
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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(instructed by Corrs Chambers
Westgarth as Solicitors Assisting the
Commission)**

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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 NESKOVCIN: 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 MS NESKOVCIN: Thank you, Ms Fielding. You are aware of
12:35 34 the issue that has arisen recently in the inquiry or in the Royal
12:35 35 Commission about whether Crown Melbourne has correctly
12:35 36 deducted expenses associated with the loyalty program?
12:35 37
12:35 38 A. Yes, I am.
12:35 39
12:35 40 Q. And it is relevant to gross gaming revenue calculations
12:35 41 since at least financial year 2012?
12:35 42
12:36 43 A. Yes.
12:36 44
12:36 45 Q. Were you following any of the evidence of
12:36 46 Mr Mark Mackay or Mr Morrison?
12:36 47

12:36 1 A. Not Mr Morrison and I didn't see the second day of
12:36 2 Mr Mackay but I did read the transcript of his first day.

12:36 3

12:36 4 Q. It helps me understand what you are familiar with. Thank
12:36 5 you. You are aware, aren't you, that in October 2018, Crown
12:36 6 sought advice from MinterEllison on the calculation of gross
12:36 7 gaming revenue and Crown's treatment of the bonus jackpots?

12:36 8

12:36 9 A. Yes.

12:36 10

12:36 11 Q. You were personally involved in providing instructions and
12:36 12 having meetings with MinterEllison?

12:36 13

12:36 14 A. Yes.

12:36 15

12:36 16 Q. You are aware, aren't you, that, and there are two points
12:36 17 that I want to ask you about in relation to that request for advice,
12:36 18 first of all that at that time the VCGLR had not been advised of
12:36 19 a change in treatment of the gaming machine bonus jackpot
12:37 20 program costs?

12:37 21

12:37 22 A. I believe that is right.

12:37 23

12:37 24 Q. And they had not specifically approved the gaming
12:37 25 machine jackpot bonus as a "bonus jackpot" in inverted commas?

12:37 26

12:37 27 A. I'm not too sure on that one because Mr Herring had said to
12:37 28 me that the EMS has approved parameters, and that --- and this is
12:37 29 the case, I know they do run various jackpots under the same
12:37 30 jackpot name, so I believe he said that they were able to run it
12:37 31 within the parameters that had been approved.

12:37 32

12:37 33 Q. But the VCGLR were not aware that Crown was deducting
12:37 34 the costs associated with part of the jackpot program?

12:37 35

12:37 36 A. No, the --- are you specifically talking about the bonus
12:38 37 jackpot program?

12:38 38

12:38 39 Q. Yes.

12:38 40

12:38 41 A. I believe that there are some financial reports they get that
12:38 42 set those out as well.

12:38 43

12:38 44 Q. It doesn't have the line items of what the breakdown is,
12:38 45 does it?

12:38 46

12:38 47 A. I don't know.

12:38 1
12:38 2 Q. You are aware, aren't you, that in October 2018 when
12:38 3 Crown sought advice from MinterEllison, that Crown did not at
12:38 4 that time have firm legal advice that the expenses associated with
12:38 5 the food, hotel and car park benefits were deductible?
12:38 6
12:38 7 A. I don't believe they did, no.
12:38 8
12:38 9 Q. If we could just go to the advice, please.
12:38 10
12:38 11 Commissioner, I think you have a bundle of documents and it
12:38 12 should be in tab 9.
12:38 13
12:38 14 Operator, could you please call up MEM.5000.0005.492.
12:39 15 Actually, operator, that is a covering email. I will go to the
12:39 16 advice. MEM5000.0002.493.
12:39 17
12:39 18 COMMISSIONER: Tab?
12:39 19
12:39 20 MS NESKOVICIN: Nine.
12:39 21
12:39 22 This was attached to a cover email. It wasn't sent to you so it's
12:39 23 not relevant, Ms Fielding, but this is the advice that MinterEllison
12:39 24 gave on 25 October 2018. You saw this advice at the time, did
12:39 25 you not?
12:39 26
12:39 27 A. I think I did.
12:39 28
12:39 29 Q. And you understood that MinterEllison had advised that for
12:40 30 the purposes of the interpretation of "gross gaming revenue" that
12:40 31 the term "deductible" did not capture credits earned from the
12:40 32 gaming machine jackpot program?
12:40 33
12:40 34 A. Sorry, where am I looking?
12:40 35
12:40 36 Q. I was putting a general proposition.
12:40 37
12:40 38 A. Sorry, apologies.
12:40 39
12:40 40 Q. That's my fault.
12:40 41
12:40 42 A. My memory of the advices were that they were vague.
12:40 43
12:40 44 Q. They were negative, they were not in favour ---
12:40 45
12:40 46 A. They weren't favourable, but I didn't think they were
12:40 47 definitive either.

12:40 1
12:40 2 Q. But you proceeded on the basis that you did not have
12:40 3 a green light from the lawyers?
12:40 4
12:40 5 A. I proceeded? Or Crown, do you mean?
12:40 6
12:40 7 Q. You personally.
12:40 8
12:40 9 A. Well, no, I don't think I accept that because I wasn't
12:40 10 a decision-maker in any of that.
12:40 11
12:40 12 Q. Let's go back. I'm sorry, I have perhaps jumped ahead too
12:41 13 quickly. After you got the advice in 2018, you didn't read this
12:41 14 advice as being favourable to Crown did you?
12:41 15
12:41 16 A. No.
12:41 17
12:41 18 Q. That's partly why you came back 12 months later to see if
12:41 19 they might reconsider the advice in light of new information?
12:41 20
12:41 21 A. Possibly, yes.
12:41 22
12:41 23 Q. If the operator could please go to paragraph 26 on
12:41 24 page 9495 --- I suggest that paragraphs 26 and 27 encapsulate
12:41 25 MinterEllison's advice and is what I at least read as being ---
12:41 26 leading to the conclusion that the advice is not favourable.
12:41 27
12:41 28 A. Yes, but I think there was a conflicting issue on that
12:42 29 particular paragraph.
12:42 30
12:42 31 Q. It's more that there is just some arguments given, you know,
12:42 32 it can be interpreted the other way, here are some points.
12:42 33
12:42 34 A. No, I'm not saying that. What I'm suggesting is Mr Herring
12:42 35 was saying that the Welcome Back jackpot operated on the same
12:42 36 premise, and that was approved and was deductible.
12:42 37
12:42 38 Q. But it didn't just matter about approval, did it, it had to
12:42 39 actually be deductible within the meaning of the agreements?
12:42 40
12:42 41 A. Yes.
12:42 42
12:42 43 Q. Yes. So there were two issues, whether or not it was
12:42 44 deductible ---
12:42 45
12:42 46 A. Yes.
12:42 47

12:42 1 Q. --- and whether or not the VCGLR knew about it.
12:42 2
12:42 3 A. Yes.
12:42 4
12:42 5 Q. And they didn't know about it.
12:42 6
12:42 7 A. No.
12:42 8
12:42 9 Q. The only point Mr Herring could have been making is that
12:42 10 it had similarities to Welcome Back jackpots?
12:42 11
12:42 12 A. Well, not similarities. It was on that definition of whether
12:42 13 it was winnings is where the Welcome Back, which was
12:42 14 approved and was deductible operated on the same function.
12:42 15
12:43 16 Q. It's --- even if it operated on the same function, that is not
12:43 17 conclusive as to the merits of the argument, is it?
12:43 18
12:43 19 A. No, and I said that to you, that it was vague.
12:43 20
12:43 21 Q. You were given this advice to review and you provided
12:43 22 some feedback on the advice?
12:43 23
12:43 24 A. Yeah, I think Mr Preston asked Mr Herring and I to review
12:43 25 it and mark it up.
12:43 26
12:43 27 Q. And you did that?
12:43 28
12:43 29 A. Yes.
12:43 30
12:43 31 Q. Now, I will show you the covering email and another
12:43 32 document. Operator, it is MEM.5001.0001.6689. You see on 2
12:43 33 November Mr Preston sends an email to MinterEllison and the
12:43 34 second paragraph says --- the first paragraph says:
12:43 35
12:44 36 *Please find attached the draft advices with some*
12:44 37 *comments/changes in tracked form added.*
12:44 38
12:44 39 *The amendments are largely from Peter Herring and*
12:44 40 *Michelle Fielding*
12:44 41
12:44 42 And if we go to the document, MEM.5001.0001.6690, can you
12:44 43 identify from the colour mark-up which changes were yours and
12:44 44 which were Mr Herring?
12:44 45
12:44 46 A. No, I think we did them together. I was typing and he was
12:44 47 talking.

12:44 1
12:44 2 Q. I see.
12:44 3
12:44 4 A. Yep. And then I think when it was finished, we were doing
12:44 5 it on the phone, and when it was finished I sent it to him to
12:44 6 review.
12:44 7
12:44 8 Q. I see. If we go to paragraph 6, please, operator. You see
12:44 9 the paragraph that is marked up there ---
12:44 10
12:44 11 A. Yes.
12:44 12
12:44 13 Q. --- were they comments that you were transcribing from
12:44 14 Mr Herring or how did those comments come about?
12:45 15
12:45 16 A. I don't know.
12:45 17
12:45 18 Q. Operator, could we please go to paragraph 26 on
12:45 19 page 6692. The changes there are they changes you were
12:45 20 transcribing from Mr Herring or do you not recall?
12:45 21
12:45 22 A. I don't know.
12:45 23
12:45 24 Q. Do you agree that the changes that you were making were
12:45 25 intended to make the advice favourable to Crown?
12:45 26
12:45 27 A. No, I think they were to clarify points and to put them in
12:45 28 the terminology that Crown used. I don't think we were trying to
12:45 29 alter it.
12:45 30
12:45 31 Q. So by making these changes you weren't trying to change
12:45 32 the advice from unfavourable to favourable?
12:45 33
12:45 34 A. Well, only insofar as if they were things that he had missed
12:46 35 or hadn't considered then that might have given him a different
12:46 36 view but not in terms of trying to influence him to have
12:46 37 a different outcome unless that outcome was his view based on
12:46 38 the additional information.
12:46 39
12:46 40 Q. Yes. I see. And ultimately the partner at MinterEllison
12:46 41 didn't accept these changes ---
12:46 42
12:46 43 A. That's right.
12:46 44
12:46 45 Q. --- and the changes reverted to his initial draft with some
12:46 46 minor addition changes?
12:46 47

12:46 1 A. Yes, I think that's right.
12:46 2
12:46 3 Q. Now, the changes that I've just taken you to under
12:46 4 paragraph 6 and paragraph 26, I want to suggest to you have
12:46 5 a strong resemblance to matters that arose in an advice that
12:46 6 Ms Tegoni gave in 2012.
12:46 7
12:46 8 A. I think that's right.
12:46 9
12:46 10 Q. So had you seen that advice at the time?
12:46 11
12:46 12 A. I don't think saw it in 2012, no, but I think I'd seen it since.
12:46 13
12:46 14 Q. When had you seen it?
12:46 15
12:46 16 A. I don't know. Well, it wouldn't have been back then. It
12:46 17 would have been in more recent times.
12:46 18
12:46 19 Q. I see. So that advice was actually provided to
12:47 20 MinterEllison as part of their instructions for the purposes of this
12:47 21 advice?
12:47 22
12:47 23 A. (Nods head).
12:47 24
12:47 25 Q. Were you asked to retrieve that? How did it come to make
12:47 26 its way to MinterEllison?
12:47 27
12:47 28 A. I don't know. It might have come from Josh or Peter or me,
12:47 29 I don't know.
12:47 30
12:47 31 Q. But you can't recall when you first became aware of the
12:47 32 advice?
12:47 33
12:47 34 A. I don't believe it was back in history. I think it was in more
12:47 35 recent times.
12:47 36
12:47 37 Q. Okay. Ms Tegoni's advice on a matter like this, did she
12:47 38 keep hard copy files or how did you know how to retrieve
12:47 39 an advice if she's had given one on the topic?
12:47 40
12:47 41 A. I wouldn't be able to retrieve her advices. I would have had
12:47 42 to ask the legal department to retrieve them.
12:47 43
12:47 44 Q. I see.
12:47 45
12:47 46 COMMISSIONER: How would you know that it should be
12:47 47 retrieved?

12:47 1
12:47 2 A. I wouldn't. I wouldn't know ---
12:47 3
12:47 4 COMMISSIONER: Somebody told you about it?
12:47 5
12:47 6 A. Yeah.
12:47 7
12:47 8 COMMISSIONER: You don't remember who told you?
12:47 9
12:47 10 A. I assume Peter Herring would have had but I don't know.
12:48 11
12:48 12 MS NESKOVICIN: Is it convenient to take the lunch break now?
12:48 13
12:48 14 COMMISSIONER: Come back at 1.30.
12:48 15
12:48 16 MR BORSKY: May I just come back to you Commissioner, on
12:48 17 at least an interim basis, in response to your query this morning
12:48 18 about the extensive redactions.
12:48 19
12:48 20 COMMISSIONER: Yes.
12:48 21
12:48 22
12:48 23 MR BORSKY: I'm still taking instructions on the basis of any
12:48 24 privilege claim underlying, but may I just clarify promptly that
12:48 25 we had interpreted the request from Counsel Assisting,
12:48 26 Mr Kozminsky ---
12:48 27
12:48 28 COMMISSIONER: Do you want me to blame him?
12:48 29
12:48 30 MR BORSKY: --- for copies of the emails with certain things
12:48 31 cut out; he said at transcript 2344, "you can cut out --- I really
12:48 32 just want to see who it was sent to, Mr Walsh but who else. If
12:48 33 you could send that through, that would be great." And similar
12:48 34 descriptions of the request from Counsel Assisting were made at
12:49 35 page 2348 of the transcript. So that's not a complete answer to
12:49 36 your question.
12:49 37
12:49 38 COMMISSIONER: It's not a bad start. I will deal with him.
12:49 39 You deal with the rest.
12:49 40
12:49 41 MR BORSKY: Thank you.
12:49 42
12:49 43 COMMISSIONER: 1.30.
12:49 44
12:49 45
12:49 46 **ADJOURNED** **[12.49PM]**
13:34 47

13:34 1
13:34 2 **RESUMED** [1.34PM]
13:34 3
13:34 4
13:34 5 COMMISSIONER: Thank you.
13:34 6
13:34 7 MS NESKOVICIN: Thank you, Ms Fielding. I wanted to go
13:34 8 back over 2018, you recall the advice in 2018. Did that request
13:34 9 for advice come about because the VCGLR had recently raised
13:34 10 a matter with you regarding the bonus jackpots?
13:34 11
13:34 12 A. I would have assumed the answer to that was yes, but then I
13:34 13 saw there's five months between the two events, so I'm thinking
13:34 14 maybe not.
13:34 15
13:34 16 Q. Could we call up, operator, MEM.5001.0003.0842. It
13:35 17 appears around this time you have had contact with Mr Cremona
13:35 18 at the VCGLR and he asked you questions about trying to clarify
13:35 19 some calculations of bonus jackpots. If we could go to
13:35 20 page 0844, that's where the chain starts. That email on the screen
13:35 21 is on 31 May. You see that? Email?
13:35 22
13:35 23 Q. Yes. Do you recall what you were discussing with
13:35 24 Mr Cremona about the bonus jackpots and what was the nature of
13:35 25 this inquiry he was making?
13:35 26
13:35 27 A. No.
13:35 28
13:35 29 Q. So we just have to go on what was in the document?
13:35 30
13:35 31 A. I'm not even sure there was a discussion prior to receiving
13:35 32 this email.
13:35 33
13:35 34 Q. I see. And you presumably had to get some assistance from
13:35 35 someone like Mr Herring to provide a response; is that correct?
13:36 36
13:36 37 A. Yes.
13:36 38
13:36 39 Q. And you did that?
13:36 40
13:36 41 A. Yes.
13:36 42
13:36 43 Q. The response that we see on page 8043, that is based on
13:36 44 your instructions from Mr Herring?
13:36 45
13:36 46 A. That's right.
13:36 47

13:36 1 Q. In particular you say in the second paragraph:

13:36 2

13:36 3 *Regarding the definition from the Bonusing Report and*

13:36 4 *your query as to what points earned outside gaming*

13:36 5 *machines can be redeemed on machines, the categories*

13:36 6 *are as follows*

13:36 7

13:36 8 I want to take you to paragraph 8 "bonus jackpots". That is

13:36 9 information you obtained from Mr Herring?

13:36 10

13:36 11 A. That's right.

13:36 12

13:36 13 Q. At this time, you must have spoken to Mr Herring about

13:36 14 this request?

13:36 15

13:36 16 A. Yes.

13:36 17

13:36 18 Q. And he gave you this information. Did he tell you that

13:36 19 there was a concern about the deductibility of, for example, car

13:36 20 parks, hotel nights, et cetera, that are mentioned under paragraph

13:36 21 8?

13:36 22

13:36 23 A. No, but I did know at this point that there were obviously

13:37 24 some issues arising from it. It wasn't that --- I didn't have any

13:37 25 misconceived ideas that everything was right.

13:37 26

13:37 27 Q. What did you know at that time about the issue?

13:37 28

13:37 29 A. I knew Crown hadn't been overt about it, transparent about

13:37 30 it. I don't think I thought there was an issue with the deductibility

13:37 31 because there is various documents talking about bonus jackpots

13:37 32 being deductible.

13:37 33

13:37 34 Q. But not hotel stays, food and car parks; correct?

13:37 35

13:37 36 A. No, but I don't ---

13:37 37

13:37 38 COMMISSIONER: But you don't treat hotel nights, valet

13:38 39 parking, dining rewards and so on as bonus jackpots. They are

13:38 40 called bonus jackpots for tax purposes, but they are not jackpots,

13:38 41 are they?

13:38 42

13:38 43 A. I've only heard the gaming machine department refer to

13:38 44 them as bonus jackpots.

13:38 45

13:38 46 COMMISSIONER: The evidence is only for tax purposes, not

13:38 47 for any other purpose?

13:38 1
13:38 2 A. And that might be the case, but that might have been the
13:38 3 only context I was speaking to you about them in.
13:38 4
5 COMMISSIONER: My question was to you, they are not
6 jackpots, are they?
7
8 A. Well, I've only referred to them as bonus jackpots ---
9
10 COMMISSIONER: I didn't ask the question what they refer to, I
13:38 11 asked the question: they are not jackpots, are they, I don't care
13:38 12 what they are called?
13:38 13
13:38 14 A. I don't know that I can answer that.
13:38 15
13:38 16 COMMISSIONER: You don't want to answer that or you can't?
13:38 17
13:38 18 A. I don't think I can.
13:38 19
13:38 20 COMMISSIONER: Why not?
13:38 21
13:38 22 A. Because it's the only way I've known them. It's not --- I
13:38 23 can't say off the top of my head something that I really would
13:38 24 have to probably do some thinking about.
13:38 25
13:38 26 COMMISSIONER: Yes, okay. And one of things you have to
13:38 27 think about is what is a jackpot?
13:38 28
13:38 29 A. Yes.
13:38 30
13:38 31 COMMISSIONER: Good. And a car park doesn't sound like
13:39 32 a jackpot?
13:39 33
13:39 34 A. No, but again, and I agree with that, I actually don't think
13:39 35 any of them sound like jackpots ---
13:39 36
13:39 37 COMMISSIONER: I think that is the tax issue.
13:39 38
13:39 39 A. But again I have this Welcome Back issue that clouds it all.
13:39 40
13:39 41 COMMISSIONER: I don't know what clouds it.
13:39 42
13:39 43 A. The Welcome Back issue. There is a Welcome Back offer
13:39 44 which operates the same way they used to, where you earn it
13:39 45 from turnover and it is an approved jackpot.
13:39 46
13:39 47 COMMISSIONER: That might be an approved jackpot for some

13:39 1 purposes.
13:39 2
13:39 3 A. Well, yeah, I don't know what purposes specifically.
13:39 4
13:39 5 COMMISSIONER: You do, but you don't want to say.
13:39 6
13:39 7 A. No, no, I'm happy to tell you anything I know, honestly,
13:39 8 I am, I just don't know.
13:39 9
13:39 10 COMMISSIONER: All right.
13:39 11
13:39 12 MS NESKOVCIN: Can we go back to the page 0844, operator.
13:39 13
13:39 14 Can you confirm, Ms Fielding, that the embedded comments we
13:39 15 see in blueprint are yours?
13:39 16
13:39 17 A. That's right.
13:39 18
13:39 19 Q. I want to ask you about this approval of the Welcome Back
13:39 20 bonus jackpot. Operator, could you call up
13:40 21 MEM.5001.0003.1749. This is a document of 6 November 2006
13:40 22 from the VCGR, as it then was, regarding changes to the
13:40 23 Welcome Back bonus jackpot; do you see that?
13:40 24
13:40 25 A. Yes.
13:40 26
13:40 27 Q. Is this the document you are referring to when you, in
13:40 28 answer to a question from the Commissioner a moment ago,
13:40 29 mentioned the approval of the Welcome Back bonus jackpot?
13:40 30
13:40 31 A. No, not specifically. I think there has been --- I was aware
13:40 32 that it was approved, and there were a number of approvals for it.
13:40 33 I think there was a 2009 version off the top of my head, but no,
13:40 34 not specifically this document.
13:40 35
13:40 36 Q. Have you seen this document before?
13:40 37
13:40 38 A. Possibly, yes.
13:40 39
13:40 40 Q. I want to draw your attention in particular to the last
13:40 41 paragraph and the last sentence.
13:40 42
13:40 43 A. Yes.
13:40 44
13:40 45 Q. Do you see that?
13:40 46
13:40 47 A. Yes.

13:40 1
13:41 2 Q. Do you know if the 2009 document has the same
13:41 3 qualification in it?
13:41 4
13:41 5 A. I don't know.
13:41 6
13:41 7 COMMISSIONER: Do you know what that paragraph is
13:41 8 intended to tell Crown?
13:41 9
13:41 10 A. Basically that gaming equipment that is approved is
13:41 11 approved for use in the casino.
13:41 12
13:41 13 COMMISSIONER: Got to do with machine use, nothing else?
13:41 14
13:41 15 A. I see what you are saying. Yes.
13:41 16
13:41 17 COMMISSIONER: Okay.
13:41 18
13:41 19 MS NESKOVICIN: So you hadn't turned your mind to that at any
13:41 20 point in time when Mr Herring was telling you that the Welcome
13:41 21 Back jackpot had been approved?
13:41 22
13:41 23 A. No.
13:41 24
13:41 25 Q. And he didn't point that out to you?
13:41 26
13:41 27 A. No, not specifically.
13:41 28
13:41 29 Q. Do you see now why any similarity between the bonus
13:41 30 jackpot in relation to food, beverages, hotel stays, car parking is
13:41 31 of a different status to the Welcome Back bonus jackpot?
13:42 32
13:42 33 A. I would have said yes, but for I understand that the advice
13:42 34 that has been received on this matter, which I haven't read. Sorry.
13:42 35
13:42 36 COMMISSIONER: I don't understand what you are saying.
13:42 37
13:42 38 A. I don't know if it is privileged or if I can talk about it, sorry.
13:42 39
13:42 40 MS NESKOVICIN: We are in a privileged hearing.
13:42 41
13:42 42 COMMISSIONER: Sorry?
13:42 43
13:42 44 MR BORSKY: I just want to rise to ensure that it remains clear
13:42 45 that Crown doesn't waive any privilege in this particular advice.
13:42 46
13:42 47 COMMISSIONER: I thought the whole session in-camera is so

13:42 1 that that doesn't happen --
13:42 2
13:42 3 MR BORSKY: Thank you.
13:42 4
13:42 5 COMMISSIONER: --- but if you think I look like I might forget
13:42 6 it, you can remind me every now and again.
13:42 7
13:42 8 MS NESKOVCIN: So I think you were about to agree with
13:42 9 something but you had a qualification.
13:42 10
13:42 11 A. Yeah, I would have agreed but the advice I understand
13:42 12 Crown has received does approve other elements that are outside
13:42 13 the --- it says that they are fine outside the casino.
13:42 14
13:43 15 Q. So you understand that the advice that has been received
13:43 16 says that the food and beverage component is okay, but hotel
13:43 17 stays and car parking is not?
13:43 18
13:43 19 A. That's correct.
13:43 20
13:43 21 Q. Certainly until you received that advice, your understanding
13:43 22 of the advice, the legal advice that Crown had obtained was that
13:43 23 they were not deductible?
13:43 24
13:43 25 A. Again, I think --- I don't know if we can go over the old
13:43 26 ground that we went over before, but I think it was vague to
13:43 27 certain extents, the advice.
13:43 28
13:43 29 Q. We will come back to this, and I apologise if I seem to be
13:43 30 repeating myself, but it is an important point, so I'm going to be
13:43 31 asking you whether you understood at various points in time that
13:43 32 the advice was not favourable to Crown but Crown decided to
13:44 33 proceed regardless. So let's start with 2018. You understood at
13:44 34 that point that the advice was not favourable to Crown; correct?
13:44 35
13:44 36 A. Somewhat, yes.
13:44 37
13:44 38 Q. "Yes" or "no"?
13:44 39
13:44 40 A. Well, I don't think it is a "yes" or "no" question. Like I
13:44 41 said, the advice was vague, particularly the second ---
13:44 42
13:44 43 Q. You know at that time you got the advice in October 2018
13:44 44 Crown thought it was on shaky legal ground?
13:44 45
13:44 46 A. Yes.
13:44 47

13:44 1 Q. Don't worry about what happened later. That point, shaky
13:44 2 legal ground, decided to proceed regardless?
13:44 3
13:44 4 A. Yes.
13:44 5
13:44 6 Q. Commercial risk?
13:44 7
13:44 8 A. Yes.
13:44 9
13:44 10 COMMISSIONER: Did you at any stage think it was
13:44 11 an appropriate thing to do, to discuss it with the regulator,
13:44 12 ie come clean?
13:44 13
13:44 14 A. At that point in time?
13:44 15
13:44 16 COMMISSIONER: Yes.
13:44 17
13:44 18 A. No, I don't think so.
13:44 19
13:44 20 COMMISSIONER: Why not?
13:44 21
13:44 22 A. I just think that was the culture at the time, it wasn't
13:44 23 something that was done. It was that Crown made its own
13:44 24 decisions and it wasn't being transparent. That's the truth of it.
13:44 25
13:44 26 MS NESKOVCIN: How did that sit with you as a compliance
13:45 27 officer?
13:45 28
13:45 29 A. Well, I think because I was engrossed in that culture and
13:45 30 didn't really have any understanding that there was an expectation
13:45 31 that we should have been more transparent than we were, so
13:45 32 I don't think I was likely as bothered by it as I should have been,
13:45 33 and as I would be if it occurred today.
13:45 34
13:45 35 Q. You were always troubled by the non-disclosure to the
13:45 36 regulator?
13:45 37
13:45 38 A. No, I can't say that because I think I didn't really appreciate
13:45 39 that it was a non-disclosure for a period of time.
13:45 40
13:45 41 Q. Did you appreciate that it was a concealment issue for
13:45 42 a period of time?
13:45 43
13:45 44 A. No, I didn't think it was concealed. It certainly wasn't overt
13:45 45 and transparent, but it wasn't concealed.
13:45 46
13:45 47 COMMISSIONER: What is the difference?

13:45 1
13:45 2 A. I think concealment would require some sort of positive
13:45 3 step to change something to hide it, and I don't think that that
13:46 4 occurred.
13:46 5
13:46 6 COMMISSIONER: Like submitting a form setting out how you
13:46 7 calculate tax without explaining how you do the deductions, that
13:46 8 might be concealment, mightn't it?
13:46 9
13:46 10 A. No, I don't necessarily think. So I don't know if the
13:46 11 question is asked or required or anticipated that setting out the
13:46 12 calculation would be part of it. But I take your point. But it's just
13:46 13 not the word I would have used.
13:46 14
13:46 15 MS NESKOVICIN: Operator, can we call up
13:46 16 CRW.520.005.3249.
13:46 17
13:46 18 Is that your handwriting, Ms Fielding?
13:46 19
13:46 20 A. It is.
13:46 21
13:46 22 Q. Can you assist us with identifying the date of the filenote?
13:46 23
13:46 24 A. 24 October 2011.
13:46 25
13:46 26 Q. You are aware that the advice Ms Tegoni had given in
13:46 27 relation to the bonus jackpot which was the subject of --- you
13:47 28 reviewed it around the time you reviewed MinterEllison's advice
13:47 29 in 2018, Ms Tegoni's advice was 28 March 2012.
13:47 30
13:47 31 A. Yes.
13:47 32
13:47 33 Q. So this is a few months before that. The issue had arisen
13:47 34 around the time of this filenote presumably?
13:47 35
13:47 36 A. I assume so. It --- sorry.
13:47 37
13:47 38 Q. Well it says?
13:47 39
13:47 40 Bonus - F&B offers is part of EGM Jackpots
13:47 41
13:47 42 A. Yes.
13:47 43
13:47 44 Q. Do you recall in what context you made this note?
13:47 45
13:47 46 A. No, but in looking at it in more recent times, because I have
13:47 47 no recollection of it at all, it is over 10 years ago, it appears to be

13:47 1 that it is a list of tasks I'm being given that I've written down.

13:47 2

13:47 3 Q. Tasks from whom, do you recall?

13:47 4

13:47 5 A. I assume Debra Tegoni.

13:47 6

13:47 7 Q. The first task, someone has put a circle around it and

13:48 8 across, do we take it that task has been crossed off?

13:48 9

13:48 10 A. I assume so.

13:48 11

13:48 12 Q. "MF to ask Edwin", is that Edwin Aquino?

13:48 13

13:48 14 A. I assume so.

13:48 15

13:48 16 Q. So do I take it you spoke to Edwin?

13:48 17

13:48 18 A. I assume so.

13:48 19

13:48 20 Q. About the matters set out there?

13:48 21

13:48 22 A. I assume so.

13:48 23

13:48 24 Q. The concern that was being relayed to you was how the text

13:48 25 would be presented such that would it become obvious to the

13:48 26 regulator?

13:48 27

13:48 28 A. Yes.

13:48 29

13:48 30 Q. So, in asking you about whether or not you had any

13:48 31 concerns about it being concealed or not disclosed, is it the case

13:48 32 that from 2011 when this idea is being floated, there was

13:48 33 an awareness that the VCGLR hadn't been told about it?

13:48 34

13:48 35 A. There obviously is because that is what the filenote shows,

13:49 36 but I didn't make any connection between this filenote and then

13:49 37 when the matter came up in 2018.

13:49 38

13:49 39 Q. I see.

13:49 40

13:49 41 Operator, can we please go to CRW.512.117.0019.

13:49 42

13:49 43 Do you recognise this document, Ms Fielding?

13:49 44

13:49 45 A. I think I have seen that at some point.

13:49 46

13:49 47 Q. It seems to be a presentation in relation to the Gaming

13:49 1 Machines Food Program Initiative, March 2012. Looking back at
13:49 2 the document, do you have any recollection of who might have
13:49 3 prepared it?

13:49 4
13:49 5 A. Are you able to scroll through a couple of pages?
13:49 6

13:49 7 Q. Yes, any time you want to look through a document, just
13:49 8 please say and the operator can move through it.

13:49 9
13:50 10 Let us know when you want to move to another page.
13:50 11

13:50 12 A. Yes, next page, please. Next page, please.
13:50 13

13:50 14 I don't know who prepared it.
13:50 15

13:50 16 Q. Do you think you might have seen it around the time or you
13:50 17 have no recollection?

13:50 18
13:50 19 A. I have no recollection of it back then.
13:50 20

13:50 21 Q. Operator, could you go to page 0030. You see it says
13:50 22 "finance (Greg Foord & Justine Henwood).
13:50 23

13:50 24 A. Greg was, and Justine Henwood was the CEO at the time.
13:50 25

13:50 26 Q.
13:50 27

13:51 28 Impact of the change to the Daily Revenue Report, Gross
13:51 29 Gaming Revenue and any possible reaction of the VCGLR
13:51 30 to the proposed changes.

13:51 31
13:51 32 *"Factoring in refurbishment, economic environment,*
13:51 33 *impacts from negative publicity and the increase in*
13:51 34 *Gaming Machines Tax by 1.72% in July 2012, we are of*
13:51 35 *the opinion that the proposed change will not be noticed*
13:51 36 *by the VCGLR."*
13:51 37

13:51 38 You see that?
13:51 39

13:51 40 A. Yes, I do.
13:51 41

13:51 42 Q. So there is some basis for saying internally there is
13:51 43 a recognition that (a) that the VCGLR hadn't been informed, and
13:51 44 secondly a perception that the VCGLR might not notice because
13:51 45 of the scale of the deduction; correct?
13:51 46

13:51 47 A. Yes, I agree with that.

13:51 1
13:51 2 Q. Going back through your memory of when you first became
13:51 3 aware of this issue, was it always the case to your mind that the
13:51 4 VCGLR hadn't been informed? You have to say "yes".
13:51 5
13:51 6 A. I was nodding as in I thought you were going to keep going.
13:51 7
13:52 8 Q. So the answer to that is "correct"?
13:52 9
13:52 10 A. Yes, I think that is right.
13:52 11
13:52 12 Q. And, secondly, that there was a belief because of the scale
13:52 13 they might not notice?
13:52 14
13:52 15 A. No, I hadn't seen --- I'm not sure, I've seen presentations.
13:52 16 I'm not actual sure that I've seen that one.
13:52 17
13:52 18 Q. I see. Can we go to the next page, please, operator. First
13:52 19 dot point says:
13:52 20
13:52 21 Present to Finance, Legal and Compliance: Complete
13:52 22
13:52 23 You are compliance?
13:52 24
13:52 25 A. Yes.
13:52 26
13:52 27 Q. That would tend to suggest that there had been some
13:52 28 presentation to you?
13:52 29
13:52 30 A. I don't think I'd received a presentation, it could have been
13:52 31 Debra had done legal and compliance again. I don't know. But I
13:52 32 don't believe I've ever had a presentation to me at all.
13:52 33
13:52 34 COMMISSIONER: Who else in compliance would it have gone
13:52 35 to?
13:52 36
13:52 37 A. I'm sorry?
13:52 38
13:52 39 COMMISSIONER: Who else?
13:52 40
13:52 41 A. Debra. DebraTegoni.
13:52 42
13:52 43 MS NESKOVICIN: And then it says:
13:52 44
13:53 45 Approval to proceed: Pending.
13:53 46
13:53 47 Who in the organisation, or what body, would have been required

13:53 1 to approve or from whom would approval be needed at this point
13:53 2 in time?

13:53 3

13:53 4 A. I assume they are talking about someone in the executive
13:53 5 management team, but I don't know.

13:53 6

13:53 7 Q. That document is March 2012. You will recall when
13:53 8 MinterEllison were briefed, and you might not know this,
13:53 9 MinterEllison asked for and obtained previous advices from
13:53 10 counsel; do you recall that?

13:53 11

13:53 12 A. No.

13:53 13

13:53 14 Q. I want to show you this document, NEM.5001.0002.8014.
13:54 15 Operator, if you could go to page 8021.

13:54 16

13:54 17 You see the date there?

13:54 18

13:54 19 A. Yes, I do.

13:54 20

13:54 21 Q. We'll go back to the first page, please, operator. You see
13:54 22 from the introduction the nature of the matters on which counsel
13:54 23 had been asked to advise?

13:54 24

13:54 25 A. Yes.

13:54 26

13:54 27 Q. Clearly not about the ---

13:54 28

13:54 29 A. No.

13:54 30

13:54 31 Q. --- food program. Do you recall seeing this advice at any
13:54 32 time prior to today?

13:54 33

13:54 34 A. No.

13:54 35

13:54 36 Q. Operator, can you please go to page 8019. Have a look at
13:54 37 paragraph 24, please, Ms Fielding.

13:54 38

13:55 39 A. Sorry, can you tell me the date of this document again.

13:55 40

13:55 41 Q. 19 December 2014.

13:55 42

13:55 43 A. I don't know that that is relevant to gaming machines,
13:55 44 because it is talking about premium players. I think they are
13:55 45 talking about table games.

13:55 46

13:55 47 Q. No, I accept that. What I'm putting to you is what counsel

13:55 1 had advised here was that the complimentary allowances they are
13:55 2 dealing with there were not winnings because they were in the
13:55 3 nature of a gift or a gratuity; you see that?

13:55 4

13:55 5 A. Yes, I do.

13:55 6

13:55 7 Q. Was the food and beverage deductions ever analysed in the
13:55 8 same terms as paragraph 24 of this advice?

13:55 9

13:55 10 A. I don't know.

13:55 11

13:56 12 Q. So you don't recall any discussion as to whether or not it
13:56 13 was a winning within that definition might depend on whether or
13:56 14 not it was a gift or a gratuity?

13:56 15

13:56 16 A. There were definitely discussions about whether or not it
13:56 17 was a winning. But again, in the context, I'm sorry, I don't want
13:56 18 to sound like I'm repeating myself, but it was in the context of the
13:56 19 fact that it was permitted and approved in the Welcome Back
13:56 20 sense. So I think that's the same --- that it was awarded on the
13:56 21 basis of turnover, not on the basis of a random number generator
13:56 22 giving it to you as a win.

13:56 23

13:57 24 Q. Operator, please go to CRW.512.1117.0052. Sorry to go
13:57 25 backwards in time, you see this document, the memo from Edwin
13:57 26 Aquino to Peter Herring on 22 March 2012?

13:57 27

13:57 28 A. Yes.

13:57 29

13:57 30 Q. I take it you've seen this recently?

13:57 31

13:57 32 A. Yesterday, I think.

13:57 33

13:57 34 Q. Had you seen it prior to yesterday?

13:57 35

13:57 36 A. I don't believe so.

13:57 37

13:57 38 Q. Again, what seems to have been raised is a question,
13:57 39 presumably from Mr Herring, is the extent to which there would
13:57 40 be a change in the overall revenue, presumably relevant to
13:57 41 whether or not the VCGLR is going to notice the proposed
13:58 42 changes. You didn't see this at the time?

13:58 43

13:58 44 A. No.

13:58 45

13:58 46 Q. And hadn't seen it before yesterday?

13:58 47

13:58 1 A. No, I don't believe so.

13:58 2

13:58 3 Q. Operator, could we go back to MEM.5001.0003.0842.

13:58 4 This is the document we were on a moment ago around June
13:58 5 2018. You see the bottom of this page, Mr Cremona sends you
13:58 6 another response and then you seem to forward it. So if we go
13:58 7 back into the middle of the page, you seem to forward it to
13:58 8 Mr Herring, Mr Walsh, Mr Preston, Mr McGregor and
13:59 9 Mr Felstead; do you see that?

13:59 10

13:59 11 A. Yes, I do.

13:59 12

13:59 13 Q. Does that assist you with any recollection or discussion you
13:59 14 might have had with any of those gentlemen at this time in
13:59 15 relation to the issue that had been raised?

13:59 16

13:59 17 A. No, I remember discussing it with Peter Herring. When I
13:59 18 received the email from Jason I sent it to Josh, which was normal
13:59 19 practice if I received a question from the VCGLR and then I sent
13:59 20 it to Peter Herring because I needed him to answer the questions.
13:59 21 I think the others were joined at the request of Josh.

13:59 22

13:59 23 Q. And you don't know what discussions Mr Preston had with
13:59 24 those gentlemen in relation to this issue? Did anything that was
13:59 25 said at this time cause you to be aware that there was
13:59 26 a recognition of some susceptibility to the deductibility question
13:59 27 from a legal point of view in the sense ---

13:59 28

13:59 29 A. No, as I said, I've never really had a concern about it being
14:00 30 deductible. It was more about the fact that they definitely hadn't
14:00 31 been transparent about it and the question of whether it required
14:00 32 approval or whether the EMS covered it. But I don't recall the
14:00 33 deductibility being a great concern.

14:00 34

14:00 35 Q. So from your point of view --- from the point of view of
14:00 36 you as a compliance officer, did you take some comfort from
14:00 37 what Mr Herring told you about the approval in relation to the
14:00 38 Welcome Back bonus jackpot?

14:00 39

14:00 40 A. Yes, I did.

14:00 41

14:00 42 Q. But you didn't ever look into or seek to inform yourself
14:00 43 about the nature of that approval?

14:00 44

14:00 45 A. No, not the nature of the approval, but I did know that the
14:00 46 Welcome Back was approved.

14:00 47

- 14:01 1 Q. Bear with me for one moment. Taking what you've just
14:01 2 said about the similarity between the deductibility in your mind
14:01 3 of the Welcome Back bonus jackpot and the bonus jackpot
14:01 4 concerning the food, beverage, hotel stay, car parking being
14:01 5 a bonus generated from terms of play or the amount of play, when
14:01 6 it came to October 2018, you can't recall what it is that caused
14:02 7 you or Crown to seek advice from MinterEllison; that is the case?
14:02 8
- 14:02 9 A. No, I don't. It does seem to be months after Jason's queries.
14:02 10
- 14:02 11 Q. Was it you or Mr Preston that was responsible for seeking
14:02 12 advice? How did it come about?
14:02 13
- 14:02 14 A. Mr Preston wanted the advice.
14:02 15
- 14:02 16 Q. I see. At that point in time you did become aware of
14:02 17 Ms Tegoni's advice in 2012? I don't know when it was. I assume
14:02 18 so.
14:02 19
- 14:02 20 Q. You remember I asked you about the comments made
14:02 21 and ---
14:02 22
- 14:02 23 A. Yes, so I assume so, yes.
14:02 24
- 14:02 25 Q. And at that point did you notice that in Ms Tegoni's advice,
14:02 26 and I'm happy to take you to it, one of the matters that she was
14:02 27 emphasising in terms of potential arguments around deductibility
14:02 28 was the definition of winnings incorporating prizes that are
14:03 29 provided and paid in respect of the playing of games?
14:03 30
- 14:03 31 A. No, but I accept that she said that if you say that.
14:03 32
- 14:03 33 Q. And did you turn your mind to whether or not there was
14:03 34 anything paid out at this point using the expression --- using ---
14:03 35 you recall the definition of gross gaming revenue talks about
14:03 36 sums being paid out as winnings?
14:03 37
- 14:03 38 A. I expect I did turn my mind to that point in time but I don't
14:03 39 recall now.
14:03 40
- 14:03 41 Q. It didn't in your mind cause any distinction, or cause you to
14:03 42 question the matter?
14:03 43
- 14:03 44 A. (Nods head).
14:03 45
- 14:03 46 Q. But in any event, 12 months later you go back to
14:03 47 MinterEllison and seek further advice; correct?

14:03 1
14:04 2 A. Is that regarding the TRD?
14:04 3
14:04 4 Q. Yes.
14:04 5
14:04 6 A. Yes, and that was --- Josh asked for that as well.
14:04 7
14:04 8 Q. I see. So if we could please, operator, go to
14:04 9 MEM.5001.0003.9394 this is a letter from you on 9 July 2019 to
14:04 10 MinterEllison referring to their previous advice on 25 October
14:04 11 2018 regarding the gaming machines bonus jackpot program,
14:04 12 providing the draft technical requirements document and
14:04 13 essentially asking them if there was anything new in it that
14:04 14 caused them to reconsider their opinion?
14:04 15
14:04 16 A. That's right.
14:04 17
14:04 18 Q. Before I take you to this opinion, after the advice in
14:04 19 October 2018 was finalised, what if any discussions if any
14:04 20 internally were there in relation to the effect of that advice?
14:04 21
14:04 22 A. I think Josh was going to take it to the executive.
14:04 23
14:05 24 Q. And you don't know what was discussed with the executive
14:05 25 but you know it didn't cause any change in the practice of
14:05 26 Crown?
14:05 27
14:05 28 A. No, I didn't. Operator, could we please go to
14:05 29 MEM.5002.0009.2582.
14:05 30
14:05 31 You recognise this as the advice MinterEllison provided in
14:05 32 November 2019?
14:05 33
14:05 34 A. Yes.
14:05 35
14:05 36 Q. You read it at the time?
14:05 37
14:05 38 A. Yes, I did.
14:05 39
14:05 40 Q. If we could have a look at paragraph 6, please, operator.
14:05 41
14:05 42 Please take a moment to read paragraph 6 to yourself,
14:05 43 Ms Fielding, and it continues over the page.
14:05 44
14:05 45 Operator, I think Ms Fielding is nearly finished.
14:05 46
14:06 47 A. Sorry, I'm a slow reader.

14:06 1
14:06 2 Q. I could see you nodding.
14:06 3
14:06 4 A. Yep. Thank you.
14:06 5
14:06 6 Q. Go to the next page, please, operator.
14:07 7
14:07 8 A. Down to (h), is that where you wanted me to stop?
14:07 9
14:07 10 Q. Yes, please.
14:07 11
14:07 12 A. I've done it.
14:07 13
14:07 14 Q. You read that?
14:07 15
14:07 16 A. Yes, I have.
14:07 17
14:07 18 Q. You agree that is a summary of MinterEllison's early advice
14:07 19 in October 2018?
14:07 20
14:07 21 A. Yes.
14:07 22
14:07 23 Q. It is a fair reading of that summary that the advice they
14:07 24 gave in October 2018 was not favourable to Crown?
14:07 25
14:07 26 A. Yes.
14:07 27
14:07 28 Q. In paragraph (d) they emphasise the strict interpretation of
14:07 29 gross gaming revenue, and in the second sentence say: on its
14:07 30 turns, this definition would not seem to capture credits earned
14:07 31 simply by repeat play?
14:07 32
14:07 33 You see that?
14:07 34
14:07 35 A. Yes.
14:07 36
14:07 37 Q. And then in the next paragraph they say:
14:07 38
14:07 39 *the concept of loyalty credits accruing based on level of*
14:07 40 *play does not logically fit within the concept of a jackpot,*
14:07 41 *either as that term is commonly understood, or as it is*
14:07 42 *defined in the CCA*
14:07 43
14:07 44 You see that?
14:07 45
14:07 46 A. Yes, I do.
14:07 47

14:07 1 Q. So the points that MinterEllison made in paragraphs (d) and
14:08 2 (e) apply equally to the bonus jackpot?

14:08 3

14:08 4 A. You would think so.

14:08 5

14:08 6 Q. That didn't cause you to go, "Hang on, everyone, I think we
14:08 7 might not have a"

14:08 8

14:08 9 A. No, I think the opposite. If that's correct, why was the
14:08 10 Welcome Back jackpot approved in that sense.

14:08 11

14:08 12 Q. Perhaps it shouldn't have been.

14:08 13

14:08 14 A. No, I don't think so because then I think in the TRD, the
14:08 15 new one, I think it is ratifying the treatment.

14:08 16

14:08 17 Q. So the TRD, as MinterEllison said in their advice, was not
14:08 18 something that could be taken into account in assisting the
14:08 19 interpretation of the legislation; correct?

14:08 20

14:08 21 A. Yes, and I accept that except that the way Crown pays tax
14:08 22 is approved by the VCGLR, and in those approvals it does say
14:08 23 that bonus jackpots are deductible.

14:08 24

14:08 25 Q. I see. But MinterEllison were coming to a different view
14:09 26 based on their interpretation of the ---

14:09 27

14:09 28 A. They are dealing with a strict definition of GGR.

14:09 29

14:09 30 Q. I see. So at this point in time did you think that there was
14:09 31 perhaps a stronger legal argument available to Crown to rely
14:09 32 upon; is that the view you formed?

14:09 33

14:09 34 A. Well, I think something that was thought to be vague or
14:09 35 tenuous, the new TRD, and again I'm not a technical person, and
14:09 36 my own reading of it, I didn't really grab that much from it, to be
14:09 37 honest with you, but Peter Herring was telling me that they were
14:09 38 basically ratifying the way Crown had been treating the bonus
14:09 39 jackpots through the new TRD.

14:09 40

14:09 41 Q. And MinterEllison were making the point you can't rely
14:09 42 upon the new TRD in your interpretation of the relevant
14:09 43 provision?

14:09 44

14:09 45 A. Yes, but again the approval for tax does say that bonus
14:10 46 jackpots can be deducted.

14:10 47

14:10 1 Q. Yes. And in that case was there a discussion internally
14:10 2 about approaching the VCGLR to discuss this with them on
14:10 3 an open basis?

14:10 4
14:10 5 A. I don't think at that point in time, no.

14:10 6
14:10 7 Q. At what point in time was there such a discussion?

14:10 8
14:10 9 A. I had discussions with Xavier Walsh, I can't be confident of
14:10 10 the timing, but in more recent times, where he said that because
14:10 11 this was never that clear, just the tax aspect of it, that he wanted
14:10 12 to --- he intended to --- not wanted to, intended to approach them
14:10 13 to disclose and to make sure they were aware of the tax
14:10 14 implication.

14:10 15
14:10 16 Q. Can you please try to assist the Commission as best you can
14:10 17 to recollect the timing of that discussion?

14:10 18
14:10 19 A. Well, it was before the Royal Commission was called,
14:11 20 because I remember having a further discussion with him where I
14:11 21 said that it would not appear disingenuous. He --- we weren't
14:11 22 talking about not doing it because of that but he was saying --- I
14:11 23 asked him if he had discussed it because he said he was going to
14:11 24 raise it up to the Board level, and I asked him if that had been
14:11 25 done, and he was --- we were talking about really close
14:11 26 proximity, in the next few days or something, and then I
14:11 27 remember discussing it with him after the Royal Commission
14:11 28 announced, and saying to him that it would now look
14:11 29 disingenuous, that you had done it because of the Royal
14:11 30 Commission.

14:11 31
14:11 32 Q. Can we take that in a couple of stages, please.

14:11 33
14:11 34 When the initial discussion occurred, I think you said before the
14:11 35 Royal Commission started, what was the context that led you to
14:11 36 be having that discussion in the first place? Were you talking
14:11 37 about a variety of things or just talking about this?

14:11 38
14:12 39 A. I don't think it was about this. I think it came up in
14:12 40 a general discussion.

14:12 41
14:12 42 Q. Who brought it up?

14:12 43
14:12 44 A. I think he did.

14:12 45
14:12 46 Q. What did he say?

14:12 47

14:12 1 A. Basically that, that he intended to send it up to the Board
14:12 2 and then disclose it. Well, when I say "disclose", just ensure that
14:12 3 the VCGLR was clear about what had been going on with the tax
14:12 4 treatment.

14:12 5
14:12 6 Q. I see.

14:12 7
14:12 8 COMMISSIONER: Did he say that he raised it with the Board or
14:12 9 would raise it with the Board?

14:12 10
14:12 11 A. I think at that point he was saying he would.

14:12 12
14:12 13 MS NESKOVICIN: And then the subsequent discussion that you
14:12 14 just mentioned was after the Commission had been announced.
14:12 15 Did you go back to him, what was the circumstances in which
14:12 16 that discussion happened?

14:12 17
14:12 18 A. Again I think it was a conversation about something else.

14:12 19
14:12 20 Q. And then it came up?

14:12 21
14:12 22 A. This was raised in the context of that.

14:12 23
14:12 24 Q. You asked him if he had had an opportunity to raise it?

14:12 25
14:12 26 A. Yes. And I don't think he had at that point.

14:12 27
14:12 28 Q. And that's when you made the remark that it would look
14:12 29 disingenuous?

14:13 30
14:13 31 A. Yes.

14:13 32
14:13 33 Q. Can you recall what you said?

14:13 34
14:13 35 A. Not specifically. I do remember saying it will look
14:13 36 disingenuous. Like I said, it wasn't in the context of "Don't do it
14:13 37 now because it looks fake", it wasn't any of that. It was, he was
14:13 38 still intending to proceed with that and we were limiting that it
14:13 39 was unfortunate, that it would give the wrong appearance now.

14:13 40
14:13 41 Q. Were you involved in the process of preparing a list of
14:13 42 notifications of breaches and potential breaches?

14:13 43
14:13 44 Confidential

14:13 45

14:13 46

14:13 47

14:13 1 Confidential
 14:13 2
 14:13 3
 14:13 4
 14:13 5

14:13 6 Q. Did this issue come up, the tax issue?

14:13 7
 14:13 8 A. I don't know Confidential It may have,
 14:14 9 I don't know.

14:14 10
 14:14 11 Confidential
 14:14 12
 14:14 13
 14:14 14
 14:14 15
 14:14 16

14:14 17
 14:14 18 Q. You've subsequently been --- I withdraw that. Going back
 14:14 19 to that discussion you had with Mr Walsh around the time of the
 14:14 20 Commission, he mentioned that he was going to raise it. Prior to
 14:14 21 that, to your knowledge, had this issue been raised at Board level
 14:14 22 at any time?

14:14 23
 14:14 24 A. I wouldn't know.

14:14 25
 14:14 26 Q. Do you know from any discussions that you had first hand
 14:14 27 with the directors or with other people on the subject of whether
 14:14 28 or not the directors knew?

14:14 29
 14:14 30 A. No, I don't know.

14:14 31
 14:15 32 Q. Mr Mackay gave evidence, and I will get the transcript
 14:15 33 reference --- Mr Mackay gave evidence at transcript P-1662 that
 14:15 34 all the directors knew about it in 2018.

14:15 35
 14:15 36 A. I don't know that.

14:15 37
 14:15 38 Q. Sorry, Mr Mackay's evidence was all the directors knew
 14:15 39 about the 2018 advice --

14:15 40
 14:15 41 A. I don't know.

14:15 42
 14:15 43 Q. --- which would be the same thing as knowing the issue in
 14:15 44 2018, but I'm not sure about ---

14:15 45
 14:15 46 A. Well, I expect some of them would have --- when I say
 14:15 47 "some", I would say one, because Barry Felstead was a director

14:15 1 and I think he was copied on some of those emails so Barry
14:16 2 Felstead would have known.
14:16 3
14:16 4 Q. I see. But you don't have any personal knowledge of the
14:16 5 matter?
14:16 6
14:16 7 A. No, I don't.
14:16 8
14:16 9 Q. All right. After you got the 2019 advice, it appears that that
14:16 10 was forwarded by you to Mr Walsh and Mr Herring; do you recall
14:16 11 that?
14:16 12
14:16 13 A. No, but it sounds likely.
14:16 14
14:16 15 Q. Do you recall any discussions you might have had with
14:16 16 them around that time?
14:16 17
14:16 18 A. No, I don't think so.
14:16 19
14:16 20 Q. Operator, could you call up CRW.512.135.0026. I'm not
14:17 21 sure why this is redacted but the email below is from Mr Ward to
14:17 22 you. And then you forward on the advice on 12 December; do
14:17 23 you see that?
14:17 24
14:17 25 A. Yes, I do.
14:17 26
14:17 27 Q. And you can't recall any discussions with Mr Walsh or
14:17 28 Mr Herring around that time?
14:17 29
14:17 30 A. There were discussions had chasing the advice because
14:17 31 I don't know if you've seen it in the history of emails but Josh
14:17 32 asked me to write a letter to go to Glen to ask for the advice, and
14:17 33 then I did that and sent it to Josh, and then I think it was Xavier
14:17 34 had asked me if the advice had come, and I contacted Glen Ward
14:17 35 because it had been a period of time that we hadn't heard from
14:17 36 him, and Glen didn't know anything about it. So then I rang Josh
14:18 37 or emailed Josh, I'm not sure, and said, "Glen doesn't know
14:18 38 anything about it. I think you didn't send him the letter". And
14:18 39 then --- I don't even think Josh replied to that. I didn't hear from
14:18 40 them. Then --- or I did, I can't recall. Then I had my assistant just
14:18 41 take Josh's name off the bottom of the letter and I sent it to Glen.
14:18 42 So Xavier was saying where is the advice.
14:18 43
14:18 44 Q. So you forwarded it in December but you can't remember
14:18 45 any discussion ---
14:18 46
14:18 47 A. After it was received, no I can't.

14:18 1
14:18 2 Q. You see at the top of the email chain Mr Mackay has
14:18 3 forwarded the email to Mr Herring --- Mr Herring has forwarded
14:18 4 the email to Mr Mackay on 4 February 2021. We've since
14:18 5 learned from Mr Mackay that he was asked by Mr Walsh to
14:19 6 prepare a spreadsheet setting out the calculations in relation to
14:19 7 the bonus jackpots and other matters relevant to the gross gaming
14:19 8 revenue calculations. Do you recall seeing the spreadsheet at any
14:19 9 point in time?
14:19 10
14:19 11 A. No, not until after Mr Mackay gave his evidence.
14:19 12
14:19 13 Q. I see. I will see if you can identify it. It is
14:19 14 CRW.510.0059.0594. Do you recall having any discussions with
14:20 15 anyone else about this spreadsheet?
14:20 16
14:20 17 A. No.
14:20 18
14:20 19 Q. Operator, could we please go to CRW.512.117.0077.
14:20 20
14:20 21 A. Sorry, can I stop for a minute. I don't know if anyone has
14:20 22 any Panadol. I've got a bit of ---
14:20 23
14:20 24 Q. Perhaps we'll have a short break.
14:20 25
14:20 26 COMMISSIONER: We'll have a break for 10 minutes.
14:20 27
14:20 28
14:20 29 **ADJOURNED** [2.20PM]
14:33 30
14:33 31
14:33 32 **RESUMED** [2.33PM]
14:33 33
14:33 34
14:33 35 COMMISSIONER: Thank you. Thank you, everyone. Just so
14:33 36 there is no doubt about it, you ate some of my jubes.
14:33 37
14:33 38 A. A red jelly baby, thank you very much!
14:33 39
14:33 40 MS NESKOVICIN: Commissioner, I only have one more matter
14:33 41 for Ms Fielding. Then I understand the other parties want to
14:34 42 come back and Mr Rozen might have some re-examination, but
14:34 43 I will have a word to him, we'll have to stop once we finish this.
14:34 44 I will have a word to him to see what he wants to do, noting it's
14:34 45 been a long day for Ms Fielding, but we will have to have that
14:34 46 break.
14:34 47

14:34 1 COMMISSIONER: Yes.
14:34 2
14:34 3 A. Thank you.
14:34 4
14:34 5 MS NESKOVCIN: Nearly there, Ms Fielding.
14:34 6
14:34 7 Operator, can we please go to CRW.512.117.0077.
14:34 8
14:34 9 This is the document I was trying to have called up a moment ago
14:34 10 to ask you, having a look at the top of the page where you sent
14:34 11 an email on 21 September 2020 to Mr Herring, what, if anything,
14:34 12 you can recall about the reason for this request, sending it to him
14:34 13 and any discussions that you had with him at the time?
14:34 14
14:34 15 A. Sorry, when I started reading that I thought it was just the
14:35 16 next chain in the email but I can see it is later in time.
14:35 17
14:35 18 Q. Specifically September last year.
14:35 19
14:35 20 A. No, I don't know.
14:35 21
14:35 22 Q. You can't recall him bringing it up with you for any reason?
14:35 23
14:35 24 A. My problem is there were different discussions at different
14:35 25 points in time but I can't pinpoint the time accurately in any
14:35 26 regard.
14:35 27
14:35 28 Q. Operator, could we scroll down the page to 0079. I know
14:35 29 we've already looked at this a moment ago, or earlier today, but
14:35 30 the email that Mr Cremona sent on 31 May in which you
14:35 31 embedded some comments ---
14:35 32
14:35 33 A. Yes.
14:35 34
14:35 35 Q. --- under --- where you see the first jackpot that says:
14:35 36
14:35 37 Bonus Jackpots deducted from Gaming Revenue are
14:36 38 *specific to amounts earned or awarded on a gaming*
14:36 39 *machine*
14:36 40
14:36 41 And this is him seeking clarification:
14:36 42
14:36 43 No amounts earned outside of the gaming machine, such
14:36 44 *as hotel rewards (if applicable) can be redeemed on*
14:36 45 *a gaming machine and/or deducted from gaming revenue*
14:36 46 *.....*
14:36 47

14:36 1 And you've embedded the comment:
14:36 2
14:36 3 That is correct, but for exceptions noted at points 2, 3 and
14:36 4 7 above.
14:36 5
14:36 6 2, 3 and 7 above don't concern jackpots.
14:36 7
14:36 8 A. Oh.
14:36 9
14:36 10 Q. Operator, could you scroll back up the page.
14:36 11
14:36 12 COMMISSIONER: It must be the earlier page.
14:36 13
14:36 14 MS NESKOVICIN: So, yes, you see point 2 is about mail-outs.
14:36 15 Point 3 is about pokie credits, point 7 is about pokie credits.
14:36 16
14:36 17 A. Yes, I'm confused about that. Could we go back down to
14:37 18 where the paragraph was? I think they are talking about things
14:37 19 that are not earned on the gaming machine; is that right? "No
14:37 20 amounts earned outside the gaming machine".
14:37 21
14:37 22 Q. Yes, "can be redeemed on a gaming machine and/or
14:37 23 deducted from gaming revenue.
14:37 24
14:37 25 A. That's right, and they wouldn't be. So they are the opposite
14:37 26 to bonus credits. They are earned on the gaming machine, but
14:37 27 redeemed outside the gaming machine. So they are the opposite
14:37 28 to this.
14:37 29
14:37 30 Q. I see what you are saying but the reference there to
14:37 31 deducted from gaming revenue and then the statement "that is
14:37 32 correct", do you not think that that is conveying a message to the
14:37 33 VCGLR that there has been no deduction from gaming revenue in
14:37 34 respect of hotel rewards?
14:37 35
14:38 36 A. No, I don't think so, because it is talking about amounts
14:38 37 earned outside the gaming machine and they don't apply.
14:38 38
14:38 39 MS NESKOVICIN: All right.
14:38 40
14:38 41 Commissioner, they are the matters, subject to anything further
14:38 42 you had for Ms Fielding on this topic.
14:38 43
14:38 44 COMMISSIONER: Okay. Who will get in touch with counsel?
14:38 45
14:38 46 MS NESKOVICIN: They should be outside or online. I will ask
14:38 47 Mr Borsky if he wishes to re-examine now or later.

14:38 1
14:38 2 MR BORSKY: Thank you. I've got no re-examination in
14:38 3 confidential session and I hope not to have any re-examination,
14:38 4 period. I hesitate to make those predictions before Mr Rozen
14:38 5 cross-examines. And with respect to Mr Rozen, your practice
14:38 6 directions are clear, Commissioner ---
14:38 7
14:38 8 COMMISSIONER: I've broken them since we started.
14:38 9
14:38 10 MR BORSKY: Sorry?
14:38 11
14:38 12 COMMISSIONER: I've breached them since we have began.
14:38 13
14:38 14 MR BORSKY: I make no complaint about any breach the
14:38 15 Commission itself may have inadvertently committed but the
14:39 16 topic of the relationship between the VCGLR and Crown,
14:39 17 particularly insofar as Ms Fielding is concerned but more
14:39 18 broadly, has been traversed by Counsel Assisting, and so for that
14:39 19 to be at large again in Mr Rozen's cross-examination ought ---
14:39 20
14:39 21 COMMISSIONER: That is a fair comment, but so far Mr Rozen
14:39 22 has been pretty just succinct in his questioning when he's asked
14:39 23 them, and him being "at large" is really not what has happened.
14:39 24 We'll give him a go. He may not want to ask any questions.
14:39 25
14:39 26 MR BORSKY: At this stage I have no re-examination.
14:39 27
14:39 28 COMMISSIONER: Why don't I break until you tell me
14:39 29 everybody is back and what you want to do.
14:39 30
14:39 31 MS NESKOVICIN: Yes. It shouldn't be too long. It might be 10
14:39 32 minutes because of technical issues with the livestream.
14:39 33
14:39 34 COMMISSIONER: We will have to go back online.
14:39 35
14:39 36 MS NESKOVICIN: We will ensure everyone is brought into the
14:39 37 room as soon as possible.
14:39 38
14:39 39 COMMISSIONER: Thanks.
14:39 40
14:39 41
14:39 42 **HEARING IN CAMERA ENDED**
14:39 43
14:39 44
14:39 45 **ADJOURNED** **[2.39PM]**
14:39 46
14:39 47

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 NESKOVICIN: 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 NESKOVICIN: 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 agreed 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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