



Victorian Commission for
Gambling and Liquor Regulation

Memorandum

To: Scott May, General Counsel, Legal Services

From: Tim Bryant, Team Leader, Compliance

Subject: Misleading statements at VCGLR interviews regarding the detention of Crown employees in China that may be considered misleading Date: 10 November 2020

Purpose

To detail two possible misleading statements at VCGLR interviews by Crown executives.

Jason O'Connor – That the Chinese Government 'crackdown' was about corruption and not about foreign casinos attempting to lure Chinese gamblers to their casinos

Barry Felstead – That the questioning of Crown employees was about a Chinese gambler and not Crown casino's operations in China. Also, that he omitted that he escalated the incident to Michael Johnston and also referred it to Ratnam Ishan.

Background

Misleading Statement 1 – Chinese Government 'crackdown' was about corruption and not about foreign casinos attempting to lure Chinese gamblers to their casinos

On 8 March 2018 Jason O'Connor was interviewed by the VCGLR. The purpose of the interview was to seek information in relation to the circumstances surrounding the arrest of Crown employees in China that is part of the ongoing investigation under Section 24 of the Casino Control Act 1991. He agreed that anything he said in the interview or any information he provided may be considered by and relied upon by the Commission as part of this investigation and any subsequent action that may be taken by the Commission.

O'Connor said that he understood that as the holder of a Casino Special Employee Licence anything that he said in the interview or any information he provided may inform the Commission when considering when considering what subsequent action may be taken in the future regarding his Casino Special Employee Licence including enquiring into whether there are grounds for disciplinary action against him under Section 52 of the Casino Control Act 1991.

Responses at VCGLR interview

O'Connor said can't recall when he was first aware of the change in the landscape in China with government announcements in relation to China. He did know that early in his term Xi Jinping made announcements about cracking down on corruption that was not specifically related to the gambling industry. (Q247)

O'Connor was shown the article headed 'China's President Just declared war on global gambling dated February 7 2015 and said that it's a pretty clear article and the message is quite clear. (Q250)

In response to the question *Okay, but you're aware that a crackdown occurred about that time in China, a general anti-corruption crackdown?* O'Connor said 'Yes. A specific crackdown on the casino industry, no. (Q251)

He said he could not recall specific discussions but general ones with his direct reports, including Michael Chen, and other senior people in the organisation and that it was a pretty important issue for us at the time. (Q251)

O'Connor said that *'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.'* (Q253)

ILGA

Jason O'Connor admitted he was aware that in early February 2015, that Chinese Authorities were cracking down on foreign casinos recruiting Chinese citizens to gamble in other countries. (P2011.20)

He also gave evidence that he understood that this announcement by the Chinese authorities had the potential to create a risk to Crown's existing business operations in China. He admitted that it was a matter that he *"needed to treat seriously as a senior executive responsible for the VIP international business"*. (P2013.15)

MATERIAL PROVIDED TO VCGLR POST VCGLR RECORDS OF INTERVIEW

On 7 and 8 June 2018 Crown provided further material in response to a s26 Demand issued on 2 February 2018

Included in this material were emails showing the level of understanding of Crown executives, including O'Connor, at the time of the announcement of the crackdown in February 2015. Three significant examples are ; -

Email chain regarding article 'China's President just declared war on global gambling' (CWN.502.032.8809)

On 7 February 2015 CHEN emails O'CONNOR and copied FELSTEAD under the email subject heading *'Re CORRECTED – CHINA to crack down on foreign casinos seeking Chinese gamblers.'* The email has attached a Reuters article put to CHEN, O'CONNOR and FELSTEAD at interview headed 'China's President just declared war on global gambling.' FELSTEAD replies to CHEN and O'CONNOR *'another good challenge for you both.'*

CHEN responded to FELSTEAD and copied O'CONNOR in that; *'For us. This suggests we may need to delay our plans on establishing physical office presence in China. Also, this raises the alert level on the safety of our staff. Recently, Nelson WONG from MGM immediately left China when he heard news of increased scrutiny on overseas casinos. We need to assess the threat level. We should also discuss this week on our call the increasingly serious issues our customers are facing in moving funds to repay debts. I have a good case study to go over.'*

Email chain 7 February 2015 headed 'China' (CWN.502.053.7603)

An email chain from ALDRIDGE to O'CONNOR dated 7 February that has attached the Reuters article dated 6 February 2015 headed 'China to crack down on foreign casinos seeking Chinese gamblers'. ALDRIDGE states:

*'Hi Jason,
Are you guys in Melbourne making any adjustments to the F16 business plan based upon which is happening in China. Also, is there any concerns for the Crown staff working in China. Maybe we can add this to the topics for discussion when I am in Melbourne.'*

On 9 February 2015 O'CONNOR responded to ALDRIDGE and copied CHEN in

*'Happy to discuss this Howard,
These issues will, undoubtable bring considerable discussion during the planning process (which is yet to commence). Personally, I'm very concerned with the international business near term prospects for reasons I'm sure your well aware of. Our challenge will be convincing our masters that they need to temper their expectations, but with the development plans ahead, talk of conservative expectations won't be well received. As for the staff, we are always very concerned for their wellbeing and Michael is consulting our lawyers In the meantime we all need to take extra care.'*

Email dated 11 February 2015 'Agenda for today.' (CWN.502.016.8469)

Email appears to be an agenda for a meeting or phone hook-up between O'CONNOR, FELSTEAD, CHEN and Ishan RATNAM

*At point 2 of the Agenda it states:
'Industry chatter re marketing crackdown
Avoid travel to mainland China for a while.'*

*At point 4 of the Agenda it states:
'Offices in China Defer'*

Misleading Statement 2 – The questioning of Crown employees was about a Chinese gambler and not Crown casino's operations in China. Also, that he omitted that he escalated the incident to Michael Johnston and also referred it to Ratnam Ishan.

On 28 March 2018 Barry Felstead was interviewed by the VCGLR. The purpose of the interview was to seek information in relation to the circumstances surrounding the arrest of Crown employees in China that is part of the ongoing investigation under Section 24 of the Casino Control Act 1991. He agreed that anything he said in the interview or any information he provided may be considered by and relied upon by the Commission as part of this investigation and any subsequent action that may be taken by the Commission.

Responses at interview

Felstead said that he was aware at the time of a Crown member being questioned in China in July 2015 and that it was brought to his attention by either Jason O'Connor or Michael Chen. (Q130)

He said he was only aware of the one instance, and that if there was more than one that would be news to him. (Q182)

Felstead said he couldn't you recall any other incidents of Crown sales staff being questioned by police (Q144)

He said he can't recall how it was relayed to him '*...I think it was in relation to we've had a staff member who's been - who's been questioned and my understanding, it was in relation to a particular - it could have been in relation to a particular patron but I don't recall a lot of details about it but I definitely remember there was an incident where a staff member was questioned by a government agency, whether it was the police, I can't remember.* (Q131)

It was his understanding that the questioning was in the context of a patron (Q132)

He said he can't recall getting any emails in relation to it but that he was definitely aware of it and that it '*rings a bell*' when shown an email regarding the request by the Police to furnish a letter from the company providing that he works for Crown. He said that the request to furnish the letter wouldn't be a great surprise to him although he was not aware of it occurring before (Q133 to Q138)

In relation to the comment by Mintz that '*This document could go to an evidentiary pile in the future*' He said that '*I don't know what that would refer to. So that would be news to me.*' (Q140)

in the context that he thought the Koreans were warned by the Chinese authorities before their arrests, he did not see the request for the letter as a possible warning to Crown, (Q141)

He said that he wasn't sure what Mintz meant by evidentiary pile and that

It was more - like I said my understanding of the whole incident was it was in relation to a customer which probably would be no great surprise in terms of sometimes they may have spoken to a customer who maybe a person of interest, unbeknown to them, but yeah, I don't think - yeah, I think that's probably - that was certainly my take on the incident (Q143)

He said in relation to the 'evidentiary pile' comment and the proposition that that this was an escalation of risk; -

Well I know we would have been continuing to receive advices and I was certainly - I was certainly informed from time to time of the advice that we received. As you can see there's advice there from Randy and he's saying - I don't think he's saying that there's any great concern with that. (Q145)

Felstead said in relation to if he should have escalated the incident at Crown from his role

Well, if it was something that was an ongoing thing, I mean it appeared to happen once and I believe that the information I was given as to why it happened, which seemed fairly logical to me, and bearing in mind throughout all these processes, you know, there were continued assessments of on ground risk in relation to China. (Q152)

Crown employee interviewed by the police, no, I think the - I think the response was - think the response was adequate. (Q155)

When asked about the response he said; -

So we were requested to do a letter of employment, which we did, and as I said before if the incident was mainly focused around an individual player, which I was led to believe it was, that to me was a - that to me was not a material risk for our employees in China. (Q156)

In response to the proposition that there was no indication in any of the relevant emails and documents that the incident was about an individual player responded

No, and like I said that's what I was led to believe. (Q157)

He said that he can't remember who led him to believe that (that it was about a Chinese customer) but assumes it would have been one of either Michael (Chen) or Jason (O'Connor). (Q159)

In response to the proposition that '*So basically what you believe is that it was not the fact that they were looking at your activities in the sense of what your employee was doing. It was more the activities of the player and that just happened to be connected to one of your employees?*' Felstead said that that was his belief. (Q161)

In response to the following question '*For matters to get escalated further up the tree that would have been via you?*'

If there's anything else that needed to be escalated I would escalate that up by - and depending on the issue, depending what department it involved, depending on the severity I would either talk to our legal people who should be either Deb Tegoni or Michael Neilson (Q188)

ILGA Examination

Felstead was shown an email from Mr O'Connor to him dated the 10th of July 2015 document INQ.950.002.0140. that included the line that the employee *...had been accused of organising gambling operations or something.* And that the employee '*...had said that he worked for a hotel resort company and helped with the visas and travel arrangements.* (P1215.15)

Felstead said that he was aware that the employee in China sent a document to Crown Resorts in July 2015 setting out his recollection of his interview with the police. (P1216.10)

Felstead said that he was aware, in July 2015, that the Chinese police had said to this person that they could not tell him who had informed them, but that the issue was that he had organised people to gamble in Australia. (P1217.25)

Felstead was aware that two of the Crown Resorts staff based in China had been questioned by the Chinese police in early July 2015, and the Chinese police had required a letter confirming that one of them was employed by Crown Resorts. (P1219.5)

Felstead agreed that only a few weeks earlier, Mr Rankin had told him to be on high alert for similar Chinese regulatory action after the arrests of the Koreans in June 2015 and that now he had two employees in China questioned by the police about their activities, and the Chinese police had required a letter confirming that one of them was a subsidiary of Crown Resorts and that whilst you could draw the

conclusion that it was an obvious escalation of risk he took a probably took a slightly different view, based on what he knew. (P1219.5)

To 'give clarity' Felstead offered the following; -

Yes. The first arrest, I wasn't aware of at the time. I was aware of that when Mr O'Connor told me about the second person. So I was not aware of that. My understanding of the first particular arrest of our staff was in relation to a customer, in particular. This particular arrest I was aware of. The Koreans – my understanding of the Koreans, based on advice received, was that was a very, very different issue, because they were allegedly – I need to say the word "allegedly" – doing things which were against – against current guidelines of operating in China. (P1219.25)

Felstead then confirmed that he was now aware that two of your employees had been questioned by the Chinese police and that he knew that one of them was questioned about his activities as an employee of Crown Resorts (P1219.40)

Further, it was put to Felstead that "even with all that had happened in the previous few weeks, culminating with these two staff being questioned, it still didn't occur to you that it was necessary to ensure that the risk of arrest to the staff in China was notified to the board of Crown Resorts via its risk management committee". Mr Felstead agreed that in hindsight he should have escalated what occurred to the risk committee. (P1220.20)

Felstead said that he forwarded the emails he received to Mr Johnston regarding the questioning of the staff member by the police and the provision of a letter confirming that he was an employee of Crown Resorts.

He said that this particular issue was escalated through to the company secretary and to Mr Johnston, so there was an escalation process and that in hindsight he should have reported it to the risk committee. (P1220.25)

Felstead also said that the incident relating to the questioning of the second employee of Crown Resorts in China was handled by the legal department in Crown Melbourne. Accordingly, the senior legal counsel of Crown Melbourne forwarded advice of it to the head of legal and then on to Mr Michael Neilson, the joint company secretary of Crown Resorts. He thought that by forwarding the emails he was making the board of Crown Resorts aware of that matter. (P1221.5)

The Inquiry heard that Mr Felstead did not inform Mr Craigie (his direct report) that two of the staff based in China had been questioned by the Chinese police and one of them had been asked to provide a letter confirming that he was an employee of Crown Resorts.

Second Crown employee questioned

A witness statement was taken from the second Crown employee who was questioned by Chinese police around the same time as Benny XIONG. He stated; -

In July 2015 one of my sales team called Benny Xiong was visited by Chinese Police in Wuhan where he was questioned about his activities around promoting Crown resorts and promoting gambling. Around this time I also was spoken to by Chinese police at my home about gambling. The Police told me that someone had told them that I was gambling at my home,

when I denied this the Police said that maybe the information was made up. They didn't actually ask me what I did or if I worked for Crown.

MATERIAL PROVIDED TO VCGLR POST VCGLR RECORDS OF INTERVIEW

Commencing from 5 April 2018 Crown have provided material in relation to the questioning of their staff member that shows the nature of the incident, that it was not in relation to a Chinese customer and that Felstead was the Crown executive most consistently involved in it

Provided on 5 April 2018

An email from Mr Barry Felstead authorising Mr Tim Spearman to sign the letter on behalf of Crown Resorts Pte Ltd, and an English translation of Mr XIONG's questioning by Police in email between a Crown employee in Melbourne (Accountant in VIP International) and Jan Williamson. This was also emailed by Williamson to Michael CHEN and Jason O'Connor on 15 July 2015.

The English translation *includes* '*..but the issue is that I have organised people to gamble in Australia*'

Provided on 12 October 2018 (CWN 514.016.3690)

An email chain from 10 July to 13 July 2015 involving Michael Chen and Jason O'Connor that includes the request by Jason O'Connor to Chen; -

MC,

Can you please sketch together a summary of what other casinos are doing in relation to their sales staff in China? Baz has asked in response to the news about Benny.

Provided on 18 March 2019 (CWN. 502.032.0145)

A three-page email dated 10 July 2015 from Chen to Bin Xiong requesting him to complete the attached 'protocol' being headed 'Reception Procedures in case of a government investigation in China'

A two-page email dated 10 July 2015 from Chen to Xiong attaching the 'Letter' and asking for his notes from the meeting including the identification of the officers involved.

A three-page email dated 9 July and 10 July 2015, heavily redacted, from Chen to Williamson with O'Connor copied in regarding Xiong being questioned about '*...organising going (sic) tours. Benny denied it and said he worked for Crown Resorts and assisted in organizing leisure trips for customers.*' This was then forwarded by O'Connor to Barry Felstead on 10 July 2015.

A two-page email chain dated 9 and 10 July 2015 from Michael Chen to Jan Williamson with O'Connor copied in with a draft copy of the 'Letter' for signature by '*...someone in legal in Melbourne in order to protect those of us working overseas.*'

On 10 July 2015 'Connor forwarded this to Barry Felstead and also stated 'We had another employee questioned by the Chinese police yesterday. He seems to have been accused of organising gambling operations or something. He explained that he works for a hotel resort company and helps with visas and travel arrangements etc. they asked for a letter from his employer verifying this.

Provided on 11 March 2020

Three-page email chain dated between 9 and 10 July 2015 commencing from Wilmer Hale to Michael Chen that states '...The police department said that somebody has reported that he organises overseas gambling tours, and he said that he had no knowledge about it...'. The email then has a draft letter prepared by Wilmer Hale for signature by Crown for Bin Xiong. The email chain then includes an email from Jan Williamson to Wilmer Hale confirming who the letter should be addressed from ie Crown Resorts Limited the ASX listed company. Williamson forwarded this for approval by Barry Felstead who said 'Fine by me thanks Jan.'

Provided on 9 October 2020 (CRL.636.001.174)

This material provided after it came to the notice of VCGLR during ILGA examination

Commences 9 July 2015 with an email from Wilmer Hale to Michael Chen summarising Wilmer Hales debrief of Bin Xiong's interview with Police, including his claim that he had no knowledge of organising gambling tours. It also contains a draft letter for provision to the Chinese police.

On 10 July 2015 Chen forwarded this email to Jan Williamson and copied in Jason O'Conner and requested that 'if you have no objection, we will prepare the letter per Wilmer-Hale template. I will send you the final version and barring any hanged before 11am China time tomorrow, we will provide such a letter to the police.

On 10 July 2015, O'Connor forwarded the above email chain to Barry Felstead stating 'further to last note'

On the same day Felstead forwarded the email the email to Michael Johnston and stated 'This is what we will be up against in China at the moment'

On the same day he also separately forwarded the email to Ishan Ratnam and stated 'Let's discuss over lunch Loban.'

Recommendation

1. It is recommended that Counsel's advice be sought as to the appropriate way to deal with this issue.