic of China*.
- As you were the Group Executive Manager VIP International preceding the arrests, and are a holder of a Casino Special Employee Licence, I require you to attend the VCGLR offices located at Level 3, 12 Shelley Street, Richmond for the purposes of an interview.
- ...
- The purpose of the interview is to seek information in relation to the circumstances surrounding the arrest of Crown employees in China as a part of the ongoing investigation under section 24 of the [Victorian CCA].
- 17 To the best of my recollection, I did not receive any documents from the VCGLR prior to attending the VCGLR Interview.
- 18 I do not have any recollection of reviewing any documents in advance of the VCGLR Interview, although it is likely that I did so during my meetings with MinterEllison. Given I was on leave, and particularly the nature of that leave, I did not access documents from Crown, nor would have I been inclined to do so, given my condition at the time.

- 19 On 8 March 2018, I attended the VCGLR interview together with Mr Murphy and Mr Preston.
- 20 I do not recall being given an explanation of the precise nature of the questioning to be expected at the VCGLR Interview.
- 21 During the VCGLR Interview, I was open and truthful in answering each question asked of me. I tried to answer each question to the best of my ability.
- 22 At the time of the VCGLR Interview:
- (a) I had returned to Australia in August 2017 after being detained in China for a period of 10 months. This had been an emotionally traumatic period in my life, as I explain in some more detail below.
 - (b) I was seeing a psychologist who was helping me to come to terms with what had happened and get my life back on track.
 - (c) I was pretty erratic and scattered in my thinking and behaviour as a consequence of psychological trauma and was still on leave from work. (I did not ultimately return to work until February 2019.)
 - (d) My ability to recall certain events had also been impacted by emotional trauma.
 - (e) I was dealing with the consequences of a serious infectious disease. While I had been detained in China, I was exposed to that disease by a sick fellow inmate. When I returned to Australia, I was tested and was found to be positive. I underwent an extensive treatment program with the Alfred Hospital infectious diseases department to minimise (but not eliminate) any potential future risk of illness. I was dealing with this issue during the time of my leave and at the time of the VCGLR Interview.
 - (f) I had not yet returned to work, and at that point had no reason to turn my mind to work related matters. Crown was allowing me the time and space that I needed to attend to my recovery.
 - (g) It was the first time I had been asked to re-visit many events which I had spent time trying to push out of my memory since my return to Australia.
- 23 Aside from my correspondence with the VCGLR regarding the renewal of the Victorian Licence, and a request on 3 October 2018 to produce records relevant to my trial in China, I have not had any dealings with the VCGLR since the VCGLR Interview. I have not been interviewed again by Mr Bryant, or any other investigators, in relation to the matters the subject of that interview.

PREPARATION OF A STATEMENT FOR THE CLASS ACTION AGAINST CROWN

- 24 Around the time I returned to work, I was asked to assist in the preparation of a witness statement for the purposes of the class action brought against Crown by Zantran Pty Ltd, being Proceeding No. VID/1317/2017 in the Federal Court of Australia (the **Class Action**).
- 25 For the purposes of preparing that statement, I had the benefit of reviewing many relevant documents and refreshing my memory, and I met on multiple occasions with the solicitors and counsel engaged by Crown to defend the Class Action.
- 26 My recollection is that I spent many hours over many months preparing that statement.
- 27 I signed that statement on 17 December 2019.

ILGA INQUIRY

- 28 In August 2019, I became aware that the Independent Liquor and Gaming Authority (the **ILGA**) of New South Wales had established the ILGA Inquiry, namely an inquiry under the *Casino Control Act 1992* (NSW) relating to the casino licence that had been granted to Crown Sydney Gaming Pty Limited.
- 29 I was issued a summons to attend the ILGA Inquiry dated 21 July 2020, initially requiring me to attend at 10:00am on 17 August 2020.
- 30 Ultimately, I was required to give evidence before the Commissioner, the Honourable Patricia Bergin SC, for two days on 2 and 3 September 2020.
- 31 As with the witness statement I prepared for the Class Action, before giving evidence at the ILGA Inquiry, I again had the benefit of reviewing many documents. My recollection is that I reviewed many folders of documents, some of which I had earlier reviewed for the purposes of my witness statement for the Class Action and some of which I reviewed for the first time when preparing for the ILGA Inquiry. By reason of that document review and various meetings I had with my lawyers to prepare to give evidence to the ILGA Inquiry, again over a period of many months, I refreshed my memory of the relevant events. Of course, during the ILGA Inquiry, I answered all the questions asked of me to the best of my ability.

MATTERS RAISED IN MR BRYANT'S EVIDENCE

- 32 It appears from Mr Bryant's evidence before the Royal Commission that he considers that I was deliberately untruthful in my responses to the VCGLR in March 2018. I strongly deny that allegation.
- 33 I was asked during my evidence to the VCGLR in March 2018 to comment on a particular Reuters article entitled *China's president just declared war on global gambling*, that had been shown to me during the VCGLR Interview. More specifically, I was asked and responded as follows:

[Q248] Okay, I'll just show you an article and it's headed, "China's President Just Declared War on Global Gambling", and that's February 7 2015. If you just want to have a quick look at that. Do you agree that that's the heading of the document?

[A] That's the heading of the document.

[Q249] Okay. Do you just want to have a quick look at that just to familiarise yourself with it. Okay. Would you like to offer a comment in relation to that?

[A] No, it's pretty – it's a pretty – clear article. The message is quite clear.

[Q250] Okay. And what was your business strategy at the time that article came out?

[A] I wasn't aware of that, that's what I am saying.

[Q251] Okay, but you're aware that a crackdown occurred about that time in China, a general anti-corruption crackdown?

[A] Yes. A specific crackdown on the casino industry, no.

[Q252] When the crackdown in relation to corruption was announced, can you recall having discussions with any Crown superiors?

[A] Ah, not specific discussions but general ones, yes. I can't tell you who it was discussed with. I can tell you who it was likely to have been discussed with. It was a – it was a pretty important issue for us at the time that it became clear, so we would have had discussions with superiors, yes.

[Q253] Okay, and who would – as your direct report would have you discussed with your direct report?

[A] Yes. Yes, at the time discussed it with my direct reports and probably other senior people in the organisation as well. Can I stress, though, at the time it was understood to be a crackdown on corruption generally. I don't recall any discussions about crackdowns specifically on casinos or gambling operators.

- 34 As to the article itself, I had no recollection of it at the time of it being put to me at the VCGLR Interview. I did, however, as I went on to explain during the VCGLR Interview, have a recollection of the events that the article was describing and I provided my interpretation of those events.
- 35 Having reviewed documents after the VCGLR Interview, in the context of preparing my statement for the Class Action and preparing for my appearance at the ILGA Inquiry (in the circumstances described above), I learned that I had been party to an email chain with that article included. Further, I learned that some analysis, advices and discussions occurred in relation to the article and the events it described. These were subsequently explored in my evidence during the ILGA inquiry.
- 36 My understanding of the announcement made in February 2015 was that it was part of the Chinese government's long-running anti-corruption campaign against Chinese citizens, including casino customers. While my understanding of the focus of the anti-corruption campaign was genuinely held at the time, subsequent events have shown that my understanding was mistaken. I now accept, as my evidence to ILGA demonstrated, that the crackdown at that time was targeting the casino industry itself, rather than the customers of those casinos.
- 37 Based on various emails and conversations between mid-2012 and 13 October 2016 that I had with Mr Michael Chen, then Crown's President - International Marketing, who was based in Hong Kong, in which he told me about the legal advice he had received relating to Crown's operations, my understanding was that Crown's activities in China were in accordance with legal requirements. I still hold that view, despite pleading guilty to the charge brought against me in China to which I refer below. Briefly stated in layman's terms, I understood that the legal advice provided to Michael and reported by Michael to me to be that:
- (a) it was illegal to gamble in mainland China; and
 - (b) it was illegal to organise for groups of ten or more people to travel outside of China to gamble, and, in relation to that group, to accept a kickback or commission from these customers.
- 38 It was my belief that Crown did not do these things and to my knowledge, no evidence was presented at our trial in China to indicate that it did.

MY DETENTION IN CHINA

- 39 On 10 October 2016, I travelled from Melbourne to China for the purpose of meeting with the VIP International in-market sales team and to support them in their promotion of two upcoming events – the opening of the new hotel in Perth (Crown Towers Perth) and an Australian golf event. I also met with staff and VIP customers in Beijing and Shanghai.
- 40 At about 10 pm on 13 October 2016, I boarded a plane to return to Australia. I had just sat down in my seat when I was physically grabbed around my wrist by someone in plain clothes. The person demanded my name. I responded: "Jason O'Connor". The person then ordered me to stand and, when I did, my hands were handcuffed in front of my body. I was then physically escorted off the plane.

- 41 For the purposes of this statement, it is unnecessary to describe the further events in any detail. (I have outlined them in detail elsewhere, including in my witness statement in the Class Action). It is sufficient to say that I was questioned for many hours and overnight, without the assistance of a lawyer, or any consular assistance. I was taken to No. 1 Detention Centre, Shanghai on the Friday night of 14 October 2016, where I was detained for ten months. I was detained without charge until about mid-November 2016, at which time I was told that I was being arrested on suspicion of the crime of gambling. The circumstances of my detention were harrowing and traumatic, by reason of the conditions in which I was detained and the fact I was detained in a foreign country, away from my family and with very limited information and with very limited ability to communicate.
- 42 On 26 July 2017, at a court hearing at the Shanghai Baoshan District People's Court of the People's Republic of China, I entered a plea of guilty.
- 43 As I did not organise a trip for a group of ten or more people to travel overseas to gamble, and I did not receive any benefits, financial or otherwise, from customers in respect of such trips, I did not believe I had breached Chinese law. However, my decision was a pragmatic one.
- 44 I gave serious consideration to pleading not guilty and defending myself, but it was explained to me by my Chinese lawyer that doing so would have meant remaining in the detention facility in China for a much longer period of time while waiting for the trial. He also explained that there was very little chance of a positive outcome and a 98% to 99% chance of conviction irrespective of whether I had actually breached any Chinese laws. Further, it was explained that the Chinese legal system allows leniency to those who choose to plead guilty. Finally, all of my detained colleagues and I were being tried as one case. If just one of the 19 people charged were to defend themselves, then all 19 would have to endure the much longer wait for a trial. To me, the choice was clear. I pleaded "guilty" for practical reasons, to get out of China and back home to my wife and young children, and to allow my detained Crown colleagues to do the same.
- 45 I was sentenced to 10 months imprisonment including time already served in detention, a fine of RMB 2 million, and deportation from China to Australia.
- 46 On 13 August 2017, approximately six weeks after the trial, I was released from detention and deported home to Australia.
- 47 After my return to Australia, I took leave from work until February 2019 when I returned to work at Crown in my current role.

Date: 15 June 2021

Confidential


Jason Patrick O'Connor