

Royal Commission into the Casino Operator and Licence

STATEMENT OF BARRY FELSTEAD

Name: Barry Felstead
Address: [REDACTED]
Occupation: Retired
Date: 26 July 2021

I, Mr Barry Felstead of [REDACTED] retired, say as follows:

Introduction

1. I make this statement in reply to the allegations contained in the statement of Mr Timothy Bryant dated 15 April 2021 as amended 15 May 2021¹ and the evidence given by Mr Bryant before the Royal Commission on 17 May 2021,² and repeated in the written submissions from Counsel Assisting sent to my solicitors on 20 July 2021,³ that I misled or lied to Mr Bryant as an inspector of the Victorian Commission for Gambling and Liquor Regulation (**VCGLR**) during the course of my interview by Mr Bryant and another inspector of the VCGLR on 28 March 2018 (**VCGLR Interview**).

¹ Exhibit RC001, Statement of Timothy Michael Bryant dated 15 April 2021 together with the documents referred to within, VCG.9999.0001.0003 at _0014 [46], _0016 [52], _0021 [62(b)], _0021–_0022 [65], _0023 [66], _0040–_0041 [117]–[118], _0042 [126], _0043 [127]–[128] and _0048 [138(d)].

² T56:37–T577:12 (Bryant), T70:27–33 (Bryant), T-77:20–T78:6 (Bryant), T79:42–T80:11 (Bryant), T108:26–T109:2 (Bryant), T115:37–T116:39 (Bryant).

³ Closing Submissions of Counsel Assisting the Commission July 2021, COM.0500.0001.0380 at .0432 [3.93].

2. This statement is confined to this matter, and by not commenting on other matters of evidence or assertion before the Royal Commission, it should not be taken that I accept that other evidence or assertion.
3. This statement accurately sets out the evidence that I am prepared to give to the Royal Commission on this matter. This statement is true and correct to the best of my knowledge and belief.

Allegation of knowingly misleading or lying to Mr Bryant during the VCGLR Interview

4. I deny that I knowingly misled or lied to Mr Bryant during the VCGLR Interview. During the VCGLR Interview, I gave answers to the best of my recollection, and identified where my recollection of a specific matter was uncertain or incomplete. At the time that I gave my answers, I believed my responses to be accurate and truthful. At no point did I intend or attempt to mislead Mr Bryant. Apart from the fact that I was aware of the importance of telling the truth to the VCGLR as a matter of course, I was also aware that the VCGLR would be speaking to other Crown employees and that it had the power to require Crown Resorts Ltd (and other Crown entities) to produce documents to them. At all times, I expected that the VCGLR would obtain a clear understanding of the matters the subject of its investigation and I expected that my answers would be consistent with information that the VCGLR would be obtaining from other sources.
5. Where the information I gave at the VCGLR Interview differs from the evidence I gave at the Inquiry under section 143 of the *Casino Control Act 1992* (NSW) before the Hon. Patricia Bergin SC (**Bergin Inquiry**), this was due to the fact that in preparation for giving evidence at the Bergin Inquiry I had the advantage of reviewing documents which had not been put to me at the VCGLR Interview, which served to refresh my memory of the details of the relevant incidents. I describe this in further detail below.
6. To the extent that the difference between the information I gave at the VCGLR Interview and the evidence I gave at the Bergin Inquiry relates to my recollection of having received or not received specific documents in correspondence, I provide further details below of the large volume of correspondence I received on a daily basis and the e-mail retention policy I adopted to deal with this volume.

Volume and scope of e-mail correspondence

7. During the time I was employed as CEO – Australian Resorts, I used the Outlook e-mail system.
8. I typically received around 2,000 e-mails each week. Approximately 10-15% of my e-mails comprised automatically-generated performance reports from Crown Melbourne, Crown Perth, or Crown London Aspinalls, including reports on gaming machine performance, security, daily operations and shift reports.
9. The balance of my e-mails was approximately evenly split between internal and external e-mails sent to me, or copying me in. During the period 2015-2016 I had 13-14 direct reports including in relation to Gaming Operations, Hotel, Retail, Food & Beverage, Conventions & Entertainment, Human Resources, Legal & Regulatory, Financial, Marketing, and Community & Charity.
10. I annex three Crown Australian Resorts Organisational Charts (**CRL.752.001.0047** as at 30 June 2015, **CRL.752.001.0060** as at 30 June 2016, and **CRL.752.001.0073** as at 30 June 2017) which set out my direct reports in the period, excluding my direct report from Crown London Aspinalls.
11. Jason O'Connor, as head of VIP International, was but one of my direct reports. I estimate that, putting aside travel time and time spent meeting and greeting VIP customers, VIP International business occupied approximately 5% of my time on a day-to-day basis. The remainder of my time, and the focus of my efforts, was directed to performance and other issues arising at each of Crown Perth, Crown Melbourne and Crown London Aspinalls.

Retention of e-mails

12. It was my practice to read each e-mail, take any necessary action and then delete the e-mail. Rarely did I retain an e-mail in my inbox after having read it as this would rapidly cause my inbox to become unmanageably large. I only retained an e-mail where some further action was needed which I could not immediately perform, or if I believed that I would need to refer to the e-mail in the future, such as business plans and strategic documents.

13. With the exception of those limited documents which I retained for future reference, it was not my usual practice to use folders on my computer to store e-mails after they had been read and acted upon.
14. It was not my practice to print e-mails and retain copies in printed form.
15. After I deleted an e-mail, it went to the Deleted Items folder. Approximately once or twice per fortnight I emptied the Deleted Items folder in order to avoid too large a volume of e-mails accumulating there, which would have had the effect of slowing down the operation of the e-mail system. I recall that I did this pursuant to a directive from the Crown IT Department for employees to actively manage their inboxes. After this emptying of the Deleted Items folder, there was no ready way for me to restore a deleted e-mail and review it.
16. Crown Resorts, in its electronic archives, preserved data on backup tapes, including such permanently deleted e-mails. However, this data was not readily accessible, and required a laborious process by members of the Crown Resorts' IT Department to restore and organise it in usable form so as to be able to review items such as individual deleted e-mails. To the best of my knowledge, this process of data recovery was only conducted on rare occasions, such as in response to orders of a Court or Inquiry.

Preparation to attend the VCGLR Interview

17. On 14 March 2018, I received a letter requiring me to attend the VCGLR offices for the purposes of an interview, at a time and date to be mutually agreed.⁴ The letter stated that:

“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 Casino Control Act 1991.”

⁴ Exhibit RC0001u, Letter from Stephen Berriman to Barry Felstead, 21 February 2018, VCG.0001.0002.3313.

18. I received no further information from the VCGLR before the interview as to the purpose of the interview or the subject matter to be covered. I received no documents from the VCGLR in advance of the interview.
19. Through Crown Resorts' solicitors, the date and time agreed was 14:00 on 28 March 2018.
20. Between 14 March 2018 when I received the letter and 28 March 2018 I did not prepare for the interview by reviewing any documents or e-mails or speaking to anyone to refresh my memory of events.
21. For the reasons described in paragraphs 12 to 16 above, I did not have available to me e-mails from 2015 from my inbox or computer for me to review. It would not have been possible for me to recover e-mails without someone at Crown Resorts undertaking the data recovery procedure described in paragraph 16.
22. I recall attending the VCGLR premises at about 14:00 on 28 March 2018. The interview went for approximately 1 hour and 40 minutes.

VCGLR Interview: February 2015 Announcement

23. During the VCGLR Interview, I was asked about what is now known as the February 2015 Announcement. At the outset, I note the following matters:
 - a. The February 2015 Announcement came as part of a wide-ranging crackdown on corruption by Chinese officials commencing in about 2012. Since about 2014, this corruption crackdown had a particular focus on Macau and this was, in fact, referred to in one of the articles shown to me during the VCGLR Interview which I describe in more detail below at paragraphs 24 to 27 below.
 - b. With hindsight, I now appreciate that the February 2015 Announcement should have had greater significance in my understanding of events leading up to the arrests of Crown staff in October 2016. However, in the period October 2016 to March 2018, I did not have that understanding and I did not make the link between the announcement in February 2015 and the arrests some 20 months later. Had I appreciated that the February 2015 Announcement was a sign that Crown staff in China faced a real risk of arrest, I would not have

travelled to China on six separate occasions in 2015 and 2016, including once with my wife in the fortnight before the arrests took place.

- c. The interview was conducted in late March 2018, more than three years after the February 2015 Announcement. During that three-year period, Crown had gone through a period of public upheaval and Mr O'Connor, my friend and colleague, had been gaoled in China, along with other staff, some of whom had been colleagues of mine for many years. Given these more recent and significant events, the events of early 2015 were not at the forefront of my mind at the time that I met with the VCGLR in 2018.

24. During the course of the VCGLR Interview, I was shown an article entitled “China’s President Just Declared War on Global Gambling”, dated 07 February 2015⁵. In the course of answering questions about that article, I agreed that some articles like that would be brought to my attention in my role and that I would receive a series of press clippings on a daily basis, amounting to up to 70 to 80 articles per day⁶. However, I stated that I had not seen that particular article before.⁷ I answered that way because, at the time, I did not recall seeing that particular article and so I assumed that I had not seen it. In hindsight, what I ought to have said was that I did not recall seeing that article.

25. Although the article itself was shown to me during the VCGLR Interview, no correspondence by which that article was sent to me (either by attachment, link or inclusion in the body of an e-mail) was shown to me in the VCGLR Interview.

26. I now know that I received an e-mail which contained a link to the article in question on 07 February 2015, when I was copied in to an e-mail sent from Michael Chen, President – International Marketing (Australian Resorts), to Jason O'Connor, Group Executive General Manager – VIP International (Australian Resorts). This e-mail was not shown to me at the time of the interview and for reasons stated at paragraphs 12 to 16 above, I had

⁵ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0017 [Q66], being CWN.584.001.0185 at .0199 [Q66].

⁶ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0018 [Q69], being CWN.584.001.0185 at .0200 [Q69].

⁷ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0019 [Q71], being CWN.584.001.0185 at .0201 [Q71].

not refreshed my memory by reviewing that e-mail. The first time I recall seeing this e-mail after the VCGLR Interview was in preparation for giving evidence at the Bergin Inquiry in mid-2020. I describe the process of preparing to give evidence at the Bergin Inquiry at paragraphs 35 to 37 below.

27. During the course of the VCGLR Interview I was asked about my recollection of the time of the February 2015 Announcement, and the “change in the landscaping⁸”. My answers reflect my understanding of the corruption crackdown and the restrictions on the activities of Chinese citizens, particularly in relation to corruption and activities in Macau.⁹ In the VCGLR Interview, I was shown a further article “China’s Corruption and Crackdown Still Weighs on James Packer’s Casino Joint Venture” dated 03 February 2015¹⁰ which related to corruption and the crackdown in Macau, and my responses in the VCGLR Interview indicate that it supported my comments that the February 2015 Announcement related to corruption and activities in Macau.

28. I now appreciate the separate significance of the February 2015 Announcement apart from the general and long running crackdown on corruption in China. I describe this further in paragraphs 38 to 41 below.

VCGLR Interview: Questioning of Crown staff member in 2015

29. During the course of the interview I was also asked about my recollection of the questioning of member of Crown’s staff in China.¹¹ The transcript of interview records the questioning of the Crown staff member being in “July 2010”,¹² but I believe that to be an error in the transcript, as I recall the questions to have related to the questioning of a Crown staff member in July 2015. I was not then, and am not now, aware of any

⁸ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0017 [Q68], being CWN.584.001.0185 at .0199 [Q68].

⁹ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0017-.0019 [Q68]-[Q71], being CWN.584.001.0185 at .0199-.0201 [Q68]-[Q71].

¹⁰ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0021 [Q76], being CWN.584.001.0185 at .0203 [Q76].

¹¹ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0033-.0040 [Q129]-[Q161], being CWN.584.001.0185 at .0215-.0222 [Q129]-[Q161].

¹² Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0033 [Q129], being CWN.584.001.0185 at .0215 [Q129].

questioning of Crown staff from July 2010, and I note that I did not have responsibility for the VIP – International programme during July 2010 (as distinct from July 2015).

30. In response to the questioning, I stated that I did not “recall a lot of details about it”, and that I did not remember what agency carried out the questioning.¹³ I further stated that I thought that the questioning could have been in relation to a particular patron,¹⁴ as I had been led to believe that the questioning related to a patron (a.k.a. customer) who was a “person of interest” to the Chinese authorities.¹⁵ I explained that Crown staff talked to patrons in China, and that it was possible that such a patron may be a person of interest to the Chinese authorities. Crown staff would not necessarily be aware that the patron was a person of interest. I explained my understanding that the status of a patron as a person of interest, rather than the status or activities of the Crown staff member as such, may be the cause of the questioning of the Crown staff member.
31. I also thought that the questioning of the Crown staff member may have been in relation to a particular patron who may have been a person of interest to the Chinese authorities as I recalled that, around the time that I was made aware of the questioning of this staff member, I was informed by Mr O’Connor (in a conversation to which Mr Chen may also have been party) that, in the past, at least one Crown staff member in China had been unofficially approached and asked questions about persons of interest with whom the Crown staff member had dealt. I recall that Mr O’Connor also said at the time that any other questioning of Crown staff members in China had occurred in the context of patrons who were persons of interest to the Chinese authorities.
32. I now know that the questioning, which was of an employee described in the Bergin Inquiry as “Mr BX”, was in relation to the activities of Crown in recruiting Chinese nationals to travel to Australia to gamble, and in relation to Mr BX’s employment by Crown. I describe this further in paragraphs 42 to 44 below.

¹³ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0034 [Q131], being CWN.584.001.0185 at .0216 [Q131].

¹⁴ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0034 [Q131], being CWN.584.001.0185 at .0216 [Q131].

¹⁵ Exhibit RC0001y, VCGLR Transcript of Interview (Felstead), 28 March 2018, VCG.0002.0011.0003 at .0039-.0040 [Q160]-[Q161], being CWN.584.001.0185 at .0221-.0222 [Q160]-[Q161]. See also at .0036 [Q143], being CWN.584.001.0185 at .0218 [Q143].

Further Dealings with the VCGLR after the VCGLR Interview

33. Beyond the VCGLR Interview, I do not recall having made any substantive communications to the VCGLR about the China Arrests.
34. At no point was I recalled for further interview by the VCGLR in relation to the China Arrests. At no point was it suggested to me that I had lied in the VCGLR Interview until Mr Bryant's oral evidence in this Royal Commission.

Preparation to give evidence at the Bergin Inquiry

35. During mid-2020, in preparation for the appearance of myself and other employees and officers of Crown entities before the Bergin Inquiry, I was provided with extensive documentation to review, including deleted e-mails from my e-mail account. I recall the volume of material which was provided to me extended to some 26 folders' worth of e-mails, business plans and other documentation, and that I had several weeks to review this documentation before giving evidence.
36. I understand that these e-mails had been recovered by Crown Resorts' IT Department from Crown Resorts' electronic archives in response to document production orders from the Bergin Inquiry, and, to my knowledge, had not been recovered earlier.
37. In advance of my appearance before the Bergin Inquiry, I made a careful and detailed review of my e-mail correspondence from the period of February 2015 to October 2016, paying particular attention to e-mails relating to the China Arrests and the sequence of such events. This process allowed me to put into a sequence the events and correspondence leading up to the China Arrests and assisted me to refresh my memory of events and conversations. While I had no independent recollection of receiving many of the e-mails sent to me, I accepted that if the e-mail was addressed to me, then I likely read it at the time.

Bergin Inquiry: February 2015 Announcement

38. When I was asked about the article "China's President Just Declared War on Global Gambling", dated 06 February 2015 published in *Business Insider*, I indicated that I had

seen the article.¹⁶ I answered this way because I accepted that the e-mail had been sent to me with the link to the article. I did not, at the time of answering, have an independent recollection of reading the article at the time it was sent. In retrospect, I assume that this was the same article as had been shown to me in the VCGLR Interview, although the dates of the two articles are slightly different.

39. The reason why I said at the Bergin Inquiry that I had received the article and that I had likely read it is that, at the time of the Bergin Inquiry, I had had the benefit of having made a recent and careful review of my e-mail correspondence from the period in the lead up to the China Arrests, whereas I had not had the opportunity to make such review before participating in the VCGLR Interview as deleted historical correspondence was, at that time, unavailable to me for the reasons described in paragraphs 12 to 16 above.
40. Further, I said at the Bergin Inquiry that it was common knowledge at senior executive level in the casino industry that the February 2015 Announcement extended to foreign casinos.¹⁷ The reason why I said this is that I had had the benefit of having reviewed correspondence, board minutes, external professional advice and other documentation in advance of giving evidence at the Bergin Inquiry.
41. With the exception of the article “China’s President Just Declared War on Global Gambling”, the documentation on which I based my evidence at the Bergin Inquiry as to the scope of the February 2015 Announcement and that scope being common knowledge at senior executive level in the casino industry was not shown to me during the course of the VCGLR Interview. Having reviewed that documentation prior to giving evidence at the Bergin Inquiry, it had refreshed my knowledge of the scope of the February 2015 Announcement and the degree to which that was known at senior executive level in the casino industry.

Bergin Inquiry: Questioning of Crown staff member in 2015

42. When I was asked about the questioning of Mr BX and the provision of a letter confirming his employment by an entity within the Crown group, I answered that I was

¹⁶ Bergin Inquiry transcript at 17.08.20 T1164:1 and 17.08.20 T1168:35.

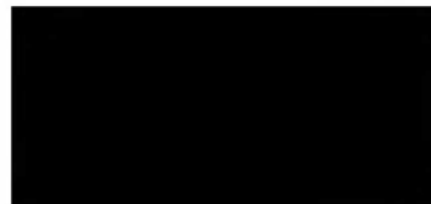
¹⁷ Bergin Inquiry transcript at 17.08.20 T11169:32-T1170:37.

aware, in July 2015, that the Chinese police had told Mr BX that the questioning was in relation to his having organised people to gamble in Australia.¹⁸

43. The reason why I said at the Bergin Inquiry that I was aware that the questioning of Mr BX was in relation to his organising people to gamble in Australia, rather than that it may have been in relation to a particular patron who may have been a person of interest to Chinese authorities is that at the time of the Bergin Inquiry I had had the benefit of reviewing my e-mail correspondence from the period in the lead up to the China Arrests, and in particular had reviewed two e-mails dated 10 July 2015, which related to the questioning of Mr BX and the provision of the letter to Mr BX confirming his employment by an entity within the Crown Group.¹⁹
44. To the best of my recollection, these e-mails were not shown to me during the course of the VCGLR Interview. Having reviewed them prior to giving evidence in the Bergin Inquiry, they had refreshed my knowledge of the details of the questioning of Mr BX.

Dated: 26 July 2021

Signed:

A large black rectangular redaction box covering the signature area.

Barry Felstead

¹⁸ Bergin Inquiry transcript at 18.08.20 T1217:23-27.

¹⁹ Exhibit RC0006, E-mail chain between Jason O'Connor to Barry Felstead, 10 July 2015, CRL.638.001.0129; Exhibit RC0007, E-mail chain between Barry Felstead to Jan Williamson, 10 July 2015, VCG.0001.0002.6070.