
TRANSCRIPT OF PROCEEDINGS

COMMISSIONER: HON. RAY FINKELSTEIN AO QC

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

MELBOURNE, VICTORIA

09.31 AM, MONDAY, 05 JULY 2021

Counsel Assisting the Commission (instructed by Corrs Chambers Westgarth as Solicitors Assisting the Commission)	MR ADRIAN FINANZIO SC
Counsel for Crown Resorts Limited	MS CATHERINE BUTTON QC
Counsel for Victorian Commission for Gambling and Liquor Regulation	MR PETER ROZEN QC MR JUSTIN BRERETON MS SARALA FITZGERALD
Counsel for Consolidated Press Holdings	MR OREN BIGOS QC
Counsel for the State of Victoria	MR PETER GRAY QC MR GLYN AYRES MS GEORGIE COLEMAN MS HELEN TIPLADY

08:52 1 COMMISSIONER: Good morning, everyone. Mr Finanzio.
09:31 2
09:31 3 MR FINANZIO: I call Xavier Walsh.
09:31 4
09:31 5 COMMISSIONER: Thank you. Swear him in.
09:31 6
09:31 7
09:31 8 **MR XAVIER BERNARD WALSH, SWORN**
09:31 9
09:31 10
09:31 11 **EXAMINATION-IN-CHIEF BY MR FINANZIO**
09:31 12
09:31 13
09:31 14 COMMISSIONER: Please sit down.
09:32 15
09:32 16 MR FINANZIO: Mr Walsh, can you tell the Commission your
09:32 17 full name?
09:32 18
09:32 19 A. Xavier Bernard Walsh.
09:32 20
09:32 21 Q. Your current occupation?
09:32 22
09:32 23 A. I'm the CEO of Crown Melbourne.
09:32 24
09:32 25 Q. In this Commission, three statements have been prepared
09:32 26 by you.
09:32 27
09:32 28 A. Yes.
09:32 29
09:32 30 Q. The first one on 16 April 2021.
09:32 31
09:32 32 A. Yes.
09:32 33
09:32 34 Q. The second statement dated 23 April 2021.
09:32 35
09:32 36 A. Yes.
09:32 37
09:32 38 Q. And the third statement, 3 May 2021.
09:32 39
09:32 40 A. Yes.
09:32 41
09:32 42 Q. I understand there are a couple of corrections that need to
09:32 43 be made to each of those statements in turn before you adopt
09:32 44 them as your evidence.
09:32 45
09:32 46 A. Yes, please.
09:32 47

09:32 1 Q. Can we go first to the first statement ---
09:32 2
09:32 3 A. Sorry, Mr Finanzio, would you like me to mark them?
09:32 4
09:32 5 Q. I think if you mark them and then I will tender the marked
09:32 6 ones. Let's go to the first statement, I think the first correction is
09:32 7 paragraph 11.
09:32 8
09:32 9 A. Yes.
09:32 10
09:32 11 Q. It says in the last line that you:
09:32 12
09:33 13 *..... believe that Mr Pan first came to my attention shortly*
09:33 14 *after he had been issued a temporary ban from Crown*
09:33 15 *Melbourne as a result of poor behaviour at the Mahogany*
09:33 16 *Room in February 2019.*
09:33 17
09:33 18 A. Correct.
09:33 19
09:33 20 Q. I understand the correction you want to make is that Mr Pan
09:33 21 first came to your attention in "May 2018".
09:33 22
09:33 23 A. Yes.
09:33 24
09:33 25 Q. Let's make that change.
09:33 26
09:33 27 A. Okay. How would you like me to do that? In terms of
09:33 28 write on it ---
09:33 29
09:33 30 Q. Just write on it.
09:33 31
09:33 32 A. Okay.
09:33 33
09:34 34 Q. There is another correction in paragraph 117 of that same
09:34 35 statement; is that right?
09:34 36
09:34 37 A. Where you say that Mr Blackburn's commencement date
09:34 38 was 24 February instead of 1 March?
09:34 39
09:34 40 A. That's correct.
09:34 41
09:34 42 Q. Thank you. Just mark that change. With those changes, do
09:34 43 you adopt that first statement dated 16 April 2021 as your
09:34 44 evidence?
09:34 45
09:34 46 A. I do.
09:34 47

09:34 1 MR FINANZIO: I tender that statement.
09:34 2
09:34 3 COMMISSIONER: Statement of Xavier Walsh, 16 April 2021,
09:34 4 Exhibit 312.
5
6 ASSOCIATE: (Inaudible).
7
8 COMMISSIONER: What happened to the 50 in between?
9
10 ASSOCIATE: (Inaudible).
11
12
13 **EXHIBIT #RC0362 - FIRST STATEMENT OF MR**
14 **XAVIER BERNARD WALSH DATED 16 APRIL 2021**
15
16
09:35 17 MR FINANZIO: The second statement dated 23 April 2021,
09:35 18 could we bring that one up, please.
09:35 19
09:35 20 At your paragraphs 22 and 65, I think it is the same correction,
09:35 21 isn't it?
09:35 22
09:35 23 A. I've referred to 24 February being the date that the West
09:35 24 Australian Government issued the date to Crown Perth. It was
09:35 25 actually the 23rd. The 24th was the day I think Crown advised
09:35 26 the Stock Exchange before the markets opened.
09:35 27
09:35 28 Q. Understand. But I understood that correction needed to be
09:35 29 made at paragraphs 22 and 65. So it is a change of date from "24
09:36 30 February" to "23 February"?
09:36 31
09:36 32 A. Yes.
09:36 33
09:36 34 Q. With those changes do you adopt that second statement as
09:36 35 your evidence?
09:36 36
09:36 37 A. I do.
09:36 38
09:36 39 MR FINANZIO: I tender that.
09:36 40
09:36 41 COMMISSIONER: Statement of Xavier Walsh dated 21 April
09:36 42 2021 will be Exhibit 363.
09:36 43
44
45 **EXHIBIT #RC0363 - SECOND STATEMENT OF MR**
46 **XAVIER BERNARD WALSH DATED 21 APRIL 2021**
47

1
09:36 2 MR FINANZIO: The third statement, there are a number of
09:36 3 changes, but relatively minor. Paragraph 13 of the statement.
09:36 4
09:36 5 A. Yes.
09:36 6
09:36 7 Q. There, there is a reference to mid-2017 but that should be
09:36 8 early 2017?
09:36 9
09:36 10 A. Yes, which is consistent with what I've said in paragraph 7.
09:36 11
09:36 12 Q. Will you make that change. In paragraph 39 I understand
09:37 13 what is proposed is the substitution of one document for another?
09:37 14
09:37 15 A. I'm not familiar with that one, Mr Finanzio.
09:37 16
09:37 17 Q. Paragraph 39, the note that I have is that the version of the
09:37 18 PDA tool referred to in your statement --
09:37 19
09:37 20 A. Oh, okay, yes.
09:37 21
09:37 22 Q. --- is CRW.512.048.0035 is to be substituted by a document
09:37 23 delivered to the Commission on 2 July 2021, which is
09:37 24 CRW.512.193.0026, and the note I have says the PDA tool
09:38 25 produced on 2 July includes an additional page of explanatory
09:38 26 information produced under cover of an attached letter of the
09:38 27 same date.
09:38 28
09:38 29 A. My apologies, that's correct.
09:38 30
09:38 31 Q. Rather than you write all that out, what I might do is lead
09:38 32 that from you in evidence once the document is --- once you've
09:38 33 adopted the statement and I will get you to affirm that that is so.
09:38 34
09:38 35 A. I just marked it on my one, the new number you read out.
09:38 36 Is that okay?
09:38 37
09:38 38 Q. That's fine.
09:38 39
09:38 40 A. Okay.
09:38 41
09:38 42 Q. Paragraph 42 of that same statement I think is the question
09:38 43 of dates as well for Mr Blackburn's start date?
09:38 44
09:38 45 A. Yes.
09:38 46
09:38 47 Q. You obviously thought he started on 1 March.

09:38 1
09:38 2 A. He was due to, and I think he was requested to start a little
09:38 3 earlier, and he did, so

09:38 4
09:38 5 Q. Paragraph 133.
09:38 6
09:39 7 A. Yes.
09:39 8
09:39 9 Q. Again, the reference to 24 March should be 23 February?
09:39 10
09:39 11 A. Yes.
09:39 12
09:39 13 Q. Paragraph 136, the reference to question 45 should be
09:39 14 a reference to question 46(a)?
09:39 15
09:39 16 A. That's correct.
09:39 17
09:39 18 Q. With those changes, do you adopt the third statement as
09:39 19 your evidence?
09:39 20
09:39 21 A. I do.
09:39 22
09:39 23 COMMISSIONER: Third statement of Xavier Walsh, 3 May
09:39 24 2021, will be Exhibit 364.
09:39 25
26
27 **EXHIBIT #RC0364 - THIRD STATEMENT OF MR**
28 **XAVIER BERNARD WALSH DATED 3 MAY 2021**
29
30

09:39 31 MR FINANZIO: In due course, Commissioner, I might tender
09:39 32 the letter of 2 July which is referable to paragraph 39 that we
09:40 33 were discussing a moment ago.
09:40 34
09:40 35 Before I move off the statements I want to come back to one of
09:40 36 the changes you identified, which is the time in which Mr Pan
09:40 37 first became known to you.
09:40 38
09:40 39 A. Yes.
09:40 40
09:40 41 Q. In your first statement you explained how you thought he
09:40 42 came to be known to you in February 2019?
09:40 43
09:40 44 A. Yes.
09:40 45
09:40 46 Q. How did he come to be known to you I think it was May
09:40 47 2018?

09:40 1
09:40 2 A. Recently I was looking at another matter on an arrest that
09:40 3 occurred of a person in the casino, and in that email it referred to
09:40 4 a relationship between Mr Pan and that person, and I didn't --- I
09:40 5 only realised it when I was reading that email that he was referred
09:41 6 to, and that I was on that email, and therefore I thought it was
09:41 7 relevant to disclose that.
09:41 8
09:41 9 Q. Just to be clear, we might come back to it a little later on ---
09:41 10
09:41 11 A. Sure.
09:41 12
09:41 13 Q. --- in May 2018 a person was arrested in Pit 86?
09:41 14
09:41 15 A. That's correct.
09:41 16
09:41 17 Q. That person was Simon Pan's nephew?
09:41 18
09:41 19 A. I don't know ---
09:41 20
09:41 21 Q. --- (overspeaking) ---
09:41 22
09:41 23 A. Yes, I don't know we conclusively established that, but that
09:41 24 was what was in the email.
09:41 25
09:41 26 Q. Yes, certainly that was what was thought to be the case at
09:41 27 the time in May 2018?
09:41 28
09:41 29 A. Yes.
09:41 30
09:41 31 Q. And you were apprised of the circumstances of the arrest in
09:41 32 Pit 86?
09:41 33
09:41 34 A. Yes.
09:41 35
09:41 36 Q. And you were apprised of the fact that it was thought that
09:41 37 the person arrested was Simon Pan's nephew?
09:41 38
09:41 39 A. Yes.
09:41 40
09:41 41 Q. But at the time that you were preparing this statement for
09:41 42 the purposes of this Commission, that had escaped your
09:41 43 attention?
09:41 44
09:42 45 A. Yes.
09:42 46
09:42 47 Q. Thanks for the clarification. I want to just start by touching

- 09:42 1 on your experience in casinos broadly.
09:42 2
09:42 3 You commenced --- between 1995 to about August, you were the
09:42 4 CEO of Star City; is that right?
09:42 5
09:42 6 A. No, I was ---
09:42 7
09:42 8 Q. CFO of Star City, pardon me.
09:42 9
09:42 10 A. From about late 1999 until early 2004.
09:42 11
09:42 12 Q. You were the General Manager of the Brisbane casino?
09:42 13
09:42 14 A. Yes.
09:42 15
09:42 16 Q. And you are the Managing Director of Jupiter's Ltd,
09:42 17 responsible for three Queensland casinos; is that right?
09:42 18
09:42 19 A. That's correct. They were all owned by the Tabcorp
09:42 20 Holdings Group.
09:42 21
09:42 22 Q. In fact you had a position at Tabcorp in one form or another
09:43 23 between 1995 and 2008?
09:43 24
09:43 25 A. Correct.
09:43 26
09:43 27 Q. You were the Exec Director of strategy and commercial
09:43 28 development there as well?
09:43 29
09:43 30 A. Yes.
09:43 31
09:43 32 Q. And then you left to join Crown?
09:43 33
09:43 34 A. Correct.
09:43 35
09:43 36 Q. Before you even started at Crown, you had ---
09:43 37 a considerable part of your career had been spent in the casino
09:43 38 sector?
09:43 39
09:43 40 A. Yes.
09:43 41
09:43 42 Q. As CFO you had extensive experience of the financial
09:43 43 control side of the operations; is that right?
09:43 44
09:43 45 A. Yes.
09:43 46
09:43 47 Q. And as General Manager in Queensland you had oversight

09:43 1 of really the whole business?
09:43 2
09:43 3 A. Yes.
09:43 4
09:43 5 Q. You started working in Las Vegas in 2008; is that correct?
09:43 6
09:43 7 A. That's correct.
09:43 8
09:43 9 Q. If you like, the centres of casinos worldwide?
09:43 10
09:43 11 A. Yes.
09:43 12
09:43 13 Q. You started there as Group Exec; that's right?
09:43 14
09:43 15 A. That's correct. The --- Crown were looking to acquire
09:44 16 Cannery Resorts, and I arrived in Las Vegas before that
09:44 17 transaction was due to complete, and that was the title that I was
09:44 18 given on the understanding that once the transaction was
09:44 19 completed then I would be the CFO of that group.
09:44 20
09:44 21 Q. Were you headhunted to go to Crown in Las Vegas?
09:44 22
09:44 23 A. I spoke to --- Rowan Craigie approached me to join the
09:44 24 group.
09:44 25
09:44 26 Q. And you became the CEO at the Cannery?
09:44 27
09:44 28 A. COO, yes.
09:44 29
09:44 30 Q. Which had casinos in Nevada in and Pennsylvania?
09:44 31
09:44 32 A. That's correct.
09:44 33
09:44 34 Q. You provided consultancy services to a casino in California
09:44 35 as well?
09:44 36
09:44 37 A. The Cannery Group did, yes.
09:44 38
09:44 39 Q. Were you involved in that?
09:44 40
09:44 41 A. Yes, I was.
09:44 42
09:44 43 Q. In substance, your whole career has been in the gaming
09:44 44 sector?
09:44 45
09:44 46 A. Initially out of university I worked for KPMG for seven
09:45 47 years.

- 09:45 1
09:45 2 Q. And in particular in the casino sector?
09:45 3
09:45 4 A. Yes.
09:45 5
09:45 6 Q. On 9 December 2020 you became the CEO of Crown
09:45 7 Melbourne?
09:45 8
09:45 9 A. That's correct.
09:45 10
09:45 11 Q. And on 11 February 2021 you were appointed to the Board
09:45 12 of Crown Melbourne?
09:45 13
09:45 14 A. I think my appointment date was the 15th. I will stand
09:45 15 corrected. I think we were waiting for the approval from the
09:45 16 VCGLR.
09:45 17
09:45 18 Q. At the time you were appointed CEO of Crown
09:45 19 Melbourne? Is it right that Barry Felstead was still CEO of
09:45 20 Australian Resorts?
09:45 21
09:45 22 A. Yes, he was.
09:45 23
09:45 24 Q. Is it right that Mr Alexander and Mr Barton were still
09:45 25 executive directors of Crown Melbourne?
09:45 26
09:45 27 A. That's correct. Yes.
09:45 28
09:45 29 Q. There wasn't really anyone at Crown Melbourne who had
09:45 30 the title CEO of Crown Melbourne?
09:45 31
09:46 32 A. That's correct.
09:46 33
09:46 34 Q. In your time as COO, you had come to have a good
09:46 35 working knowledge of all aspects of the business, hadn't you?
09:46 36
09:46 37 A. On the gaming side, yes.
09:46 38
09:46 39 Q. Not just those ones that you were directly responsible for,
09:46 40 but areas outside your responsibility?
09:46 41
09:46 42 A. Yeah, more so in my own areas of responsibility. I had
09:46 43 some knowledge of all of the business, but more in the areas that
09:46 44 I was responsible for.
09:46 45
09:46 46 Q. How did you come to take the role, CEO Crown
09:46 47 Melbourne? Were you approached?

09:46 1
09:46 2 A. Mr Barton approached me. He had previously announced
09:46 3 that Mr Felstead would be leaving the business at the end of
09:46 4 December and that the position of CEO of Australian Resorts
09:47 5 would not be replaced. He was looking to restructure his
09:47 6 management team.
09:47 7
09:47 8 Q. So you were identified as the person to take that role?
09:47 9
09:47 10 A. Yes.
09:47 11
09:47 12 Q. Was there a process undertaken, a search for the role or
09:47 13 were you just simply appointed from within?
09:47 14
09:47 15 A. I'm not aware of a search. Mr Barton approached me and
09:47 16 asked me would I like to take the role, and I confirmed that I
09:47 17 would be.
09:47 18
09:47 19 Q. Were you interviewed by any of the directors of the Board?
09:47 20
09:47 21 A. No.
09:47 22
09:47 23 Q. I want to ask you some questions about your role as COO,
09:47 24 so in the period 2013 to 2020 before you became CEO. I think in
09:47 25 your statement you say that as COO you were responsible for
09:47 26 table games?
09:47 27
09:47 28 A. Yes.
09:47 29
09:48 30 Q. Gaming machines?
09:48 31
09:48 32 A. Yes.
09:48 33
09:48 34 Q. Security and surveillance?
09:48 35
09:48 36 A. Yes.
09:48 37
09:48 38 Q. And property services?
09:48 39
09:48 40 A. That's correct.
09:48 41
09:48 42 Q. That's true for the whole period that you were COO?
09:48 43
09:48 44 A. Yes.
09:48 45
09:48 46 Q. You were COO for the whole period that was covered by
09:48 47 the Sixth Review, weren't you, 2013 ---

09:48 1
09:48 2 A. Certainly the bulk of it. I think the Sixth Review covered
09:48 3 the period from 1 July 2013 and I joined the company at the end
09:48 4 of October, so the vast bulk of it I was the COO, yes.
09:48 5
09:48 6 Q. In June 2018, the corporate structure at that time was that
09:48 7 there were five Melbourne directors --- Mr Alexander,
09:48 8 Mr Barton, Mr Felstead, Professor Horvath and Ms Danziger?
09:48 9
09:49 10 A. Yes.
09:49 11
09:49 12 Q. The three executive directors were Mr Alexander,
09:49 13 Mr Barton, Mr Felstead?
09:49 14
09:49 15 A. Yes.
09:49 16
09:49 17 Q. You were a direct report to Mr Felstead; weren't you?
09:49 18
09:49 19 A. Yes, I was.
09:49 20
09:49 21 Q. And he was COO, Australian Resorts?
09:49 22
09:49 23 A. That's correct.
09:49 24
09:49 25 Q. He was an Executive Director of the board of Crown
09:49 26 Melbourne?
09:49 27
09:49 28 A. Yes, he was, yes.
09:49 29
09:49 30 Q. But his responsibilities extended to the other Australian
09:49 31 Resorts, didn't it?
09:49 32
09:49 33 A. Yes, he was responsible for Crown Perth and we had
09:49 34 a boutique casino in London that also fell in that structure,
09:49 35 notwithstanding the fact that the title was Australian Resorts.
09:49 36
09:49 37 Q. Do you recall doing an interview with the VCGLR in the
09:50 38 course of the Sixth Review?
09:50 39
09:50 40 A. I do. I think I had --- I attended at the VCGLR's offices in
09:50 41 Richmond.
09:50 42
09:50 43 Q. I just want to take you to that.
09:50 44
09:50 45 That's tab 2 in the non-tax folders, Commissioner.
09:50 46
09:50 47 Which is VCG.0001.0001.1007.

09:50 1
09:51 2 So in that statement, in that interview, it was really the case,
09:51 3 wasn't it, that Mr Felstead was involved in the nuts and bolts of
09:51 4 the day-to-day operation and direct engagement with you?
09:51 5
09:51 6 A. Yes.
09:51 7
09:51 8 Q. And that Mr Alexander, as the Executive Chair, was there
09:51 9 in a way to understand the division and the way that it operated;
09:51 10 correct?
09:51 11
09:51 12 A. Yes.
09:51 13
09:51 14 Q. You reported directly to Mr Felstead?
09:51 15
09:51 16 A. That's correct.
09:51 17
09:51 18 Q. But you also reported directly to Mr Alexander, didn't you?
09:51 19
09:51 20 A. I didn't in a formal sense but I had regular contact with
09:51 21 Mr Alexander.
09:51 22
09:51 23 Q. When you say "regular", you would have a telephone
09:51 24 conversation with him most mornings; wouldn't you?
09:51 25
09:51 26 A. I would.
09:51 27
09:51 28 Q. So you were reporting and discussing the operations of the
09:51 29 business to Mr Alexander on a daily basis?
09:51 30
09:52 31 A. Yes, primarily he was interested in the performance of the
09:52 32 business from the day before, and so if we didn't speak I would
09:52 33 send him a brief text just outlining the results from the day
09:52 34 before.
09:52 35
09:52 36 Q. Your direct responsibilities were gaming and domestic
09:52 37 gaming?
09:52 38
09:52 39 A. That's correct.
09:52 40
09:52 41 Q. That's gaming everywhere in the casino?
09:52 42
09:52 43 A. That's correct.
09:52 44
09:52 45 Q. You are also directly responsible for security and
09:52 46 surveillance?
09:52 47

- 09:52 1 A. That's correct.
09:52 2
09:52 3 Q. For the whole time that you were in that role, Mr Craig
09:52 4 Walsh reported directly to you?
09:52 5
09:52 6 A. That's correct.
09:52 7
09:52 8 Q. Sometimes in writing but sometimes informally?
09:52 9
09:52 10 A. Yes, I spoke to Mr Walsh very often.
09:52 11
09:52 12 Q. Daily?
09:52 13
09:52 14 A. Almost daily. Obviously it is a fairly dynamic role that he
09:52 15 has and there is always things happening at the property that he
09:53 16 would like me to know about or things that I've seen that I would
09:53 17 speak to him about.
09:53 18
09:53 19 Q. Now, there were monthly meetings for the whole of the
09:53 20 business?
09:53 21
09:53 22 A. Yes, there was, under Mr Alexander, yes.
09:53 23
09:53 24 Q. This is the period up to 2018?
09:53 25
09:53 26 A. Yes, I think that is correct. It was after Mr Rankin had left
09:53 27 the business and Mr Alexander became Executive Chair, he
09:53 28 instated monthly meetings.
09:53 29
09:53 30 Q. And those monthly meetings involved all the different
09:53 31 heads of the different parts of the company, so Mr Crinis would
09:53 32 be there for hotels?
09:53 33
09:53 34 A. Yes.
09:53 35
09:53 36 Q. Mr Preston as Chief Legal Officer?
09:53 37
09:53 38 A. Yes.
09:53 39
09:53 40 Q. Mr Barton, Mr McGregor?
09:53 41
09:53 42 A. Yes.
09:53 43
09:53 44 Q. And Mr Felstead?
09:53 45
09:53 46 A. Yes and Mr Bossi would dial in from Perth.
09:53 47

- 09:53 1 Q. Those meetings weren't concerned with the day-to-day
09:53 2 operational issues, they were bigger business issues?
09:53 3
- 09:54 4 A. Yes, we would largely report on operational matters
09:54 5 including financials, but there would be other issues that
09:54 6 Mr Preston or Mr Felstead would raise, or Mr McGregor would
09:54 7 raise, outside the nuts and bolts.
09:54 8
- 09:54 9 Q. Who chaired those meetings?
09:54 10
- 09:54 11 A. Mr Alexander.
09:54 12
- 09:54 13 Q. When Mr Felstead wasn't around, you were the person who
09:54 14 stepped in and fulfilled his functions; is that right? At Crown
09:54 15 Melbourne?
09:54 16
- 09:54 17 A. If the company needed to be represented, whether it be at
09:54 18 a meeting or a speech or whatever it may be, and Mr Felstead
09:54 19 wasn't in town, then he would ask me to step in or attend the
09:54 20 meeting on his behalf.
09:54 21
- 09:54 22 Q. So you weren't directly responsible for food, beverage and
09:54 23 entertainment?
09:54 24
- 09:54 25 A. No.
09:54 26
- 09:54 27 Q. That was Peter Crinis?
09:54 28
- 09:54 29 A. That's correct.
09:54 30
- 09:54 31 Q. He's now the CEO of Crown Sydney?
09:54 32
- 09:55 33 A. Yes, he still retains responsibility for hotels across the
09:55 34 group.
09:55 35
- 09:55 36 Q. You weren't responsible for marketing?
09:55 37
- 09:55 38 A. No.
09:55 39
- 09:55 40 Q. International VIP did not report directly into you?
09:55 41
- 09:55 42 A. No.
09:55 43
- 09:55 44 Q. Though the gaming activities that occurred at the casino
09:55 45 were matters under your responsibility?
09:55 46
- 09:55 47 A. The dealing of the game and integrity of the game fell

09:55 1 under me because the dealers fell under the table games structure.
09:55 2
09:55 3 Q. It is right, isn't it, that you were Chief Risk Officer from
09:55 4 about April 2018?
09:55 5
09:55 6 A. No, that's not correct.
09:55 7
09:55 8 Q. Did you ever hold the position Chief Risk Officer?
09:55 9
09:55 10 A. No.
09:55 11
09:55 12 Q. I wonder if the witness can be taken to a document,
09:55 13 PWC.1001.5100.2502, in particular to page 2505 of that
09:56 14 document.
09:56 15
09:56 16 This is a document that was prepared by the VCGLR in April
09:56 17 2018 and it reads this on that page:
09:56 18
09:56 19 *We interviewed the following people to get insight into*
09:56 20 *their understanding and interaction with Risk*
09:56 21 *Management:*
09:56 22
09:56 23 *- The Chief Risk Officer (Xavier Walsh).*
09:56 24
09:56 25 A. I'm not familiar with this document, but I have never held
09:56 26 the title of Chief Risk Officer.
09:56 27
09:56 28 Q. Is it right that from November 2018 ---
09:56 29
09:56 30 COMMISSIONER: Did you ever tell the regulator that you were
09:56 31 the Chief Risk Officer?
09:56 32
09:56 33 A. I don't believe so, Commissioner.
09:57 34
09:57 35 COMMISSIONER: You didn't tell the regulator that you had
09:57 36 anything to do with risk assessment?
09:57 37
09:57 38 A. No, I participated in meetings where risk was discussed but
09:57 39 I was certainly never the Chief Risk Officer.
09:57 40
09:57 41 COMMISSIONER: I didn't ask whether ---
09:57 42
09:57 43 A. I beg your pardon.
09:57 44
09:57 45 COMMISSIONER: The second was, did you ever tell the
09:57 46 regulator you had any responsibilities in relation to risk
09:57 47 management at Crown?

09:57 1
09:57 2 A. In relation to general risk management I would have, but
09:57 3 insofar as security and the security of the assets and the safety of
09:57 4 the customers and staff. But not in terms of assessing risk.
09:57 5
09:57 6 COMMISSIONER: What did you tell the regulator your
09:57 7 involvement in risk management was?
09:57 8
09:57 9 A. That I would have participated in risk assessment as
09:57 10 required from time to time when we were looking at our risk
09:57 11 profiles, looking at whether we needed to change risk ratings or
09:57 12 elevate things or risks, they move up and down depending on
09:58 13 circumstances, but the risk function prior to Ms Sieger's arriving
09:58 14 was the responsibility of internal audit which was a gentleman by
09:58 15 the name of Drew Stuart, and Drew reported I believe to Debra
09:58 16 Tegoni who was at that time the Executive General Manager of
09:58 17 legal and regulatory affairs.
09:58 18
09:58 19 COMMISSIONER: All right. Thank you.
09:58 20
09:58 21 MR FINANZIO: I will take you to this document in the light of
09:58 22 what you said we can explore that.
09:58 23
09:58 24 Your tab 41, Commissioner. CRW.502.004.0167.
09:58 25
09:59 26 That is an agenda of the meeting of the Executive Risk and
09:59 27 Compliance Committee; you see that?
09:59 28
09:59 29 A. Yes.
09:59 30
09:59 31 Q. 13 November 2018. Can I draw your attention to page 28
09:59 32 of the document. There is a table on that page and at the top of
09:59 33 the table it says:
09:59 34
09:59 35 *As a result, a consolidation exercise has taken place to*
09:59 36 *ensure adequate strategic focus is placed at the corporate*
09:59 37 *level. The table below highlights the outcomes of the*
09:59 38 *consolidation process*
09:59 39
09:59 40 Do you see that across the top of the table there, "New Risk No.",
09:59 41 "Consolidated Risk Title", "Exec Risk Owners", "Old Risk No.",
09:59 42 "Consolidated Risk Title", "Exec Risk Owners", "Old Risk No.",
10:00 43 "Old Risk Title", and so on. Do you see that?
10:00 44
10:00 45 A. Yes, I do.
10:00 46
10:00 47 Q. At item 12 on the next page, among other things, you've got

10:00 1 the COO G, along with the CLO, are responsible, aren't they, for
10:00 2 major criminal activities?

10:00 3

10:00 4 A. Yes.

10:00 5

10:00 6 Q. And under the old risk title, that included money laundering
10:00 7 and terrorism financing as well as major criminal acts?

10:00 8

10:00 9 A. Yes.

10:00 10

10:00 11 Q. So at least, is it right, reading that document, is it right that
10:00 12 from November 2018 you held that responsibility in relation to
10:00 13 risk?

10:00 14

10:01 15 A. Yes. Although if I can add in terms of gaming AML, the
10:01 16 AML function reported into a different executive other than
10:01 17 myself. So I didn't --- in terms of AML, from my end it is
10:01 18 ensuring that our staff are trained, they understand what
10:01 19 a threshold transaction is, what a suspicious matter is, that they
10:01 20 know to escalate so that a suspicious matter report can be raised,
10:01 21 et cetera. I didn't design the AML program per se.

10:01 22

10:01 23 Q. No. Is it fair to say this: in a casino there is an AML risk?

10:01 24

10:01 25 A. Yes.

10:01 26

10:01 27 Q. That the financial reporting side of the AML function was
10:01 28 elsewhere?

10:01 29

10:01 30 A. Yes.

10:01 31

10:01 32 Q. But insofar as the areas that you were responsible for, those
10:01 33 areas included identifying AML risk on the casino floor?

10:02 34

10:02 35 A. Yes. Yes.

10:02 36

10:02 37 Q. You were directly responsible for security and
10:02 38 surveillance?

10:02 39

10:02 40 A. That's correct.

10:02 41

10:02 42 Q. So anything that the security team could do to impede or
10:02 43 discourage or remove incentives for AML was within your
10:02 44 purview?

10:02 45

10:02 46 A. Yes, that's correct.

10:02 47

- 10:02 1 Q. It was within your purview to identify what those risks
10:02 2 were?
10:02 3
10:02 4 A. Yes.
10:02 5
10:02 6 Q. And then how to respond to them.
10:02 7
10:02 8 A. Yes.
10:02 9
10:02 10 Q. Whilst this is a restructure that occurs in 2018, is it also
10:02 11 true that the same role or responsibility in relation to risk was
10:02 12 yours before this date, before November 2018?
10:02 13
10:02 14 A. Yes, I think that is fair.
10:02 15
10:03 16 Q. I don't want you to disclose what you earned, but I want to
10:03 17 ask you how you were remunerated. Were there incentives
10:03 18 associated with the way that you were remunerated?
10:03 19
10:03 20 A. I was part of the company's short-term incentive program
10:03 21 and the long-term incentive program. So the short-term incentive
10:03 22 program was an annual program that most of my targets relied on
10:03 23 the performance of the gaming business per se, but also there is
10:03 24 an element of the overall performance of the property. On top of
10:03 25 that there were elements that spoke to compliance and health and
10:03 26 safety and so forth.
10:03 27
10:03 28 Q. Were you incentivised by profit?
10:03 29
10:03 30 A. Overall company or divisional profit, yes. And the way the
10:04 31 program worked was the company needed to meet its targets
10:04 32 before anyone was eligible to receive an incentive, and then it
10:04 33 would then fall back to the individual business units as to how
10:04 34 they performed as to whether and what quantum of bonus they
10:04 35 received, whether it was a full or a part bonus or no bonus at all.
10:04 36
10:04 37 Q. Were the threshold targets financial?
10:04 38
10:04 39 A. Yes, they were, largely, yes.
10:04 40
10:04 41 Q. Were there thresholds in relation to RSG performance?
10:04 42
10:04 43 A. Not that I recall, no.
10:04 44
10:04 45 Q. Or security, surveillance or risk management performance?
10:04 46
10:04 47 A. Not that I recall, not in those terms, no.

10:04 1
10:04 2 COMMISSIONER: All the thresholds were based on turnover?
10:04 3
10:04 4 A. Largely based on contribution from the overall business or
10:04 5 business unit, Commissioner. There were some on --- in respect
10:05 6 to, for example, new business strategies, new initiatives, there
10:05 7 was some on injury rates for team members and items like that.
10:05 8 If there was --- there was an element there, I believe certainly
10:05 9 some years in terms of compliance performance, but ---
10:05 10
10:05 11 COMMISSIONER: Largely turnover?
10:05 12
10:05 13 A. Largely profit, yes.
10:05 14
10:05 15 COMMISSIONER: There is a difference between turnover and
10:05 16 profit. Do you mean profit or do you mean turnover?
10:05 17
10:05 18 A. No, no, that's why I'm saying profit. It was based on
10:05 19 contribution, Commissioner. Because obviously you can drive
10:05 20 turnover in an unprofitable way, so the business wanted to ensure
10:05 21 that what we were doing was obviously going to add to the
10:05 22 bottom line.
10:05 23
10:05 24 MR FINANZIO: We spoke a moment ago about Mr Felstead
10:05 25 being CEO of Australian Resorts. I want to touch on that again
10:05 26 before we move on.
10:05 27
10:05 28 A. Yes.
10:05 29
10:05 30 Q. To understand the nature of his role, he was spread across
10:06 31 the different properties in Australia; correct?
10:06 32
10:06 33 A. That's correct, yes.
10:06 34
10:06 35 Q. He was also deeply involved in the VIP international
10:06 36 business?
10:06 37
10:06 38 A. It reported into Mr Felstead.
10:06 39
10:06 40 Q. Along with Mr Ratnam?
10:06 41
10:06 42 A. Mr Ratnam was one of Mr Felstead's reports.
10:06 43
10:06 44 Q. Mr Felstead reported to Mr Ratnam or ---
10:06 45
10:06 46 A. No, no, sorry, I beg your pardon, Mr Ratnam reported to
10:06 47 Mr Felstead.

- 10:06 1
10:06 2 Q. And they were, in part, responsible for courting the junket
10:06 3 market; correct?
10:06 4
10:06 5 A. Yes. Sorry, Mr Finanzio, can I correct myself there for
10:06 6 a moment. Mr O'Connor, up until he was incarcerated, he ran
10:06 7 international business, and he reported to Mr Felstead. I think
10:06 8 Mr Ratnam reported to Mr O'Connor, but I might have that
10:06 9 wrong. After Mr O'Connor was incarcerated, then Mr Ratnam,
10:07 10 Mr McGuire and Mr Theiler reported directly to Mr Felstead.
10:07 11
10:07 12 Q. And the development of that business, including the
10:07 13 Suncity junket and other junkets, was part of the work that
10:07 14 Mr Felstead was involved in?
10:07 15
10:07 16 A. Correct.
10:07 17
10:07 18 Q. He was often not in Melbourne?
10:07 19
10:07 20 A. Correct.
10:07 21
10:07 22 Q. He lived in Perth, I think?
10:07 23
10:07 24 A. He did. He spent an enormous amount of time in
10:07 25 Melbourne and overseas, but his home was in Perth.
10:07 26
10:07 27 Q. He was also involved in the development of Sydney?
10:07 28
10:07 29 A. That's correct.
10:07 30
10:07 31 Q. On a day-to-day basis you said you were the person who
10:07 32 represented Crown Melbourne. But on a day-to-day basis, you
10:07 33 were the person who had broad oversight of the operations of the
10:07 34 casino; weren't you?
10:07 35
10:08 36 A. Yes.
10:08 37
10:08 38 Q. When I say that, though other business units were not
10:08 39 responsible to report to you directly, you had knowledge of the
10:08 40 other business units and their work?
10:08 41
10:08 42 A. Yes, I would generally have knowledge of material matters.
10:08 43
10:08 44 Q. And if Mr Felstead wasn't around or couldn't be got to, it is
10:08 45 true that you were the person who stood in for him?
10:08 46
10:08 47 A. Yes, as required.

10:08 1
10:08 2 Q. When he wasn't there you were effectively acting CEO?
10:08 3
10:08 4 A. I was in terms of somebody that people could go to for
10:08 5 either a decision or, as I say, to represent the company. I
10:08 6 certainly didn't seek to extend my authority beyond what my role
10:08 7 was, but if Barry asked me to be a fill-in for him or if he asked
10:08 8 me to attend a meeting, or he needed feedback, I was on the
10:08 9 ground.
10:08 10
10:08 11 Q. So you could make decisions that he might otherwise have
10:08 12 made if he were there?
10:09 13
10:09 14 A. I wouldn't without consulting with him if it was material.
10:09 15
10:09 16 Q. Yes, so there was a limit to what your authority was --
10:09 17
10:09 18 A. Yes.
10:09 19
10:09 20 Q. --- but you still nonetheless acted outside your areas of
10:09 21 direct responsibility in the day-to-day operations of the business?
10:09 22
10:09 23 A. As required, yes.
10:09 24
10:09 25 Q. That is part of the reason why you were reporting directly
10:09 26 to Mr Alexander on a daily basis, because you had broad
10:09 27 oversight of what was going on?
10:09 28
10:09 29 A. I think Mr Alexander was very interested in the
10:09 30 performance of Crown Melbourne's gaming business because it
10:09 31 was the largest business unit in the group by some margin. And
10:09 32 if it was performing well, generally the company was performing
10:09 33 well. And if it was --- if the opposite was true, then that was true
10:09 34 for the company.
10:09 35
10:09 36 Q. You were also updating him on other key matters; weren't
10:09 37 you?
10:09 38
10:09 39 A. Primarily in relation to the financial performance. The
10:10 40 conversations were very brief and, as I say, if he was busy and
10:10 41 didn't answer, I would just send a text and often I wouldn't speak
10:10 42 to him because he had the information that he had from my text.
10:10 43 But it was really around the performance of the gaming business
10:10 44 unit from the day before.
10:10 45
10:10 46 Q. So we can proceed on the basis in the questions that I ask
10:10 47 you that in truth you were a central character in the operation of

10:10 1 the business on the ground in Melbourne; weren't you?

10:10 2

10:10 3 A. I think that's fair.

10:10 4

10:10 5 Q. And you had responsibility for critical aspects of the

10:10 6 casino's operation?

10:10 7

10:10 8 A. Yes.

10:10 9

10:10 10 Q. You had important knowledge of other aspects of the

10:10 11 casino operation, including those outside your direct area of

10:10 12 responsibility?

10:10 13

10:10 14 A. I would like to think so, yes.

10:10 15

10:11 16 Q. Excuse me for a moment. On 24 February this year,

10:11 17 2021 ---

10:11 18

10:11 19 A. Yes.

10:11 20

10:11 21 Q. --- you asked Mr Mark Mackay to calculate Crown's

10:11 22 potential exposure on the underpayment of gaming tax; is that

10:11 23 right?

10:11 24

10:11 25 A. Yes, I just asked him to give me some rough numbers of

10:11 26 what the bonus jackpot figures would look like, going back. I

10:11 27 said look, just give me a few years, give me four years, so I can

10:11 28 get a bit of an idea of what the quantum is.

10:11 29

10:11 30 Q. Yes. But it was to calculate Crown's potential exposure on

10:12 31 the underpayment of gaming tax; correct?

10:12 32

10:12 33 A. It was to calculate the --- yes, in terms of what the amount

10:12 34 of bonus jackpots were and what the tax effect of that amount

10:12 35 was.

10:12 36

10:12 37 Q. You were concerned, at the time that you spoke to him, that

10:12 38 that issue, the underpayment of gaming tax, would come to light

10:12 39 during the course of the Commission?

10:12 40

10:12 41 A. I was --- no, I was actually concerned that the Chairman, if

10:12 42 I can, the Chair had been speaking at length about ensuring that

10:12 43 we had a change of culture, and that items that had not been dealt

10:12 44 with, or that anyone had any residual discomfort with should be

10:12 45 raised, and the bonus jackpot --- the treatment of bonus jackpots

10:12 46 and the way in which that was initiated was one of those items,

10:13 47 and I thought it flowed from essentially what was a cultural issue

10:13 1 in the way it was implemented, that if you follow the dots and
10:13 2 then say "Well, is this correct, what are the implications", then
10:13 3 one of the implications is clearly, if we are taking a deduction we
10:13 4 shouldn't be, what does the quantum look like.

10:13 5
10:13 6 Q. You had a residual discomfort about the underpayment of
10:13 7 gaming tax; correct?

10:13 8
10:13 9 A. I wasn't sure whether it was underpaid or not, Mr Finanzio.
10:13 10 What I was concerned about was the way in which it was
10:13 11 implemented and if we were wrong, then there was
10:13 12 an underpayment of gaming tax.

10:13 13
10:13 14 Q. You raised with Mr Mackay that discomfort on 24 February
10:13 15 2021; correct?

10:13 16
10:13 17 A. Yes. I asked for some --- an idea of the quantum of the
10:13 18 figures, yes.

10:13 19
10:13 20 Q. The issue had been around since 2012; hadn't it?

10:14 21
10:14 22 A. That's when the program was first initiated, yes.

10:14 23
10:14 24 Q. And you had been personally aware of the issues since at
10:14 25 least 2018?

10:14 26
10:14 27 A. Yes, I think it was around May/June 2018.

10:14 28
10:14 29 Q. You weren't aware of that before that?

10:14 30
10:14 31 A. Not as an issue. I knew what bonus jackpots were, it is
10:14 32 a line item in a number of the financial reports that come out each
10:14 33 day. So I was aware ---

10:14 34
10:14 35 Q. But you had not been aware of the --- well, put it this way,
10:14 36 the basis of your discomfort or uncertainty arose in May/June
10:14 37 2018?

10:14 38
10:14 39 A. That's correct, yes.

10:14 40
10:14 41 Q. That's when you became apprised of the issue?

10:14 42
10:14 43 A. That's when I became aware of a presentation that indicated
10:14 44 that the initiative wasn't going to be flagged with the regulator,
10:14 45 which in your mind raises questions, well, if you are not going to
10:14 46 let the regulator know, is it all on the up and up, basically.

10:14 47

10:15 1 Q. Let's go back a step. You said a moment ago that the Chair
10:15 2 of the Board had been promulgating a change of culture?
10:15 3
10:15 4 A. Yes.
10:15 5
10:15 6 Q. We are talking about Ms Coonan?
10:15 7
10:15 8 A. Yes, she had been very strident about that.
10:15 9
10:15 10 Q. And she had been strident about it since late last year,
10:15 11 hadn't she?
10:15 12
10:15 13 A. Yes.
10:15 14
10:15 15 Q. So, having been strident about the change in culture since
10:15 16 late last year, you didn't take any steps to ask Mr Mackay to
10:15 17 calculate what the potential exposure of underpayment was until
10:15 18 24 February; correct?
10:15 19
10:15 20 A. That's correct.
10:15 21
10:15 22 Q. In respect of an issue you'd known about since 2018?
10:15 23
10:15 24 A. That's correct.
10:15 25
10:15 26 Q. And the day that you asked him to look at it was two days
10:16 27 after this Royal Commission was announced?
10:16 28
10:16 29 A. That's correct, yes.
10:16 30
10:16 31 Q. I'm right, aren't I, that you were concerned that this issue,
10:16 32 which you'd known about since 2018, might be exposed in this
10:16 33 Royal Commission?
10:16 34
10:16 35 A. I was concerned about that, yes. At that point ---
10:16 36
10:16 37 Q. It was that that prompted you to ask Mr Mackay to do the
10:16 38 numbers on the 24th, rather than Ms Coonan's broad invitation to
10:16 39 change the culture?
10:16 40
10:16 41 A. No. No. I disagree, Mr Finanzio, I had spoken to ---
10:16 42
10:16 43 Q. --- (overspeaking) ---
10:16 44
10:16 45 A. I had spoken to ---
10:16 46
10:16 47 DR BUTTON: Can I ask my learned friend to let Mr Walsh

10:16 1 finish his answer?
10:16 2
10:16 3 A. I had spoken to Ms Coonan the night before and flagged
10:16 4 with her that we had --- at least this is a legacy issue, and perhaps
10:16 5 there were others, in terms of matters that I would have put in the
10:17 6 category that she was calling out as cultural. Her expression was
10:17 7 "bring out your dead". So the next morning I had a meeting with
10:17 8 Mr Mackay, which was a general catch-up, and I said to him
10:17 9 "Look, I've mentioned this to --- I raised it with the chair, and can
10:17 10 you please pull together for me a bit of an idea of what the
10:17 11 quantum is, because if we are wrong then we have a tax issue".
10:17 12
10:17 13 COMMISSIONER: Could I interrupt?
10:17 14
10:17 15 A. Yes, Commissioner.
10:17 16
10:17 17 COMMISSIONER: What is a legacy issue?
10:17 18
10:17 19 A. An unresolved historical matter.
10:17 20
10:17 21 COMMISSIONER: This is not historical, this was current. You
10:17 22 were still calculating tax on the same basis. In other words, this
10:17 23 is not a thing that was 10 years old or five years old or anything
10:17 24 like that. I'm not sure why you had chosen the word "legacy
10:17 25 issue" when it has nothing to do with the legacy issues.
10:17 26
10:17 27 A. Sorry, Commissioner ---
10:17 28
10:17 29 COMMISSIONER: You can downplay it like that, but it has
10:18 30 nothing to do with a legacy issue, does it?
10:18 31
10:18 32 A. Sorry, Commissioner, if I can explain. My concern in
10:18 33 2018 arose from ---
10:18 34
10:18 35 COMMISSIONER: I'm just asking why you call it a legacy
10:18 36 issue.
10:18 37
10:18 38 A. Because I regard it as a historical matter that had been
10:18 39 around for a while that was unresolved.
10:18 40
10:18 41 COMMISSIONER: Okay.
10:18 42
10:18 43 MR FINANZIO: You raised it with Ms Coonan the night before?
10:18 44
10:18 45 A. Yes.
10:18 46
10:18 47 Q. That was a day after the Royal Commission was

10:18 1 announced?
10:18 2
10:18 3 A. That's correct.
10:18 4
10:18 5 Q. You didn't raise it with her a month before the Royal
10:18 6 Commission was announced in the period where she had been
10:18 7 saying "bring out your dead"?
10:18 8
10:18 9 A. No, that's correct, I ---
10:18 10
10:18 11 Q. You didn't go and ask Mr Mackay to go and calculate what
10:18 12 the potential underpayment was a month before the Royal
10:18 13 Commission was announced, did you?
10:18 14
10:18 15 A. No, Ms Coonan took over as Exec Chair on 15 February, I
10:18 16 think, so that was the first meeting that I actually had one-on-one
10:18 17 with Ms Coonan since she had assumed that role.
10:18 18
10:19 19 Q. You had a meeting with her that day, didn't you?
10:19 20
10:19 21 A. Yes, it was a telephone call.
10:19 22
10:19 23 Q. I want to take you to your note of it.
10:19 24
10:19 25 Tab 23, Commissioner. CRW.512.135.0073.
10:19 26
10:19 27 You see that there?
10:19 28
10:19 29 A. Yes, I do.
10:19 30
10:19 31 Q. There is handwriting on the document?
10:19 32
10:19 33 A. Yes.
10:19 34
10:19 35 Q. Is that yours?
10:19 36
10:19 37 A. Yes, it is.
10:19 38
10:19 39 Q. On the second page of the document --- it is an agenda, it is
10:19 40 from you to Ms Coonan; correct?
10:19 41
10:19 42 A. That's correct.
10:19 43
10:19 44 Q. And it is an agenda of things to discuss; is that right?
10:19 45
10:20 46 A. Yes.
10:20 47

10:20 1 Q. Was it just you and her on the call?
10:20 2
10:20 3 A. Yes, it was.
10:20 4
10:20 5 Q. I want to take you to point 6 under the heading
10:20 6 "compliance".
10:20 7
10:20 8 A. Yes.
10:20 9
10:20 10 Q. That's where you describe --- that's where in the agenda the
10:20 11 term "legacy issue" was used; you see that?
10:20 12
10:20 13 A. Yes.
10:20 14
10:20 15 Q. That's the tax issue that we are talking about?
10:20 16
10:20 17 A. That's correct, yes.
10:20 18
10:20 19 Q. And it says there:
10:20 20
10:20 21 *Helen to consider.*
10:20 22
10:20 23 That is Helen Coonan to consider?
10:20 24
10:20 25 A. That's correct.
10:20 26
10:20 27 Q. And:
10:20 28
10:20 29 *XW to think about how best to communicate?*
10:20 30
10:20 31 A. Yes.
10:20 32
10:21 33 Q. Sometime after the evidence of Mr Mackay, Ms Coonan
10:21 34 made a statement to the media which said that, "On 23 February
10:21 35 2021 Xavier Walsh raised with me a legacy issue of a potential
10:21 36 problem with state casino tax. This was the first I had heard of it.
10:21 37 I directed him" --- this is the important part --- "I directed him to
10:21 38 get the information together and give it to the lawyers for advice
10:21 39 and disclosure to the Commission."
10:21 40
10:21 41 "I directed him to give it to the lawyers for advice and
10:21 42 disclosure."
10:21 43
10:21 44 That's a bit different to your note, isn't it?
10:21 45
10:21 46 A. Yes, it is.
10:21 47

10:21 1 Q. Your note says that she was going to consider it and that
10:21 2 you were going to think about how to best communicate it.
10:21 3
10:21 4 A. Yes, but ---
10:21 5
10:21 6 Q. She didn't direct you did she to get the information together
10:22 7 and give it to the lawyers for advice in that meeting did she?
10:22 8
10:22 9 A. No, she definitely told me to pull the information together.
10:22 10 She was, you know, concerned regarding the matter to, you
10:22 11 know, establish a position, and that was left to me. And
10:22 12 obviously she --- I don't know what I was thinking when I wrote
10:22 13 "Helen to consider" but she ---
10:22 14
10:22 15 Q. Do you think the note you wrote at the time of the meeting
10:22 16 is wrong?
10:22 17
10:22 18 A. No, well, Mr Finanzio, she was definitely going to consider
10:22 19 the matter, but she did ask me to pull the information together. I
10:22 20 had given her a verbal.
10:22 21
10:22 22 Q. She said to give it to the lawyers for advice and disclosure.
10:22 23 Can I just draw your attention to point 7 in the agenda.
10:22 24
10:22 25 A. Yes.
10:22 26
10:22 27 Q. Bear in mind, this is the day after the Royal Commission
10:22 28 was announced, right?
10:22 29
10:22 30 A. Yes.
10:22 31
10:22 32 Q.
10:22 33
10:23 34 *Royal Commission - Legal Representation - Helen to*
10:23 35 *consider*
10:23 36
10:23 37 A. Yes.
10:23 38
10:23 39 Q. The lawyers hadn't been chosen for the Royal Commission
10:23 40 at that point, had they?
10:23 41
10:23 42 A. No, but ---
10:23 43
10:23 44 Q. Which lawyers was she asking you to give it to?
10:23 45
10:23 46 A. The lawyers when they were appointed.
10:23 47

10:23 1 Q. I see. The Commission had only been announced the day
10:23 2 before.
10:23 3
10:23 4 A. Yes.
10:23 5
10:23 6 Q. And it hadn't called for Crown to disclose anything on 23
10:23 7 February, had it?
10:23 8
10:23 9 A. No. I suspect she was anticipating that this would be
10:23 10 a matter that may fall into matters to be canvassed.
10:23 11
10:23 12 Q. I see.
10:23 13
10:23 14 A. Hence ---
10:23 15
10:23 16 COMMISSIONER: You thought that?
10:23 17
10:23 18 A. Yeah, well, I thought that as well, Commissioner. The
10:23 19 other issue is whether --- how best to and when to disclose to the
10:24 20 regulator. But at that point I was still uncertain as to whether we
10:24 21 actually had an issue or didn't have an issue.
10:24 22
10:24 23 COMMISSIONER: On what basis could you possibly think that?
10:24 24
10:24 25 A. We had equivocal legal advice.
10:24 26
10:24 27 COMMISSIONER: Not very equivocal.
10:24 28
10:24 29 A. I'm not a lawyer, Commissioner, but it seemed to have
10:24 30 a bob each way.
10:24 31
10:24 32 COMMISSIONER: A bob again --- so you were about
10:24 33 90 per cent against?
10:24 34
10:24 35 A. Sorry?
10:24 36
10:24 37 COMMISSIONER: It wasn't a bob each way which was even
10:24 38 odds, it was nothing like even odds.
10:24 39
10:24 40 DR BUTTON: Commissioner, I'm sorry to interrupt you when
10:24 41 you are asking a question, but there is privilege that the company
10:24 42 has not waived in respect of the advice it received on this matter.
10:24 43
10:24 44 COMMISSIONER: It is going to come out in the report.
10:24 45
10:24 46 DR BUTTON: As matters stand, Commissioner, the privilege
10:24 47 hasn't been waived and we are in open hearing.

10:24 1
10:24 2 COMMISSIONER: All right.
10:25 3
10:25 4 MR FINANZIO: In your mind, at that time a potentially huge
10:25 5 underpayment in gaming tax had occurred?
10:25 6
10:25 7 A. Yes. I mean, I was unsure --- I thought the quantum was
10:25 8 sort of around 35 to possibly 40 million. If that number was --- I
10:25 9 didn't have accurate figures but just looking at the years that
10:25 10 Mr Mackay had provided on his sheet, it was sort of 3.5, around
10:25 11 that amount per year, 3.5 to maybe 4.
10:25 12
10:25 13 Q. But he had done some other calculations which included
10:25 14 other aspects of the gaming tax which were doubtful?
10:25 15
10:25 16 A. Not doubtful in our mind. I had no doubt over those
10:25 17 deductions, Mr Finanzio.
10:25 18
10:25 19 Q. No doubt at all?
10:25 20
10:25 21 A. No. They were all related to free play, gaming machine
10:25 22 free play, and in all the jurisdictions I'm aware of and worked in,
10:25 23 free play is never included in the revenue calculation for gaming
10:26 24 tax.
10:26 25
10:26 26 Q. So why did you ask him to do the calculation to include
10:26 27 them?
10:26 28
10:26 29 A. I just asked him to give me numbers on bonus jackpots and
10:26 30 he's given me the spreadsheet. On the daily reports, if I can
10:26 31 expand for a moment, there is probably four or five reports that
10:26 32 would come out on a daily basis that have bonus jackpots as
10:26 33 an individual line. And that is a roll-up of all the amounts that
10:26 34 are deducted as bonus jackpots.
10:26 35
10:26 36 Q. You, at the very least, thought there was a possibility of
10:26 37 underpayment of \$40 million?
10:26 38
10:26 39 A. Potentially, that's right.
10:26 40
10:26 41 Q. Maybe more?
10:26 42
10:26 43 A. I wasn't concerned it would be higher than that. 40 million
10:26 44 I knew was a high side guess. Because based on that spreadsheet,
10:26 45 I needed to factor in an extra couple of years from where it
10:26 46 started, up to present, as well as the sheet didn't have any super
10:26 47 tax in there.

10:26 1
10:26 2 Q. And you asked Mr Mackay to calculate those matters in
10:27 3 a spreadsheet?
10:27 4
10:27 5 A. Yes, I asked him to give me a bit of an idea of what it
10:27 6 would have been, what the underpayment might have been.
10:27 7
10:27 8 Q. I'm interested in the way you record this in the
10:27 9 memorandum. You look at that memo on that page, see, you
10:27 10 have "Compliance, Legacy issue".
10:27 11
10:27 12 A. Yes.
10:27 13
10:27 14 Q. There is no issue of what the issue was, or of its potential
10:27 15 importance, is there?
10:27 16
10:27 17 A. No.
10:27 18
10:27 19 Q. But for other items on the agenda, for example, smoking,
10:27 20 there is at least a precis; isn't there?
10:27 21
10:27 22 A. Sorry, I'm ---
10:27 23
10:27 24 Q. Slide back up.
10:27 25
10:27 26 A. Yes.
10:27 27
10:27 28 Q. This legacy issue was potentially very sensitive, wasn't it?
10:27 29
10:27 30 A. It certainly is --- if we were wrong, yes.
10:27 31
10:27 32 Q. And if you were wrong, potentially explosive,
10:27 33 underpayment of the gaming tax would be a very significant
10:28 34 matter; wouldn't it?
10:28 35
10:28 36 A. Yes, if it was intentional, yes.
10:28 37
10:28 38 Q. If it was intentional, not leaving a paper trail of the
10:28 39 discussion of it would be important; wouldn't it?
10:28 40
10:28 41 A. Look, I didn't think of it in those terms, Mr Finanzio. This
10:28 42 was an issue that had been, as I say, it was a residual concern that
10:28 43 I had. The Chair was saying, "Raise any matter that you are
10:28 44 uncomfortable about or that you have any residual doubt about",
10:28 45 so I was raising it.
10:28 46
10:28 47 Q. This was your meeting with the Chair?

10:28 1
10:28 2 A. Yes.
10:28 3
10:28 4 Q. You were raising a, what you call a legacy issue worth
10:28 5 potentially \$40 million?
10:28 6
10:28 7 A. Potentially, if we were wrong, yes.
10:28 8
10:28 9 Q. Which you knew about since at least 2018?
10:28 10
10:28 11 A. Yes.
10:28 12
10:28 13 Q. You weren't sure what she was going to say to that legacy
10:28 14 issue, were you, when you raised it with her?
10:28 15
10:29 16 A. I wasn't, but I was confident, based on the discussions and
10:29 17 communication she previously had was, look, "Now is the time,
10:29 18 that anyone who has any concerns on any matter, please raise
10:29 19 them", and I was confident she would take it in the manner which
10:29 20 she did, which was thank me for raising it, and please look into it.
10:29 21
10:29 22 Q. Your immediate next step was to get Mr Mackay to look at
10:29 23 the numbers, right?
10:29 24
10:29 25 A. Yes.
10:29 26
10:29 27 Q. Which you did the following day?
10:29 28
10:29 29 A. That's correct.
10:29 30
10:29 31 Q. You instructed Mr Mackay as to the calculation you wanted
10:29 32 him to do?
10:29 33
10:29 34 A. I just simply asked him could he pull out the bonus jackpots
10:29 35 amounts going back a number of years so I could get a sense of
10:29 36 quantum.
10:29 37
10:29 38 Q. Well, Mr Mackay took a note of what you had asked him to
10:29 39 do and he gave evidence about that. Just bear with me for
10:29 40 a minute.
10:29 41
10:30 42 Commissioner, can you go to tab 31. CRW.512.135.0075.
10:30 43
10:31 44 Mr Mackay's note of what you asked him to do is to pull together
10:31 45 a document for review on what is deducted, the value of the
10:31 46 deductions between 2012 and 2021. You see that?
10:31 47

10:31 1 A. Yes, I do.
10:31 2
10:31 3 Q. And he understood that it was a latent issue.
10:31 4
10:31 5 A. Yes.
10:31 6
10:31 7 Q. And he understood that part of the task was to look at the
10:31 8 tax deductible expenses against the gaming revenue?
10:31 9
10:31 10 A. Yes.
10:31 11
10:31 12 Q. And he understood that the question was whether or not the
10:31 13 tax deductibility of them was proper?
10:31 14
10:31 15 A. Yeah, that's right.
10:31 16
10:31 17 Q. (Inaudible)?
10:31 18
10:31 19 A. Exactly. So it was "Please pull together the figures for the
10:31 20 bonus jackpot so we can get an idea of quantum".
10:31 21
10:31 22 Q. So why would he put in his spreadsheet stuff that wasn't
10:32 23 relevant for the propriety of the tax deductibility in relation to
10:32 24 gaming revenue?
10:32 25
10:32 26 A. I'm not sure, Mr Finanzio, but the deductibility of free play
10:32 27 goes back well before 2012.
10:32 28
10:32 29 Q. You didn't think there was a latent issue in relation to those
10:32 30 issues?
10:32 31
10:32 32 A. No, I didn't. And if I can explain, one of the key
10:32 33 components of the free play program is a program called
10:32 34 Welcome Back, and in the documents that I had seen there was
10:32 35 an approval of that program, which doesn't necessarily talk to
10:32 36 deductions, just means it is approved. But, as I said earlier, I've
10:32 37 not experienced anywhere that free play is included in the
10:32 38 calculation of gaming tax in any jurisdiction because it is not
10:32 39 money received by the casino.
10:33 40
10:33 41 Q. What about Matchplay?
10:33 42
10:33 43 A. Similar. Matchplay is the conversion of Crown reward
10:33 44 points into free play, and the Crown reward points could come
10:33 45 from either pokie points, they could come from table game
10:33 46 points, or they could come from --- there is another bucket for
10:33 47 retail and F&B, you earn points in your spend at non-gaming

- 10:33 1 venues around the property.
10:33 2
10:33 3 Q. On the 26th you met with Mr Mackay?
10:33 4
10:33 5 A. That's correct.
10:33 6
10:33 7 Q. And he showed you his spreadsheet?
10:33 8
10:33 9 A. He did.
10:33 10
10:33 11 Q. The content of the spreadsheet was sensitive information?
10:33 12
10:33 13 A. Not so much sensitive, it was just he'd given me a set of
10:33 14 calculations with what the free play amounts were.
10:33 15
10:33 16 Q. Mr Mackay told us he thought it was sensitive.
10:33 17
10:33 18 A. Okay.
10:33 19
10:33 20 Q. Well, is it sensitive or not?
10:33 21
10:33 22 A. I didn't consider it to necessarily be sensitive.
10:33 23
10:33 24 Q. I see. Mr Mackay informed you of the potential exposure?
10:34 25
10:34 26 A. We discussed the numbers on the spreadsheet, correct.
10:34 27
10:34 28 Q. Including a potential exposure in relation to a sum of
10:34 29 \$168 million?
10:34 30
10:34 31 A. No. That was the number on the spreadsheet, but as I said,
10:34 32 that was a total quantum of what is --- had been included in the
10:34 33 returns for bonus jackpots but, as I said, my concern was never
10:34 34 that figure.
10:34 35
10:34 36 Q. And so ---
10:34 37
10:34 38 A. Not trying to dismiss the other figure, but I'm just saying it
10:34 39 wasn't the full amount.
10:34 40
10:34 41 Q. No, so your evidence is that Mr Mackay was wrong to go
10:34 42 away and include all of those other figures, including all of those
10:34 43 other figures which resulted in the \$167 million sum.
10:34 44
10:34 45 A. He may have misunderstood the request.
10:34 46
10:34 47 Q. His evidence was that he understood that the only purpose

10:35 1 for producing the spreadsheet was to calculate Crown's exposure
10:35 2 to the underpayment of tax.

10:35 3

10:35 4 A. And I agree with that, but the rewards amount of the bonus
10:35 5 jackpot is separately highlighted on the spreadsheet. I think from
10:35 6 memory it is even in a different shade of colour. That was the
10:35 7 element that I was interested in.

10:35 8

10:35 9 Q. I see ---

10:35 10

10:35 11 A. Sorry, Mr Finanzio, if I can explain, that was the only
10:35 12 change made in 2012. And that's why it was of interest to me.

10:35 13

10:35 14 Q. I see. The spreadsheet wasn't emailed to you, was it?

10:35 15

10:35 16 A. No.

10:35 17

10:35 18 Q. It was handed to you?

10:35 19

10:35 20 A. I believe that's correct.

10:35 21

10:35 22 Q. Not emailing means no paper trail?

10:35 23

10:35 24 A. I think that's correct, but Mr Mackay's office is not very far
10:35 25 from mine, it is not unusual that ---

10:35 26

10:35 27 Q. Did you ask him not to email it to you?

10:35 28

10:35 29 A. No.

10:35 30

10:35 31 Q. When you got the spreadsheet, did you give it to
10:36 32 Ms Coonan?

10:36 33

10:36 34 A. No, I didn't.

10:36 35

10:36 36 Q. Why not?

10:36 37

10:36 38 A. At that point we hadn't established whether we had an issue
10:36 39 or not, but I thought it was important ---

10:36 40

10:36 41 Q. I thought you said you did have an issue.

10:36 42

10:36 43 A. No, I was concerned we had an issue. I didn't know
10:36 44 whether we had established that or not, that's why we were going
10:36 45 to ask for advice.

10:36 46

10:36 47 Q. You didn't know you had an issue the night before or the

10:36 1 day before when you spoke Ms Coonan, but you called her
10:36 2 anyway?
10:36 3
10:36 4 A. She called for a weekly meeting as Exec Chair to run
10:36 5 through the issues. I this the item on the agenda, and I
10:36 6 spoke to her about it.
10:36 7
10:36 8 Q. So your evidence is it is just a coincidence that it happened
10:36 9 the day after the Royal Commission announced?
10:36 10
10:36 11 A. Yes, that is the first meeting that I'd with her. She became
10:36 12 Exec Chair on 15 February, which is only a week prior.
10:36 13
10:36 14 Q. Did you ever email her the spreadsheet?
10:37 15
10:37 16 A. No.
10:37 17
10:37 18 Q. When you spoke to her on 23 February, raising this legacy
10:37 19 issue, you immediately went and spoke to Mackay the next day
10:37 20 --- Mr Mackay the next day to get the calculations done?
10:37 21
10:37 22 A. I asked him as part of --- we had a weekly catch-up as well,
10:37 23 and it was in that discussion that I asked for the figures.
10:37 24
10:37 25 Q. He produced the results to you only two days later?
10:37 26
10:37 27 A. Yes.
10:37 28
10:37 29 Q. It revealed a risk of underpayment to the tune of
10:37 30 \$40 million?
10:37 31
10:37 32 A. It was less than that, but yes.
10:37 33
10:37 34 Q. When did you next communicate with Ms Coonan about
10:37 35 that issue?
10:37 36
10:37 37 A. I don't have a record of that, Mr Finanzio, but it was after
10:38 38 Allens ---
10:38 39
10:38 40 Q. --- (overspeaking) ---
10:38 41
10:38 42 A. --- had been appointed as our lawyers. I indicated to her
10:38 43 that that was a matter I would raise with them.
10:38 44
10:38 45 Q. I see.
10:38 46
10:38 47 Did you ever tell her the amount?

10:38 1
10:38 2 A. I don't believe that I did.
10:38 3
10:38 4 Q. All right. You certainly didn't immediately communicate
10:38 5 that to your lawyers?
10:38 6
10:38 7 A. No, they weren't appointed at that point.
10:38 8
10:38 9 Q. Allens were advising Crown for a period before they were
10:38 10 appointed for the purpose of the Royal Commission weren't they?
10:38 11
10:38 12 A. I think they were doing work in the AML space with
10:38 13 respect to our program, and I will stand corrected on this, but I'm
10:38 14 pretty sure we had AUSTRAC matters that they were assisting us
10:39 15 with.
10:39 16
10:39 17 Q. On 1 March you called a meeting, didn't you, to discuss the
10:39 18 issue?
10:39 19
10:39 20 A. Mr Reilly called the meeting but it came from my diary, but
10:39 21 yes.
10:39 22
10:39 23 Q. I just want to take you to that. There is only one file note of
10:39 24 the meeting. I do want to take you to CRW.512.147.0756.
10:39 25
10:40 26 Pardon me, Commissioner, it is in tab 28 of your folder and it
10:40 27 is --- this document here, Mr Walsh, is the meeting invite.
10:40 28
10:40 29 A. Yes, that's a standard meeting I have with Mr Mackay.
10:40 30
10:40 31 Q. It is right, isn't it, that there was a file note taken --- can I
10:40 32 ask you to go, operator, to CRW.512.175.0001.
10:40 33
10:40 34 Do you know whose note that is?
10:40 35
10:40 36 A. I subsequently understand it is Ms Williamson's.
10:40 37
10:40 38 DR BUTTON: I ask my learned friend to be mindful of the
10:40 39 privilege claims that are made over --- may it be taken down.
10:40 40
10:40 41 MR FINANZIO: I'm sorry. That has to come down.
10:40 42
10:40 43 COMMISSIONER: Dr Button, this is one of the meetings where
10:41 44 Ms Williamson said she was not asked for any legal advice and
10:41 45 did not tender any advice. I know we've reserved the question,
10:41 46 but on what basis can it be privileged? She is an officer of the
10:41 47 company, she is a lawyer, and we know about in-house counsel.

10:41 1 Sometimes what they do is privileged and often times it's not, it is
10:41 2 purely business. But she was not asked for an input into a legal
10:41 3 question at all and she didn't proffer one. I don't know what has
10:41 4 happened to the law of privilege since I last looked at it, but it
10:41 5 hasn't undergone radical reform, has it?

10:41 6
10:41 7 DR BUTTON: I wouldn't submit it has undergone radical
10:41 8 reform. I would submit, and if the Commissioner wishes to hear
10:41 9 more about it, we can make a more formal submission, but
10:41 10 privilege does extend to what ought be done in the circumstances.
10:41 11 It's not just a question of matters only being privileged where
10:41 12 a lawyer is asked to provide "advice" on a legal matter. I can't
10:42 13 take it further than that, and I ---

10:42 14
10:42 15 COMMISSIONER: They have to at least be approached in their
10:42 16 capacity as a lawyer to do some legal work.

10:42 17
10:42 18 DR BUTTON: I'm instructed that this particular document is not
10:42 19 an issue so we can proceed. Others may be, but ---

10:42 20
10:42 21 COMMISSIONER: Thank you.

10:42 22
10:42 23 MR FINANZIO: There was a note earlier this morning of the
10:42 24 documents over which Crown doesn't press privilege, but we
10:42 25 haven't yet got to the bottom of which ones are and which ones
10:42 26 aren't.

10:42 27
10:42 28 COMMISSIONER: Okay.

10:42 29
10:42 30 MR FINANZIO: The purpose of this meeting was to discuss the
10:42 31 tax bonus jackpot; wasn't it?

10:42 32
10:42 33 A. It was actually to discuss a range of tax matters,
10:42 34 Mr Finanzio.

10:42 35
10:42 36 Q. Yes. But the note at the very top says "tax bonus jackpot",
10:42 37 that is certainly one of the things that was to be discussed, isn't it?

10:42 38
10:42 39 A. It was one of the things that came up. Perhaps the meeting
10:42 40 was --- we have a \$35 million minimum tax due each year
10:43 41 resulting from the additional product that we received in 2014,
10:43 42 and given that we were closed for part of the year, and we were
10:43 43 given relief from that obligation in the prior year, 30 June was
10:43 44 soon upon us and we wanted to discuss that matter, as well as we
10:43 45 had received from Treasury an extension to resolve a poker tax
10:43 46 matter that had been, I think it's been ongoing for years and years,
10:43 47 but essentially that was due to be wrapped up by 30 June as well,

10:43 1 and it obviously wasn't really progressing at any great speed. So
10:43 2 the purpose of the meeting was to talk about various tax matters
10:43 3 in relation to Crown and our position on them.

10:43 4

10:44 5 Q. One of the purposes of the meeting was to discuss the tax
10:44 6 bonus jackpot issue, wasn't it?

10:44 7

10:44 8 A. It was to discuss tax matters generally and bonus jackpots
10:44 9 was part of that.

10:44 10

10:44 11 Q. Insofar as the meeting concerned a discussion about the tax
10:44 12 bonus jackpot, it was part of you considering what to do in
10:44 13 relation to the tax bonus jackpot question, wasn't it?

10:44 14

10:44 15 A. It was flagging with everyone, I mean this is 1 March, that I
10:44 16 had had the conversation with Ms Coonan, we had the figures
10:44 17 from Mr Mackay, and, yes, you know, advising --- there were
10:44 18 a number of people at this meeting, from memory --- to advise
10:44 19 them that, look, this is matter is a live issue.

10:44 20

10:44 21 Q. You had Mr Mackay's spreadsheet at that time?

10:44 22

10:45 23 A. Yes, I did.

10:45 24

10:45 25 Q. Did everyone else in the room have it?

10:45 26

10:45 27 A. Look, I'm sorry, I don't recall, but I certainly had it.

10:45 28

10:45 29 Q. You certainly had it and that was capable of informing the
10:45 30 discussion about the tax bonus jackpot?

10:45 31

10:45 32 A. Yes.

10:45 33

10:45 34 Q. Before the meeting, relevant documents were circulated in
10:45 35 relation to this; is that right?

10:45 36

10:45 37 A. I don't recall any documents in relation to this meeting,
10:45 38 Mr Finanzio.

10:45 39

10:45 40 Q. Copies of emails with the regulators?

10:45 41

10:45 42 A. I'm sorry, I'm drawing a blank.

10:45 43

10:45 44 Q. It's true that everybody attending the meeting had some
10:45 45 knowledge of the bonus jackpot question?

10:45 46

10:45 47 A. I'm not sure Ms Williamson did.

10:45 1
10:45 2 Q. Okay. At that time the Commission still hadn't called for
10:45 3 the disclosure of anything?
10:45 4
10:45 5 A. No.
10:45 6
10:45 7 Q. And at the meeting there were Chris Reilly?
10:45 8
10:45 9 A. Yes.
10:45 10
10:46 11 Q. John Salomone?
10:46 12
10:46 13 A. Yes.
10:46 14
10:46 15 Q. Matthew Young?
10:46 16
10:46 17 A. Yes.
10:46 18
10:46 19 Q. Michelle Fielding?
10:46 20
10:46 21 A. Yes.
10:46 22
10:46 23 Q. Alan McGregor?
10:46 24
10:46 25 A. Yes?
10:46 26
10:46 27 Q. Jan Williamson, Anne Siegers and Angelina
10:46 28 Bowden-Jones?
10:46 29
10:46 30 A. Yes.
10:46 31
10:46 32 Q. The only lawyers present were in-house lawyers?
10:46 33
10:46 34 A. That's correct.
10:46 35
10:46 36 Q. Is it right that each of the lawyers were aware of the issue?
10:46 37
10:46 38 A. I don't believe Ms Williamson was until that meeting. And
10:46 39 just on the list of names you've provided me then, I think she is
10:46 40 the only in-house lawyer.
10:46 41
10:46 42 Q. Pardon me. Is it right that people in the room had some
10:46 43 knowledge of the history of the matter?
10:46 44
10:46 45 A. Yes.
10:46 46
10:46 47 Q. Those others in attendance were from other parts of the

10:46 1 business?
10:46 2
10:46 3 A. Yes.
10:46 4
10:46 5 Q. There were no external lawyers present at that time?
10:46 6
10:46 7 A. No. Sorry, if I can correct myself, Mr Finanzio. I'm not
10:46 8 sure how much, if anything, Matt Young was aware of the issue,
10:47 9 and I can't speak to Mr Salomone's knowledge either.
10:47 10
10:47 11 Q. Okay. The group discussed whether Crown had
10:47 12 an arguable position on the potential underpayment of gaming
10:47 13 tax; didn't it?
10:47 14
10:47 15 A. Yes. I think we went back over the documentation that, I
10:47 16 mean, most of us were familiar with the presentation, that was the
10:47 17 first item that flagged it for me, as well as an exchange with the
10:47 18 VCGLR in 2018 on the matter.
10:47 19
10:47 20 Q. So that's what I was asking about before.
10:47 21
10:47 22 A. Sorry, beg your pardon.
10:47 23
10:47 24 Q. Most of the people in the room were familiar with the issue
10:47 25 that was raised in 2018?
10:47 26
10:47 27 A. Yes.
10:47 28
10:47 29 Q. So the issues were known to most of the people in the
10:47 30 room?
10:47 31
10:47 32 A. Yes.
10:47 33
10:47 34 Q. One of the things discussed was whether or not Crown had
10:48 35 an arguable position on the potential underpayment of gaming tax
10:48 36 at that meeting; correct?
10:48 37
10:48 38 A. Yes.
10:48 39
10:48 40 Q. Another thing that was discussed was whether
10:48 41 underpayment of the gaming tax could be offset against other
10:48 42 taxes where there might have been overpayment?
10:48 43
10:48 44 A. That's correct.
10:48 45
10:48 46 Q. Another thing that was discussed was whether or not
10:48 47 Crown might rely on the changed technical requirements

10:48 1 documents to bolster Crown's position in the underpayment?
10:48 2
10:48 3 A. Yes.
10:48 4
10:48 5 Q. Correct?
10:48 6
10:48 7 A. Yes.
10:48 8
10:48 9 Q. Or whether Crown could obtain ratification for the
10:48 10 underpayment?
10:48 11
10:48 12 A. Sorry, can you repeat that?
10:48 13
10:48 14 Q. Whether Crown might obtain some kind of ratification for
10:48 15 the payment.
10:48 16
10:48 17 A. Right. Yes.
10:48 18
10:48 19 Q. That was discussed?
10:48 20
10:48 21 A. In terms of the exchange with the VCGLR in 2018, yes.
10:48 22
10:48 23 Q. And also, what was discussed was what the public
10:48 24 perception might be in relation to disclosure of the underpayment
10:49 25 of gaming tax?
10:49 26
10:49 27 A. I think that is definitely a consideration, yes.
10:49 28
10:49 29 Q. Particularly in relation to the Royal Commission which, by
10:49 30 that stage, had been announced more than a week?
10:49 31
10:49 32 A. Yes. In terms of the Royal Commission or just more
10:49 33 generally, underpaying tax is never viewed very well by anyone.
10:49 34
10:49 35 Q. You didn't meet with external lawyers on this issue until 18
10:49 36 March 2021?
10:49 37
10:49 38 A. It was flagged earlier than that but not specifically until the
10:49 39 18th, that's correct.
10:49 40
10:49 41 Q. When you say "flagged earlier"?
10:49 42
10:49 43 A. The first meeting I recall having with our lawyers is early
10:49 44 March and there was a general discussion around the Terms of
10:49 45 Reference for the Royal Commission, and the likely areas of
10:50 46 focus and, therefore, what items are there that need to be raised,
10:50 47 and I said that we definitely had a couple so in a general sense ---

- 10:50 1
10:50 2 Q. Definitely have a couple?
10:50 3
10:50 4 A. Yes, in a general sense we needed to raise this issue and
10:50 5 any others.
10:50 6
10:50 7 Q. Did you specifically mention this issue?
10:50 8
10:50 9 A. Yes, I did, but we didn't get a chance to go into any great
10:50 10 detail because the initial meetings --- certainly initially it was
10:50 11 around the process of the Royal Commission and what we should
10:50 12 expect, and then the next few meetings would have moved into
10:50 13 document production and so forth. So it was a pretty hectic time,
10:50 14 but there was a live issue that we needed to have a meeting with
10:50 15 our lawyers on to flag.
10:50 16
10:50 17 Q. It was certainly on your mind in that initial meeting?
10:50 18
10:50 19 A. Yes.
10:50 20
10:51 21 Q. And it was not raised in any detail at all until the meeting
10:51 22 of 18 March 2021?
10:51 23
10:51 24 A. Yes.
10:51 25
10:51 26 Q. Now, on 10 March the Commission issued RFI-002 seeking
10:51 27 disclosure of Crown on breaches or potential breaches of the Act
10:51 28 and the agreements; do you recall that?
10:51 29
10:51 30 A. Yes, I do, yes.
10:51 31
10:51 32 Q. You understood, didn't you, upon receiving that request,
10:51 33 that the company was being asked to make a full disclosure of not
10:51 34 only breaches that it had committed, but also matters which
10:51 35 might possibly be breaches?
10:51 36
10:51 37 A. Yes, that's right, it was a fairly wide brief.
10:51 38
10:51 39 Q. And you understood that the potential underpayment of the
10:51 40 gaming tax was an issue that might fall within the scope of that
10:51 41 notice?
10:51 42
10:51 43 A. Yes.
10:51 44
10:51 45 Q. You also understood that the only way it wouldn't is if you,
10:52 46 that is Crown, had a cast-iron basis for Crown's calculation of the
10:52 47 gaming tax that it had been undertaking for many years?

- 10:52 1
10:52 2 A. Yes. I'm not sure I would describe it as cast-iron, but we
10:52 3 needed advice on (a) how solid is our position and if the position
10:52 4 fell into --- the potentials are fairly subjective term, but obviously
10:52 5 it is very wide, and I would have said yes, and that's why it was
10:52 6 being flagged.
10:52 7
10:52 8 Q. Between 1 March 2021 and 18 March when you met with
10:52 9 the lawyers to discuss this specifically, you had made no
10:52 10 disclosure to the VCGLR about the potential for this
10:52 11 underpayment of gaming tax; correct?
10:52 12
10:53 13 A. That's correct, yes.
10:53 14
10:53 15 Q. You had not spoken with any other external lawyers?
10:53 16
10:53 17 A. No.
10:53 18
10:53 19 Q. You had not raised this matter with any fellow directors
10:53 20 because by this stage you are a director of Crown Melbourne?
10:53 21
10:53 22 A. No, I had raised it with --- I raised it with both Ms Halton
10:53 23 and Ms Korsanos.
10:53 24
10:53 25 Q. Between 1 March and 18 March?
10:53 26
10:53 27 A. Yes. I had a catch-up with Ms Halton on either 3 or 4
10:53 28 March, it was one of those early meetings, and then Ms Korsanos
10:53 29 and Mr Morrison on, I think it was the 9th.
10:53 30
10:53 31 Q. 9 March?
10:53 32
10:53 33 A. Yes. Again I described it in terms of an issue that
10:53 34 culturally didn't look good because of the comments in the
10:53 35 presentation, the fact that ---
10:53 36
10:53 37 Q. Well, perhaps if I just interrupt you here.
10:53 38
10:54 39 A. Certainly.
10:54 40
10:54 41 Q. I would like to get your direct evidence on the
10:54 42 conversations that you had with each of them rather than
10:54 43 a summary of them.
10:54 44
10:54 45 A. Okay.
10:54 46
10:54 47 Q. You say that you conveyed this information to Ms Halton?

10:54 1
10:54 2 A. Yes.
10:54 3
10:54 4 Q. When do you say that was?
10:54 5
10:54 6 A. It was either 3 or 4 March. I can't remember the exact date.
10:54 7 I want to say the 4th.
10:54 8
10:54 9 Q. Right. And in what circumstances did you convey it to
10:54 10 her?
10:54 11
10:54 12 A. We had a catch-up at the Crystal Club ---
10:54 13
10:54 14 Q. In person?
10:54 15
10:54 16 A. Yes.
10:54 17
10:54 18 Q. At the casino?
10:54 19
10:54 20 A. At the casino.
10:54 21
10:54 22 Q. Just you and her?
10:54 23
10:54 24 A. Yes, just myself and her. Ms Halton, like Ms Coonan, had
10:54 25 been very much advocating ensuring that we brought all matters
10:54 26 to her attention, she is the Chair of the Risk Management
10:55 27 Committee, and that if there were elements of matters of concern
10:55 28 they should be raised, and so in and amongst a number of other
10:55 29 things we discussed more generally, I raised this issue.
10:55 30
10:55 31 Q. Did you tell her what the amount was?
10:55 32
10:55 33 A. No, I did not.
10:55 34
10:55 35 Q. Did you tell her about advice that Crown had received in
10:55 36 2012 and 2018?
10:55 37
10:55 38 A. Yes. And I described it as equivocal.
10:55 39
10:55 40 Q. You described the advice as equivocal.
10:55 41
10:55 42 A. Yes, I said that the advice wasn't clear, we had --- I didn't
10:55 43 like the words in the presentation from 2012. I did talk to her
10:55 44 about the fact that the VCGLR had had a very close look at it in
10:56 45 2018, and the fact that if there was any question on whether the
10:56 46 item had been approved as an approval, leaving aside
10:56 47 deductibility, but as an approval to run the program in the way it

10:56 1 was being run, that the new technical requirement document
10:56 2 would cure that going forward, but it wouldn't resolve the issue
10:56 3 going back historically.
10:56 4
10:56 5 Q. When you were having that conversation with her, you
10:56 6 were fully apprised of all of the documents from 2012 and 2018?
10:56 7
10:56 8 A. Yes, I was, yes. And it was a conversation we had. I didn't
10:56 9 provide her with any documents.
10:56 10
10:56 11 COMMISSIONER: Who gave you the 2012 document?
10:56 12
10:56 13 A. It was either Joshua Preston or Peter Herring.
10:56 14
10:56 15 COMMISSIONER: When did they gave it to you?
10:56 16
10:56 17 A. It was either May or June 2018, Commissioner.
10:56 18
10:56 19 COMMISSIONER: Thanks.
10:56 20
10:56 21 MR FINANZIO: Ms Korsanos, when do you say you had
10:56 22 a conversation with her?
10:56 23
10:56 24 A. That was 9 March, and that was in the executive office at
10:57 25 Crown Towers with Mr Morrison.
10:57 26
10:57 27 Q. So Mr Morrison was there too?
10:57 28
10:57 29 A. Yes.
10:57 30
10:57 31 Q. In the same room with Ms Korsanos?
10:57 32
10:57 33 A. That's correct.
10:57 34
10:57 35 Q. Do you recall what you said?
10:57 36
10:57 37 A. Essentially the same conversation, Mr Finanzio, that there
10:57 38 was a matter from 2012, that, if we're talking culture, then this
10:57 39 wasn't something that would have befitted their vision for what
10:57 40 we should be doing. I mentioned the review by the VCGLR, I
10:57 41 mentioned the fact that both our internal and our external legal
10:57 42 advice didn't leave us in a clear position, and then I mentioned
10:58 43 that the technical requirement document would resolve the issue
10:58 44 of approval going forward, but if we were wrong going
10:58 45 backwards because we needed approval, then that was a problem
10:58 46 for us.
10:58 47

10:58 1 Q. Did you mention the amount?
10:58 2
10:58 3 A. No, I did not.
10:58 4
10:58 5 COMMISSIONER: Can I get something cleared up and then we
10:58 6 will have a break for a minute.
10:58 7
10:58 8 A. Certainly, Commissioner.
10:58 9
10:58 10 COMMISSIONER: When you said that it wouldn't fit --- not fit
10:58 11 in with their view of what should happen going forward --
10:58 12
10:58 13 A. Yes.
10:58 14
10:58 15 COMMISSIONER: --- what precisely about this didn't fit into
10:58 16 their view?
10:58 17
10:58 18 A. I will try and paraphrase the presentation, but the words in
10:58 19 the presentation from 2012 basically were saying, given all the
10:58 20 economic impacts, et cetera, et cetera, and the quantum, the
10:58 21 VCGLR won't notice the change.
10:58 22
10:58 23 COMMISSIONER: Correct.
10:58 24
10:58 25 A. And that bothered me ---
10:58 26
10:58 27 COMMISSIONER: That was because the tax had just gone up;
10:59 28 correct?
10:59 29
10:59 30 A. That was one of the ---
10:59 31
10:59 32 COMMISSIONER: And if you deducted these items it would
10:59 33 bring the tax back down, so you would be sort of revenue-neutral,
10:59 34 pretty, much?
10:59 35
10:59 36 A. Yes, and I don't want to get into quantum, but it was only
10:59 37 something about a per cent of the tax we were paying each year,
10:59 38 and that is why there was that greyness area around whether the
10:59 39 VCGLR would notice or not notice, and so that's how I took it.
10:59 40
10:59 41 COMMISSIONER: Yes, but not fit in with their view: we're
10:59 42 talking about a note, leaving aside what you make of the note, it
10:59 43 may be your colour on it, maybe not, but there was a note in
10:59 44 2012.
10:59 45
10:59 46 A. Yes.
10:59 47

10:59 1 COMMISSIONER: Now we are 2021.
10:59 2
10:59 3 A. Yes.
10:59 4
10:59 5 COMMISSIONER: What didn't fit into their view that concerned
10:59 6 you?
10:59 7
10:59 8 A. Well, the fact that if you had put --- well, the comments
10:59 9 themselves and the fact that they were on a presentation when
10:59 10 senior people were there, if you are trying to establish a new way
11:00 11 forward, a culture of openness and transparency, this was
11:00 12 an example of historical way that was almost the polar opposite
11:00 13 of what they were asking us to do.
11:00 14
11:00 15 COMMISSIONER: This is nine years old?
11:00 16
11:00 17 A. Yes, that's right.
11:00 18
11:00 19 COMMISSIONER: Good. And nine years old, there was
11:00 20 a comment in a document that said that maybe the VCGLR or
11:00 21 whoever the predecessor was won't notice?
11:00 22
11:00 23 A. Yes, yes, Commissioner.
11:00 24
11:00 25 COMMISSIONER: Did you trawl through all Crown documents
11:00 26 to see whether there were any other comments that might be
11:00 27 misconstrued or put you in a bad light? I don't understand "meet
11:00 28 their view", meet their present view around how things should go
11:00 29 going forward.
11:00 30
11:00 31 A. They were trying to establish a high standard. This
11:00 32 certainly didn't even make, not even a reasonable standard in my
11:00 33 opinion of where we were trying to project ourselves going
11:01 34 forward. If, for example, this document surfaced, which it
11:01 35 obviously has ---
11:01 36
11:01 37 COMMISSIONER: The tax issue surfaced?
11:01 38
11:01 39 A. Yes, particularly the words ---
11:01 40
11:01 41 COMMISSIONER: The tax issue surfaced and then all the
11:01 42 records relating to the tax issue came up ---
11:01 43
11:01 44 A. (Nods head).
11:01 45
11:01 46 COMMISSIONER: --- then there would be a spot of bother.
11:01 47

11:01 1 A. Exactly, Commissioner.
11:01 2
11:01 3 COMMISSIONER: Is that what you told them? Did you tell
11:01 4 them if the tax issue comes up and somebody gets to look at all
11:01 5 the documents we will look bad?
11:01 6
11:01 7 A. No, I don't think I spoke specifically to the tax issue, it was
11:01 8 more around if we are talking about things that culturally in the
11:01 9 past we are trying to alter going forward, not disclosing to the
11:01 10 VCGLR was --- as I say, it was a matter that just residually
11:01 11 bothered me, and when they are asking us for anything that
11:01 12 makes you feel uncomfortable, then ---
11:01 13
11:01 14 COMMISSIONER: If it bothered you, why didn't you do
11:01 15 something about it from 2018? Didn't bother you that much?
11:01 16
11:02 17 A. Well ---
11:02 18
11:02 19 COMMISSIONER: It couldn't have bothered you that much
11:02 20 because you did nothing.
11:02 21
11:02 22 A. No, that's right, Commissioner. We took comfort from that.
11:02 23 I mean, thought maybe I'm jumping at shadows because the
11:02 24 VCGLR had gone through it in an enormous amount of detail and
11:02 25 not asked any further questions. So I thought, well, despite the
11:02 26 fact that we --- when this initiative was launched, it wasn't done
11:02 27 with transparency and candour, obviously my take ---
11:02 28
11:02 29 COMMISSIONER: I was asking you ---
11:02 30
11:02 31 A. I beg your pardon.
11:02 32
11:02 33 COMMISSIONER: --- about your observation that it troubled
11:02 34 you.
11:02 35
11:02 36 A. Yes.
11:02 37
11:02 38 COMMISSIONER: I'm trying to come to grips with an issue that
11:02 39 was troubled you, which was concealing something from the
11:02 40 regulator, and you are a senior executive in the organisation. I'm
11:02 41 trying to come to grips with why you did nothing from 2018.
11:02 42 Three years.
11:02 43
11:02 44 A. No, no, that's a fair question ---
11:03 45
11:03 46 COMMISSIONER: And I need an answer to the question.
11:03 47

11:03 1 A. I took comfort that those more senior than me were aware
11:03 2 of it.
11:03 3
11:03 4 COMMISSIONER: There were not many people more senior to
11:03 5 you in the organisation in Melbourne.
11:03 6
11:03 7 A. No, that's correct.
11:03 8
11:03 9 COMMISSIONER: And you didn't say to the directors, "We
11:03 10 have an issue which we should come clean about", did you?
11:03 11
11:03 12 A. I didn't talk to the directors about it.
11:03 13
11:03 14 COMMISSIONER: Even though you were troubled about it?
11:03 15
11:03 16 A. No, only the executive directors, Commissioner.
11:03 17
11:03 18 COMMISSIONER: We'll have a break.
11:03 19
11:03 20 MR FINANZIO: I have a few questions and that would be
11:03 21 a convenient time to take a break, if that's okay.
11:03 22
11:03 23 You just said it troubled you from that period. When you went to
11:03 24 the meeting with your lawyers, you hadn't gathered together the
11:03 25 documents including the previous legal advices on the issue; had
11:03 26 you?
11:03 27
11:03 28 A. On the 18th, are you talking about?
11:03 29
11:03 30 Q. On the 18th, correct?
11:03 31
11:03 32 A. Yes, we had. We provided a folder with all the advices.
11:03 33
11:03 34 Q. Not at the meeting?
11:03 35
11:03 36 A. Sorry, the next day, I beg your pardon. It was the folders
11:04 37 provided on the 19th.
11:04 38
11:04 39 Q. You went to the meeting about this issue without the
11:04 40 documents?
11:04 41
11:04 42 A. No, but I was familiar with the documents.
11:04 43
11:04 44 Q. You met on the 1st with your own internal lawyers?
11:04 45
11:04 46 A. Yes.
11:04 47

11:04 1 Q. You also had the possibility of the --- you also had the
11:04 2 calculation of the possible tax liability?
11:04 3
11:04 4 A. Yes.
11:04 5
11:04 6 Q. You described the nature of the issue to your lawyers on the
11:04 7 18th verbally only, correct?
11:04 8
11:04 9 A. Yes.
11:04 10
11:04 11 Q. It was a matter you had been receiving advice, that is
11:04 12 Crown had been receiving advice about, since 2012?
11:04 13
11:04 14 A. Yes.
11:04 15
11:04 16 Q. Including from some of the most pre-eminent legal advisors
11:04 17 in the country?
11:04 18
11:04 19 A. Are you referring to MinterEllison?
11:04 20
11:04 21 Q. Well, among them.
11:04 22
11:04 23 A. Right.
11:04 24
11:04 25 Q. None of the advice you had received up to the meeting with
11:04 26 Allens on 18 March ---
11:04 27
11:04 28 COMMISSIONER: I think you are going to get in trouble now.
11:04 29
11:04 30 I saw you, Dr Button.
11:05 31
11:05 32 MR FINANZIO: All right, let's pause there.
11:05 33
11:05 34 COMMISSIONER: We'll adjourn for 15 minutes.
11:05 35
11:05 36
11:05 37 **ADJOURNED** [11.05AM]
11:21 38
11:21 39
11:21 40 **RESUMED** [11.21AM]
11:21 41
11:21 42
11:21 43 COMMISSIONER: Thank you.
11:21 44
11:21 45 MR FINANZIO: I want to come to the 2012 documents that you
11:21 46 were referring to before we broke. It is true that in or about 2012
11:22 47 Crown commenced deducting hotel, car parking and dining

11:22 1 expenses associated with the loyalty program; right? That's the
11:22 2 issue?
11:22 3
11:22 4 A. I think it was from around early July?
11:22 5
11:22 6 Q. In that year?
11:22 7
11:22 8 A. Early July 2012.
11:22 9
11:22 10 Q. For the purpose of calculating the gaming revenue?
11:22 11
11:22 12 A. Yes.
11:22 13
11:22 14 Q. And between that time and at least until June 2018, Crown
11:22 15 intentionally concealed the deductions from the regulator; didn't
11:22 16 it?
11:22 17
11:22 18 A. I wouldn't say they concealed the deductions, Mr Finanzio,
11:22 19 but they certainly weren't candid in terms of highlighting them.
11:22 20
11:22 21 Q. They knew the deductions weren't appropriate, but they
11:23 22 were hoping that the VCGLR wouldn't know about it or wouldn't
11:23 23 discover it?
11:23 24
11:23 25 A. That's what the words on that presentation indicated, and
11:23 26 the way the revenue is reported, it falls into a single column. So
11:23 27 as expressed on the presentation, it might not be noticed because
11:23 28 of the quantum.
11:23 29
11:23 30 COMMISSIONER: The single column is the jackpot column?
11:23 31
11:23 32 A. Yes, Commissioner.
11:23 33
11:23 34 COMMISSIONER: And none of these things are jackpots?
11:23 35
11:23 36 A. Well, they are called bonus jackpots. I wasn't aware of that
11:23 37 term either. They are not jackpots in terms of a machine-driven
11:23 38 jackpot or a system-driven jackpot which I'm more familiar
11:23 39 with --
11:23 40
11:23 41 COMMISSIONER: Yes.
11:23 42
11:23 43 A. --- they are deductions for want --- and I don't understand
11:23 44 the history, but that is where they are categorised.
11:23 45
11:23 46 COMMISSIONER: I know that is where they are categorised,
11:23 47 but none of them are jackpots?

11:23 1
11:23 2 A. Not in the traditional sense, no.
11:24 3
11:24 4 MR FINANZIO: When you say not in the traditional sense, not
11:24 5 in any sense: they weren't winnings?
11:24 6
11:24 7 A. No, they were benefits that were awarded based on
11:24 8 machine play.
11:24 9
11:24 10 Q. Just to be clear because I want to tender these documents,
11:24 11 operator, can you go to CRW.512.139.0089.
11:24 12
11:24 13 Tab 4, Commissioner.
11:24 14
11:24 15 It's a memo to Mr Herring from the revenue audit manager; you
11:24 16 see that?
11:24 17
11:24 18 A. Yes.
11:24 19
11:24 20 Q. 22 March 2012. You've seen this memo before?
11:25 21
11:25 22 A. Yes, I have.
11:25 23
11:25 24 Q. When did you first see this memo?
11:25 25
11:25 26 A. I think it was around the time that I saw the presentation, so
11:25 27 that May/June period 2018.
11:25 28
11:25 29 A. Yes.
11:25 30
11:25 31 Q. So you've known since May 2018?
11:25 32
11:25 33 A. Yes.
11:25 34
11:25 35 Q. The same with the presentation which is dated March
11:25 36 2012?
11:25 37
11:25 38 A. That's correct.
11:25 39
11:25 40 Q. Can I draw your attention to the terms of it. There is some
11:25 41 preliminary discussion in the first few paragraphs, I will let you
11:25 42 read that to yourself. Then there is an estimate of the average
11:25 43 decrease in monthly tax revenue against the average decrease in
11:25 44 monthly tax payable and then there is this passage:
11:25 45
11:25 46 *Factoring in the refurbishment*
11:25 47

11:25 1 What refurbishment was that?
11:25 2
11:25 3 A. My recollection was around that time there was
11:26 4 a refurbishment of the casino floor and expansion of level 1 of the
11:26 5 casino.
11:26 6
11:26 7 Q. It says:
11:26 8
11:26 9 *Factoring in the refurbishment, economic environment,*
11:26 10 *impacts from negative publicity and the increase in*
11:26 11 *Gaming Machines Gaming Tax by 1.27 per cent in 1 July*
11:26 12 *2012, we are of the opinion that the proposed change will*
11:26 13 *not be noticed by the VCGLR.*
11:26 14
11:26 15 That was the statement that gave you some concern when you
11:26 16 read it?
11:26 17
11:26 18 A. Yes.
11:26 19
11:26 20 Q. When it says "won't be noticed", essentially it was being
11:26 21 concealed, wasn't it?
11:26 22
11:26 23 A. Yes, well, it was being implemented without being candid
11:26 24 with the regulator.
11:26 25
11:26 26 Q. Am I right that when you first saw that in 2018 that is
11:26 27 exactly how you read it, that Crown had altered its affairs in 2012
11:27 28 to conceit an unlawful deduction in the calculation of the gaming
11:27 29 tax?
11:27 30
11:27 31 A. As indicated in the memo, they weren't going to raise it
11:27 32 with the VCGLR, I'm not sure how they were going to handle it if
11:27 33 the VCGLR had noticed it, but it certainly wasn't going to be
11:27 34 raised with them.
11:27 35
11:27 36 COMMISSIONER: To be clear about this, look at the subject
11:27 37 matter on the top of the memo, and what the proposal is
11:27 38 classifying F&B promotional program as part of the bonus
11:27 39 jackpot?
11:27 40
11:27 41 A. Yes.
11:27 42
11:27 43 COMMISSIONER: It would be wrapped up in whatever might
11:27 44 properly have been described as a jackpot, so we will put food
11:27 45 and beverage expenses and categorise them as jackpot, and the
11:27 46 idea was, wasn't it, that once you categorise as jackpot, or bonus
11:27 47 jackpot, that's the reason it won't be noticed by the VCGLR

11:28 1 because they won't see food and beverage as a deduction, they
11:28 2 will see jackpot as a deduction.
11:28 3
11:28 4 A. I'm not --- I see what you are saying, Commissioner. The
11:28 5 food and beverage program existed before it was classified as
11:28 6 a bonus jackpot ---
11:28 7
11:28 8 COMMISSIONER: (Inaudible).
11:28 9
11:28 10 A. --- it was delivered in another way. I'm not a technical
11:28 11 person, but my understanding is the way the bonus jackpot
11:28 12 needed to be delivered, it was had to be delivered by the casino
11:28 13 management system which is a system called Dacom. Previously
11:28 14 the food and beverage program was delivered on the SYCO
11:28 15 system. I don't profess to understand the difference.
11:28 16
11:28 17 COMMISSIONER: That might all be 100 per cent true, but this
11:28 18 memo is not dealing with that topic at all. Tell me if I'm wrong,
11:28 19 this is applying plain English approach to the memorandum, it is
11:28 20 saying that we are going to classify a certain type of program,
11:29 21 food and beverage bonuses, or expenditure, it says classifying the
11:29 22 promotional program as part of bonus jackpots, and you deduct
11:29 23 bonus jackpots, and that won't be noticed by the VCGLR?
11:29 24
11:29 25 A. That's correct, and I think that is referred to in the first line
11:29 26 there where it was previously a promotional cost but then it was
11:29 27 taken as a deduction going forward.
11:29 28
11:29 29 COMMISSIONER: Yes. This kind of deception didn't worry
11:29 30 you enough in 2018 to do something about it?
11:29 31
11:29 32 A. Commissioner, you know, I've obviously thought about this
11:29 33 quite a lot ---
11:29 34
11:29 35 COMMISSIONER: Worse than that, this kind of deception was
11:29 36 known to many people in the organisation and it didn't seem to
11:29 37 trouble anybody, they were happy to go along with it, even those
11:29 38 who didn't instigate it, but those who became aware of it, for
11:29 39 example in 2018, although they were part of the instigators as
11:29 40 well, but nobody thought that this was so bad that it should be
11:30 41 raised with the regulator?
11:30 42
11:30 43 A. I think, Commissioner, if I can, too much comfort was put
11:30 44 on the fact that the VCGLR took a look at it around the same
11:30 45 time in 2018. It was June, I believe. They went through it and
11:30 46 said, "Okay, well, let's see what the VCGLR think about this."
11:30 47 The VCGLR took a look at it, didn't ask any further questions,

11:30 1 and great, we'll move on.
11:30 2
11:30 3 COMMISSIONER: You went along to the VCGLR and said this
11:30 4 is the background, this is what happened, this was what was
11:30 5 done, so they fully understand it, right?
11:30 6
11:30 7 A. No, I wasn't directly involved, Commissioner, but they
11:30 8 went through line by line what was in the bonus jackpot column,
11:30 9 and what made it up, including these deductions. As I say it is by
11:30 10 no means going and saying "Hi, we made this change and it
11:30 11 wasn't flagged with you at the time", but it was, once they had
11:30 12 gone through it in detail, we say, well, okay, look, the VCGLR
11:31 13 has had a look at it, they are obviously aware of it so we won't
11:31 14 say anything now for a matter that was done inappropriately six
11:31 15 years earlier.
11:31 16
11:31 17 COMMISSIONER: And carried through for six years. Don't just
11:31 18 say six years earlier, it was done month by month for six years?
11:31 19
11:31 20 A. That's correct, Commissioner, yes.
11:31 21
11:31 22 MR FINANZIO: The VCGLR took a look at it in May and June
11:31 23 2018; correct?
11:31 24
11:31 25 A. Yes, I think there were some earlier discussions with that,
11:31 26 but that is when it culminated in the email exchange.
11:31 27
11:31 28 Q. You've reviewed the email change, haven't you?
11:31 29
11:31 30 A. Yes, I have.
11:31 31
11:31 32 Q. The email exchange culminated the with VCGLR asking
11:31 33 questions about this issue in the middle of 2017?
11:31 34
11:31 35 A. That's correct.
11:31 36
11:31 37 Q. It wasn't addressed by Crown until the middle of 2018;
11:32 38 correct?
11:32 39
11:32 40 A. Yes, that's correct.
11:32 41
11:32 42 Q. When it was addressed by Crown, Crown was careful to
11:32 43 meticulously set out, as you said a minute ago, all the different
11:32 44 components that make up the bonus jackpot; correct?
11:32 45
11:32 46 A. Yes.
11:32 47

11:32 1 Q. Crown did not tell the VCGLR that bonus jackpot is a term
11:32 2 not used internally at Crown; correct?
11:32 3
11:32 4 A. No, but it is used internally ---
11:32 5
11:32 6 Q. It is used only for the purpose of counting the gaming tax?
11:32 7
11:32 8 A. No, as I mentioned a little earlier, it is on a range of reports
11:32 9 that come out, financial reports that come out because it is
11:32 10 essentially a promotional item and it affects how we are looking
11:32 11 at the overall net hold of the gaming machine product. So you
11:32 12 can look at the whole pre and post-bonus jackpots.
11:32 13
11:33 14 Q. It is right, isn't it, that after the VCGLR looked at it in June
11:33 15 2018 you, along with others at Crown, were still concerned about
11:33 16 whether or not the deduction was lawful; correct?
11:33 17
11:33 18 A. I took comfort from the 2018 exchange. Where I had my
11:33 19 concerns raised again was when we had, and I'm not sure what
11:33 20 prompted it, legal advice that then quizzed it.
11:33 21
11:33 22 Q. Advice was sought after the 2018 exchange with the
11:33 23 VCGLR; wasn't it?
11:33 24
11:33 25 A. That's correct.
11:33 26
11:33 27 Q. Advice was sought specifically for the purpose of looking
11:33 28 at this question?
11:33 29
11:33 30 A. Yes.
11:33 31
11:33 32 Q. So Crown couldn't have taken much comfort from the fact
11:34 33 that the VCGLR had formed the view --- that VCGLR hadn't
11:34 34 taken the matter any further could it?
11:34 35
11:34 36 A. As I mention, I don't understand why we asked for the
11:34 37 advice, but we did, so obviously there was a concern by ---
11:34 38
11:34 39 COMMISSIONER: Who is the "we"? Who actually asked for
11:34 40 the advice?
11:34 41
11:34 42 A. I believe Mr Preston asked for the advice.
11:34 43
11:34 44 COMMISSIONER: The Chief Legal Officer?
11:34 45
11:34 46 A. Yes, that's correct.
11:34 47

11:34 1 MR FINANZIO: And by the time --- you were aware of the
11:34 2 advice that had been sought in 2021; weren't you?
11:34 3
11:34 4 A. The most recent advice?
11:34 5
11:34 6 Q. No, pardon me. Go back a step. I withdraw all of that and
11:34 7 go again.
11:34 8
11:34 9 A. Okay.
11:34 10
11:34 11 Q. In 2019, further advice was sought in relation to the same
11:34 12 issue?
11:34 13
11:34 14 A. Yes, that was specific to the technical requirement
11:34 15 document.
11:34 16
11:35 17 Q. When you say "specific to the technical requirement
11:35 18 document", there was --- the advice that was sought was still
11:35 19 concerned with the deductibility of these amounts; correct?
11:35 20
11:35 21 A. It did talk to it, yes.
11:35 22
11:35 23 Q. When you say it "did talk to it", it was specifically
11:35 24 concerned with it?
11:35 25
11:35 26 A. Yes, but as I mentioned, the reason the second advice was
11:35 27 sought, as I understand, was because of the work on the technical
11:35 28 requirement document and what effect that might have had on the
11:35 29 approvals and so forth.
11:35 30
11:35 31 Q. At the time there was a proposed change to the technical
11:35 32 requirements document?
11:35 33
11:35 34 A. Yes.
11:35 35
11:35 36 Q. And this is in September 2019?
11:35 37
11:35 38 A. I think the work on the technical requirement document
11:35 39 started earlier in the year.
11:35 40
11:35 41 Q. But at the time advice was sought, the technical
11:36 42 requirements document hadn't been approved?
11:36 43
11:36 44 A. No.
11:36 45
11:36 46 Q. And the business, including you, were interested to know
11:36 47 whether the technical requirements document would change the

11:36 1 position; correct?
11:36 2
11:36 3 A. Yes.
11:36 4
11:36 5 Q. Whether or not the deductions would become more ---
11:36 6 whether or not the deductions would become appropriate?
11:36 7
11:36 8 A. Whether our position was improved, yes.
11:36 9
11:36 10 Q. Improved from a relatively poor position?
11:36 11
11:36 12 A. Well, improved from an uncertain condition.
11:36 13
11:36 14 DR BUTTON: Can I again --- my learned friend is asking
11:36 15 questions that stray into the content of the advice. He's able to do
11:36 16 that, but we need to take the appropriate course if he wishes to
11:36 17 question on those lines.
11:36 18
11:36 19 COMMISSIONER: Yes.
11:36 20
11:36 21 MR FINANZIO: The further advice was sought, wasn't it?
11:36 22
11:36 23 A. Yes.
11:36 24
11:36 25 Q. Further advice was sought in September 2020; wasn't it?
11:37 26
11:37 27 A. I don't recall further advice in 2020, Mr Finanzio.
11:37 28
11:37 29 Q. It is right, isn't it, that in 2019 when the further advice was
11:37 30 sought, you and Crown were still concerned that there was a
11:37 31 potential that the deductions were not appropriate?
11:37 32
11:37 33 A. Yes.
11:37 34
11:37 35 Q. And you were aware of that then?
11:37 36
11:37 37 A. Yes.
11:37 38
11:38 39 Q. On 17 September 2020, Chris Reilly called a meeting,
11:38 40 didn't he?
11:38 41
11:38 42 A. Yes.
11:38 43
11:38 44 Q. The purpose was to discuss, among other things, historical
11:38 45 tax and regulatory matters; correct?
11:38 46
11:38 47 A. Yes, I believe so.

11:38 1
11:38 2 Q. He sent an email, and I will just go to it.
11:38 3
11:38 4 It is tab 19, Commissioner.
11:38 5
11:38 6 Q. It says from Mr Reilly --- CRW.512.147.1275. A meeting
11:39 7 was called by him on 17 September.
11:39 8
11:39 9 A. Yes.
11:39 10
11:39 11 Q. In circumstances where a productive meeting had been had
11:39 12 with the Victorian Department of Treasury and Finance over the
11:39 13 GST judgment:
11:39 14
11:39 15 *We are meeting in a few weeks to discuss further.*
11:39 16
11:39 17 *Can we have a chat next week to go through some*
11:39 18 *outstanding and historical tax and regulatory matters to*
11:39 19 *pull together a finalised list.*
11:39 20
11:39 21 Now, one of the issues discussed at that meeting was the bonus
11:39 22 jackpot program historical tax issue; wasn't it?
11:39 23
11:39 24 A. Yes.
11:39 25
11:40 26 Q. If I just take you to tab 20, Commissioner, that's an email
11:40 27 from Ms Fielding to you --- sorry, CRW.563.003.9164:
11:40 28
11:41 29 *For tomorrow's meeting. There is no need to review the*
11:41 30 *previous advice, as the essential elements are repeated in*
11:41 31 *this updated version.*
11:41 32
11:41 33 You see that?
11:41 34
11:41 35 A. Yes.
11:41 36
11:41 37 Q. That was concerning the bonus jackpot issue; correct?
11:41 38
11:41 39 A. Yes.
11:41 40
11:41 41 Q. So that at that meeting everybody was coming along with
11:41 42 an understanding of what the issue was?
11:41 43
11:41 44 A. Yes.
11:41 45
11:41 46 Q. The meeting took place on 22 September; didn't it?
11:41 47

11:41 1 A. I believe that's correct.
11:41 2
11:41 3 Q. Present at the meeting were Chris Reilly; correct?
11:41 4
11:41 5 A. Yes.
11:41 6
11:41 7 Q. Mr Barton?
11:41 8
11:41 9 A. Yes.
11:41 10
11:41 11 Q. Mr McGregor?
11:41 12
11:41 13 A. Yes.
11:41 14
11:41 15 Q. Mr Felstead, Mr Preston?
11:41 16
11:41 17 A. Yes.
11:41 18
11:41 19 Q. Mr Salomone?
11:41 20
11:41 21 A. I don't recall John, but he might have been there. I don't
11:41 22 recall exactly.
11:41 23
11:41 24 Q. Ms Fielding?
11:41 25
11:41 26 A. Ms Fielding, I believe, was there.
11:41 27
11:41 28 Q. Mr Herring?
11:41 29
11:41 30 A. Mr Herring would have been there, yes.
11:41 31
11:41 32 Q. And Mr Young?
11:41 33
11:42 34 A. Yes, if that's what the records show. I'm
11:42 35
11:42 36 Q. Yes. There was discussion at that meeting about the bonus
11:42 37 jackpot program, wasn't there?
11:42 38
11:42 39 A. Yes. The question whether the bonus jackpot were
11:42 40 deductible at all was raised?
11:42 41
11:42 42 A. Yes.
11:42 43
11:42 44 Q. In the sense that they might not be deductible at all?
11:42 45
11:42 46 A. Yes, well, it was a residual issue. So if we are looking at
11:42 47 historical tax matters in an environment of, well, what are all the

11:42 1 different elements that we need to talk about that there is either
11:42 2 clarity required or, you know, we need to land on a firm position,
11:42 3 yes.

11:42 4
11:42 5 Q. At the very least in that meeting there was a discussion
11:42 6 about --- there was a discussion that centred around the
11:42 7 possibility that those deductions were not permissible; correct?

11:43 8
11:43 9 A. Yes, if they weren't deductible, and Mr Barton had a view
11:43 10 that perhaps we'd taken too narrow a view to what was winnings,
11:43 11 and there had been various advices sought by the casino over the
11:43 12 years, he was looking to wrap them all up in one discussion.

11:43 13
11:43 14 Q. And this was a matter about which there had been
11:43 15 a residual concern, at least in your mind, since 2018?

11:43 16
11:43 17 A. Yes.

11:43 18
11:43 19 Q. And no definitive advice had been obtained between 2018
11:43 20 and this meeting?

11:43 21
11:43 22 A. No, that's correct.

11:43 23
11:43 24 Q. But everybody at the meeting understood that there was
11:43 25 a residual risk; correct?

11:43 26
11:43 27 A. I believe if they weren't before the meeting, then they were
11:43 28 once we had the meeting.

11:43 29
11:43 30 Q. This is only September last year?

11:43 31
11:43 32 A. Yes.

11:43 33
11:43 34 Q. Just before you became CEO?

11:43 35
11:43 36 A. Yes.

11:43 37
11:43 38 Q. No one at the meeting said there was no risk, correct?

11:43 39
11:44 40 A. I don't believe so, there were differing degrees of concern,
11:44 41 but yes.

11:44 42
11:44 43 Q. Differing degrees of how much risk people might be
11:44 44 prepared to take for the issue to remain a latent issue?

11:44 45
11:44 46 A. Differing views on whether we needed approval or didn't,
11:44 47 differing views on how much comfort to take from the fact that

11:44 1 the VCGLR had looked at it. Obviously we've got the various
11:44 2 pieces of advices which were spoken to that didn't really resolve
11:44 3 the issue one way or the other, so, yes.

11:44 4

11:44 5 Q. Many of the people at that meeting in September 2020 were
11:44 6 the same people in your meeting on 1 March this year; weren't
11:44 7 they?

11:44 8

11:44 9 A. Yes, there were a couple of different ---

11:44 10

11:44 11 Q. Mr Reilly was there?

11:44 12

11:44 13 A. Yes.

11:44 14

11:44 15 Q. Ms Fielding was there?

11:44 16

11:44 17 A. Yes.

11:44 18

11:44 19 Q. Mr Herring?

11:44 20

11:44 21 A. Yes.

11:44 22

11:44 23 Q. Mr Salomone?

11:44 24

11:44 25 A. Yes.

11:44 26

11:44 27 Q. And you?

11:44 28

11:44 29 A. Yes.

11:44 30

11:44 31 Q. At that meeting in September 2020, there were no external
11:45 32 lawyers present? I don't believe so, not from the names you've
11:45 33 just read out.

11:45 34

11:45 35 Q. Everyone was alive ---

11:45 36

11:45 37 A. Sorry, Mr Finanzio, did you say no external lawyers?

11:45 38

11:45 39 Q. No external lawyers.

11:45 40

11:45 41 A. Okay, yes.

11:45 42

11:45 43 Q. The conclusion of the matter was that the matter remained
11:45 44 unresolved?

11:45 45

11:45 46 A. Yes. There was a discussion that Mr Barton was having
11:45 47 with the Department of Treasury and Finance around the GST

11:45 1 matter, a view that we would wrap up all the historical tax
11:45 2 matters, including poker tax and this one, in a single agreement
11:45 3 and determine it one way or another.

11:45 4

11:45 5 Q. When you say "in a single agreement", for the first time
11:45 6 disclose to the regulator and the Government that the tax hadn't
11:45 7 been paid, and offset it against whatever the GST outcome might
11:45 8 be?

11:45 9

11:45 10 A. If the tax was payable, yes.

11:45 11

11:46 12 COMMISSIONER: I'm puzzled why you keep on referring to it
11:46 13 as a past event, a historical. This was ongoing. There is nothing
11:46 14 historical about it. You have not been paying your tax arguably
11:46 15 for a very long time, but this was still an ongoing deduction.

11:46 16

11:46 17 A. That's ---

11:46 18

11:46 19 COMMISSIONER: I believe there was nothing historical about
11:46 20 it at all. I don't understand why you keep on putting it into the
11:46 21 context of "This is a thing of the past" when in fact it is a thing of
11:46 22 the present.

11:46 23

11:46 24 A. There was ongoing --- yes.

11:46 25

11:46 26 COMMISSIONER: I know what it was, but I'm troubled by you
11:46 27 keeping on dealing with it as if it is historical and doesn't affect
11:46 28 the then-2020 present. It doesn't make sense to me.

11:46 29

11:46 30 A. Sure, maybe I'm not choosing my words carefully enough.

11:46 31 So

11:46 32

11:46 33 COMMISSIONER: Or maybe you are being quite accurate and
11:46 34 that is your attitude.

11:46 35

11:46 36 A. Commissioner, it was a matter that, once I was given the
11:47 37 opportunity to raise, I did raise. You know, I've thought about
11:47 38 what I could have, should have and didn't do, but

11:47 39

11:47 40 MR FINANZIO: You were the C ---

11:47 41

11:47 42 COMMISSIONER: That is something at the heart of what we are
11:47 43 doing here ---

11:47 44

11:47 45 A. Yes.

11:47 46

11:47 47 COMMISSIONER: --- working out what you should have done,

11:47 1 why you didn't do it, and what it tells everybody about what you
11:47 2 might do tomorrow.

11:47 3

11:47 4 A. Yes, I understand.

11:47 5

11:47 6 MR FINANZIO: You became the CEO only a short time after
11:47 7 this?

11:47 8

11:47 9 A. Yes.

11:47 10

11:47 11 Q. At that point you had the power and authority to bring this
11:47 12 matter to light?

11:47 13

11:47 14 A. Yes, I could have. There were those more senior than me
11:47 15 that were still in a position of authority that were aware of these
11:47 16 issues.

11:47 17

11:47 18 Q. You were the CEO of Crown Melbourne.

11:47 19

11:47 20 A. Yes.

11:47 21

11:47 22 Q. Did you report it to the Board?

11:47 23

11:47 24 A. No, I didn't. I didn't go to the Board.

11:47 25

11:47 26 Q. The board meetings of Crown Melbourne?

11:47 27

11:47 28 A. I did go the Board meetings of Crown Melbourne as
11:48 29 an invitee, but I reported directly to an executive director and the
11:48 30 then CEO of the company, who was also an executive director of
11:48 31 Crown Melbourne.

11:48 32

11:48 33 Q. Did you report it to them?

11:48 34

11:48 35 A. Yes.

11:48 36

11:48 37 Q. Did you say at any time "We should go to the VCGLR and
11:48 38 disclose this"?

11:48 39

11:48 40 A. No, I don't believe I did.

11:48 41

11:48 42 Q. Did you say "We should actually get definitive legal advice
11:48 43 about this matter now"?

11:48 44

11:48 45 A. Well, that's what I was hoping we would get from the
11:48 46 advices we had. But we hadn't landed on that.

11:48 47

11:48 1 Q. You said the advices you had were equivocal?
11:48 2
11:48 3 A. Yes.
11:48 4
11:48 5 Q. That you didn't understand them?
11:48 6
11:48 7 A. That's correct.
11:48 8
11:48 9 Q. So didn't you think it was appropriate to seek definitive
11:48 10 legal advice about the matter, at the very latest the moment you
11:48 11 became CEO?
11:48 12
11:48 13 A. That would have been a course of action I could have
11:49 14 taken, Mr Finanzio.
11:49 15
11:49 16 Q. You ---
11:49 17
11:49 18 COMMISSIONER: I think the way it is being put to you is it the
11:49 19 course of action you should have taken --- (overspeaking) ---
11:49 20
11:49 21 A. Should --- yes. That's fair, Commissioner.
11:49 22
11:49 23 MR FINANZIO: It is true that you were concerned about this
11:49 24 issue in September 2020?
11:49 25
11:49 26 A. Yes.
11:49 27
11:49 28 Q. For no reason less than you had seen the correspondence
11:49 29 and the minute or the presentation from 2012 which made it
11:49 30 abundantly clear that Crown was intending to conceal it; correct?
11:49 31
11:49 32 A. Yes, but ---
11:49 33
11:49 34 Q. That made you uncomfortable?
11:49 35
11:49 36 A. It did make me uncomfortable. As I say, I probably took
11:49 37 too much comfort from the fact that the VCGLR looked at it in
11:49 38 2018 and understanding that that doesn't necessarily make the ---
11:49 39 and without no disrespect to the VCGLR, they are not necessarily
11:49 40 the arbiter of whether it is deductible or not, but I probably took
11:50 41 too much comfort from the fact that they did look at it.
11:50 42
11:50 43 Q. But you didn't take comfort, did you? Further advice was
11:50 44 taken in 2019, wasn't it?
11:50 45
11:50 46 A. Yes, but I didn't ask for that advice, but it was still
11:50 47 unresolved.

11:50 1
11:50 2 Q. And you were still talking about it in September 2020?
11:50 3
11:50 4 A. Yes.
11:50 5
11:50 6 Q. You weren't comfortable with the fact that the VCGLR
11:50 7 hadn't picked it up.
11:50 8
11:50 9 A. No, we didn't have a definitive position, no.
11:50 10
11:50 11 Q. So when you say that you took comfort, what comfort did
11:50 12 you take?
11:50 13
11:50 14 A. Certainly if the VCGLR in 2018 had put their hand up and
11:50 15 said, "I don't know what you are doing here", that would have
11:50 16 been a different path. I'm not casting ---
11:50 17
11:50 18 Q. You relied on the VCGLR picking up your concealment?
11:50 19
11:50 20 A. Well, picking up, we explained exactly what the deductions
11:50 21 were line by line.
11:50 22
11:50 23 COMMISSIONER: Did anybody in the organisation at all, up
11:50 24 until the end of 2020, say, around the time of the September
11:50 25 meeting, before or after the September meeting, did anybody say,
11:51 26 "Why don't we go to the VCGLR and just explain what happens,
11:51 27 why we've done it, how it works and try and sort it out"; ie, come
11:51 28 clean?
11:51 29
11:51 30 A. No, Commissioner, not that I recall.
11:51 31
11:51 32 COMMISSIONER: What does it tell you about the organisation?
11:51 33
11:51 34 A. I think that's --- it says that our culture was poor, and I
11:51 35 know this is only a short time ago, but there has been enormous
11:51 36 change in personnel both at the management level and the Board
11:51 37 since this time. But it wasn't good enough.
11:51 38
11:51 39 MR FINANZIO: I want to come back now to the meeting with
11:51 40 your lawyers earlier this year on 18 March.
11:51 41
11:51 42 A. Yes.
11:51 43
11:51 44 Q. At that meeting you did not tell Mr Maher that from 2012,
11:51 45 a conscious decision was made not to disclose this matter to the
11:51 46 regulator; that's right, isn't it?
11:51 47

11:52 1 A. I don't believe that's true.
11:52 2
11:52 3 Q. You don't believe that's true?
11:52 4
11:52 5 A. No.
11:52 6
11:52 7 Q. You say you did tell Mr Maher that a conscious decision
11:52 8 was made to disclose it to the regulator?
11:52 9
11:52 10 A. I certainly explained it as --- my concern was raised by the
11:52 11 words in the presentation meant that the change was going to be
11:52 12 implemented without being candid with the regulator.
11:52 13
11:52 14 Q. Did you tell him, in terms, that a conscious decision had
11:52 15 been made by the VCGLR ---
11:52 16
11:52 17 COMMISSIONER: Not the VCGLR ---
11:52 18
11:52 19 MR FINANZIO: --- not the VCGLR, by Crown, not to disclose
11:52 20 this matter?
11:52 21
11:52 22 A. I told him that the matter had been implemented without ---
11:52 23 with the reference to the words on that presentation so that the
11:52 24 VCGLR wouldn't be aware at the time the change was made.
11:52 25
11:52 26 Q. Did you tell Mr Maher that Crown's intention was to
11:52 27 conceal it?
11:52 28
11:52 29 A. I don't believe I used the word "conceal".
11:52 30
11:53 31 Q. You told Mr Maher that the impression that could be
11:53 32 formed is that Crown cheated on its taxes; is that right?
11:53 33
11:53 34 A. There could be a perception that we did cheat on our taxes,
11:53 35 was essentially what I was saying. If this program is not
11:53 36 legitimately approved and then therefore, the consequences that
11:53 37 flow from that could be that it's not deductible, then the
11:53 38 perception could be that we cheated on our taxes.
11:53 39
11:53 40 Q. You didn't tell him that you had cheated on your taxes?
11:53 41
11:53 42 A. No.
11:53 43
11:53 44 Q. Do you sit here now and say that you honestly believe that
11:53 45 Crown did not cheat on its taxes?
11:53 46
11:53 47 A. We have --- certainly we have advice and I don't know that

11:53 1 I'm allowed to speak to it.
11:53 2
11:53 3 COMMISSIONER: No.
11:53 4
11:53 5 A. But I --- as I say, the matter was unresolved, Mr Finanzio,
11:54 6 hence why I was raising it.
11:54 7
11:54 8 Q. I'm asking you whether you believe that Crown has not
11:54 9 cheated on its taxes.
11:54 10
11:54 11 A. I think there is a potential that we have. I don't know
11:54 12 definitively "yes" or "no", whether we have or haven't, that's a

11:54 13
11:54 14 Q. You didn't tell Mr Maher in clear terms that you had --- you
11:54 15 gave Mr Maher no indication of the substance of advice that had
11:54 16 been received?
11:54 17
11:54 18 A. No. I would have just said it was equivocal, it wasn't clear.
11:54 19
11:54 20 Q. You didn't tell Mr Maher that the advice sought in 2018
11:55 21 was because the regulator was digging around; did you?
11:55 22
11:55 23 A. I didn't know why the advice was sought in 2018,
11:55 24 Mr Finanzio.
11:55 25
11:55 26 Q. You'd read the advices, didn't you?
11:55 27
11:55 28 A. I received the 2018 advice, I think, in December.
11:55 29
11:55 30 Q. December when?
11:55 31
11:55 32 A. 2018.
11:55 33
11:55 34 Q. So you say you didn't know why that advice has been
11:55 35 sought?
11:55 36
11:55 37 A. No.
11:55 38
11:55 39 Q. And from December 2018 all the way up to your meeting
11:55 40 with Mr Maher on 18 March, you say that "I don't know why that
11:55 41 advice was sought"?
11:55 42
11:55 43 A. I can make an assumption why it was sought, which was
11:55 44 there was concern by the Chief Legal Officer at least that we
11:55 45 weren't on solid ground.
11:55 46
11:55 47 Q. Did you tell Mr Maher that?

11:55 1
11:55 2 A. Look, I don't recall the words verbatim, Mr Finanzio, of
11:55 3 what we discussed. The point of the meeting was to flag the issue
11:56 4 with our lawyers.
11:56 5
11:56 6 Q. You did not tell Mr Maher that Ms Coonan and you had
11:56 7 discussed the matter within 24 hours of the Commission being
11:56 8 announced?
11:56 9
11:56 10 A. No, I think I did raise the fact that I had spoken to
11:56 11 Ms Coonan and the other directors.
11:56 12
11:56 13 Q. Really?
11:56 14
11:56 15 A. Well, that's my recollection. There would be no reason not
11:56 16 to tell him.
11:56 17
11:56 18 Q. These are the communications you had with the other
11:56 19 directors that you told us about earlier this morning?
11:56 20
11:56 21 A. Yes.
11:56 22
11:56 23 Q. You didn't tell Mr Maher that following the meeting that
11:56 24 you had with Mr Coonan, you asked Mr Mackay to prepare the
11:56 25 spreadsheet?
11:56 26
11:56 27 A. No, I did not, no. I don't think ---
11:56 28
11:56 29 Q. You didn't even bring the spreadsheet?
11:56 30
11:56 31 A. No, that's correct. I just told him ---
11:56 32
11:56 33 Q. You didn't tell Mr Maher that the purpose of Mr Mackay's
11:56 34 spreadsheet was to calculate Crown's potential exposure as you
11:56 35 understood it; correct?
11:57 36
11:57 37 A. No, but I did mention in the meeting what I thought, if we
11:57 38 were wrong, and we were claiming deductions we shouldn't, I
11:57 39 gave him a bit of an estimate what I thought the exposure might
11:57 40 be.
11:57 41
11:57 42 Q. You didn't tell Mr Maher about relevant advice you had
11:57 43 received in relation to the meaning of winnings?
11:57 44
11:57 45 A. No.
11:57 46
11:57 47 Q. As far back as 2014?

11:57 1
11:57 2 A. That's correct. I don't have a copy of that advice. I have
11:57 3 seen it but

11:57 4
11:57 5 Q. You didn't tell Mr Maher about the potential exposure in
11:57 6 respect of Welcome Back and Matchplay?
11:57 7

11:57 8 A. I didn't consider we did have an exposure, so, no.
11:57 9

11:57 10 Q. So you were comfortable in relation to those matters were
11:57 11 you?
11:57 12

11:57 13 A. Yes, very.
11:57 14

11:57 15 Q. You didn't tell Mr Maher that the casino does not make
11:58 16 deductions --- does not make the deductions in respect of table
11:58 17 games?
11:58 18

11:58 19 A. I didn't because that is very different.
11:58 20

11:58 21 Q. How is it different?
11:58 22

11:58 23 A. The calculations are different, Mr Finanzio. And the other
11:58 24 difference is that all table game vouchers have to be redeemable
11:58 25 for cash. So essentially it is cash. So when it goes down the drop
11:58 26 box, which is at the table, it is --- you are giving somebody cash.
11:58 27 Somebody could take that voucher, get a chip, walk back to the
11:58 28 cage and cash it in. You can't do that with pokie credits.
11:58 29

11:58 30 COMMISSIONER: That's not right, is it? You can't do it
11:58 31 because you convert them to pokie credits, but when I get the
11:58 32 bonus, which is given a dollar value, 100 points per dollar or
11:58 33 something like that, I can go and use that voucher, and I can go to
11:59 34 Louis Vuitton and buy a \$10,000 bag ---
11:59 35

11:59 36 A. Commissioner, if I can explain ---
11:59 37

11:59 38 COMMISSIONER: --- (overspeaking) --- dozen other stores in
11:59 39 the city, or more, actually, many, many stores, and spend the
11:59 40 money as I would using a credit card or cash from the bank?
11:59 41

11:59 42 A. Commissioner, the points that you earn, the Crown reward
11:59 43 points can be used, as you say, for gaming machine play, they can
11:59 44 be used for table game play, and they can be used for food and
11:59 45 beverage or retail.
11:59 46

11:59 47 COMMISSIONER: Not only that, but the point of what I'm

11:59 1 making is they can be used not only at Crown, but in stores at
11:59 2 Crown or shops, whatever you call them ---
11:59 3
11:59 4 A. Yes.
11:59 5
11:59 6 COMMISSIONER: --- retail outlets at Crown, that don't belong
11:59 7 to Crown and aren't operated by Crown?
11:59 8
11:59 9 A. Yes, you can.
11:59 10
11:59 11 COMMISSIONER: And they can be spent at retail outlets in
11:59 12 other major stores in the city?
11:59 13
11:59 14 A. I don't think off the property you can.
12:00 15
12:00 16 COMMISSIONER: You might want to define off the property as
12:00 17 well. Read the documentation.
12:00 18
12:00 19 A. Okay.
12:00 20
12:00 21 COMMISSIONER: From my point of view, if I have the points
12:00 22 and I can go to Louis Vuitton, which is one of the stores and
12:00 23 spend the point and get a \$10,000 suitcase, for me that is cash.
12:00 24
12:00 25 A. Yes, but it's not a deduction.
12:00 26
12:00 27 COMMISSIONER: You say it shouldn't go in the top line. That
12:00 28 is, if I make a choice of spending my money at Louis Vuitton or
12:00 29 spending with Crown, when I decide to spend it with Crown,
12:00 30 these amounts at up to \$144 million, in one of Mr Mackay's
12:00 31 spreadsheets I see that ---
12:00 32
12:00 33 A. Okay.
12:00 34
12:00 35 COMMISSIONER: --- out of \$144 million of money or
12:00 36 vouchers that I could spend around the city or give to Crown, my
12:00 37 choice, the customer's choice, the patron's choice, that is not
12:00 38 a receipt. Do you know anybody else who would treat that note
12:00 39 as a receipt? That is \$144 million.
12:00 40
12:01 41 A. Yes.
12:01 42
12:01 43 COMMISSIONER: Roughly.
12:01 44
12:01 45 A. Yes, I take your point. I'm just simply making the
12:01 46 distinction on a table game voucher is you can get physical cash.
12:01 47

12:01 1 COMMISSIONER: The other is like a negotiable instrument,
12:01 2 I can trade it in store after store after store in and around the city
12:01 3 of Melbourne.

12:01 4
12:01 5 A. Yes.

12:01 6
12:01 7 COMMISSIONER: That's as good as cash, isn't it?

12:01 8
12:01 9 A. Okay.

12:01 10
12:01 11 COMMISSIONER: You have to say yes to that.

12:01 12
12:01 13 A. Yes, yes, yes.

12:01 14
12:01 15 COMMISSIONER: Fair enough.

12:01 16
12:01 17 MR FINANZIO: You didn't tell Mr Maher that Crown only
12:01 18 describes the expenses as jackpots internally for the purposes of
12:01 19 calculating the CGR; is that right?

12:01 20
12:01 21 A. No, I didn't, because I don't agree that is the only reason
12:01 22 they are described as bonus jackpots. As I mentioned earlier,
12:02 23 there is a number of revenue reports that don't disclose any tax
12:02 24 that show the line bonus jackpot.

12:02 25
12:02 26 Q. You didn't tell Mr Maher that Crown was exposed to the
12:02 27 payment of super tax; did you?

12:02 28
12:02 29 A. We hadn't calculated the super tax at that point,
12:02 30 Mr Finanzio. I sort of rolled that number up that I gave
12:02 31 Mr Maher as a bit of a high-side guesstimate of what I thought
12:02 32 our exposure might be, inclusive of super tax and the other years
12:02 33 that weren't on Mr Mackay's spreadsheet.

12:02 34
12:02 35 Q. There were a number of matters that I've just taken you to
12:02 36 that you didn't tell Mr Maher about, that were relevant to the
12:02 37 question that had given you discomfort, weren't there?

12:02 38
12:02 39 A. The information that you referred to is all provided to
12:02 40 Mr Maher the following day.

12:02 41
12:02 42 Q. In a folder?

12:02 43
12:02 44 A. That's correct.

12:02 45
12:03 46 Q. Mr Maher said that if any of those matters had been raised
12:03 47 with him at the meeting that you had with him, he would have

12:03 1 advised Crown to disclose the matters. You weren't really trying
12:03 2 to get his attention, were you?
12:03 3
12:03 4 A. Mr Finanzio, I disagree with that. The point of the meeting
12:03 5 was to raise the issue. So if I wasn't trying to raise the attention
12:03 6 we wouldn't have had a specific meeting on it.
12:03 7
12:03 8 Q. I want to suggest this to you: the way you approached
12:03 9 instructing your own lawyer, you effectively downplayed the
12:03 10 significance of the issue.
12:03 11
12:03 12 A. I disagree with that.
12:03 13
12:03 14 Q. Well, you waited until 18 March to have a meeting about
12:03 15 an issue that has been live in your mind since at least 2018.
12:03 16
12:03 17 A. Yes.
12:03 18
12:04 19 Q. You didn't bring the advices that were central to the
12:04 20 question that gave you the discomfort to the meeting?
12:04 21
12:04 22 A. No, because it was a meeting that we were going to discuss
12:04 23 the issue. There were a number of people in the room. I wouldn't
12:04 24 have thought it was a great use of time for him to go through the
12:04 25 documents in that meeting as opposed to taking the material away
12:04 26 and considering it, given that when we did provide him the folder
12:04 27 there was quite a number of documents that were in there, and
12:04 28 some of the advice back and forward on the way the system
12:04 29 works and the way the deduction works, it takes a little bit of
12:04 30 time to get your head around it.
12:04 31
12:04 32 Q. You didn't tell them about key aspects of Crown's
12:04 33 approach, did you?
12:04 34
12:04 35 A. In terms of what.
12:04 36
12:04 37 Q. You didn't expressly say that it was your view that Crown
12:04 38 had been concealing the tax?
12:04 39
12:04 40 A. See, I disagree with that. I --- the reason the item initially
12:04 41 came to my attention in a manner that concerned me was the
12:05 42 words on the presentation, which I definitely referred to in the
12:05 43 meeting.
12:05 44
12:05 45 Q. I suggest to you that you approached it differently with the
12:05 46 lawyers and the way you approached it the day after the
12:05 47 Commission was announced.

12:05 1
12:05 2 A. How so?
12:05 3
12:05 4 Q. The day after the Commission was announced, the very
12:05 5 first thing you did was raise it with Ms Coonan.
12:05 6
12:05 7 A. Yes.
12:05 8
12:05 9 Q. The very next day, you caused a document to be produced
12:05 10 which calculated what the possible exposure was; correct?
12:05 11
12:05 12 A. Yes, I mean, I had an idea of what I thought the exposure
12:05 13 was, I was looking for confirmation.
12:05 14
12:05 15 Q. Within one week you had a meeting of the team of people
12:05 16 who had already sat around the table discussing this issue in
12:05 17 September 2020?
12:05 18
12:05 19 A. Yes, but the meeting wasn't specifically called for ---
12:05 20
12:05 21 Q. But it was discussed at that meeting, wasn't it?
12:05 22
12:05 23 A. It was discussed at that meeting, yes.
12:05 24
12:05 25 Q. It was clearly at the agenda because it was live on your
12:06 26 mind, right?
12:06 27
12:06 28 A. It was discussed at the meeting, yes.
12:06 29
12:06 30 Q. The moment you became aware of the Royal Commission,
12:06 31 you acted with urgency to get to the bottom of the issue and what
12:06 32 Crown's exposure might be, correct?
12:06 33
12:06 34 A. That and the fact that Ms Coonan had been appointed as
12:06 35 Exec Chair a week earlier and that was my first meeting with her.
12:06 36
12:06 37 Q. You had no engagements or interaction with Ms Coonan
12:06 38 before that?
12:06 39
12:06 40 A. Very limited. She doesn't sit on the Crown Melbourne
12:06 41 Board, I don't go to the Resort Board, I had obviously seen her
12:06 42 around at different functions and so forth, but I didn't have the
12:06 43 sort of engagement I have with Ms Coonan now.
12:06 44
12:06 45 Q. Did she attend with you at the VCGLR on 17 December
12:06 46 last year?
12:06 47

12:06 1 A. Yes, she did.
12:06 2
12:06 3 Q. For an interview with the VCGLR that was transcribed?
12:06 4
12:06 5 A. Yes, that's correct.
12:06 6
12:06 7 Q. You were sitting in the room with her, you, her, Mr Barton?
12:06 8
12:07 9 A. That's right.
12:07 10
12:07 11 Q. By that stage you were the CEO of Crown Melbourne?
12:07 12
12:07 13 A. That's right.
12:07 14
12:07 15 Q. You didn't raise this issue with her then?
12:07 16
12:07 17 A. No, because my direct report was Mr Barton.
12:07 18
12:07 19 Q. I see.
12:07 20
12:07 21 A. I was his direct report --- you know what I mean, I reported
12:07 22 to Mr Barton then.
12:07 23
12:07 24 Q. After the meeting, after the meeting with Allens, you did
12:07 25 not follow up personally the advice that had been sought; correct?
12:07 26
12:07 27 A. Sorry, in what respect, Mr Finanzio?
12:07 28
12:07 29 Q. You went to the meeting on 18 March?
12:07 30
12:07 31 A. Yes.
12:07 32
12:07 33 Q. You asked Allens to provide advice to you in relation to
12:07 34 this matter?
12:07 35
12:07 36 A. Yes.
12:07 37
12:07 38 Q. You did not personally follow up Mr Maher or Allens for
12:07 39 the advice; correct?
12:07 40
12:07 41 A. No, I followed up with our internal lawyers.
12:07 42
12:07 43 Q. You didn't chase it down personally?
12:07 44
12:07 45 A. Not directly with Allens, no.
12:07 46
12:08 47 Q. Now, in response to --- remember I mentioned to you

12:08 1 earlier, RFS-002 ---

12:08 2

12:08 3 A. Yes.

12:08 4

12:08 5 Q. --- which was the 10 March letter that required Crown to

12:08 6 disclose breaches and potential breaches of the law ---

12:08 7

12:08 8 A. Yes.

12:08 9

12:08 10 Q. --- you understood the importance of those documents and

12:08 11 you understood the importance of that request?

12:08 12

12:08 13 A. Yes, I did.

12:08 14

12:08 15 Q. The drafts of those schedules were provided to Crown

12:08 16 prepared by Allens, weren't they?

12:08 17

12:08 18 A. That's correct.

12:08 19

12:08 20 Q. Crown considered the schedules carefully, didn't it?

12:08 21

12:08 22 A. Yes, we went through them.

12:08 23

12:08 24 Q. Different people at Crown made substantive changes to the

12:08 25 breach schedules?

12:08 26

12:08 27 A. There were amendments to the schedules, yes.

12:08 28

12:08 29 Q. You were sent all of the drafts, weren't you?

12:08 30

12:08 31 A. Yes, I was.

12:08 32

12:08 33 Q. At no point did you say, "Hey, the tax issue isn't here"?

12:08 34

12:08 35 A. No.

12:08 36

12:09 37 Q. At no point?

12:09 38

12:09 39 A. No. Well, that, look, I raised it internally. We didn't

12:09 40 necessarily expect it to be in the first tranche because I knew

12:09 41 there were going to be tranches. I wasn't sure where Allens were

12:09 42 at with their consideration of the matter. I raised it internally to

12:09 43 say "where are we at with it" and was waiting for the advice.

12:09 44

12:09 45 Q. You let the second tranche go by as well.

12:09 46

12:09 47 A. What date was that, Mr Finanzio, if you don't mind?

12:09 1
12:09 2 Q. April.
12:09 3
12:09 4 A. Yes, that's true. That's true.
12:09 5
12:09 6 Q. So substantive changes are being made to the breach
12:09 7 schedules along the way?
12:09 8
12:09 9 A. Yes.
12:09 10
12:09 11 Q. You were participating in the process?
12:09 12
12:09 13 A. Yes.
12:09 14
12:09 15 Q. You've raised with the lawyers that are acting for you ---
12:09 16
12:09 17 A. Yes.
12:09 18
12:09 19 Q. --- a possible \$40 million non-disclosure,
12:09 20 a \$40 million underpayment of the gaming tax, and you just
12:09 21 forgot about it?
12:09 22
12:09 23 A. No, I raised it with our internal lawyers more than once and
12:10 24 I look at it now and think what was I thinking. But I was knee
12:10 25 deep, I had three statements to write one after the other, it was
12:10 26 just a very tumultuous time. That's no excuse. I should have
12:10 27 raised it. I didn't.
12:10 28
12:10 29 Q. That was the very last opportunity that you had to raise it
12:10 30 over a period of at least three or four months; correct?
12:10 31
12:10 32 A. I beg your pardon.
12:10 33
12:10 34 Q. That was the very last opportunity that you had to raise it
12:10 35 over a long period of time?
12:10 36
12:10 37 A. I think --- my recollection was I raised it at least three times
12:10 38 with our internal lawyers over the period from after the meeting
12:10 39 in March to, look, I can't remember the last time I made the
12:10 40 request, Mr Finanzio, but it would have been May.
12:10 41
12:10 42 Q. Morrison is the only other director who said they knew
12:11 43 about this evidence before Mr Mackay's evidence on 27 June
12:11 44 2021, apart from Ms Coonan.
12:11 45
12:11 46 A. Okay.
12:11 47

12:11 1 Q. He says he spoke to you, that's right, isn't it?
12:11 2
12:11 3 A. I have read his statement. I agree with --- we may well
12:11 4 have spoken on 19 March, which I think is the date he put in ---
12:11 5
12:11 6 Q. He says it was either the 19th or the 22nd.
12:11 7
12:11 8 A. Yes, but he was in the room when I spoke to Ms Korsanos
12:11 9 about it. He was at the meeting. So I can only assume he's
12:11 10 overlooked it or forgotten it.
12:11 11
12:11 12 Q. You wouldn't assume he's lying about it?
12:11 13
12:11 14 A. No, no, certainly not suggesting that.
12:11 15
12:11 16 Q. He says that when --- do you recall the meeting that he had
12:11 17 with you on 19 or 22 March?
12:11 18
12:11 19 A. No, I think on the 19th we had a tour of the casino that
12:12 20 I was there for part of.
12:12 21
12:12 22 Q. He said it was a passing conversation?
12:12 23
12:12 24 A. I do not recall that. As I say, I'm not doubting him, but I
12:12 25 just don't recall it, but I do recall the conversation with he and
12:12 26 Ms Korsanos because that was a sit down catch-up.
12:12 27
12:12 28 Q. He says you left him with the impression that you'd
12:12 29 discovered the tax issue when you recently stumbled across
12:12 30 a minute.
12:12 31
12:12 32 A. No, I've never suggested to anyone --- it wasn't recent and it
12:12 33 wasn't any minute. I'm referring to the presentation and the
12:12 34 memo you took me to a little earlier, that I think the words from
12:12 35 that memo were lifted and put in the presentation.
12:12 36
12:12 37 Q. I see.
12:12 38
12:12 39 COMMISSIONER: While there is a break, Mr Walsh, I do owe
12:13 40 you one apology. When I said you can spend the money all
12:13 41 around the city of Melbourne, that was an exaggeration. You can
12:13 42 only spend it at stores in the casino complex itself. There might
12:13 43 be about a dozen or so, and I shouldn't really give Louis Vuitton
12:13 44 all the free advertising I gave it; I should include stores like
12:13 45 Burberry and Rolex and all of those places where you can
12:13 46 redeem --- I could buy a \$50,000 watch at Rolex --
12:13 47

12:13 1 A. You can. You had me worried ---
12:13 2
12:13 3 COMMISSIONER: --- or gamble it as the casino, either way you
12:13 4 don't treat it at revenue?
12:13 5
12:13 6 A. No.
12:13 7
12:13 8 MR FINANZIO: You are fellow directors on the board of Crown
12:14 9 Melbourne; correct?
12:14 10
12:14 11 A. Yes.
12:14 12
12:14 13 Q. You understand you have an obligation to share important
12:14 14 information you have about the company with your fellow
12:14 15 directors?
12:14 16
12:14 17 A. Yes.
12:14 18
12:14 19 Q. The tax issue that we are talking about here is a very
12:14 20 important issue; isn't it?
12:14 21
12:14 22 A. It's an important issue, yes.
12:14 23
12:14 24 Q. It's the kind of issue that should be on the agenda of a board
12:14 25 meeting or even the substance of a special board meeting to
12:14 26 discuss it; correct?
12:14 27
12:14 28 A. Possibly, yes.
12:14 29
12:14 30 Q. None of that happened did it?
12:14 31
12:14 32 A. No, and ---
12:14 33
12:14 34 Q. And you had a passing conversation so you say with
12:14 35 Ms Korsanos and Miss Halton on separate occasions; correct?
12:14 36
12:14 37 A. Yes.
12:14 38
12:14 39 Q. Not a formal discussion?
12:14 40
12:14 41 A. No.
12:14 42
12:14 43 Q. No minutes?
12:14 44
12:14 45 A. Not by me.
12:14 46
12:14 47 Q. And no provision of the detail, the wealth of detail that you

12:14 1 are able to provide about this issue, you didn't share that with
12:15 2 them in those meetings did you?
12:15 3
12:15 4 A. No, I did not.
12:15 5
12:15 6 Q. Neither with Mr Morrison?
12:15 7
12:15 8 A. No, he was in the same meeting as Ms Korsanos.
12:15 9
12:15 10 Q. Tell me, when did you next discuss this matter with
12:15 11 Ms Coonan after the meeting of 18 March?
12:15 12
12:15 13 A. I'm not sure we've had a further discussion ---
12:15 14
12:15 15 Q. She didn't ring you and say, "Hey, what about this legacy
12:15 16 issue that you raised with me on 23 February, where did we get to
12:15 17 with that?"? Did she call you about that?
12:15 18
12:15 19 A. No, whether I wasn't sufficiently detailed in my
12:15 20 explanation ---
12:15 21
12:15 22 Q. You might have underplayed it with her too?
12:15 23
12:15 24 A. I don't --- it certainly wasn't intentional to underplay it.
12:16 25 Ms Coonan was extremely busy on a range of matters and I
12:16 26 assume that she just left it with me and, you know, didn't --- in
12:16 27 and amongst everything else she was doing, it wasn't top of mind
12:16 28 for her.
12:16 29
12:16 30 Q. So you assumed this important issue was left with you
12:16 31 alone?
12:16 32
12:16 33 A. She had instructed me to raise it at the appropriate time
12:16 34 with the lawyers, which I did.
12:16 35
12:16 36 Q. I suggest to you, it is just incredible that an issue of this
12:16 37 importance that has been around so long isn't disclosed in either
12:16 38 tranche of the materials in response to RFS-002.
12:16 39
12:16 40 A. And it should have been. I don't dispute that.
12:16 41
12:16 42 Q. It's easy to say that now, but let me ask you this: this issue
12:16 43 arises because the spreadsheet emerged from Mr Mackay's
12:17 44 evidence. The spreadsheet you asked him to produce ---
12:17 45
12:17 46 A. Yes.
12:17 47

- 12:17 1 Q. --- was in his evidence.
12:17 2
12:17 3 A. Yes.
12:17 4
12:17 5 Q. Mr Mackay was called on RSG matters, not in relation to
12:17 6 the tax.
12:17 7
12:17 8 A. Right.
12:17 9
12:17 10 Q. He was not the main witness on this issue, Mr Kozminsky
12:17 11 examined him. Did you watch his examination?
12:17 12
12:17 13 A. I did not watch it. I read the transcript.
12:17 14
12:17 15 Q. He said the spreadsheet was irrelevant to the RSG matters
12:17 16 that he was required to address in his statement.
12:17 17
12:17 18 A. Yes.
12:17 19
12:17 20 Q. He also said that he hadn't reviewed the spreadsheet as part
12:17 21 of the preparation of his statement on RSG matters.
12:17 22
12:17 23 A. Okay, yes. I accept what you are saying.
12:17 24
12:17 25 Q. He said that the spreadsheet was inadvertently included in
12:17 26 his evidence.
12:17 27
12:17 28 A. Yes.
12:17 29
12:17 30 Q. He put it in there by mistake?
12:17 31
12:18 32 A. Yes, I read that.
12:18 33
12:18 34 Q. But for his inadvertence, that is, but for the inadvertence of
12:18 35 Mr Mackay and his inclusion of the spreadsheet --- and, I should
12:18 36 say, the industriousness of junior counsel --- how would this
12:18 37 Commission have ever known, this Commission or anybody else,
12:18 38 have ever known about the underpayment of tax as an issue?
12:18 39
12:18 40 A. Well, as I say, we had a meeting to raise the issue with our
12:18 41 lawyers. Once ---
12:18 42
12:18 43 Q. This could have gone under the radar, couldn't it?
12:18 44
12:18 45 A. Well, it's a hypothetical, Mr Finanzio. I can't really answer
12:18 46 that. I would like to say that once things settled down, I know
12:18 47 we've been extremely busy here, we would obviously raise it as

12:18 1 an unresolved issue again and say "where are we at".
12:18 2
12:18 3 Q. It is a hypothetical that could easily have gone underneath
12:18 4 the radar, judged against the backdrop between 2012 and 2018,
12:19 5 where Crown's exact strategy was that it would go under the
12:19 6 radar? I'm right about that, aren't I?
12:19 7
12:19 8 A. Certainly from 2012 to 2018, and I keep going back to the
12:19 9 words that were in that presentation or in that memo, the position
12:19 10 taken was not to disclose.
12:19 11
12:19 12 Q. Okay. I'm about to move on to another topic.
12:19 13
12:19 14 I want to take you now to your third statement, Mr Walsh.
12:19 15
12:19 16 A. My first statement?
12:19 17
12:19 18 Q. Third statement.
12:19 19
12:19 20 A. Okay.
12:19 21
12:19 22 Q. It is behind tab 15, Commissioner.
12:19 23
12:20 24 I ask you in particular to go to page 28. You have the document
12:20 25 there. Page 28 of the statement. Do you see that at paragraph
12:20 26 163 you commence an answer to a question above it, which is
12:20 27 question 50?
12:20 28
12:20 29 A. Yes.
12:20 30
12:20 31 Q. The question is concerned with junkets; isn't it?
12:20 32
12:20 33 A. Yes.
12:20 34
12:20 35 Q. It is premised on some of the things that arose out of the
12:20 36 Bergin Report?
12:20 37
12:20 38 A. Yes.
12:20 39
12:20 40 Q. And then you are asked the question:
12:20 41
12:20 42 *To what extent do you attribute these failings to Crown's*
12:21 43 *risk management framework, processes for conducting*
12:21 44 *due diligence reviews and probity checks in relation to*
12:21 45 *the JTOs*
12:21 46
12:21 47 You see that?

- 12:21 1
12:21 2 A. Yes.
12:21 3
12:21 4 Q. And you say:
12:21 5
12:21 6 *In reflecting upon the material I have read and inquiries*
12:21 7 *I have made in preparing this statement and my previous*
12:21 8 *statements, I have formed the view that the failings*
12:21 9 *identified in the Bergin Report to be attributable to three*
12:21 10 *primary causes:*
12:21 11
12:21 12 And you list three?
12:21 13
12:21 14 A. Yes.
12:21 15
12:21 16 Q. The first one is:
12:21 17
12:21 18 *A deficient risk management framework and the business'*
12:21 19 *failure to properly engage with it.*
12:21 20
12:21 21 A. Yes.
12:21 22
12:21 23 Q. Can I just dwell on that, even though in is an answer in
12:21 24 relation to a question of junkets, you would say that was
12:21 25 a primary cause for other failings across the business as well;
12:21 26 wouldn't you?
12:21 27
12:21 28 A. Yes.
12:21 29
12:21 30 Q. That is, the deficiencies in the risk management framework
12:21 31 and the business's failure to properly engage with the risk
12:22 32 management framework?
12:22 33
12:22 34 A. Yes.
12:22 35
12:22 36 Q. I want to ask you some questions about this initial passage.
12:22 37 first, there is no question that the Bergin Inquiry discovered
12:22 38 failings; correct?
12:22 39
12:22 40 A. Yes.
12:22 41
12:22 42 Q. And they are very serious failings, aren't they?
12:22 43
12:22 44 A. Yes.
12:22 45
12:22 46 Q. And you accept them as such?
12:22 47

12:22 1 A. Absolutely.
12:22 2
12:22 3 Q. The second thing I want to put to you is you say that you
12:22 4 have formed the view in responding to this question based upon
12:22 5 material you've read and inquiries you've made ---
12:22 6
12:22 7 A. Yes.
12:22 8
12:22 9 Q. --- you were also there at the relevant times, weren't you?
12:22 10 You were present in the environment?
12:22 11
12:22 12 A. Yes.
12:22 13
12:22 14 Q. You were part of the management team?
12:22 15
12:22 16 A. I was.
12:22 17
12:23 18 Q. You were part of the leadership team?
12:23 19
12:23 20 A. I was.
12:23 21
12:23 22 Q. At times you were the acting head of the Melbourne
12:23 23 operation when Mr Felstead wasn't around?
12:23 24
12:23 25 A. Yes.
12:23 26
12:23 27 Q. You had your own personal experiences to rely upon; that's
12:23 28 true?
12:23 29
12:23 30 A. That's true.
12:23 31
12:23 32 Q. Some of the failings, would you agree, were your own
12:23 33 failings?
12:23 34
12:23 35 A. Look, I think absolutely, it is a shared responsibility, and as
12:23 36 a leader at Crown Melbourne I can't distance myself from some
12:23 37 of the failings that we've ---
12:23 38
12:23 39 Q. You were on the Risk Committee?
12:23 40
12:23 41 A. Yes, I was.
12:23 42
12:23 43 Q. You were the Chief Risk Officer?
12:23 44
12:23 45 A. No, I wasn't.
12:23 46
12:23 47 Q. Oh, you said that you weren't.

12:23 1
12:23 2 A. Yes, I'm sorry to correct you, but I was not.
12:23 3
12:23 4 Q. That's okay. We'll come back to that.
12:23 5
12:23 6 A. Okay.
12:23 7
12:23 8 Q. You were at Crown since 2013?
12:23 9
12:23 10 A. Yes, I was.
12:23 11
12:23 12 Q. You were the COO for all of that period?
12:23 13
12:23 14 A. That's correct.
12:23 15
12:23 16 Q. You had the capacity to influence the risk framework.
12:23 17
12:23 18 A. Yes, I did, yes.
12:23 19
12:24 20 Q. One way to influence risk frameworks is to speak up, isn't
12:24 21 it?
12:24 22
12:24 23 A. Yes.
12:24 24
12:24 25 Q. You were one of the people who had the power to address
12:24 26 the deficiencies in the risk framework?
12:24 27
12:24 28 A. Yes.
12:24 29
12:24 30 Q. Risk management is partly about frameworks, like written
12:24 31 documents, isn't it; correct?
12:24 32
12:24 33 A. Yes.
12:24 34
12:24 35 Q. But it is also partly about actions?
12:24 36
12:24 37 A. Yes.
12:24 38
12:24 39 Q. All the words in the world won't work unless people
12:24 40 actually act in accordance with the framework?
12:24 41
12:24 42 A. Yes.
12:24 43
12:24 44 Q. But people can act to avoid known risks even if there isn't
12:24 45 a documented framework; can't they?
12:24 46
12:24 47 A. Yes.

12:24 1
12:24 2 Q. It is also --- risk management is also partly about
12:24 3 leadership; isn't it?
12:24 4
12:24 5 A. Yes.
12:24 6
12:24 7 Q. In that people at the top of the organisation lead by
12:24 8 example?
12:24 9
12:24 10 A. Yes.
12:24 11
12:24 12 Q. You were one of those people; weren't you?
12:24 13
12:25 14 A. Certainly a leader at the operations, yes.
12:25 15
12:25 16 Q. I want to show you a document now.
12:25 17
12:25 18 Commissioner, tab 13.
12:25 19
12:25 20 Have you ever been to Aspen?
12:25 21
12:25 22 A. No.
12:25 23
12:25 24 Q. I want to ask you a question about a document,
12:25 25 CRL.568.043.2762. That's an email to John Alexander in
12:25 26 November 2018; you see that?
12:25 27
12:25 28 A. Yes, I do.
12:25 29
12:25 30 Q. It is an email chain. The first email is down the page; can
12:26 31 you see that?
12:26 32
12:26 33 A. Yes.
12:26 34
12:26 35 Q. And the email above it. The first email is from
12:26 36 Mr Alexander and the second to Mr Packer, and the second email
12:26 37 is from Mr Packer to Mr Alexander; you see that?
12:26 38
12:26 39 A. Yes.
12:26 40
12:26 41 Q. The email from Mr Alexander says:
12:26 42
12:26 43 *Hope you are well. I'm in Perth for a few days, and I just*
12:26 44 *wanted to let you know those dates you suggested for*
12:26 45 *Aspen in December are fine or all.*
12:26 46
12:26 47 A. Yes.

12:26 1
12:26 2 Q. Are you familiar with the Aspen trip, or the trips to Aspen
12:26 3 with Mr Packer to discuss business?
12:26 4
12:26 5 A. I'm aware that some of the executives went to see
12:26 6 Mr Packer.
12:26 7
12:26 8 Q. Did they do it regularly?
12:26 9
12:26 10 A. I wouldn't say regular. Periodically.
12:26 11
12:26 12 Q. Who went?
12:26 13
12:26 14 A. Generally it was Mr Alexander, Mr Barton, Mr Felstead
12:27 15 and I don't really know --- I assume there possibly would have
12:27 16 been others from ---
12:27 17
12:27 18 Q. Mr Ratnam?
12:27 19
12:27 20 A. I couldn't say conclusively, Mr Finanzio. I only know ---
12:27 21
12:27 22 Q. Mr Crinis?
12:27 23
12:27 24 A. I think Peter went once. But I don't that he would have
12:27 25 gone consequently.
12:27 26
12:27 27 Q. The second part of the email says:
12:27 28
12:27 29 *..... those dates you suggested in Aspen in December are*
12:27 30 *fine for all. Is there anybody else you would like me to*
12:27 31 *bring? If so, I would suggest Xavier Walsh, who has*
12:27 32 *a key role. Let me know at your leisure.*
12:27 33
12:27 34 Mr Packer's answer was, in relation to you, "Happy to have
12:28 35 Xavier there".
12:28 36
12:28 37 A. Yes.
12:28 38
12:28 39 Q. Did you have any dealings with Mr Packer during the time
12:28 40 you were COO at Melbourne?
12:28 41
12:28 42 A. I --- well, I had very sporadic contact with Mr Packer.
12:28 43 When I first started, I think it was a day before or two days before
12:28 44 the annual general meeting in 2013. I attended Mr Packer's office
12:28 45 because he wanted to say hello and so that was the first meeting.
12:28 46 I had another meeting, when I say meeting, I mean a quick
12:28 47 discussion in between I was waiting to attend the Crown

12:28 1 Melbourne board meeting as an invitee, and normally those board
12:28 2 meetings were after the Crown Resort board meetings. And
12:28 3 Mr Packer came out while we were waiting for the meeting to
12:28 4 finish and said a brief hello.

12:28 5
12:28 6 The only other time that I can recall in my time as COO dealing
12:28 7 with Mr Packer was there a videoconference. This proposed
12:29 8 meeting didn't proceed. There was a videoconference in
12:29 9 December attended by a group of people, and Mr Packer was in
12:29 10 Aspen.

12:29 11
12:29 12 Q. I see. Can I ask you this: were you invited to attend, was
12:29 13 this invitation extended to you?

12:29 14
12:29 15 A. On the videoconference or for this trip?

12:29 16
12:29 17 Q. Yes. Did Mr Alexander say "I've spoken to Mr Packer,
12:29 18 we'd like you to come to Aspen"?

12:29 19
12:29 20 A. Yes, Mr Alexander said "Yes, I've spoken to James and we
12:29 21 are sorting out dates."

12:29 22
12:29 23 Q. Were you intending to go?

12:29 24
12:29 25 A. I would have gone if requested, yes.

12:29 26
12:29 27 Q. The description of you as having a key role is correct; isn't
12:29 28 it?

12:29 29
12:29 30 A. Well, yes.

12:29 31
12:29 32 Q. Did you attend the videoconference?

12:29 33
12:29 34 A. I did.

12:29 35
12:29 36 Q. Who else was on the videoconference?

12:29 37
12:29 38 A. Well, Mr Packer was in --- he was overseas, so at our end,
12:29 39 my recollection was it was myself, Mr Alexander, Mr Barton,
12:30 40 Mr Felstead. I think Mr Johnston, possible Brad Kady who is
12:30 41 a gentleman who worked at CPH. And I just can't recall whether
12:30 42 there was anyone else there. I don't know. But there may have
12:30 43 been.

12:30 44
12:30 45 Q. What was the purpose of the meeting?

12:30 46
12:30 47 A. It was to give Mr Packer a bit of an overview of trading for

12:30 1 --- for the business.
12:30 2
12:30 3 Q. Is Mr Kady still there at Crown?
12:30 4
12:30 5 A. No, no, he is a CPH employee.
12:30 6
12:30 7 Q. Pardon me. So of all the people from Crown who were at
12:30 8 the meeting, you are the only one left?
12:30 9
12:30 10 A. That's probably right.
12:30 11
12:31 12 Q. I want to ask you some questions about the China
12:31 13 UnionPay credit issue. Are you familiar with that?
12:31 14
12:31 15 A. Yes, I am.
12:31 16
12:31 17 Q. It is said to have ceased in 2016?
12:31 18
12:31 19 A. That's correct.
12:31 20
12:31 21 Q. But it was operational while you were COO?
12:31 22
12:31 23 A. That's correct.
12:31 24
12:31 25 Q. You were aware of it, weren't you, while it was going on?
12:31 26
12:31 27 A. Yes, yes, I'm not sure when I became aware, but certainly
12:31 28 before it had ceased I believe I was aware, that is my recollection.
12:31 29
12:31 30 Q. In order for it to operate, the hotel staff were required to
12:31 31 perform the transactions; correct?
12:31 32
12:31 33 A. Yes.
12:31 34
12:31 35 Q. Who did those staff report to?
12:31 36
12:32 37 A. Peter Crinis.
12:32 38
12:32 39 Q. So he would have had to have known about this system
12:32 40 too?
12:32 41
12:32 42 A. I assume so, Mr Finanzio. I've not spoken to Mr Crinis
12:32 43 about it.
12:32 44
12:32 45 Q. Were you in regular contact with Mr Crinis at the time?
12:32 46
12:32 47 A. Yes.

- 12:32 1
12:32 2 Q. What is Mr Crinis's role now? He's CEO of Sydney?
12:32 3
12:32 4 A. He is and he has a group oversight of hotels for both --- so
12:32 5 the hotel --- because they have centralised systems, centralised
12:32 6 sales, Mr Crinis is responsible for the hotels in Perth and
12:32 7 Melbourne as well as Sydney in addition to his duties as CEO of
12:32 8 Crown Sydney.
12:32 9
12:32 10 Q. I want to draw your attention to a period now in 2019. Did
12:33 11 the CFO ever report to you directly?
12:33 12
12:33 13 A. No. Neither the Australian Resorts CFO nor obviously not
12:33 14 the Crown Resorts CFO.
12:33 15
12:33 16 Q. Did the cages report to the CFO?
12:33 17
12:33 18 A. Yes, they did.
12:33 19
12:33 20 Q. And did the treasury and finance managers, they weren't
12:33 21 a direct report to you, were they?
12:33 22
12:33 23 A. No, so the cages reported into the Australian Resorts CFO.
12:33 24 The treasury and finance people, the managers, reported to the
12:33 25 Crown Resort CFO.
12:33 26
12:33 27 Q. No one in the finance team was a direct report to you?
12:33 28
12:33 29 A. No.
12:33 30
12:33 31 Q. Management of the bank accounts wasn't in your direct
12:33 32 area of responsibility either, was it?
12:33 33
12:33 34 A. No.
12:33 35
12:33 36 Q. Money laundering risk was, I put it to you this way, I think
12:34 37 you explained it to me this morning, you would define, you
12:34 38 would divide money laundering risk into the transactional side,
12:34 39 which was not your area of responsibility, and the security
12:34 40 surveillance side which was; that is a fair description?
12:34 41
12:34 42 A. That is fair.
12:34 43
12:34 44 Q. Setting up and management of the AML/CTF processes,
12:34 45 therefore, was not in your direct responsibility or direct area of
12:34 46 responsibility either?
12:34 47

12:34 1 A. No, that's correct.
12:34 2
12:34 3 Q. You were never a director of Southbank or Riverbank?
12:34 4
12:34 5 A. No.
12:34 6
12:34 7 Q. You never had any direct reporting responsibilities or
12:34 8 reporting to the board of those companies; correct?
12:34 9
12:34 10 A. That's correct.
12:34 11
12:34 12 Q. As CEO of Melbourne, you really had no reason to look at
12:34 13 Southbank accounts, did you?
12:34 14
12:34 15 A. No.
12:34 16
12:34 17 Q. On 22 January 2019, there was an email, and it is tab 3,
12:35 18 Commissioner, CRL.605.015.783. There was an email sent
12:35 19 by --- we haven't got it on the screen yet. I will just wait.
12:35 20
12:35 21 CRL.605.015.7833. Do you see that email?
12:35 22
12:36 23 A. Yes.
12:36 24
12:36 25 Q. That's an email from Travis Costin, who is head of finance,
12:36 26 and it is to a group including Mr Preston, Ms Lane, you,
12:36 27 Mr Hancock, who is the head of cages, I think ---
12:36 28
12:36 29 A. That is correct.
12:36 30
12:36 31 Q. --- credit control.
12:36 32
12:36 33 A. Yes.
12:36 34
12:36 35 Q. "Southbank Investments"; see that?
12:36 36
12:36 37 A. Yes.
12:36 38
12:36 39 Q. The email reads:
12:36 40
12:36 41 *As had been previously foreshadowed by Commonwealth*
12:36 42 *Bank, their subsidiary ASB has made the decision to shut*
12:36 43 *the Southbank Investment account in New Zealand*
12:36 44 *effective 8 March 2019.*
12:36 45
12:36 46 You see that?
12:36 47

- 12:36 1 A. Yes.
12:36 2
12:36 3 Q. And:
12:36 4
12:36 5 *Any customers wishing to deposit funds in NZD will now*
12:36 6 *be unable to do so and will be required to send the funds*
12:36 7 *to Australia.*
12:36 8
12:37 9 It had an attachment that email, and I will draw your attention to
12:37 10 the attachment.
12:37 11
12:37 12 It's tab 4, Commissioner. CRL.605.015.7834.
12:37 13
12:37 14 That is the letter from ASB; do you see that?
12:37 15
12:37 16 A. Yes.
12:37 17
12:37 18 Q. Do you see here that --- I will just take you to the letter:
12:37 19
12:37 20 *We have recently conducted a review of our banking*
12:37 21 *services for Southbank Investments Pty Ltd and*
12:37 22 *unfortunately I need to provide notice that ASB [being the*
12:37 23 *bank] will not be able to continue providing any banking*
12:37 24 *services to Southbank Investments Pty Ltd beyond 8*
12:37 25 *March 2019.*
12:37 26
12:37 27 *Our review considered a number of factors including the*
12:37 28 *type of business an the information provided by you.*
12:38 29 *Unfortunately, ASB has determined that the continued*
12:38 30 *provision of banking services to Southbank Investments*
12:38 31 *Pty Ltd is outside of its risk appetite.*
12:38 32
12:38 33 *Please arrange to close and move all banking facilities*
12:38 34 *The decision has been made in conjunction with ASB's*
12:38 35 *obligations under the Anti-Money Laundering and*
12:38 36 *Countering Financing of Terrorism Act 2009 and in*
12:38 37 *accordance with the applicable terms and conditions,*
12:38 38 *specifically section 10 of the Business, Rural and*
12:38 39 *Corporate Banking Terms and Conditions which can be*
12:38 40 *found on ASB's website.*
12:38 41
12:38 42 You see that?
12:38 43
12:38 44 A. Yes.
12:38 45
12:38 46 Q. That letter that went to the group from the bank was
12:38 47 patently saying "We have done a review and we are concerned

12:38 1 about money laundering in the account"?
12:38 2
12:38 3 A. They are certainly saying that they are not comfortable with
12:38 4 the risk that bank account presented to them.
12:38 5
12:38 6 Q. You were a person to whom the head of finance, who
12:38 7 received that letter, thought that should be reported to?
12:38 8
12:38 9 A. Yes, well, he sent it to me, so, yes.
12:38 10
12:39 11 Q. Importantly, Mr Felstead isn't on the email?
12:39 12
12:39 13 A. No.
12:39 14
12:39 15 Q. And neither was Mr Alexander?
12:39 16
12:39 17 A. No.
12:39 18
12:39 19 Q. You were one of the people who needed to know this
12:39 20 information?
12:39 21
12:39 22 A. Yes, and if I can explain why. I can elaborate.
12:39 23
12:39 24 Q. Perhaps you'll elaborate in a minute.
12:39 25
12:39 26 A. Okay.
12:39 27
12:39 28 Q. Let's go to the next email, tab 5.
12:39 29
12:39 30 CRL.605.016.4014, your response:
12:39 31
12:40 32 *Hi Trav*
12:40 33
12:40 34 *Are we able to set up an account with a different bank?*
12:40 35 *Or is that not an option?*
12:40 36
12:40 37 You were in that instance suggesting a potential solution;
12:40 38 correct?
12:40 39
12:40 40 A. Yes. I was asking the question, yes.
12:40 41
12:40 42 Q. Sure. But as I said to you a minute ago, were you one of
12:40 43 the people who needed to know this information?
12:40 44
12:40 45 A. Yes.
12:40 46
12:40 47 Q. And it wasn't like you were on here accidentally; you were

12:40 1 one of the first, if not the first person to respond?

12:40 2

12:40 3 A. Yes.

12:40 4

12:40 5 Q. The head of finance didn't ignore your request or question.

12:40 6 There is another email and we'll go to it now.

12:40 7

12:41 8 Tab 6. CRL.605.016.6009.

12:41 9

12:41 10 So go to the bottom of the page and we'll work through the email
12:41 11 chain. Do you see "Hi Trav"?

12:41 12

12:41 13 A. Yes, I do.

12:41 14

12:41 15 Q. Then, "Hi Xavier", this is in response to going to another
12:41 16 bank?

12:41 17

12:41 18 A. Sure.

12:41 19

12:41 20 Q.

12:41 21

12:41 22 *I can take a look for you and let you know but I would*
12:41 23 *think it is unlikely with the brief look at banks that*
12:41 24 *operate in New Zealand. ANZ have already shut down*
12:41 25 *our Southbank Investment accounts in Australia due to*
12:42 26 *AML concerns (hence the switch to CBA in Australia), the*
12:42 27 *Chinese, European and US banks won't go anywhere*
12:42 28 *patron accounts, which really only leaves us with*
12:42 29 *Westpac and bank of New Zealand (owned by NAB).*

12:42 30

12:42 31 *Given the royal commission the banks have become*
12:42 32 *incredibly risk averse (Louise and I are meeting with CBA*
12:42 33 *on Thursday to provide our relationship manager with*
12:42 34 *some background to try and make sure they don't close*
12:42 35 *our Australian accounts). Happy to have a chat with*
12:42 36 *NAB and Westpac to see what they think but I would be*
12:42 37 *hesitant to promise anything.*

12:42 38

12:42 39 A. Yes.

12:42 40

12:42 41 Q. The next email is a further email to you, he had
12:42 42 a discussion with NAB, NAB was a flat no, Westpac was asked
12:42 43 internally but said that it was not very likely. And then you say:

12:42 44

12:42 45 *Hi Trav.*

12:42 46

12:42 47 *Understood, appreciate you asking the question.*

12:42 1
12:43 2 The exchange reads as though you are one of the people with
12:43 3 responsibility for considering the future options; do you agree
12:43 4 with that?
12:43 5
12:43 6 A. I understand that's one way of looking at these emails, yes.
12:43 7
12:43 8 Q. You were going to tell me before why he was reporting to
12:43 9 you?
12:43 10
12:43 11 A. Would you like me to do that now?
12:43 12
12:43 13 Q. Go ahead.
12:43 14
12:43 15 A. So this was a New Zealand bank account, and as we
12:43 16 discussed earlier this morning my responsibilities for gaming
12:43 17 were local and domestic and we included New Zealand in
12:43 18 domestic. So there were Crown employees in New Zealand that
12:43 19 reported up through my structure. So that's why I believe
12:43 20 Mr Costin sent me the email to set me know that the ability for
12:43 21 our customers in New Zealand to have a convenient account to
12:43 22 put New Zealand dollars in without having to do an international
12:44 23 funds transfer and the costs and so forth associated with that, was
12:44 24 going to be closed, and then going forward that their only option
12:44 25 would have been to do an international funds transfer to
12:44 26 Australia. And obviously the customers utilise that account
12:44 27 because it was a convenient way for them to fund a trip, and
12:44 28 typically what would happen is if at the end of the trip there was
12:44 29 money due back to them, we would pay them out of that account
12:44 30 obviously back in New Zealand, holding the exchange rate they
12:44 31 used when they put the money in the account. For us it was
12:44 32 a convenience and that's why I'm assuming Travis raised it with
12:44 33 me, because then at least our customers could be aware ahead of
12:44 34 time rather than trying to deposit money in the act that was not
12:44 35 going to be open.
12:44 36
12:44 37 Q. That's a good explanation for why you are on the email list.
12:44 38
12:44 39 A. Yes.
12:44 40
12:45 41 Q. I'm interested in your response. So your first response is to
12:45 42 say "Can we find another bank"?
12:45 43
12:45 44 A. Yes.
12:45 45
12:45 46 Q. You don't express shock that the ASB accounts --- that
12:45 47 ASB had raised concerns about money laundering in the account.

12:45 1
12:45 2 A. There had been conversations occurring with our bankers in
12:45 3 Australia regarding our AML programs. The discussions had
12:45 4 also been had with AUSTRAC around patron accounts, and as
12:45 5 Mr Costin put in his note, this was in the middle of when the
12:45 6 banking Royal Commission was occurring so the banks were
12:45 7 extremely risk-averse and obviously inquisitive to ensuring that
12:45 8 our programs were appropriate.
12:45 9
12:45 10 Q. But ASB expressly raised ---
12:46 11
12:46 12 COMMISSIONER: Sorry.
12:46 13
12:46 14 The standing bank accounts that you had were closed down well
12:46 15 before any Royal Commission. In other words, the banks, your
12:46 16 bankers, were wanting to close these accounts down because they
12:46 17 didn't want to be involved in money laundering problems?
12:46 18
12:46 19 A. The risk of money laundering, that's right.
12:46 20
12:46 21 COMMISSIONER: Then you couldn't find another bank then,
12:46 22 because --- when these emails were exchanged because of the
12:46 23 Royal Commission?
12:46 24
12:46 25 A. Okay, yes, Commissioner.
12:46 26
12:46 27 COMMISSIONER: That's what happened. But let me go back
12:46 28 one step. I've been trying to puzzle myself into working out how
12:46 29 and why the Southbank and the other Perth accounting exists.
12:46 30 You explained it on the basis that the patrons didn't want to do
12:46 31 bank transfers.
12:46 32
12:46 33 A. It was convenient, yes.
12:46 34
12:46 35 COMMISSIONER: I don't understand the difference from
12:47 36 a patron's point of view between transferring money into Crown
12:47 37 Melbourne's bank account compared with transferring money into
12:47 38 some other bank account run by a subsidiary account of Crown
12:47 39 Melbourne. In other words, the patron in either case has to
12:47 40 transfer funds. You said this saves money, good, but the transfer
12:47 41 of funds cost, whatever it happens to be, is the same whether they
12:47 42 transfer it into bank account A or bank account B. I'm just trying
12:47 43 to work out where is the convenience factor.
12:47 44
12:47 45 A. My understanding is there is a fee associated with
12:47 46 an international funds transfer that there is not with a local ---
12:47 47

12:47 1 COMMISSIONER: And this way --- and you bore that fee when
12:47 2 it is deposited --- you bore the cost of transferring the money
12:47 3 from a New Zealand bank to the Australian?
12:47 4
12:47 5 A. I think we would sweep the account periodically,
12:47 6 Commissioner, I'm not ---
12:47 7
12:47 8 COMMISSIONER: However you do it?
12:47 9
12:47 10 A. I'm not fully au fait with how the account worked other
12:48 11 than it was a patron account.
12:48 12
12:48 13 COMMISSIONER: Leaving aside the mechanics of it, you will
12:48 14 carry the fee either way whether they transferred in your account
12:48 15 directly or indirectly. Carrying the fee simply doesn't wash with
12:48 16 me as a reason for having this account?
12:48 17
12:48 18 A. I'm sorry, I think the patron incurs the fee when they are
12:48 19 transferring the money overseas ---
12:48 20
12:48 21 COMMISSIONER: You could reimburse ---
12:48 22
12:48 23 A. Yes, we could have.
12:48 24
12:48 25 COMMISSIONER: So it has nothing to do with money. My real
12:48 26 question is, why set up these two accounts in the first place? Was
12:48 27 it so that the bank account would fall outside the regulations of
12:48 28 accounts covered by the Casino Control Act? In other words,
12:48 29 there is a piece of oversight which you don't have to worry about
12:48 30 if you have an account outside the casino proper?
12:48 31
12:48 32 A. Commissioner, I didn't realise that they weren't inside our
12:49 33 designated business group until I listened to the Bergin Inquiry ---
12:49 34
12:49 35 COMMISSIONER: You knew about these companies.
12:49 36
12:49 37 A. I knew about the companies, but ---
12:49 38
12:49 39 COMMISSIONER: I'm trying to work out why did you set up
12:49 40 these companies that have no other activity other than a couple of
12:49 41 bank accounts. And I'm trying to work out the reason for it.
12:49 42 People set things up for tax purposes or for regulatory purposes,
12:49 43 there are a whole bunch of reasons ---
12:49 44
12:49 45 A. No.
12:49 46
12:49 47 COMMISSIONER: --- why would you go to the trouble of

- 12:49 1 incorporating a company to do nothing other than have a bank
12:49 2 account? The only thing I can come up with is if you did that,
12:49 3 then this company is not covered by the Casino Control Act. Can
12:49 4 you think of any other reason?
12:49 5
- 12:49 6 A. My understanding, Commissioner, is that the companies,
12:49 7 and then therefore the bank accounts were set up so that when
12:49 8 people transferred money into that account, it wouldn't show on
12:49 9 their statement as Crown Casino, it would show Southbank
12:49 10 Investments or I think it was Riverbank in Perth. I think that's the
12:49 11 only reason. I'm not aware that it was set up to avoid any
12:49 12 reporting or some other structure or tax reasons or any other
12:50 13 reason. We had accounts in Melbourne and in Perth that were
12:50 14 also Southbank and Riverbank respectively, as well as alongside
12:50 15 those accounts that were Crown Melbourne and probably would
12:50 16 have been Burswood, I suppose, in Perth. All I know,
12:50 17 Commissioner, is that for a long time these companies had
12:50 18 accounts and they existed and that is was the only explanation as
12:50 19 to why I was given they existed.
12:50 20
- 12:50 21 COMMISSIONER: Okay.
12:50 22
- 12:50 23 MR FINANZIO: When these emails had arrived, when these
12:50 24 emails hit the deck, it wasn't the first time that banks had
12:50 25 expressed concern about AML transactions through the accounts
12:50 26 of Crown; was it?
12:50 27
- 12:50 28 A. I don't know directly what had been said but I know there
12:50 29 were discussions with the banks about how our programs worked
12:51 30 and that they had questions. I'd since learned from the Bergin
12:51 31 Report again there was a little bit of --- not a little bit, quite a bit
12:51 32 of detail on discussion, I believe, with the ANZ.
12:51 33
- 12:51 34 Q. In 2014?
12:51 35
- 12:51 36 A. I think that's correct, yes.
12:51 37
- 12:51 38 Q. Are you saying you didn't know about that in 2019?
12:51 39
- 12:51 40 A. Not directly, I didn't. I didn't deal with the banks.
12:51 41
- 12:51 42 Q. By January 2019 there had been many reports in the media
12:51 43 about money laundering; hadn't there?
12:51 44
- 12:51 45 A. I believe that is correct, yes.
12:51 46
- 12:51 47 Q. In fact they have been the subject of media reports since

12:51 1 2014; hadn't they?
12:51 2
12:51 3 A. Yes.
12:51 4
12:51 5 Q. And you know who Louise Lane is?
12:51 6
12:51 7 A. She was the Group General Manager for anti-money
12:51 8 laundering.
12:51 9
12:52 10 Q. She prepared a report outlining issues in relation to money
12:52 11 laundering in April 2018; didn't she?
12:52 12
12:52 13 A. I've learned that now, but yes.
12:52 14
12:52 15 Q. You didn't know that then?
12:52 16
12:52 17 A. I hadn't seen that document until I think it was Mr Stokes
12:52 18 when he was giving evidence here it came up in this Royal
12:52 19 Commission.
12:52 20
12:52 21 Q. Came up in this Royal Commission?
12:52 22
12:52 23 A. No, Ms Lane --- sorry, Mr Finanzio, I think it is referred to
12:52 24 as the 100 day report?
12:52 25
12:52 26 Q. Yes.
12:52 27
12:52 28 A. Yes, the first I had heard about it was here. When I say
12:52 29 "here", I'm talking earlier in the hearings.
12:52 30
12:52 31 Q. I'm interested in your reaction in the email. Your first
12:52 32 reaction, "Can we find another bank", isn't --- if you didn't know
12:52 33 about Ms Lane's email, why isn't your first reaction "is money
12:53 34 laundering going on in the bank", what are we doing about that.
12:53 35
12:53 36 A. I understand why you are asking that question. My initial
12:53 37 thought was operational. I was aware that Ms Lane and
12:53 38 Mr Preston and Mr Costin and Mr Barton had been having
12:53 39 discussions with our banks around our program to provide them
12:53 40 with assurance. I was informed that those meetings were
12:53 41 proceeding well and I didn't ask the question. I understand you
12:53 42 are raising with me why didn't you, but I didn't.
12:53 43
12:53 44 Q. Let me help you understand this a bit more.
12:53 45
12:53 46 A. Sure.
12:53 47

12:53 1 Q. You were on the Risk Committee at the time.
12:53 2
12:53 3 A. I was on the ERCC, yes.
12:53 4
12:53 5 Q. You were on that committee.
12:53 6
12:53 7 A. Yes.
12:53 8
12:53 9 Q. And this issue ---
12:53 10
12:53 11 A. Yes.
12:53 12
12:53 13 Q. --- was not raised by you through that committee; was it?
12:53 14
12:53 15 A. No, it was not.
12:53 16
12:53 17 Q. Why not?
12:53 18
12:53 19 A. Again, I look at it now and say, "What should I have done",
12:53 20 I should have raised it ---
12:54 21
12:54 22 COMMISSIONER: One answer is your job.
12:54 23
12:54 24 A. Yes, Commissioner.
12:54 25
12:54 26 Mr Preston is the chair of that committee. He was directly
12:54 27 involved in preparing AML reports. Since this email, it got
12:54 28 mentioned in the Bergin Inquiry and I looked and realised I hadn't
12:54 29 flagged it and that's a miss on my part.
12:54 30
12:54 31 MR FINANZIO: Well, you didn't raise it, right?
12:54 32
12:54 33 A. No, I did not.
12:54 34
12:54 35 Q. And you didn't cause the matter to be thoroughly
12:54 36 investigated when it was brought to your attention?
12:54 37
12:54 38 A. No, I did not.
12:54 39
12:54 40 Q. In fact, investigations in relation to the money laundering
12:54 41 activities in relation to the Southbank and Riverbank accounts
12:54 42 didn't begin until much later than this?
12:54 43
12:54 44 A. That's right.
12:54 45
12:54 46 Q. They didn't commence until after the Bergin Inquiry
12:54 47 commenced?

12:54 1
12:54 2 A. That's correct.
12:54 3
12:54 4 Q. Can I ask you about this "miss" of yours, that you should
12:55 5 have, but you didn't. This was a matter, wasn't it, that was
12:55 6 reported in the Bergin Inquiry's report?
12:55 7
12:55 8 A. Yes.
12:55 9
12:55 10 Q. Was this matter the subject of any discussion when you
12:55 11 were being considered for the board of Crown Melbourne?
12:55 12
12:55 13 A. Not, not --- no.
12:55 14
12:55 15 Q. Did Ms Coonan or any other person talk to you about this
12:55 16 matter?
12:55 17
12:55 18 A. No.
12:55 19
12:55 20 Q. Can I ask you this: how were you recruited into the Board?
12:55 21
12:55 22 A. I was asked to join the Board following obviously being
12:55 23 appointed as CEO. The board typically had executives on the
12:55 24 board. Mr Barton and Mr Felstead had left so the board were
12:56 25 obviously short of numbers. And given my position, and similar
12:56 26 positions had been appointed to the board in the past, Ms Manos
12:56 27 approached me and said, "we would like you to join the board".
12:56 28
12:56 29 Q. So there is a requirement, isn't there, that there has to be
12:56 30 five directors as a minimum on the board of Crown Melbourne?
12:56 31
12:56 32 A. Yes.
12:56 33
12:56 34 Q. There had been a number of people who had resigned their
12:56 35 position on the board?
12:56 36
12:56 37 A. Yes.
12:56 38
12:56 39 Q. The board was short of numbers?
12:56 40
12:56 41 A. Yes.
12:56 42
12:56 43 Q. And you were asked to make up the numbers?
12:56 44
12:56 45 A. Yes, I was asked to join the board.
12:56 46
12:56 47 Q. There was no formal interview or recruit process?

12:56 1
12:56 2 A. No.
12:56 3
12:56 4 Q. And this "miss" that we've just described was never raised
12:56 5 with you for your explanation?
12:56 6
12:56 7 A. No.
12:56 8
12:56 9 Q. All right. Thank you, Commissioner. I'm about to go to
12:56 10 another topic that won't be finished in a couple of minutes.
12:56 11
12:56 12 COMMISSIONER: All right. Question time from me, which
12:56 13 will involve Mr Walsh in answering some of the questions as
12:57 14 well, ie timing.
12:57 15
12:57 16 MR FINANZIO: We'll finish today.
12:57 17
12:57 18 MR ROZEN: I see you looking at me, Commissioner. I, at the
12:57 19 moment, would probably need 15 to 20 minutes if I get your
12:57 20 leave to cross-examine, of course.
12:57 21
12:57 22 COMMISSIONER: Yep. Okay. I'm just wondering whether we
12:57 23 should have a short lunch break or stick to the 45 minutes?
12:57 24
12:57 25 MR FINANZIO: 45 minutes.
12:57 26
12:57 27 COMMISSIONER: Everybody okay with that? All right.
12:57 28
12:57 29 If somebody wanted less time, I was going to ask you if half
12:57 30 an hour would do, but they are happy with 45 minutes so you are
12:57 31 safe.
12:57 32
12:57 33 A. Thank you.
12:57 34
12:57 35 COMMISSIONER: We'll adjourn.
12:57 36
12:57 37
12:57 38 **ADJOURNED** [12.57PM]
13:46 39
13:46 40
13:46 41 **RESUMED** [1.46PM]
13:46 42
13:46 43
13:46 44 MR FINANZIO: Mr Walsh, on 2 October last year the VCGLR
13:46 45 issued a Show Cause Notice in relation to junket processes; that's
13:46 46 right, isn't it?
13:46 47

- 13:46 1 A. Yes.
13:46 2
13:46 3 Q. That Show Cause Notice was amended in November 2020?
13:46 4
13:46 5 A. Yes.
13:46 6
13:46 7 Q. It required Crown, and I will summarise it for the moment,
13:47 8 we'll get into the detail in a moment, it required Crown to show
13:47 9 cause why disciplinary action shouldn't be taken in relation to
13:47 10 four nominated individuals and the application of the junkets'
13:47 11 processes that Crown had in place at that time; is that right?
13:47 12
13:47 13 A. Yes.
13:47 14
13:47 15 Q. One of them was junket agent Simon Pan?
13:47 16
13:47 17 A. Yes.
13:47 18
13:47 19 Q. Another was a junket operator, that's the Song junket?
13:47 20
13:47 21 A. Yes.
13:47 22
13:47 23 Q. Another was known as Wong or Pereira?
13:47 24
13:47 25 A. Yes.
13:47 26
13:47 27 Q. And another one was Alvin Chau and Suncity?
13:47 28
13:47 29 A. That's correct.
13:47 30
13:47 31 Q. Both notices alleged that Crown had breached section 124
13:47 32 of the Casino Control Act?
13:47 33
13:47 34 A. Yes.
13:47 35
13:47 36 Q. In that Crown failed to implement its obligations under
13:47 37 what is clause 2.1.5 of the junket's ICS?
13:47 38
13:47 39 A. Yes.
13:47 40
13:48 41 Q. You are very familiar with the matter?
13:48 42
13:48 43 A. Yes, I am.
13:48 44
13:48 45 Q. The Show Cause Notices were issued before you became
13:48 46 the CEO?
13:48 47

- 13:48 1 A. That's correct.
13:48 2
13:48 3 Q. I think Mr Barton prepared the first response to the Show
13:48 4 Cause Notices?
13:48 5
13:48 6 A. That's correct.
13:48 7
13:48 8 Q. But you became the CEO a short time later, about
13:48 9 November, I think it was 9 November?
13:48 10
13:48 11 A. 9 December.
13:48 12
13:48 13 Q. 9 December.
13:48 14
13:48 15 A. Yeah, the first two responses to the Show Cause were
13:48 16 prepared, or prepared on behalf of Mr Barton who signed them.
13:48 17
13:48 18 Q. Were you involved in the preparation of those documents?
13:48 19
13:48 20 A. No.
13:48 21
13:48 22 Q. Ultimately, though, upon becoming the CEO you had the
13:48 23 carriage of the matter?
13:48 24
13:48 25 A. Yes, I mean, yes. I was asked to --- we were given the
13:49 26 opportunity by the VCGLR to appear ---
13:49 27
13:49 28 Q. I will come to that.
13:49 29
13:49 30 A. I beg your pardon.
13:49 31
13:49 32 Q. Insofar as Crown is concerned, you were the person
13:49 33 responsible for managing it as the CEO, managing this matter?
13:49 34
13:49 35 A. I don't know that I would characterise it like that,
13:49 36 Mr Finanzio, because once the Show Cause Responses had gone
13:49 37 in, there was a period of time where not a lot occurred until we
13:49 38 were given notice that the Commission had granted us leave to
13:49 39 appear.
13:49 40
13:49 41 Q. Right. First of all, was it you who was involved in it ---
13:49 42 from the moment you became CEO, was it you who was involved
13:49 43 in giving instructions lawyers about the matter?
13:49 44
13:49 45 A. No.
13:49 46
13:49 47 Q. You gave no lawyers instructions after you became CEO

13:49 1 about this at all?
13:49 2
13:49 3 A. My first interaction with the lawyers was in the lead-up to
13:49 4 appearing at the hearing in January.
13:49 5
13:49 6 Q. Okay. We might be at cross purposes.
13:49 7
13:50 8 A. Okay, sorry.
13:50 9
13:50 10 Q. Perhaps if we go back and walk through it. You became
13:50 11 the CEO on 9 November?
13:50 12
13:50 13 A. Yes.
13:50 14
13:50 15 Q. Up to that point there hadn't been much action on the Show
13:50 16 Cause Notices beyond putting in submissions in relation to the
13:50 17 Show Cause Notices, correct?
13:50 18
13:50 19 A. Correct. Yes.
13:50 20
13:50 21 Q. You weren't responsible for putting the submissions in?
13:50 22
13:50 23 A. Correct.
13:50 24
13:50 25 Q. There was no very much action after 9 December until you
13:50 26 received notice that the matter would progress to a hearing at the
13:50 27 VCGLR?
13:50 28
13:50 29 A. That's correct.
13:50 30
13:50 31 Q. When that occurred, you became the person at Crown
13:50 32 responsible, as the CEO, responsible for Crown's representation
13:50 33 at the VCGLR; correct?
13:50 34
13:50 35 A. That's correct.
13:50 36
13:50 37 Q. And you, in that context and after that point --- and forgive
13:50 38 me, I don't know the exact date and I think if I ask you you
13:50 39 wouldn't know it either --- but from that point onwards you were
13:50 40 instructing the lawyers to assist you in the preparation of that
13:51 41 hearing?
13:51 42
13:51 43 A. Yes. There were meetings hearing up to the hearing date. I
13:51 44 had a week's leave and I think the meeting was on the Thursday
13:51 45 and on the Monday, it was actually Ms Manos who rang me and
13:51 46 said that they'd like me to speak to it.
13:51 47

- 13:51 1 Q. Right. Crown did seek advice in relation to its preparation
13:51 2 and presentation at the VCGLR?
13:51 3
- 13:51 4 A. Yes.
13:51 5
- 13:51 6 Q. Is it right that you also undertook inquiries of your own?
13:51 7
- 13:51 8 A. I read the material, yes.
13:51 9
- 13:51 10 Q. Ultimately you appeared before a hearing conducted by the
13:51 11 Commission; is that correct?
13:51 12
- 13:51 13 A. I did.
13:51 14
- 13:51 15 Q. The hearing was conducted on 21 January 2021?
13:51 16
- 13:51 17 A. I believe that's correct, yes.
13:51 18
- 13:51 19 Q. So it happened after the hearings of the Bergin Inquiry had
13:51 20 concluded?
13:51 21
- 13:51 22 A. After the hearings had concluded, yes.
13:51 23
- 13:52 24 Q. But before the report had been published in relation to the
13:52 25 Bergin Inquiry?
13:52 26
- 13:52 27 A. That's correct.
13:52 28
- 13:52 29 Q. Clause 2.5.1 of the Junket ICS, under the that clause,
13:52 30 Crown was required to ensure that it had robust processes in
13:52 31 place to consider the ongoing probity of junket operators, junket
13:52 32 players and premium players; correct?
13:52 33
- 13:52 34 A. That's correct.
13:52 35
- 13:52 36 Q. On 17 November 2020, Crown publicly announced that the
13:52 37 Board had determined that Crown would permanently cease
13:52 38 dealing with all junket operators for the time being; that's correct,
13:53 39 isn't it? The way the announcement read was Crown would only
13:53 40 recommence dealings with the junket operator if that operator is
13:53 41 licensed by the regulator?
13:53 42
- 13:53 43 A. Words to that effect, yes.
13:53 44
- 13:53 45 Q. Before we come to the hearing of 21 January 2020, I want
13:53 46 to go through a few things if we can. By the time you came to the
13:53 47 hearing in January 2021 you were aware of media reports that

13:53 1 had been made about the connections between organised criminal
13:53 2 elements and the casino?
13:53 3
13:53 4 A. Yes, in terms of allegations, yes.
13:53 5
13:53 6 Q. They were allegations in July 2019, being the most recent?
13:53 7
13:53 8 A. You are talking about media reporting locally?
13:53 9
13:54 10 Q. So, let me be absolutely clear. There had been many
13:54 11 reports over the period between, say, 2014 and the
13:54 12 commencement of the Bergin Inquiry ---
13:54 13
13:54 14 A. Sure, yes.
13:54 15
13:54 16 Q. --- that made allegations about the connections between
13:54 17 organised criminal elements and the casino?
13:54 18
13:54 19 A. Yes.
13:54 20
13:54 21 Q. You were aware of those?
13:54 22
13:54 23 A. Yes, I was.
13:54 24
13:54 25 Q. You personally had been made aware by your head of
13:54 26 security that the Suncity junket was suspected of being connected
13:54 27 to the triads?
13:54 28
13:54 29 A. Yes. Those allegations, though, I don't believe were new at
13:54 30 that point.
13:54 31
13:54 32 Q. No, so that was made clear to you in 2015 or 2016?
13:54 33
13:54 34 A. Yes. I can't recall the date. I thought it was 2016. I could
13:54 35 be wrong. I agree.
13:54 36
13:54 37 Q. When you say that they were only allegations, they were ---
13:54 38 it is right, isn't it, that you were made aware of them by Mr Craig
13:55 39 Walsh?
13:55 40
13:55 41 A. Yes.
13:55 42
13:55 43 Q. You were made aware of them because Mr Walsh had
13:55 44 attended a seminar put on by Victoria Police?
13:55 45
13:55 46 A. Yes. I'm not sure who put it on, but I assume it was law
13:55 47 enforcement.

13:55 1
13:55 2 Q. And that he had received that information during the course
13:55 3 of that seminar?
13:55 4
13:55 5 A. Yes.
13:55 6
13:55 7 Q. After the media allegations of July 2019, Crown published
13:55 8 a response saying that its processes were robust; do you
13:55 9 remember that? Do you remember the Board publishing
13:55 10 a response to the media allegations that were made ---
13:55 11
13:55 12 A. I think it was published in the newspaper at a minimum.
13:55 13 I'm not sure if it went on the Exchange.
13:55 14
13:55 15 Q. If I said this to you, the statement was in these terms,
13:55 16 "Crown has robust processes for vetting junket operators with
13:56 17 whom it deals and undertakes regular ongoing reviews of these
13:56 18 operators in the light of new or additional information that comes
13:56 19 to its attention" ---
13:56 20
13:56 21 A. Yes.
13:56 22
13:56 23 Q. --- that's what the board put out in response to the
13:56 24 allegations made?
13:56 25
13:56 26 A. Yes.
13:56 27
13:56 28 Q. In early August 2019, MinterEllison engaged
13:56 29 FTI Consulting on behalf of Crown in relation to that due
13:56 30 diligence program; didn't it?
13:56 31
13:56 32 A. I understand that now, but yes.
13:56 33
13:56 34 Q. You understand it now, but I'm asking you these questions
13:56 35 based on your state of knowledge as CEO in January 2021. You
13:56 36 knew by January 2021 that that had occurred?
13:57 37
13:57 38 A. No, I did not. I didn't know about the FTI report until it
13:57 39 was referred to in the hearings, and in fact, it was Mr May from
13:57 40 the VCGLR sent me a note asking me for a copy of it, and we had
13:57 41 a scramble internally to see who had it, and in the end went to
13:57 42 Minters to get a copy.
13:57 43
13:57 44 Q. So you didn't know about the FTI report at that time?
13:57 45
13:57 46 A. No.
13:57 47

- 13:57 1 Q. Have you read it since?
- 13:57 2
- 13:57 3 A. I'm skimmed it. I haven't read it in detail.
- 13:57 4
- 13:57 5 Q. What did you glean from your skimming of it?
- 13:57 6
- 13:57 7 A. It was substantially similar to the Deloitte report, which
- 13:57 8 made a number of recommendations for improvement.
- 13:57 9
- 13:57 10 Q. I said to you that the FTI report was commissioned in
- 13:57 11 August 2019. A year later Crown obtained a report from Deloitte
- 13:58 12 in relation to the junket due diligence process and other things ---
- 13:58 13
- 13:58 14 A. Yes.
- 13:58 15
- 13:58 16 Q. --- that is the Deloitte report you are talking about?
- 13:58 17
- 13:58 18 A. Yes, the 2020 Deloitte report.
- 13:58 19
- 13:58 20 Q. As you said, the Deloitte 2020 report came to similar
- 13:58 21 conclusions to that of the FTI report?
- 13:58 22
- 13:58 23 A. That would be my read of it, yes.
- 13:58 24
- 13:58 25 Q. And even though you did know about the Deloitte report in
- 13:58 26 January 2021; didn't you?
- 13:58 27
- 13:58 28 A. Yes, I had read it by then.
- 13:58 29
- 13:58 30 Q. You followed the Bergin proceedings as they were
- 13:58 31 underway, didn't you?
- 13:58 32
- 13:58 33 A. Best I could, yes. I wouldn't say I saw it all, but I saw
- 13:58 34 a large number of the hearing days and then read the report
- 13:58 35 a couple of times.
- 13:58 36
- 13:58 37 Q. You kept abreast of the evidence that had been led in the
- 13:58 38 Bergin Inquiry? You say you read the report?
- 13:58 39
- 13:58 40 A. Yes, yes, I have.
- 13:58 41
- 13:58 42 Q. Certainly, as the hearing was ongoing, you were reading the
- 13:58 43 newspapers about the revelations being made?
- 13:58 44
- 13:59 45 A. Yes.
- 13:59 46
- 13:59 47 Q. And you were aware that by the time you came to address

13:59 1 the VCGLR, you were aware of the various inadequacies of the
13:59 2 due diligence process that had been undertaken at Crown, be
13:59 3 weren't you?

13:59 4

13:59 5 A. Yes, I was aware that we had conceded in Bergin that there
13:59 6 were shortcomings that could be improved, and I agreed with
13:59 7 that.

13:59 8

13:59 9 Q. Crown had conceded that there were shortcomings that
13:59 10 could be improved, which is a nice way of saying that actually
13:59 11 there were inadequacies in that due diligence process that were
13:59 12 stark and that were revealed at the Bergin Inquiry; correct?

13:59 13

13:59 14 A. I wouldn't describe it as stark, but there was certainly room
13:59 15 for improvement. I would agree with that.

13:59 16

13:59 17 Q. It is really important that we explore this carefully. Would
13:59 18 you characterise the nature of the due diligence program or
14:00 19 process at Crown before Bergin as simply allowing room for
14:00 20 improvement?

14:00 21

14:00 22 A. No, there was definitely room for improvement, but I
14:00 23 wouldn't ---

14:00 24

14:00 25 Q. How much room for improvement?

14:00 26

14:00 27 A. There was a number of recommendations that came from
14:00 28 Deloitte that pointed to various areas where we ---

14:00 29

14:00 30 Q. Do you agree, wholesale improvement, chuck the old
14:00 31 program out and start again?

14:00 32

14:00 33 A. No, I would say build on what we were doing.

14:00 34

14:00 35 Q. How much building?

14:00 36

14:00 37 A. As I say, there were a number of areas or a number of
14:00 38 recommendations. I ---

14:00 39

14:00 40 Q. Would you agree with this statement: there was significant
14:00 41 room for improvement?

14:00 42

14:00 43 A. In some areas, I would say yes, yes.

14:00 44

14:00 45 Q. In critical areas?

14:00 46

14:00 47 A. I don't know in critical areas, Mr Finanzio, but I would say

- 14:00 1 there is room for improvement.
14:01 2
14:01 3 Q. Even before the Bergin hearings were completed, so while
14:01 4 they were ongoing, Crown retained an outfit called Berkeley;
14:01 5 didn't it?
14:01 6
14:01 7 A. That's correct.
14:01 8
14:01 9 Q. To provide a report on five people the subject of the --- that
14:01 10 had been raised in the Bergin Inquiry?
14:01 11
14:01 12 A. That's correct.
14:01 13
14:01 14 Q. That included Alvin Chau, who was a person the subject of
14:01 15 a Show Cause Notice of the VCGLR?
14:01 16
14:01 17 A. That's correct.
14:01 18
14:01 19 Q. That was provided to Crown on 12 December 2020?
14:01 20
14:01 21 A. Yes.
14:01 22
14:01 23 Q. You were aware of that on 21 January 2021 when you
14:01 24 addressed the VCGLR?
14:01 25
14:01 26 A. Yes.
14:01 27
14:01 28 Q. Can I suggest to you that the nature of that report involved
14:02 29 extensive review of materials in relation to each of the
14:02 30 individuals that were nominated for investigation in that report;
14:02 31 wasn't it?
14:02 32
14:02 33 A. Yes, and I think there was also some work done on the
14:02 34 ground, if you like, in Hong Kong at least by Berkeley.
14:02 35
14:02 36 Q. Berkeley is an outfit that does this kind of investigative
14:02 37 work?
14:02 38
14:02 39 A. Yes.
14:02 40
14:02 41 Q. An outfit that a casino of your size and stature in the
14:02 42 worldscape could use to undertake this kind of inquiry; correct?
14:02 43
14:02 44 A. Yes.
14:02 45
14:02 46 Q. Your casino had not undertaken any inquiry of that type
14:02 47 before?

14:02 1
14:02 2 A. No.
14:02 3
14:02 4 Q. What Berkeley revealed in its results were the gaps
14:02 5 between the nature of level of inquiry that the casino was
14:02 6 undertaking up to that point, and what could be done? Correct?
14:03 7
14:03 8 A. Yeah, to certain extents, yes. A lot of the information in
14:03 9 the Berkeley report we were already aware of.
14:03 10
14:03 11 Q. And a good deal of information that you weren't?
14:03 12
14:03 13 A. There was some information that we weren't. And I
14:03 14 suppose the Berkeley report provided affirmation of a lot of the
14:03 15 information we already had.
14:03 16
14:03 17 Q. I suggest to you that what the Berkeley report laid bare was
14:03 18 the gap between what Crown was doing and what could be done
14:03 19 in relation to due diligence for customers of that type.
14:03 20
14:03 21 A. It was certainly an enhancement of substance to what we
14:03 22 had done for other operators.
14:03 23
14:03 24 Q. A significant enhancement?
14:03 25
14:03 26 A. On those operators, I would say it was an enhancement. I
14:03 27 mean, as I mentioned, a lot of the information in the Berkeley
14:03 28 report we were familiar with.
14:03 29
14:03 30 Q. Did Crown act on the Berkeley report in deciding to issue
14:04 31 WOLs?
14:04 32
14:04 33 A. That fed into the decision to issue WOLs, and at that point
14:04 34 ---
14:04 35
14:04 36 Q. The question I'm asking you is, if there wasn't that much
14:04 37 added, why weren't WOLs in relation to these individuals issued
14:04 38 earlier?
14:04 39
14:04 40 A. I can't remember answer that, Mr Finanzio.
14:04 41
14:04 42 Q. Isn't it really the case that the gap between what Crown was
14:04 43 doing, and what Berkeley showed could be done, was very wide?
14:04 44
14:04 45 A. I don't necessarily agree with that. In terms of the ---
14:04 46
14:04 47 Q. What do you agree with?

14:04 1
14:04 2 A. Certainly, as I say, it provided affirmation. They did work
14:04 3 on the ground that we weren't able to do with any independence
14:04 4 in terms of talking to what they described as discrete sources. It
14:04 5 provided some objectivity to the information flow from places
14:05 6 like Hong Kong that was independent of, for example, our staff
14:05 7 that were over there giving us their opinion.
14:05 8
14:05 9 Q. Isn't that the point? You were relying on staff over there
14:05 10 who were responsible for sales and marketing, and you weren't
14:05 11 doing any independent analysis at all.
14:05 12
14:05 13 A. No, I think there was discussion with other casinos as well.
14:05 14
14:05 15 Q. I see. Other casinos, so when a player emerged in another
14:05 16 casino as a player, the fact that they were playing in another
14:05 17 casino gave you comfort that they were okay?
14:05 18
14:05 19 A. No, in terms of allegations and so forth that were raised
14:05 20 around certain junket operators, obviously for a period of time we
14:05 21 had a stake in Macau casinos, and so we could seek to validate or
14:05 22 otherwise allegations that were made.
14:05 23
14:05 24 Q. So nothing wrong with Crown's system up to the point that
14:06 25 Berkeley comes along --- up to the point that Berkeley is
14:06 26 engaged?
14:06 27
14:06 28 A. I'm not suggesting there is nothing wrong. I'm suggesting it
14:06 29 could have been enhanced and the Berkeley report was
14:06 30 an example of an enhancement.
14:06 31
14:06 32 Q. Was there anything stopping you engaging Berkeley at any
14:06 33 time in any year, or an outfit by Berkeley before the end of last
14:06 34 year?
14:06 35
14:06 36 A. No.
14:06 37
14:06 38 Q. It was enhancement that could have been done to engage
14:06 39 Berkeley to assist Crown in these activities?
14:06 40
14:06 41 A. Yes.
14:06 42
14:06 43 Q. Do you agree that Berkeley did a much better job of
14:06 44 unearthing more material than Crown did?
14:06 45
14:06 46 A. They certainly unearthed more material, yes.
14:06 47

14:06 1 Q. Not much better?
14:06 2
14:06 3 A. Well, as I mentioned earlier, some of the information that
14:06 4 was canvassed in the Berkeley report we already had.
14:06 5
14:06 6 Q. Some of it?
14:06 7
14:06 8 A. Yes.
14:06 9
14:06 10 Q. But the information that you did already have was not
14:06 11 sufficient for you to reach a conclusion that some of these players
14:06 12 should be the subject of a WOL?
14:06 13
14:07 14 A. Yes.
14:07 15
14:07 16 Q. So not enough information, obviously.
14:07 17
14:07 18 A. Well, part of the decision to issue WOLs to those
14:07 19 individuals was as a result of change of attitude by the company
14:07 20 to how we dealt with allegations versus charges or convictions.
14:07 21
14:07 22 Q. Here we come to a point. So another part of the way in
14:07 23 which you approached it was to allow people to do business with
14:07 24 the casino, provided they had not been the subject of a charge or
14:07 25 been convicted in a criminal proceeding?
14:07 26
14:07 27 A. It was taken into account, but more weight was given to
14:07 28 charges or convictions, yes.
14:07 29
14:07 30 Q. When you say it was taken into account, it was the most
14:07 31 prevailing feature?
14:07 32
14:07 33 A. The charge or the ---
14:07 34
14:07 35 Q. Correct.
14:07 36
14:07 37 A. Correct, yes.
14:07 38
14:07 39 Q. That was a feature of your --- that was a feature of the
14:07 40 junkets due diligence process; correct?
14:07 41
14:07 42 A. Yes.
14:07 43
14:07 44 Q. And you agree, now, that that was wrong?
14:07 45
14:07 46 A. I do. We should have been putting far greater weight on
14:08 47 allegations.

14:08 1
14:08 2 Q. And that's not the approach that Berkeley took either.
14:08 3
14:08 4 A. In terms of ---
14:08 5
14:08 6 Q. In its analysis.
14:08 7
14:08 8 A. Yes, well, Berkeley didn't come up with any
14:08 9 recommendations. They simply said, "You've asked us to take
14:08 10 a look, here's all the information we can find, factor that into your
14:08 11 decision-making."
14:08 12
14:08 13 Q. Yes, it didn't stop at "There are no charges or convictions,
14:08 14 therefore you don't need to look any harder"?
14:08 15
14:08 16 A. What the Berkeley report was was an information gathering
14:08 17 report for us to feed into our decision-making processes.
14:08 18
14:08 19 Q. Would you agree that the scope of information that
14:08 20 Berkeley provided to you was significantly greater than the scope
14:08 21 of inquiry that had been made by Crown?
14:08 22
14:08 23 A. To the extent that they had --- in a couple of areas, yes. To
14:08 24 the extent that they had people on the ground that were making
14:08 25 direct inquiries, they also used some databases, if my recollection
14:08 26 of their report is right, that were additional to the ones we'd used,
14:09 27 yes.
14:09 28
14:09 29 Q. Yes. When you are conducting a business which is so
14:09 30 heavily dependent upon attracting overseas gamblers, making
14:09 31 those inquiries and having that level of investigation is important,
14:09 32 isn't it?
14:09 33
14:09 34 A. Yes.
14:09 35
14:09 36 Q. You would now recognise that it is?
14:09 37
14:09 38 A. Yes, I would.
14:09 39
14:09 40 Q. And not having it effectively blinkers you to a range of
14:09 41 considerations that might be determinative on whether someone
14:09 42 gets a WOL or not?
14:09 43
14:09 44 A. Yes.
14:09 45
14:09 46 Q. Do you agree that not having that line of sight was a major
14:09 47 deficiency in your due diligence process?

14:09 1
14:09 2 A. I think not having that line of sight was a deficiency. In
14:09 3 a couple of cases, the Berkeley report validated what we already
14:09 4 had. It didn't actually provide significant more detail than
14:09 5 allegations. It in fact confirmed allegations.
14:09 6
14:10 7 Q. So --- okay. But where --- so in those cases, in the cases
14:10 8 where it didn't add to the information, really it was just a shift in
14:10 9 emphasis from no charge or conviction, therefore no problem to
14:10 10 actually all this information warrants a WOL?
14:10 11
14:10 12 A. Yes. In terms of a change of attitude by the company to say
14:10 13 we've got to raise, or lower, actually, our threshold in terms of
14:10 14 what we think is acceptable and not acceptable.
14:10 15
14:10 16 Q. By the time you came to appear in front of the VCGLR on
14:10 17 21 January, you'd received two reviews from MinterEllison,
14:10 18 correct, in relation to Persons of Interest?
14:10 19
14:10 20 A. That's correct, yes.
14:10 21
14:10 22 Q. One was dated 30 December 2020?
14:10 23
14:10 24 A. Yes.
14:10 25
14:10 26 Q. It was about 180-odd pages long?
14:10 27
14:11 28 A. It was substantial, yes.
14:11 29
14:11 30 Q. It set forth details of individuals with whom Crown had
14:11 31 done business?
14:11 32
14:11 33 A. Yes. Sorry, beg your pardon, if I can restate that,
14:11 34 Mr Finanzio. Some of them are associates of people that we had
14:11 35 done business with. I'm not sure in every instance we had done
14:11 36 business with them.
14:11 37
14:11 38 Q. In every instance? You are not sure that in every instance?
14:11 39
14:11 40 A. Yes, that's what I'm saying.
14:11 41
14:11 42 Q. You might not have done business directly with them but
14:11 43 that document included people with whom --- included associates
14:11 44 with whom you had done business?
14:11 45
14:11 46 A. Yes, that's what I'm saying, yes.
14:11 47

14:11 1 Q. The purpose of that was to determine whether Crown
14:11 2 would continue to do business with either those people that it was
14:11 3 doing business with ---

14:11 4

14:11 5 A. Yes.

14:11 6

14:11 7 Q. --- or to determine whether Crown wanted to have any
14:12 8 association with someone who was doing business with another
14:12 9 person, an associate of theirs?

14:12 10

14:12 11 A. Yes.

14:12 12

14:12 13 Q. But the review revealed, didn't it, how little information
14:12 14 had been collected on people over a long period of time?

14:12 15

14:12 16 A. Well, the review was --- I mean, it was a big review, as you
14:12 17 say. The information in it was a summarised version in some
14:12 18 instances of the material that we'd had, or that Minters had
14:12 19 garnered throughout the inquiries and proceedings of the Bergin
14:12 20 Inquiry.

14:12 21

14:12 22 Q. Am I right in saying that before Bergin, before 2019, the
14:12 23 due diligence on people operating in the junkets area at Crown
14:12 24 was pretty slim?

14:13 25

14:13 26 A. I would say before 2016 it was pretty slim. From early
14:13 27 2017 onward there was a change in the way that we did due
14:13 28 diligence, and there was a lot more work done than had
14:13 29 previously been done in terms of getting external reports,
14:13 30 accessing external subscription services to get information that
14:13 31 was available.

14:13 32

14:13 33 Q. You didn't engage FTI --- you didn't even know that FTI
14:13 34 had been engaged ---

14:13 35

14:13 36 A. No.

14:13 37

14:13 38 Q. --- until late 2019 ---

14:13 39

14:13 40 A. Yes.

14:13 41

14:13 42 Q. --- and you didn't engage Deloitte until a year later --

14:13 43

14:13 44 A. Yes, yes.

14:13 45

14:13 46 Q. --- and you didn't engage Berkeley until around the same
14:13 47 time.

14:13 1
14:13 2 A. Yes.
14:13 3
14:13 4 Q. So when you are talking about external advice or
14:13 5 assistance, these are just search engines you could look up, like
14:14 6 Factiva and the like?
14:14 7
14:14 8 A. No, we used organisations like Acuris, or C6, to provide us
14:14 9 with probity information. They are reports that you pay for per
14:14 10 report. It is not a subscription database that you access.
14:14 11
14:14 12 Q. Do you agree with me that the reviews conducted by
14:14 13 Minters in December 2020, and then subsequently refined in
14:14 14 January 2021, gathered more information about these people of
14:14 15 interest than Crown had in the past?
14:14 16
14:14 17 A. It certainly consolidated them in one spot and drew in
14:14 18 information regarding associates and so forth that we hadn't done,
14:14 19 that's correct.
14:14 20
14:14 21 Q. So a deficiency of the system that was in place at Crown
14:14 22 was that these pieces of information were disparately held?
14:14 23
14:14 24 A. In terms of connecting to associates, I would agree with
14:15 25 that, yes.
14:15 26
14:15 27 Q. Which impeded Crown's ability to do ongoing probity
14:15 28 checks; correct?
14:15 29
14:15 30 A. If we didn't --- excuse me. If we didn't draw the connection
14:15 31 on the associate, then that could have been the case, yes.
14:15 32
14:15 33 Q. So it was a systemic problem inside Crown's due diligence
14:15 34 process that these threads of information were held separately?
14:15 35
14:15 36 A. Look, I'm not sure I would characterise it as a systemic
14:15 37 problem. The key focus of the probity work done by Crown, for
14:15 38 example, with junket operators, was on the junket operator. So if
14:15 39 we wanted to find out about a particular operator, that
14:15 40 information would have all been in one place.
14:15 41
14:15 42 Q. But you said a minute ago that threads of information were
14:15 43 held differently --- held in different spots in the organisation.
14:15 44
14:15 45 A. That --- I had not seen a report of the nature that Minters
14:16 46 delivered on 30 December. It took me a while to read it, but it
14:16 47 made it easy to get through a lot of material quickly as somebody

14:16 1 who would be, and ultimately did recommend to the POI
14:16 2 Committee that we stop doing business with these people.
14:16 3
14:16 4 Q. Doesn't that fact glaringly underscore a deficiency in the
14:16 5 process of due diligence that Crown had been undertaking up to
14:16 6 that point? That you were able to look at a document that
14:16 7 brought all the strands of information together in one spot so you
14:16 8 could make a fully informed decision.
14:16 9
14:16 10 A. It certainly made it more efficient, Mr Finanzio.
14:16 11
14:16 12 Q. Just more efficient or actually more likely to capture all of
14:16 13 the information necessary to be able to make a proper decision?
14:16 14
14:16 15 A. Not in respect to certain operators. Some of the Minters ---
14:17 16 some of the junket operators referred to in the Minters report,
14:17 17 there was no more information there than there was held by
14:17 18 Crown.
14:17 19
14:17 20 Q. You've said that before, and you have said that some of
14:17 21 those people were WOL'd because you changed the rules about it;
14:17 22 instead of being primarily focused on or concerned with criminal
14:17 23 conviction or charges ---
14:17 24
14:17 25 A. Yes.
14:17 26
14:17 27 Q. --- you looked more broadly?
14:17 28
14:17 29 A. We took a broader attitude to the information we had, yes.
14:17 30
14:17 31 Q. Yes, but that doesn't mean that the collation of the
14:17 32 information all in one spot was not a significant improvement in
14:17 33 a due diligence process.
14:17 34
14:17 35 A. It --- sorry, yes, it was an improvement, yes.
14:17 36
14:17 37 Q. You would agree with that with the benefit of hindsight,
14:17 38 that is something that Crown should always have been doing?
14:17 39
14:17 40 A. It would have been helpful, yes.
14:17 41
14:17 42 Q. Not just helpful, essential.
14:17 43
14:17 44 A. Well, on a case-by-case basis, once we had determined that
14:17 45 we were adopting a different attitude to the threshold of risk with
14:18 46 regard to the junket operators and associates it was --- if you like,
14:18 47 the first sweep through of that group of individuals.

14:18 1
14:18 2 Q. When you say "on a case-by-case basis", I want to suggest
14:18 3 to you that universally it's a good idea to have all of the relevant
14:18 4 information in the one spot for everybody, and then you go ahead
14:18 5 and make your case-by-case analysis based on all of the
14:18 6 information being in the one spot. That's got to be right, doesn't
14:18 7 it?
14:18 8
14:18 9 A. Sorry, I'm not --- maybe we are at cross purposes. We were
14:18 10 looking to assess a wide number of individuals in one go, if you
14:18 11 like. And, therefore, it was very convenient rather than to have,
14:18 12 and I forget how many names are on that list, but I thought it was
14:18 13 around 60-odd, rather than have 60 files sitting on my desk to go
14:18 14 through, we had a report, and normally you are not going to deal
14:19 15 with 60 people in one shot and, therefore, it is not necessarily
14:19 16 a problem, say there is half a dozen, to get six different files
14:19 17 wouldn't change the ---
14:19 18
14:19 19 Q. I'm sorry, but the Minters report didn't just put all of those
14:19 20 files in one document, did it, it also gathered information and
14:19 21 from different sources within the organisation and put it in the
14:19 22 one document?
14:19 23
14:19 24 A. Yes, it did. Yes, I don't agree with that.
14:19 25
14:19 26 Q. That's the point I'm making to you.
14:19 27
14:19 28 A. Okay.
14:19 29
14:19 30 Q. It was always the case that a system that gathered all of the
14:19 31 relevant information into one place would have made it easier
14:19 32 and --- would have made it easier to make a decision on Persons
14:19 33 of Interest?
14:19 34
14:19 35 A. I agree with that statement.
14:19 36
14:19 37 Q. And it would have made it possible to have all of the
14:19 38 relevant information available to make that decision?
14:19 39
14:19 40 A. At your fingertips, yes.
14:19 41
14:19 42 Q. And because you didn't have that system in place at the
14:20 43 time that you asked Minters to do this advice, or do this exercise,
14:20 44 the work done by Minters, demonstrates, doesn't it, the deficiency
14:20 45 in the system that was in place before?
14:20 46
14:20 47 A. It demonstrates a deficiency, yes.

14:20 1
14:20 2 Q. You say "a" deficiency, but it has to be significant, doesn't
14:20 3 it?
14:20 4
14:20 5 A. Again, I don't wish to be argumentative, but having it in
14:20 6 one place and being able to get through it quickly certainly makes
14:20 7 it efficient. Whether you say it is a deficiency. If I had called for
14:20 8 all the files individually, I could have done it that way as well,
14:20 9 but it was faster to do in the way Minters provided it in terms of
14:20 10 getting through a large number of individuals in one go.
14:20 11
14:20 12 Q. So it was just efficiency, it wasn't universally better?
14:20 13
14:20 14 A. It was better, maybe I'm too sensitive to some of the
14:20 15 adjectives, but I'm agreeing it is better.
14:20 16
14:21 17 Q. All right.
14:21 18
14:21 19 COMMISSIONER: When you say "better", do you accept that it
14:21 20 is better for better decision-making?
14:21 21
14:21 22 A. I think so, Commissioner, yes. It is far easier to get --- if
14:21 23 you do it in one go and you have all the files there, and you are
14:21 24 making comparative decisions on individuals, it is easier if they
14:21 25 are in one spot.
14:21 26
14:21 27 COMMISSIONER: I get that. But did the work that was done
14:21 28 lead you to make different decisions than the ones you made
14:21 29 previously? In other words, had you said, "We'll do business
14:21 30 with junket operator A", and when this work was done, you said,
14:21 31 "Hmm, I don't think we'll do business with junket operator A
14:21 32 anymore"?
14:21 33
14:21 34 A. Until that point, Commissioner, I hadn't arbitrated on any
14:21 35 junket operators to that point, we'd had ---
14:21 36
14:21 37 COMMISSIONER: Company-wide?
14:21 38
14:21 39 A. Look, I think that's probably a reasonable position, yes.
14:21 40 A reasonable proposition, I should say.
14:22 41
14:22 42 MR FINANZIO: On 21 January you went to the hearing of the
14:22 43 VCGLR that the VCGLR had given you, didn't you?
14:22 44
14:22 45 A. Yes, I did, yes.
14:22 46
14:22 47 Q. And you made submissions to the VCGLR which are

14:22 1 recorded in the decision?
14:22 2
14:22 3 A. Yes.
14:22 4
14:22 5 Q. I want to take you to that, but before I do, I will just make
14:22 6 a couple of points.
14:22 7
14:22 8 Of the five people that the VCGLR had referred you to in the
14:22 9 Show Cause Notice, you had agreed that all of them should be
14:22 10 given a WOL?
14:22 11
14:22 12 A. Yes, a couple of them already were.
14:22 13
14:22 14 Q. When you say a couple, Simon Pan was one who already
14:22 15 had a WOL?
14:22 16
14:22 17 A. And Pereira.
14:22 18
14:22 19 Q. Pereira had a WOL. But at that point Alvin Chau didn't
14:22 20 have had a WOL?
14:22 21
14:22 22 A. No, he had stop codes but no WOL.
14:22 23
14:22 24 Q. Stop codes and no WOL. Song ---
14:22 25
14:22 26 A. Sorry, Mr Finanzio, can I back up a second. No, I think
14:23 27 once I got there, we had issued WOLs.
14:23 28
14:23 29 Q. You might have issued the WOL a day or two before.
14:23 30
14:23 31 A. Yes, sorry to speak over you, there was a Person of Interest
14:23 32 Committee meeting the day before. They happen every month.
14:23 33 And Chau, Song and --- my apologies, I'm just trying to
14:23 34 remember. There were four, yes, they were WOL'd at that
14:23 35 meeting.
14:23 36
14:23 37 Q. Those two were WOL'd at the POI Committee meeting the
14:23 38 day before?
14:23 39
14:23 40 A. Yes.
14:23 41
14:23 42 Q. And they hadn't been WOL'd at any time before that?
14:23 43
14:23 44 A. No. You are correct, but we put stop codes on them in
14:23 45 December.
14:23 46
14:23 47 Q. And they are an example of what the Commissioner was

14:23 1 referring to a minute ago of people that you had done business
 14:23 2 with for a long period of time and not WOL'd after you had
 14:24 3 received the material from Minters?

14:24 4

14:24 5 A. Yes.

14:24 6

14:24 7 Q. I want to --- can I ask the Commissioner to go to tab 17.

14:24 8 Actually, tab 25. VCG.0001.0002.6532.

14:24 9

14:24 10 This is the transcript of your submission, or part of it at least. If

14:24 11 I can ask the Commission to go to --- operator, if you can go to

14:25 12 page 5, please. At line 10 you start:

14:25 13

14:25 14 *Good morning*

14:25 15

14:25 16 Et cetera. And then I want to take you to line 30 where you say:

14:25 17

14:25 18 *We do acknowledge that there are elements of the*
 14:25 19 *particulars that highlight shortcomings that could have*
 14:25 20 *been addressed at the time and weren't. For example, the*
 14:25 21 *incidents of cash in pit 86, you know, wasn't given enough*
 14:25 22 *emphasis in the decision to continue ongoing relations*
 14:25 23 *with Alvin Chau and Suncity. You know, the question's*
 14:25 24 *been asked, should Crown have approached Mr Song*
 14:26 25 *directly and asked him about allegations of past charges*
 14:26 26 *relating to illegal activity. It didn't, and in terms of*
 14:26 27 *Mr Wong and Mr Prower [I think that should be Pereira],*
 14:26 28 *you know, did we put enough gravity on the allegations*
 14:26 29 *against him and the sanctions that were imposed and then*
 14:26 30 *were lifted by the UN.*

14:26 31

14:26 32 *However, we contend that this does not represent*
 14:26 33 *a failure of the ICS which requires Crown to have*
 14:26 34 *a robust process.*

14:26 35

14:26 36 Pausing there for a moment. What you have effectively done
 14:26 37 there is say "The people you've asked us about should have been
 14:26 38 WOL'd"?

14:26 39

14:26 40 A. Yes.

14:26 41

14:26 42 Q. And should have been WOL'd a lot sooner than they were?

14:26 43

14:26 44 A. Yes.

14:26 45

14:26 46 Q. And weren't WOL'd because of the way that Crown had
 14:26 47 approached the question of whether they should be?

- 14:27 1
14:27 2 A. Yes, the value of the judgment that we used was different at
14:27 3 the time than what it should have been.
14:27 4
14:27 5 Q. You go on to say that the process was a robust one.
14:27 6
14:27 7 A. Yes, I remember having a long discussion with the
14:27 8 Commissioners on this point.
14:27 9
14:27 10 Q. You say here:
14:27 11
14:27 12 *The material that we were provided and as articulated in*
14:27 13 *our response evidences the fact that we did have a good*
14:27 14 *process and a --- and a comprehensive process. Was it*
14:27 15 *perfect? We're not contending that it was perfect, and*
14:27 16 *clearly, we have evolved since that time both in terms of*
14:27 17 *our processes and personnel, and if we look at the*
14:27 18 *judgments that were made at the time and the*
14:27 19 *decision-making as a result of the process that we went*
14:27 20 *through, would different calls have been made or different*
14:27 21 *decisions been made in respect of the four persons*
14:27 22 *mentioned in the particulars?*
14:27 23
14:27 24 You go on to address the Commission. Your point in front of the
14:28 25 Commission was that the process was a robust one.
14:28 26
14:28 27 A. I did, yes.
14:28 28
14:28 29 Q. Do you still have that view?
14:28 30
14:28 31 A. No, look, I don't. And if I may ---
14:28 32
14:28 33 Q. So what has helped you change your view between
14:28 34 21 January this year and now?
14:28 35
14:28 36 A. Well, I think that what I hadn't given enough gravity to
14:28 37 is --- I was trying to separate the process of gathering the
14:28 38 information to get all the probity information together versus the
14:28 39 decision made with respect to having had that material in front of
14:28 40 us. And I listened --- I obviously read the Commission's response
14:28 41 and their judgment. I thought that the points that they made were
14:29 42 fair. I mean, we argued our point. It was probably a little bit
14:29 43 narrow ---
14:29 44
14:29 45 Q. Can I suggest to you that it was untenable to say that the
14:29 46 junkets process that had produced these four contacts, amongst
14:29 47 others, not getting a WOL, was just hopeless?

14:29 1
14:29 2 A. I wouldn't characterise it as hopeless. We took a position
14:29 3 based on legal advice, and obviously we argued that, and the
14:29 4 Commission took a fairly stern view the other way.
14:29 5
14:29 6 Q. Well, the truth is that between September 2020, at the
14:29 7 latest, and January 2021, Crown knew because of the advice ---
14:29 8 because of the documents that had prepared by Minters, how bad
14:29 9 a job it had been doing. Because it had not been able to bring
14:29 10 together the information that was relevant to making decisions
14:29 11 that once you saw all the information obviously led to a WOL?
14:29 12
14:30 13 A. I don't think it was lack of information, Mr Finanzio, with
14:30 14 respect. It was more ---
14:30 15
14:30 16 Q. It was lack of gathering the information in one spot so that
14:30 17 the information could produce a proper decision?
14:30 18
14:30 19 A. I don't agree with that.
14:30 20
14:30 21 COMMISSIONER: Do you think it was just bad
14:30 22 decision-making?
14:30 23
14:30 24 A. I think it was poor decision-making, Commissioner.
14:30 25
14:30 26 COMMISSIONER: If you work out what caused the poor
14:30 27 decision-making, it was getting money on the one side or kicking
14:30 28 out a money-making junket operator on the other?
14:30 29
14:30 30 A. I think that is right, and too much weight was put on "Well,
14:30 31 it is an allegation and therefore doesn't have enough gravity", it
14:30 32 should have been given far more weight, certainly against the
14:30 33 background of, as I think I have mentioned in the transcript here,
14:30 34 Suncity and the cash. I mean, it was a poor decision. Did we get
14:30 35 any more information on their principal, no, we didn't. And my
14:30 36 understanding is he hasn't been charged with anything, and
14:30 37 I believe that we hung our hat on the fact that there was
14:31 38 an allegation as opposed to looking at all the different pieces of
14:31 39 information and saying "That's enough". We had the
14:31 40 information, we just didn't use it effectively.
14:31 41
14:31 42 COMMISSIONER: Do you think it might have been a better
14:31 43 approach to be more forthright with the regulator during the
14:31 44 course of this investigation? Saying "Fair cop, you got me this
14:31 45 time"?
14:31 46
14:31 47 A. Certainly ---

14:31 1
14:31 2 COMMISSIONER: This was quite a strenuous attempt to deal
14:31 3 with --- I guess for publicity reasons or otherwise as made clear,
14:31 4 to avoid any adverse finding. I understand that. But
14:31 5 an organisation like yours, shouldn't it have adopted a completely
14:31 6 different attitude to the regulator than the one it did here and at
14:31 7 other times?
14:31 8
14:31 9 A. I think that's fair, Commissioner. And the criticism that the
14:31 10 company received over and above the fine, but the criticism and
14:32 11 the commentary that they made stung, but I have read that a few
14:32 12 times and it is hard to argue that we could have taken a different
14:32 13 approach and maybe had a different result in terms of
14:32 14 a relationship with the regulator. Clearly the Commissioners, the
14:32 15 individuals, were unhappy and understandably. I think what you
14:32 16 say is fair.
14:32 17
14:32 18 Q. I want to come back to the point. Let's talk about Suncity
14:32 19 for a moment.
14:32 20
14:32 21 A. Certainly.
14:32 22
14:32 23 Q. When you made the submission that the processes were
14:32 24 robust, you were in part referring to Crown's processes in relation
14:32 25 to Suncity, weren't you?
14:32 26
14:32 27 A. Yes.
14:32 28
14:32 29 Q. You addressed the submissions in relation to Alvin Chau
14:32 30 and Suncity as much as anyone else in the list of people the
14:33 31 Commission had asked you to address?
14:33 32
14:33 33 A. Yes.
14:33 34
14:33 35 Q. Suncity was not WOL'd until January 2021?
14:33 36
14:33 37 A. That's correct.
14:33 38
14:33 39 Q. It received stop codes which prevented it from trading with
14:33 40 Crown only in December 2020?
14:33 41
14:33 42 A. Yes, that's correct.
14:33 43
14:33 44 Q. In April 2018 your Group General Manager, AML,
14:33 45 prepared a report which raised the question about Suncity then;
14:33 46 didn't it?
14:33 47

14:33 1 A. Are we talking about the 100 day report?
14:33 2
14:33 3 Q. Correct.
14:33 4
14:33 5 A. Yes, as I understand it, yes, that's right.
14:33 6
14:33 7 Q. You told the VCGLR that incidents of cash in pit 86
14:34 8 weren't given enough emphasis in the decision to continue
14:34 9 ongoing relationships with Chau and Suncity?
14:34 10
14:34 11 A. That was my view, yes.
14:34 12
14:34 13 Q. You said that in January 2021?
14:34 14
14:34 15 A. Yes.
14:34 16
14:34 17 Q. But Crown was warned of the problems and the need for a
14:34 18 probe in April 2018. You may not have been aware of the 100
14:34 19 day report, but Crown was warned of the problems in relation to
14:34 20 money laundering and Suncity then; correct?
14:34 21
14:34 22 A. Yes, and I understand ---
14:34 23
14:34 24 Q. By its own internal advisor.
14:34 25
14:34 26 A. Yes, and I understand changes were made to the way they
14:34 27 operated. I didn't realise, and I'm not sure whether it was as a
14:34 28 result of that report or the discovery of the cash, but certainly
14:34 29 changes were made in and around that time.
14:34 30
14:34 31 Q. There were plenty of other signs, though, weren't there?
14:34 32 We talked earlier today about another incident in pit 86 where
14:34 33 a person suspected of being Simon Pan's nephew was arrested.
14:34 34
14:35 35 A. Yes.
14:35 36
14:35 37 Q. On suspicion of money laundering and other offences.
14:35 38
14:35 39 A. That is what we are led to believe, yes.
14:35 40
14:35 41 Q. And that was made a big deal of at Crown, correct?
14:35 42
14:35 43 A. Correct. Certainly it was --- and I was informed at the
14:35 44 time, I was on the email.
14:35 45
14:35 46 Q. You were informed.
14:35 47

14:35 1 A. It's not often we have someone arrested.
14:35 2
14:35 3 Q. There was a concern that there had been no prior warning
14:35 4 of the arrest; correct?
14:35 5
14:35 6 A. Yes.
14:35 7
14:35 8 Q. What had happened was the police had been tipped off by
14:35 9 the VCGLR?
14:35 10
14:35 11 A. I think that is what happened, yes.
14:35 12
14:35 13 Q. And you said you would look into the question of what
14:35 14 happened, haven't you?
14:35 15
14:35 16 A. Sorry, I beg your pardon.
14:35 17
14:35 18 Q. I haven't taken you to the document. Sorry. Go to
14:35 19 CRW.542.0001.8894.
14:35 20
14:35 21 Tab 33, Commissioner.
14:35 22
14:36 23 Go up the page first so I can see the first email. That's it. This is
14:36 24 the report that comes to you on 2 May 2018 ---
14:36 25
14:36 26 A. Yes.
14:36 27
14:36 28 Q. --- about the incident?
14:36 29
14:36 30 A. Yes.
14:36 31
14:36 32 Q. And we go up a bit further:
14:36 33
14:36 34 *I will follow up this morning to see if we have any more*
14:36 35 *information.*
14:36 36
14:36 37 So you take responsibility to follow it up?
14:36 38
14:36 39 A. Yes.
14:36 40
14:36 41 Q. So that's May 2018?
14:36 42
14:36 43 A. Yes.
14:36 44
14:36 45 Q. There is the backpack in pit 86 incident. You are familiar
14:36 46 with that one?
14:36 47

14:36 1 A. I am, yes.
14:36 2
14:36 3 Q. You knew Victoria Police sought CCTV footage from the
14:36 4 Suncity room because they were investigating money laundering
14:36 5 offences there; correct?
14:37 6
14:37 7 A. I'm sorry, Mr Finanzio, I wasn't sure what --- I thought it
14:37 8 was in relation to the arrest. It could well have been money
14:37 9 laundering but I knew they wanted the footage in relation to
14:37 10 an arrest.
14:37 11
14:37 12 Q. Let's go to tab 31. CRL.579.010.3301. I'm dealing with
14:37 13 an incident in April 2019.
14:37 14
14:38 15 Can you see there the email from Nicola Hodgson to
14:38 16 Craig Walsh?
14:38 17
14:38 18 A. Yes, I can.
14:38 19
14:38 20 Q. Pit 38 backpack review.
14:38 21
14:38 22 A. Yes.
14:38 23
14:38 24 Q. It says:
14:38 25
14:38 26 *..... Compliance forwarded a request from Vicpol for all*
14:38 27 *CCTV footage from cameras installed in the "Suncity*
14:38 28 *room".....*
14:38 29
14:38 30 You see that?
14:38 31
14:38 32 A. Yes, I do.
14:38 33
14:38 34 Q. Without going into too much detail of it, I invite you to
14:38 35 look over the email but it was about a backpack that had been left
14:38 36 behind in the Suncity room.
14:38 37
14:38 38 A. Yes. I just wasn't --- when you mentioned it was in relation
14:38 39 to money laundering, I just didn't recall whether or not we were
14:38 40 aware of that. We were certainly aware of the arrest because we
14:38 41 provided the information to the police.
14:38 42
14:38 43 Q. Let me read you the last line:
14:38 44
14:39 45 *During these reviews it was noted that many staff in Pit*
14:39 46 *38 brought in what appears to be personal belongings,*
14:39 47 *handbags, lap top bags etc and stored them in spaces*

14:39 1 *around the room, including under desks and behind*
14:39 2 *curtains. Outside of these review time frames,*
14:39 3 *surveillance have and continue to investigate cash*
14:39 4 *deposits*
14:39 5
14:39 6 DR BUTTON: Sorry, I just wanted to check, you're reading from
14:39 7 the hard copy, if you've noted the redactions?
14:39 8
14:39 9 MR FINANZIO: Yes, I didn't read the redaction.
14:39 10
14:39 11 *..... cash deposits where money is brought in to the Suncity*
14:39 12 *salons in plastic shopping bags and shoe boxes.*
14:39 13
14:39 14 You see that email there is cc'd, it's forwarded on from Craig
14:39 15 Walsh to a bunch of people including you, including Ms Fielding,
14:40 16 including Ms Williamson?
14:40 17
14:40 18 A. Yes.
14:40 19
14:40 20 Q. From April 2019, from that email alone, there has to be
14:40 21 suspicion around Suncity and its operations, doesn't it?
14:40 22
14:40 23 A. Yes, I can't argue with that.
14:40 24
14:40 25 Q. How was that captured in your processes for junket due
14:40 26 diligence and probity, ongoing probity?
14:40 27
14:40 28 A. I don't believe this --- from my recollection, I don't believe
14:40 29 this one or --- I don't believe this was captured.
14:40 30
14:40 31 Q. It wasn't captured, was it, until Minters brought all the
14:40 32 strands together?
14:40 33
14:40 34 A. Yes.
14:40 35
14:40 36 Q. So then in October 2019 Victoria Police's Fraud and
14:40 37 Extortion Group sought records relating to Alvin Chau and
14:41 38 \$450,000 worth of deposits directly to his casino account from
14:41 39 a victim's account --- did you know anything about that?
14:41 40
14:41 41 A. No. I read in the --- is that the item that is referred to in the
14:41 42 Berkeley report as well?
14:41 43
14:41 44 Q. It is actually referred to in the 30 December POI memo.
14:41 45
14:41 46 A. Okay.
14:41 47

14:41 1 Q. So there is another strand of information that wasn't known.
14:41 2
14:41 3 A. Sure.
14:41 4
14:41 5 Q. And then of course you had the evidence of the directors at
14:41 6 the Bergin Inquiry who all said, one after the other, that
14:41 7 Alvin Chau wasn't someone who you should be doing business
14:41 8 with.
14:41 9
14:41 10 A. Sorry ---
14:41 11
14:41 12 Q. Did you not follow the evidence of the directors for the
14:41 13 Bergin Inquiry?
14:41 14
14:41 15 A. Yes, I did, yes.
14:41 16
14:41 17 Q. Okay. When would you say you first began to see
14:41 18 a problem with Crown's relationship and Chau? You are on some
14:42 19 of the emails.
14:42 20
14:42 21 A. Yes, I am. Chau would also ---
14:42 22
14:42 23 Q. Sorry, did those email not provoke you to have
14:42 24 a conversation with Mr Ratnam and the other Mr Walsh and
14:42 25 Jacinta Careri? Were you not provoked to have a conversation
14:42 26 with them about Suncity?
14:42 27
14:42 28 A. Look, not in detail, Mr Finanzio, there was plenty of ---
14:42 29
14:42 30 Q. Not ---
14:42 31
14:42 32 COMMISSIONER: Let him finish.
14:42 33
14:42 34 DR BUTTON: Let Mr Walsh finish, please.
14:42 35
14:42 36 A. There were certainly lots of directives involved in talking to
14:42 37 international around the VIP business. There were, at that point
14:42 38 one of the directors of the board were involved. There were lots
14:43 39 of hands involved in looking at this. I was aware of the issues,
14:43 40 I'm on the correspondence. I know changes were made after this
14:43 41 incident in terms of the Suncity staff not being able to take
14:43 42 anything into that salon that wasn't in a clear receptacle which we
14:43 43 provided them. No, I didn't sit down and have any discussions
14:43 44 with the likes of international and the legal and AML team
14:43 45 regarding Suncity.
14:43 46
14:43 47 Q. In November 2020, I --- can we bring up tab 32,

14:43 1 Commissioner. CRW.513.023.7769.
14:43 2
14:44 3 By November 2020, the evidence in the Bergin Inquiry was
14:44 4 completed; right?
14:44 5
14:44 6 A. Yes, I believe that's correct.
14:44 7
14:44 8 Q. And Crown, by that stage, was under increasing scrutiny;
14:44 9 wasn't it?
14:44 10
14:44 11 A. Yes, it was.
14:44 12
14:44 13 Q. And Crown's relationship with Suncity was well and truly
14:44 14 out in the open?
14:44 15
14:44 16 A. Yes. I will point out that the casino had been shut for about
14:44 17 eight months at this point.
14:44 18
14:44 19 Q. Sure. But the answer to my question is "yes", the
14:44 20 relationship between Crown and Suncity ---
14:44 21
14:44 22 A. Yes, it was well aired in the Bergin Inquiry.
14:44 23
14:44 24 Q. As was the real risk that Suncity was exposing the casino to
14:44 25 the risk of criminal exploitation?
14:44 26
14:44 27 A. Yes.
14:44 28
14:44 29 Q. This email chain is from that period, and the email chain
14:45 30 involved a request that had been made by Alvin Chau for
14:45 31 a transfer of funds from the star casino to Crown's casino in the
14:45 32 amount of 1.2-odd million dollars?
14:45 33
14:45 34 A. Yes.
14:45 35
14:45 36 Q. And the request came from Michael Lam, who is he?
14:45 37
14:45 38 A. I think Michael Lam worked in the international team.
14:45 39
14:45 40 Q. Michael Lam sent an email to Roland Theiler, right at the
14:45 41 bottom, asking about the question?
14:45 42
14:45 43 A. Yes.
14:45 44
14:45 45 Q. That email is then forwarded to Mary Gioras. What is her
14:46 46 role?
14:46 47

- 14:46 1 A. Mary looks after the credit control function in Crown.
14:46 2
- 14:46 3 Q. She says:
14:46 4
14:46 5 *As discussed in this afternoon's meeting and further to*
14:46 6 *Michael Lam's email below, The Star have confirmed they*
14:46 7 *have sent a transfer of [\$1.2-odd million] to the credit of*
14:46 8 *.....*
14:46 9
- 14:46 10 That is Alvin Chau, otherwise known as Cheok Wa Chau?
14:46 11
- 14:46 12 A. That's correct.
14:46 13
- 14:46 14 Q. And:
14:46 15
14:46 16 *Gabby has also confirmed the funds have come out of*
14:46 17 *Cheok Wa Chau's account at The Star (refer attached*
14:46 18 *confirmation). The funds have appeared in our bank*
14:46 19 *account and a copy of the ANZ's Bank Statement is*
14:46 20 *attached. The ABC Transaction details report narrative*
14:46 21 *includes the wording 'Transfer FCO CHAU 02510755*
14:46 22 *from The Star PL' noting that Chau's full name has not*
14:46 23 *been identified in the transfer.*
14:46 24
14:46 25 *Please confirm if we are able to accept the transfer from*
14:46 26 *The Star for part redemption of CHAU's debt at Crown*
14:46 27 *and whether we need anything further for the ANZ?*
14:46 28
- 14:46 29 You see that?
14:46 30
- 14:46 31 A. Yes.
14:46 32
- 14:46 33 Q. The next email is from Nick Stokes:
14:46 34
14:47 35 *Hi Nick, don't know if you have had a chance to look at*
14:47 36 *this one - it looks like it has come from the account of*
14:47 37 *Alvin Chau at the Star to us so no issues from my*
14:47 38 *perspective.*
14:47 39
- 14:47 40 You see that?
14:47 41
- 14:47 42 A. Yes, I do.
14:47 43
- 14:47 44 Q. That is the CFO --- what is Mr Stokes's role?
14:47 45
- 14:47 46 A. He is the AML/CTF Compliance Officer at Crown. He's
14:47 47 the Group AML/CTF General Manager.

14:47 1
14:47 2 Q. So then the next email, to Alan from Nick Stokes:
14:47 3
14:47 4 + *Claude.*
14:47 5
14:47 6 *Yes, apologies.*
14:47 7
14:47 8 *Two things on this:*
14:47 9
14:47 10 *1. Can I ask what the Board's/RMC's appetite is on*
14:47 11 *receiving such repayments given, I believe, evidence put*
14:47 12 *to ILGA that Crown will no longer deal with Suncity and*
14:47 13 *have we received advice from Minters or Allens on this*
14:47 14 *point?*
14:47 15
14:47 16 *2. If the appetite is to accept such repayment and*
14:47 17 *assuming no issues from our external lawyers, the next*
14:48 18 *question is how confident are we that the money actually*
14:48 19 *has come from CCW it is not a third party payment?*
14:48 20
14:48 21 You see that?
14:48 22
14:48 23 A. Yes, I do.
14:48 24
14:48 25 Q. Then Alan McGregor responds:
14:48 26
14:48 27 *..... one of the attachments (the email) states, from the*
14:48 28 *Star, that the funds are coming from the account of Chau*
14:48 29 *--- have a look at that attach. Not sure if that alleviates*
14:48 30 *any of the concern around SOC?*
14:48 31
14:48 32 Source of?
14:48 33
14:48 34 A. Yeah, I think he might have meant to hit "F" but "source of
14:48 35 funds" is how I would have read it, yeah.
14:48 36
14:48 37 Q. --- source of funds. And then there is your response:
14:48 38
14:48 39 *Given the money has come from the Star and the Star*
14:48 40 *email says the money has come from Chau so it is not*
14:48 41 *a third party transfer, I would have thought we can accept*
14:48 42 *payment.*
14:48 43
14:48 44 A. Yes.
14:48 45
14:48 46 Q. Is it right that in November 2020, in the circumstances I
14:48 47 described to you before, you were content to continue to do some

14:49 1 level of business with Alvin Chau?
14:49 2
14:49 3 A. No. The --- if my memory serves me correct, Alvin Chau
14:49 4 owes us money. He was looking to make a payment on that
14:49 5 money from money he had at the Star, and our third party transfer
14:49 6 policy had an exception for money coming from another casino in
14:49 7 the name of the transferee going into their account at Crown.
14:49 8
14:49 9 Q. That's what I was referring to, so in those circumstances,
14:49 10 okay to do business?
14:49 11
14:49 12 A. It was repayment of debt. So in terms of doing business,
14:49 13 debt repaid, the casino had been shut, as I mentioned, for many,
14:49 14 many months. I was looking to say if he wanted to repay his
14:49 15 debt, then, you know, we should be able to accept that money if
14:49 16 we know where it is coming from. Given we knew it was coming
14:50 17 from The Star, and it complied with our position on third party
14:50 18 transfers, my thinking was we could accept the payment. We
14:50 19 ultimately went and got advice from Allens on it and didn't accept
14:50 20 the payment.
14:50 21
14:50 22 Q. You were in charge of security?
14:50 23
14:50 24 A. Yes.
14:50 25
14:50 26 Q. And Craig Walsh reported to you?
14:50 27
14:50 28 A. That's correct.
14:50 29
14:50 30 Q. You were also in charge of gaming on the floor, including
14:50 31 in the salons?
14:50 32
14:50 33 A. Yes.
14:50 34
14:50 35 Q. You were informed by the head of security that people on
14:50 36 your gambling floor might be associated with serious organised
14:50 37 crime.
14:50 38
14:50 39 A. Sorry, are you talking specifically about the conversation
14:50 40 with Craig from the symposium?
14:50 41
14:50 42 Q. Correct.
14:50 43
14:50 44 A. Yes.
14:50 45
14:50 46 Q. Crown's security had no physical presence in the Suncity
14:51 47 rooms?

- 14:51 1
14:51 2 A. No, that's correct. They had presence outside the room
14:51 3 because there was --- it was entering a casino area from
14:51 4 a non-casino area. We don't have security in any of our salons,
14:51 5 we don't have security in the Mahogany Room, and we don't have
14:51 6 security in the Teak Room either.
14:51 7
- 14:51 8 Q. The proposals for the introduction of --- so, hang on
14:51 9 a second. You don't have security personnel in any of those other
14:51 10 rooms?
14:51 11
- 14:51 12 A. No. If I could point out, the Teak Room is actually inside
14:51 13 the casino, so you've gone past security to get in there, but there
14:51 14 is no security in the room itself, unless they are walking through
14:51 15 on their rounds.
14:51 16
- 14:51 17 Q. Did the other Mr Walsh ever advise you that it would be
14:51 18 desirable to have a security presence in those spaces?
14:51 19
- 14:51 20 A. Not that I recall. We had obviously --- they are under a lot
14:51 21 of scrutiny camera-wise, so surveillance has always got eyes on
14:52 22 what's happening in the room and we can deploy people there
14:52 23 very quickly if we need to, but the security wasn't deemed to be
14:52 24 necessary, given the ratio of staff to patrons in terms of having
14:52 25 people present in the room to see what was occurring.
14:52 26
- 14:52 27 Q. Doesn't the presence of security create an environment
14:52 28 where those thinking about unlawful activity might be
14:52 29 discouraged?
14:52 30
- 14:52 31 A. Not when you are under the amount of cameras that we
14:52 32 have in those salons and elsewhere in the casino. If you are doing
14:52 33 something untoward, it is going to be monitored.
14:52 34
- 14:52 35 Q. What about facial recognition technology in the Suncity
14:52 36 rooms and in the salons?
14:52 37
- 14:52 38 A. The facial recognition is in the entrance to the Suncity
14:52 39 room, which is off a non-gaming room area, as is the facial
14:52 40 recognition cameras in our other salons on level 29 and 39 of the
14:52 41 hotel. But, again, we agreed with the VCGLR that we would
14:53 42 have facial recognition cameras as a minimum at all the casino
14:53 43 entrances. We have them in a lot of other places as well. But
14:53 44 again, once you are in the salon, the facial recognition camera is
14:53 45 really trying to address a problem where you have masses of
14:53 46 people that you need to identify because you don't have
14:53 47 a personal relationship with them or a personal --- you haven't

14:53 1 verified their identity. Everyone in the salon that is playing on
14:53 2 a program, we have their ID, we know who is in there. It is the
14:53 3 Suncity salon, and its player X, Y, Z. We know who they are. So
14:53 4 the facial recognition doesn't help you in terms of identifying
14:53 5 them because you already know who they are.

14:53 6
14:53 7 Q. It is true that the Suncity rooms and salons were amongst
14:53 8 the last areas to be fitted out with facial recognition technology?
14:53 9

14:53 10 A. In the casino, that's true because they are deemed to be the
14:54 11 lowest risk. From an identification of customer point of view.

14:54 12
14:54 13 Q. Except that over the course of his time at the casino,
14:54 14 Tommy Zhou, or the person associated with the Chinatown
14:54 15 junket, was in breach of the casino's own self-exclusion orders.

14:54 16
14:54 17 A. I'm aware of an incident where he breached his own
14:54 18 exclusion orders.

14:54 19
14:54 20 Q. He breached it 24 times.

14:54 21
14:54 22 A. Oh, did he? Okay. It shouldn't have really ---

14:54 23
14:54 24 Q. Did you not know that?

14:54 25
14:54 26 A. I didn't realise he breached it --- I knew he breached it, but I
14:54 27 didn't know how many times. But again, Mr Finanzio, it
14:54 28 shouldn't have relied on facial recognition cameras despite
14:54 29 Tommy Zhou, and keep him out of the room. We knew who he
14:54 30 was.

14:54 31
14:54 32 Q. Isn't the level of surveillance and the level of security
14:54 33 presence in those rooms important in discouraging criminal
14:55 34 activity?

14:55 35
14:55 36 A. I would certainly agree with you in terms of the
14:55 37 surveillance in the room is absolutely critical. In terms of
14:55 38 security, I suppose that is where we differ. Simply because of the
14:55 39 number of staff we have in the room compared to how many
14:55 40 guests we have.

14:55 41
14:55 42 Q. Bear with me for a minute.

14:55 43
14:55 44 A. Certainly.

14:55 45
14:55 46 Q. I want to ask you some questions about submissions you
14:55 47 made to the VCGLR about Simon Pan. Simon Pan wasn't

14:55 1 a junket operator, was he?
14:55 2
14:55 3 A. No.
14:55 4
14:55 5 Q. He was a junket agent?
14:55 6
14:55 7 A. Junket representative, yes.
14:55 8
14:55 9 Q. Junket representative.
14:55 10
14:55 11 A. Yes.
14:55 12
14:55 13 Q. You argued before the VCGLR that because he was
14:55 14 an agent, he wasn't technically caught by the ICS?
14:55 15
14:55 16 A. That's right.
14:55 17
14:56 18 Q. That was --- forgive me --- a cute point?
14:56 19
14:56 20 A. I would agree with you.
14:56 21
14:56 22 Q. Why did you make it?
14:56 23
14:56 24 A. Well, we'd already made our submission. Again, we were
14:56 25 arguing a position, in hindsight we shouldn't have held that
14:56 26 position.
14:56 27
14:56 28 Q. Can I ask you this about the robust argument that you made
14:56 29 and this point here. Did the Board know that you were going to
14:56 30 go to the VCGLR and make these arguments?
14:56 31
14:56 32 A. Look, I can't answer that conclusively. I don't know.
14:56 33
14:56 34 Q. Did Ms Coonan know?
14:56 35
14:56 36 A. I don't know what Ms Coonan saw or didn't see,
14:56 37 Mr Finanzio. I'm not sure whether or not she saw our
14:56 38 submissions. She wasn't copied on them so I suspect she
14:56 39 probably didn't.
14:56 40
14:56 41 Q. You attended the VCGLR on 17 December 2020 with
14:56 42 Ms Coonan; didn't you?
14:56 43
14:56 44 A. Yes.
14:56 45
14:56 46 Q. In the course of that visit, Ms Coonan promised a new
14:57 47 period of cooperation, if I'm not improperly paraphrasing that?

14:57 1
14:57 2 A. I think words to that effect, yes.
14:57 3
14:57 4 Q. Do you agree that your argument about robustness and your
14:57 5 argument about Simon Pan not technically being caught by the
14:57 6 ICS was really characteristic of the way in which Crown had
14:57 7 engaged with the regulator for years before that?
14:57 8
14:57 9 A. Yes. If we had our time again, I'm not sure we would have
14:57 10 adopted that position, and I'm not saying that just because of the
14:57 11 million-dollar fine. We took a position, we had legal advice on
14:57 12 that position, and I argued that position. It didn't serve us very
14:57 13 well. In fact, if anything, all it did was raise the ire of the
14:58 14 Commission.
14:58 15
14:58 16 Q. "If we had our time again". Have you heard that phrase
14:58 17 before in relation to Crown's dealings with another process?
14:58 18
14:58 19 A. In Bergin are you referring to?
14:58 20
14:58 21 Q. Yes.
14:58 22
14:58 23 A. Yes, correct.
14:58 24
14:58 25 Q. How many times does Crown want its time again?
14:58 26
14:58 27 A. Well, all I can say is I went to that hearing. We'd already
14:58 28 made our written submissions, we had legal advice that said here
14:58 29 is the position, and I followed it.
14:58 30
14:58 31 COMMISSIONER: But you knew what you were saying?
14:58 32
14:58 33 A. Yes, I did, Commissioner.
14:58 34
14:58 35 MR FINANZIO: Commissioner, I wonder if we might take
14:58 36 a short break.
14:58 37
14:58 38 COMMISSIONER: Sure.
14:58 39
14:58 40 MR FINANZIO: I just want to go through a few things.
14:58 41
14:58 42 COMMISSIONER: We normally take a break at this time. If we
14:58 43 take a break for 15 minutes.
14:58 44
14:58 45 MR FINANZIO: That's more than I need.
14:58 46
14:58 47 COMMISSIONER: Okay, I'm trying to work out timing for the

14:58 1 rest of the day.
14:58 2
14:58 3 MR FINANZIO: I don't think I will be very much longer. The
14:58 4 break will assist me in working out exactly how much longer.
14:59 5
14:59 6 COMMISSIONER: Okay. Thank you. We'll adjourn.
14:59 7
14:59 8
14:59 9 **ADJOURNED** [2.59PM]
15:10 10
15:10 11
15:10 12 **RESUMED** [3.10PM]
15:10 13
15:10 14
15:10 15 COMMISSIONER: Thank you.
15:10 16
15:10 17 MR FINANZIO: I have no more questions, Commissioner.
15:10 18
15:10 19
15:10 20 **QUESTIONS BY THE COMMISSIONER**
15:10 21
15:10 22
15:10 23 COMMISSIONER: I wanted to know, Mr Walsh, on
15:10 24 a completely unrelated topic, what your role was on the
15:10 25 surveillance side of things over the years?
15:10 26
15:10 27 A. Well, surveillance reported through to Craig Walsh --
15:10 28
15:10 29 COMMISSIONER: Yes.
15:10 30
15:10 31 A. --- and Craig Walsh reports into myself. So I interact with
15:11 32 the surveillance director and the surveillance managers on
15:11 33 an as-needs basis. So, for example, if I wanted to review footage
15:11 34 of an incident or so forth, I would ring down to comms, whoever
15:11 35 was there would walk me through the footage. Indeed, if I felt
15:11 36 there was analysis that needed to be done or so forth, I would
15:11 37 normally do that through the director.
15:11 38
15:11 39 COMMISSIONER: I see. But was it fair to say that you were
15:11 40 largely in charge of surveillance?
15:11 41
15:11 42 A. Surveillance reported through to me, yes. But day to ---
15:11 43
15:11 44 COMMISSIONER: I get, but that you were the boss of the area?
15:11 45
15:11 46 A. Yeah, day-to-day I certainly didn't direct them,
15:11 47 Commissioner, but they fell under my responsibilities.

15:11 1
15:11 2 COMMISSIONER: Yes, okay. One of the witnesses whose
15:11 3 transcript still hasn't been made available yet, and I will take that
15:11 4 up with Mr Gray, I've been meaning to do it for days, I keep
15:11 5 forgetting, is a relatively senior police officer.
15:11 6
15:12 7 A. Yes.
15:12 8
15:12 9 COMMISSIONER: His role is investigations. He gave evidence,
15:12 10 something to this effect, that millions of dollars in cash is brought
15:12 11 into the casino almost on a daily basis, certainly on a weekly
15:12 12 basis. Sometimes it's brought in shopping bags and you can see
15:12 13 the cash. Sometimes it's brought in other containers, I won't
15:12 14 mention the container, but it is a common kind of article. Often
15:12 15 these are young men who are paid \$5,000 a trip to bring in the
15:12 16 cash because they are paid to bring in the money on behalf of
15:12 17 others. They are money carriers, I don't know what the slang for
15:12 18 it is, in drug language they are mules.
15:12 19
15:12 20 A. Yes.
15:12 21
15:12 22 COMMISSIONER: They are performing exactly the same
15:12 23 function. It's all part of operations, sometimes it's overseas
15:12 24 money coming in, sometimes it's local crime gangs, bikies,
15:13 25 money coming in, to launder ill-gotten cash.
15:13 26
15:13 27 A. Yes.
15:13 28
15:13 29 COMMISSIONER: I got the impression that it was --- and I saw
15:13 30 some photographs of it as well --
15:13 31
15:13 32 A. Okay.
15:13 33
15:13 34 COMMISSIONER: --- people carrying in --- a couple of guys
15:13 35 carrying in literally plastic shopping bags, like somebody. And I
15:13 36 asked the officer concerned what sort of things you could do to
15:13 37 stop it, he said, "Just go up and ask them what their names are
15:13 38 and you will never see them again."
15:13 39
15:13 40 I wonder whether you did anything about the people who, over
15:13 41 the years, bring in millions of dollars in hard cash --- not through
15:13 42 the banking system, but millions of dollars in hard cash to
15:13 43 launder money, turn gangster money into spendable money. I
15:14 44 wanted to know what you did about it. I want to make it clear,
15:14 45 this is going on for years and years and years, and he thinks the
15:14 46 casino does nothing to stop it, and could and should. Obviously it
15:14 47 should, but could, though. What is your take on that? If you are

15:14 1 in charge of surveillance and you have these cameras seeing
15:14 2 people bring in hordes of cash in containers that are easily
15:14 3 recognisable and shopping bags, what are you doing about it, and
15:14 4 if you're doing nothing about it, why not?
15:14 5
15:14 6 A. Commissioner, recently we have put in place controls of
15:14 7 how much cash can go across the cage before it questioned.
15:14 8
15:14 9 COMMISSIONER: Let's just deal with the last five years.
15:14 10
15:14 11 A. Okay. Well, any cash of that nature coming into the
15:14 12 property should have been reported at a minimum as a suspect
15:14 13 transaction, but ---
15:15 14
15:15 15 COMMISSIONER: What about just talking to the people who
15:15 16 are bringing it in, saying "Who the hell are you? Where is your
15:15 17 ID?" The officer said you will never see them again. They
15:15 18 would get other people that --- you know, pays them \$5,000 --- I
15:15 19 had the impression that Crown (a) knew that it was happening
15:15 20 and (b) has done nothing about it.
15:15 21
15:15 22 A. I'm a little confused, Commissioner, because if the amount
15:15 23 was over \$10,000 they need to provide ID to do anything with the
15:15 24 money.
15:15 25
15:15 26 COMMISSIONER: They are not stupid.
15:15 27
15:15 28 A. I ---
15:15 29
15:15 30 COMMISSIONER: You say the evidence is not correct?
15:15 31
15:15 32 A. I can only speak to my experience, Commissioner, and I've
15:15 33 seen the footage of the cash in the Suncity salon. There has
15:15 34 been --- through Bergin it was referred to as a blue cooler bag.
15:15 35 There was another incident of that, but certainly I'm not aware of
15:15 36 that amounts of cash coming through routinely.
15:15 37
15:15 38 COMMISSIONER: The people who are looking at the cameras
15:15 39 because --- on the TV screens, they will know.
15:16 40
15:16 41 A. Well, certainly if it is occurring they would know. That's
15:16 42 right.
15:16 43
15:16 44 COMMISSIONER: (Inaudible).
15:16 45
15:16 46 A. Yes.
15:16 47

15:16 1 COMMISSIONER: And they seem to have done nothing about it
15:16 2 for years?

15:16 3

15:16 4 A. Commissioner, all I can say is if the transaction was greater
15:16 5 than 10, we would have IDed them. If they were doing it under
15:16 6 10, we should have submitted suspect matter reports ---

15:16 7

15:16 8 COMMISSIONER: Of course you should have. Because the law
15:16 9 requires you to do that. My question is, why haven't you? Why
15:16 10 have these people been allowed to come and go freely? Money
15:16 11 carriers, they don't come to gamble. They come to carry money
15:16 12 in. That's their job. \$5,000 a trip. That's the going rate. Some
15:16 13 people might charge more, some people might undercut, but the
15:16 14 going rate is \$5,000 a trip.

15:16 15

15:16 16 A. I don't know how to answer your question, Commissioner.
15:16 17 I --- I --- because they'd have to do something with the money.
15:16 18 They've either got to go to the cage or they have got to go to ---

15:16 19

15:16 20 COMMISSIONER: Buy chips?

15:17 21

15:17 22 A. They buy chips? Yes ---

15:17 23

15:17 24 COMMISSIONER: Yes.

15:17 25

15:17 26 A. --- so if they have a shopping bag at their table and pulling
15:17 27 out a bundle and it is obvious there is a much bigger bundle in the
15:17 28 bag, then you are right, if that hasn't been dealt with
15:17 29 appropriately, it should have been, and if that's --- I'm not
15:17 30 doubting the evidence, I'm just saying ---

15:17 31

15:17 32 COMMISSIONER: I've seen photographs of it taken at the
15:17 33 casino.

15:17 34

15:17 35 A. Okay. Well, it should have been dealt with.

15:17 36

15:17 37 COMMISSIONER: I know that.

15:17 38

15:17 39 A. Sorry.

15:17 40

15:17 41 COMMISSIONER: I know it should have been. My question
15:17 42 really is, what kind of place is it that doesn't take steps to stop
15:17 43 that happening? I know what the legal obligations are. I know
15:17 44 what you should be doing. I'm trying to understand, and I use the
15:17 45 word everybody likes to use, the culture of the place. Why is this
15:17 46 allowed to go on?

15:17 47

15:17 1 A. It shouldn't be.
15:17 2
15:17 3 COMMISSIONER: I know. And talking about that, we can be
15:17 4 relatively frank about it.
15:17 5
15:18 6 A. Certainly.
15:18 7
15:18 8 COMMISSIONER: What worries me, and you have to explain
15:18 9 whether I'm right or wrong or getting the wrong end of it, I see
15:18 10 evidence of misconduct or unacceptable behaviour from people
15:18 11 high up and low down and in between. If we go back to the
15:18 12 credit card transactions, there are probably young people working
15:18 13 at the hotel desk, filling out false invoices.
15:18 14
15:18 15 A. Yes.
15:18 16
15:18 17 COMMISSIONER: These are ordinary people doing their job ---
15:18 18
15:18 19 A. Yes.
15:18 20
15:18 21 COMMISSIONER: --- they fill out documents which are wholly
15:18 22 false. They have room numbers of rooms that don't exist. They
15:18 23 record transactions like a purchase or whatever it is, sale of
15:18 24 a service that doesn't exist. They have false documentation,
15:18 25 junior staff.
15:18 26
15:18 27 I've got people who come along --- if the police officer's evidence
15:18 28 is right about surveillance, I've got --- assisting corruption to take
15:19 29 place.
15:19 30
15:19 31 I've got the kind of questions that you've been asked. I've got
15:19 32 people not paying their tax, or arguably not paying their tax,
15:19 33 hiding it away.
15:19 34
15:19 35 The credit card transactions, \$160 million at least gone through
15:19 36 so that money can be taken out of China improperly, in breach of
15:19 37 Chinese laws --- that may or may not be in breach of local laws,
15:19 38 yet to find out.
15:19 39
15:19 40 Wherever I look, I see not just bad conduct but illegal conduct,
15:19 41 improper conduct, unacceptable conduct, and it permeates the
15:19 42 whole organisation; what do I do about that?
15:19 43
15:19 44 A. Well, Commissioner, I understand the points you are
15:19 45 raising, obviously. But there has been enormous change in the
15:19 46 organisation from --- in terms of the shareholders, the directors,
15:19 47 the management team, the messaging from the directors, starting

15:20 1 with Ms Coonan at the top. But also Ms Korsanos and
15:20 2 Ms Halton in terms of how we want to do business and more
15:20 3 recently Mr McCann has come in and drawing parallels between
15:20 4 the changes he was able to effect at Lendlease in terms of safety
15:20 5 at his site in the period leading up to him coming onboard and
15:20 6 after him.
15:20 7
15:20 8 I think the place to start is where the company has started, which
15:20 9 is at the top, and then ensuring that the messaging is consistent,
15:20 10 backed up by not only processes but remuneration structures and
15:20 11 everything else. I mean, you've got to start somewhere and
15:20 12 I think the company has started somewhere. We're not there yet
15:20 13 and no one is going to say, "Well, thanks, Crown, we hear you",
15:20 14 they want to say "Show me", and that will take a --- demonstrable
15:20 15 steps over time to work towards that. It's the only way I can
15:21 16 answer your question, I'm sorry.
15:21 17
15:21 18 COMMISSIONER: It means that in one sense that it is not just
15:21 19 changing one or two people ---
15:21 20
15:21 21 A. No.
15:21 22
15:21 23 COMMISSIONER: --- it means changing the way people have
15:21 24 done business ---
15:21 25
15:21 26 A. Yes.
15:21 27
15:21 28 COMMISSIONER: --- within the organisation, at all levels,
15:21 29 probably for the last 20 years.
15:21 30
15:21 31 The other thing I wanted to ask you is this --- one of the things
15:21 32 that seem to be missing in all of the "born again, will be good", is
15:21 33 self-reflection. Why did we do it? What went wrong? How did
15:21 34 it go wrong? How did everybody in the organisation go wrong?
15:21 35 Unless you do that, you have no hope in any event, do you?
15:21 36
15:21 37 A. I think that is right. I do feel desperately for our frontline
15:21 38 team members trying to do the right thing each and every day and
15:21 39 not being properly led. I share responsibility for that but, as I say,
15:22 40 as an organisation you need to start somewhere. I believe we've
15:22 41 made that start. Obviously, any money launder --- money
15:22 42 laundering is a big issue. So there are changes around the use of
15:22 43 cash which I know have been aired before my appearance here
15:22 44 today, is a key step, a key progression on that front, as well as the
15:22 45 controls around the bank accounts in terms of third party transfers
15:22 46 and so forth.
15:22 47

15:22 1 Again, you know, I know no one wants to hear what we've got to
15:22 2 say, they want to see what we do. All I can say is you have to
15:22 3 make a start somewhere, and I think there are demonstrable
15:22 4 changes coming, and it needs to come from the top, because our
15:22 5 team on the frontline are just trying to do a good job each and
15:22 6 every day, and they do. They need the right leadership, direction
15:23 7 and messaging for us to be successful.

15:23 8

15:23 9 COMMISSIONER: Thank you.

15:23 10

15:23 11

15:23 12 **CROSS-EXAMINATION BY MR ROZEN**

15:23 13

15:23 14

15:23 15 MR ROZEN: Mr Walsh, my name is Mr Rozen. I appear for the
15:23 16 VCGLR. I want to ask you some questions about relations
15:23 17 between Crown and the regulator. You were asked questions
15:23 18 earlier by Mr Finanzio about becoming aware in 2018 of the 2012
15:23 19 presentation document, the memo; do you recall being asked
15:23 20 about that?

15:23 21

15:23 22 A. Yes.

15:23 23

15:23 24 Q. The [draft] transcript at 3244, line 22, records you as
15:23 25 saying, in relation to the VCGLR's examination of what is called
15:23 26 the bonus jackpots issue --- you know what I'm talking about?

15:23 27

15:23 28 A. Yes.

15:23 29

15:23 30 Q. You had said and I quote :

15:23 31

15:23 32 *The VCGLR had been through it in an enormous amount*
15:24 33 *of detail.*

15:24 34

15:24 35 Do you recall saying that earlier today?

15:24 36

15:24 37 A. Yes.

15:24 38

15:24 39 Q. Your evidence was that you took some comfort from that,
15:24 40 and from the failure of the VCGLR coming back to you, having
15:24 41 done that, as you described it, to raise any concerns; do you recall
15:24 42 that ---

15:24 43

15:24 44 A. Yes, in the absence of raising anything we assumed that
15:24 45 they were satisfied.

15:24 46

15:24 47 Q. Yes.

15:24 1
15:24 2 A. Perhaps incorrectly, but that's what the assumption was
15:24 3 made.
15:24 4
15:24 5 Q. You are not suggesting to this Commission, are you, that
15:24 6 the process that the VCGLR review of the bonus jackpots tax
15:24 7 issue was initiated by Crown in 2018, are you?
15:24 8
15:24 9 A. No, I'm not.
15:24 10
15:24 11 Q. It wasn't the case of Crown going to the VCGLR and
15:24 12 saying, "Look, we've got this problem, we think. We're not sure
15:24 13 if we're paying the right amount of tax", opening the books and
15:24 14 seeking the VCGLR's view; that's not what happened?
15:24 15
15:24 16 A. No, we were responding to questions.
15:24 17
15:24 18 Q. What happened is that on 29 May 2018, Mr Cremona of the
15:25 19 VCGLR got in touch with Ms Fielding and raised a query about
15:25 20 this subject; that's right, isn't it?
15:25 21
15:25 22 A. I think that timing is right, yes.
15:25 23
15:25 24 Q. I think I might briefly take you to that email,
15:25 25 VCG.0001.0002.8498, if that could please be brought up, please,
15:25 26 operator.
15:25 27
15:25 28 While that is coming up, Mr Walsh, you weren't copied into that
15:25 29 query from the VCGLR personally, were you?
15:25 30
15:25 31 A. No, I wasn't.
15:25 32
15:25 33 Q. You became aware of the issue when Ms Fielding copied
15:25 34 you into her reply to the inquiry, is that right?
15:25 35
15:25 36 A. Ms Fielding, if I recall correctly, Mr Rozen, when she
15:26 37 prepared her response she sent it to a couple of us as a draft, and
15:26 38 then that draft was settled and sent to Mr Cremona and we were
15:26 39 forwarded the response.
15:26 40
15:26 41 Q. I see. Excuse me a moment.
15:26 42
15:26 43 COMMISSIONER: Can you just check the document ID
15:26 44 number.
15:26 45
15:26 46 MR ROZEN: Certainly.
15:26 47

15:26 1 COMMISSIONER: The one you read doesn't seem to exist.

15:26 2

15:26 3 MR ROZEN: Okay. I do apologise. VCG.0001.002? Might be

15:26 4 VCG.0001.002.8498, I do apologise.

15:26 5

15:27 6 DR BUTTON: Commissioner, I might offer an alternative

15:27 7 document ID.

15:27 8

15:27 9 COMMISSIONER: We have something now.

15:27 10

15:27 11 MR ROZEN: Turns out I was right in the first place,

15:27 12 Commissioner. Doesn't often happen.

15:27 13

15:27 14 That is the original inquiry, isn't it, Mr Walsh, from Mr Cremona
15:27 15 to Ms Fielding?

15:27 16

15:27 17 A. I believe that's right, Mr Rozen.

15:27 18

15:27 19 Q. As you can see, Mr Cremona wrote:

15:27 20

15:27 21 *Michelle,*

15:27 22

15:27 23 *As discussed, I have been asked for some finer details*
15:27 24 *regarding the treatment of bonus jackpots at Crown, and*
15:27 25 *need to speak to an SME [subject matter expert, I think]*
15:27 26 *quite urgently.*

15:27 27

15:27 28 *I understand Tracy, [I think that's Ms Shen of the*
15:28 29 *VCGLR] has been asking for similar information from*
15:28 30 *some time and this has not been forthcoming.*

15:28 31

15:28 32 *Please note the request below.*

15:28 33

15:28 34 Just pausing in the reading, that's a reference to the enquiries in
15:28 35 2017 that Mr Finanzio asked you about earlier, is it not, Mr
15:28 36 Walsh?

15:28 37

15:28 38 A. I believe so.

15:28 39

15:28 40 Q. Going back to the email:

15:28 41

15:28 42 *The key point at this stage is for Crown to provide*
15:28 43 *a detailed breakdown of bonus jackpots, ie what is the*
15:28 44 *value of bonus jackpots made up of.*

15:28 45

15:28 46 *Can you please provide me with a contact point, and*
15:28 47 *escalate the provision of information as per below.*

15:28 1
15:28 2 We don't need to look at the earlier emails for present purposes,
15:28 3 but I think you told us a moment ago, Mr Walsh, that after
15:28 4 receiving that there was some internal communication from
15:28 5 Ms Fielding within Crown on the subject?
15:28 6
15:28 7 A. It was --- the communication internally was later than that,
15:28 8 Mr Rozen. That's not the email I'm referring to.
15:28 9
15:28 10 Q. I see.
15:28 11
15:28 12 A. There is another email --- I'm sorry, I --- there is another
15:29 13 email that has a little more detail of exactly what Mr Cremona
15:29 14 was asked for in terms of his detailed questions.
15:29 15
15:29 16 Q. Perhaps we'll try this. There is a reply email from
15:29 17 Ms Fielding to Mr Cremona of 5 June 2018, which is
15:29 18 VCG.0001.0002.8509, if that might assist.
15:29 19
15:29 20 A. Yes, this is the one I'm familiar with.
15:29 21
15:29 22 Q. In fact, in a subsequent email from Mr Cremona to
15:29 23 Ms Fielding, he asked a series of quite specific questions and you
15:29 24 made recall Ms Fielding's answers were in a different-coloured
15:29 25 font in a responding email; is that what you are talking about?
15:29 26
15:30 27 A. Yes, I am, yes.
15:30 28
15:30 29 Q. And that was the nature of the communication, wasn't it,
15:30 30 specific questions were asked by the VCGLR and there were
15:30 31 responses from Crown which dealt with each of the questions that
15:30 32 were asked?
15:30 33
15:30 34 A. Yes, I believe that is right, I think this email exchange was
15:30 35 preceded by a phone call from Mr Cremona shortly --- and then
15:30 36 I think Mr Cremona came back and said look --- he put it in
15:30 37 writing and wanted the answers back in writing. That's my
15:30 38 understanding of how this all unfolded.
15:30 39
15:30 40 Q. There was no volunteering of information above and
15:30 41 beyond the questions that were asked by Mr Cremona in the
15:30 42 communication; would you agree with that?
15:30 43
15:30 44 A. Yes, we were responding to Mr Cremona's questions.
15:30 45
15:30 46 Q. For example, there was no revelation of the events of 2012
15:31 47 concerning food and beverages as part of this communication,

15:31 1 was there, by Crown?
15:31 2
15:31 3 A. How do you mean a revelation?
15:31 4
15:31 5 Q. There was no revealing to the VCGLR any of the concerns
15:31 6 that you had about the concealment of 2012 involving having
15:31 7 food and beverage credits being described as bonus jackpots?
15:31 8
15:31 9 A. No, the responses were fairly factual to the questions being
15:31 10 asked.
15:31 11
15:31 12 Q. Indeed. Nor was it drawn to the VCGLR's attention that
15:31 13 Crown were seeking advice about its liabilities; do you agree with
15:31 14 that?
15:31 15
15:31 16 A. I would agree with that.
15:31 17
15:31 18 Q. You would agree with me, wouldn't you, Mr Walsh, that if
15:31 19 this was in fact an attempt to be completely open and transparent
15:32 20 about the issue with a view to getting the VCGLR's view on the
15:32 21 lawfulness or otherwise of the deductions, that they are a matter
15:32 22 that could have been raised at that time with the VCGLR?
15:32 23
15:32 24 A. Yes, that's correct.
15:32 25
15:32 26 Q. Perhaps if that could be removed from the screen. I note
15:32 27 that personal information hasn't been redacted at this time,
15:32 28 Commissioner.
15:32 29
15:32 30 COMMISSIONER: It's not going live.
15:32 31
15:32 32 MR ROZEN: Thank you.
15:32 33
15:32 34 I suggest to you, Mr Walsh, that to the extent you could enjoy
15:32 35 comfort from the VCGLR's response, it was a comfort that was
15:32 36 limited to the specific questions that had been asked and
15:32 37 answered?
15:32 38
15:32 39 A. Yes, when I was referring to comfort, Mr Rozen, it was
15:32 40 referring --- Mr Cremona had a suggestion --- he refers to, in that
15:32 41 email, a report called a bonus jackpot master list or words to that
15:33 42 effect that goes through line by line each of the items on the
15:33 43 bonus jackpot report that summed down to a total that agreed to
15:33 44 the GGR report that then goes into the VCGLR on a monthly
15:33 45 basis. That's what I was referring to.
15:33 46
15:33 47 Q. I understand. During the course of this year you've been to

15:33 1 a number of meetings with senior officers from the VCGLR?

15:33 2

15:33 3 A. I have, yes.

15:33 4

15:33 5 Q. On my instructions, seven meetings since 29 January this
15:33 6 year, does that sound about right?

15:33 7

15:33 8 A. It could be, we've had fairly frequent contact.

15:33 9

15:33 10 Q. Yes. And that has been, in fairness to you, part of a
15:33 11 deliberate initiative on Crown's part to be transparent with the
15:34 12 VCGLR?

15:34 13

15:34 14 A. As I mentioned to the Commissioner earlier, we are trying
15:34 15 to reset the relationship, and communication and face-to-face
15:34 16 meetings are helpful in that regard.

15:34 17

15:34 18 Q. Sure. But all the while, whilst you were attending those
15:34 19 meetings, one in January, three in February, two in March and
15:34 20 one more recently in June, we know from your evidence that
15:34 21 you've been having a series of internal discussions at Crown with
15:34 22 Mr Mackay, Mr Herring and the directors about this tax matter;
15:34 23 have you not?

15:34 24

15:34 25 A. Yes.

15:34 26

15:34 27 Q. Have you raised that matter at any of these meetings with
15:34 28 the VCGLR?

15:34 29

15:34 30 A. No, I have not. We --- the approach that I had taken,
15:34 31 rightly or wrongly, once the Commission got announced, was to
15:34 32 get a position in terms of where we were with regard to the Royal
15:35 33 Commission process and then engage with the VCGLR.

15:35 34

15:35 35 Q. You told Counsel Assisting earlier about the phone meeting
15:35 36 you had with Ms Coonan on 23 February this year. Do you recall
15:35 37 giving that evidence earlier?

15:35 38

15:35 39 A. Yes, I do.

15:35 40

15:35 41 Q. You were taken to a file note of that communication. That
15:35 42 regarded that --- perhaps it was your evidence earlier, but you
15:35 43 said one of the matters was how best to and when to disclose the
15:35 44 issue to the regulator; do you recall saying that earlier?

15:35 45

15:35 46 A. I do.

15:35 47

- 15:35 1 Q. Is that a matter you raised with Ms Coonan during the
15:35 2 course of the discussion?
15:35 3
- 15:35 4 A. That the VCGLR were a key stakeholder, we will need to
15:35 5 raise it with the VCGLR, yes.
15:35 6
- 15:35 7 Q. Was something agreed between the two of you about when
15:35 8 would be the most appropriate time to do that?
15:35 9
- 15:35 10 A. No.
15:35 11
- 15:35 12 Q. Did you form your own view about when would be the
15:35 13 most appropriate time to do that?
15:35 14
- 15:35 15 A. Look, my view was once we had a holistic position, had we
15:36 16 potentially gone without fully understanding legally and
15:36 17 otherwise where we were at on that particular issue, it then would
15:36 18 have shaped the discussion, and we haven't landed on that in that
15:36 19 position.
15:36 20
- 15:36 21 Q. You are aware, aren't you, Mr Walsh, that like the Royal
15:36 22 Commission, the VCGLR only found out about this issue when
15:36 23 the spreadsheet was produced during Mr Mackay's evidence on 7
15:36 24 June?
15:36 25
- 15:36 26 A. I am aware of that, yes.
15:36 27
- 15:36 28 Q. I suggest to you that the reason you had the discussion with
15:36 29 Ms Coonan in February this year about the need to inform the
15:36 30 VCGLR about the issue was because you knew that the
15:37 31 communication back in 2018 wasn't a complete airing of the
15:37 32 question from Crown's point of view. Do you agree with that?
15:37 33
- 15:37 34 A. I think that there is certainly an element of that, Mr Rozen.
15:37 35 We didn't disclose to the VCGLR in 2012 when Mr Cremona
15:37 36 and, prior to him, Ms Shen were asking questions. We answered
15:37 37 the questions, but we never came forth and said, "Look, we're still
15:37 38 not sure about this, even though you've gone through the
15:37 39 calculations, you understand what is being deducted", we didn't
15:37 40 do what you mentioned or questioned me earlier on and say that
15:37 41 we have a query on this.
15:37 42
- 15:37 43 MR FINANZIO: The witness said 2012 in relation to that last
15:37 44 answer but I think he meant 2018.
15:37 45
- 15:37 46 A. Sorry, my apologies, yes, I did. Thank you.
15:37 47

- 15:37 1 MR ROZEN: Thank you, Mr Finanzio.
- 15:38 2
- 15:38 3 Finally I want to ask you, Mr Walsh, in your third statement ---
- 15:38 4 perhaps we can go to CRW.998.001.0263 is the relevant page,
- 15:38 5 the section in your third statement where you talk about risk
- 15:38 6 culture.
- 15:38 7
- 15:38 8 A. Yes.
- 15:38 9
- 15:38 10 Q. You have that in front of you?
- 15:38 11
- 15:38 12 A. I do.
- 15:38 13
- 15:38 14 Q. You see at paragraph 186 you say:
- 15:38 15
- 15:38 16 *I believe the 'top down' approach is an important concept*
- 15:38 17 *and following my appointment as Crown Melbourne's*
- 15:38 18 *CEO I have made a commitment to address new employee*
- 15:38 19 *induction orientations where I focus on the concept of 'see*
- 15:38 20 *something, say something'.*
- 15:38 21
- 15:38 22 Do you mean by the last expression that if employees of Crown
- 15:39 23 see something troubling or that they might consider to be
- 15:39 24 unlawful or unethical behaviour they should raise it with their
- 15:39 25 superiors?
- 15:39 26
- 15:39 27 A. Yes, it could be that or it could be health and safety-related,
- 15:39 28 it could be harassment and bullying, it could be anything.
- 15:39 29 Anything that they feel uncomfortable about.
- 15:39 30
- 15:39 31 Q. And presumably an environment in which employees feel
- 15:39 32 comfortable to say something if they see something is the sort of
- 15:39 33 environment you want to see at Crown because it suggests that
- 15:39 34 employees are comfortable passing the bad news up the chain, if I
- 15:39 35 can put it that way?
- 15:39 36
- 15:39 37 A. Yes.
- 15:39 38
- 15:39 39 Q. And in so doing, in bringing those matters to the attention
- 15:39 40 of management, that increases the likelihood of those matters
- 15:39 41 being attended to, or addressed; do you agree?
- 15:39 42
- 15:39 43 A. Yes, I do.
- 15:39 44
- 15:39 45 Q. There has been some evidence, and I won't go to it in any
- 15:40 46 detail before this Royal Commission, that that is not Crown, that
- 15:40 47 Crown is not an environment in which employees always feel

15:40 1 comfortable passing good news up the chain. Are you familiar
15:40 2 with that evidence, firstly?
15:40 3
15:40 4 A. From our employees?
15:40 5
15:40 6 Q. Yes.
15:40 7
15:40 8 A. I will stand corrected on this, but I think --- if it came from
15:40 9 the first group of employees, that was all in closed session and I
15:40 10 haven't read those transcripts.
15:40 11
15:40 12 Q. I was thinking of something else. Perhaps it was a bit
15:40 13 obscure. Mr Barton, the former CEO, was recorded by
15:40 14 a consultant, Ms Whitaker I think it was, or Ms Hartnett, I will
15:40 15 stand corrected, from Deloitte saying that there was a concern on
15:40 16 his part about a lack of comfort by employees passing bad news
15:40 17 up the chain.
15:40 18
15:40 19 A. I see.
15:40 20
15:40 21 Q. You're not aware of that evidence?
15:41 22
15:41 23 A. Now you mention it, yes, I believe I saw or read
15:41 24 Ms Whitaker's transcript ---
15:41 25
15:41 26 Q. Yes.
15:41 27
15:41 28 A. --- and certainly that --- I mean Ms Coonan puts out
15:41 29 a weekly note to the team and there is always messages in there,
15:41 30 excuse me, around exactly that, raising matters, and we have
15:41 31 a number of programs running at the moment. That had been
15:41 32 underway where we are seeing more reporting of incidents. So,
15:41 33 for example, one of them is around sexual harassment of
15:41 34 employees, and a lot of the matters that are coming up are
15:41 35 historical but people are now feeling comfortable to say
15:41 36 something. I think that is a good sign.
15:41 37
15:41 38 Q. You also mention in that same paragraph that your
15:41 39 attendance at meetings to reinforce the Board's direction is
15:42 40 an ongoing commitment to ensure Crown's value of "Do the right
15:42 41 thing" remains at the forefront of all employees thinking.
15:42 42
15:42 43 That phrase, "Do the right thing", we see that in Ms Coonan's
15:42 44 witness statement as well. When did that become a stated value
15:42 45 of Crown, do you know, Mr Walsh?
15:42 46
15:42 47 A. The Crown values were launched in, I want to say 2019,

15:42 1 Mr Rozen. There is four of them. We are passionate, we are
15:42 2 respectful, we work together, and we do the right thing, I think is
15:42 3 the fourth.

15:42 4
15:42 5 Q. "Do the right thing", I suggest to you, is intended to convey
15:42 6 that Crown not only complies with the law, but is guided by
15:42 7 ethics and morality in its conduct. That's the essence of it, would
15:43 8 you agree?

15:43 9
15:43 10 A. I would agree with that, yes.

15:43 11
15:43 12 Q. Presumably that would include its dealings with regulators?

15:43 13
15:43 14 A. Yes.

15:43 15
15:43 16 Q. You were asked earlier about the stance you took in
15:43 17 relation to the disciplinary action matter. Do you recall
15:43 18 Mr Finanzio asking you about the position you took on the
15:43 19 question of "robust" in the ICS?

15:43 20
15:43 21 A. I do.

15:43 22
15:43 23 Q. I think you conceded that wasn't doing the right thing in
15:43 24 terms of your dealings with the regulator?

15:43 25
15:43 26 A. I would. We spent a long time in that meeting talking
15:43 27 about "robust" and what it meant and, you know, I think our
15:43 28 arguments were pretty narrow.

15:43 29
15:43 30 Q. What I'm driving at, Mr Walsh, is events of January this
15:43 31 year are not ancient history. This is not back in the day of 2015
15:43 32 and 2016; this is current behaviour, subsequent to Ms Coonan
15:43 33 coming to the regulator and saying "We want a whole new
15:44 34 relationship."

15:44 35
15:44 36 A. Yes.

15:44 37
15:44 38 Q. How do you explain that? Is it old habits die hard? Or
15:44 39 what is the explanation?

15:44 40
15:44 41 A. I don't think it is old habits die hard, Mr Rozen. As I
15:44 42 mentioned earlier, I'm not sure Ms Coonan saw our response to
15:44 43 the Show Cause so I can't speak to what she did or didn't know.
15:44 44 What I can say is that the executive who signed off on our
15:44 45 response is not with the company anymore, and with the
15:44 46 exception of one matter that is ongoing, we've changed legal
15:44 47 advisors as well because I think that we had a history internally,

15:44 1 as well as our external advisors, that that was the position they
15:44 2 typically took. And it is certainly not the position we want to
15:44 3 take going forward, hence we made --- changes have been made.

15:44 4

15:44 5 MR ROZEN: No further questions, Commissioner.

15:45 6

15:45 7 MR GRAY: I understand that Dr Button might have a question
15:45 8 on which I might just have to explain Victoria's Police's position,
15:45 9 but apart from that I don't wish to raise anything.

15:45 10

15:45 11 COMMISSIONER: Thank you, Mr Gray.

15:45 12

15:45 13

15:45 14 **RE-EXAMINATION BY DR BUTTON**

15:45 15

15:45 16

15:45 17 DR BUTTON: I will leave that to last so if we do need to go into
15:45 18 private session, we can do that at the at the end.

15:45 19

15:45 20 Mr Walsh, can I start by asking you to clarify so we all know
15:45 21 what we are dealing with: what kinds of activities can generate
15:45 22 points in a patron's rewards ledger?

15:45 23

15:45 24 A. Certainly. Any spend across the property, either on
15:45 25 gaming, hotel, most of the F&B outlets and most of the retail
15:45 26 outlets. So in terms of gaming activity, it is generally calculated
15:45 27 on turnover. However, at the retail outlets, it is based on amount
15:46 28 spent.

15:46 29

15:46 30 Q. When we go to gaming turnover, is it not the case that
15:46 31 turnover from gaming machines is separately recorded from
15:46 32 gaming machine on table games?

15:46 33

15:46 34 A. Yes.

15:46 35

15:46 36 Q. Can you explain the difference in which patrons can do via
15:46 37 points generated on gaming machines versus what they can do
15:46 38 with the points they generate by table games?

15:46 39

15:46 40 A. Certainly. Table game points can be redeemed for table
15:46 41 game play. They can be redeemed for gaming machine play or they
15:46 42 can be redeemed for hospitality, whether it be hotel or F&B
15:46 43 around the complex.

15:46 44

15:46 45 Gaming machine play can only be redeemed for gaming machine
15:46 46 play or hospitality around the complex. It can't be redeemed for
15:46 47 table game play, and the reason is that potentially you could

- 15:46 1 convert those points to cash.
15:46 2
- 15:47 3 Q. Turning to the bonus jackpots tax matter, can you explain
15:47 4 how the patron is advised that they have a voucher, as it were,
15:47 5 that they can redeem for food, parking or hotels?
15:47 6
- 15:47 7 A. So in terms of the reward category, so the dining, the
15:47 8 parking and the hotel, once they hit a trigger on their gaming
15:47 9 machine play, it will be identified on the machine itself. There is
15:47 10 a service window that will identify the fact that the reward has
15:47 11 been earned.
15:47 12
- 15:47 13 Q. You said it from gaming machine play. Are we correct to
15:47 14 understand that these vouchers are only generated through
15:47 15 gaming machine play and you wouldn't get one via reference to
15:47 16 your table game play?
15:47 17
- 15:48 18 A. The table game play, you would get them for parking and
15:48 19 hotels, but the dining reward and the Matchplay, which is free
15:48 20 play, would come from gaming machine play.
15:48 21
- 15:48 22 Q. But it is only in respect of these vouchers, so far as they are
15:48 23 issued from the gaming machines, that they come within this
15:48 24 bonus jackpot tax issue we are talking about?
15:48 25
- 15:48 26 A. That's correct.
15:48 27
- 15:48 28 Q. What happens with the vouchers so far as table game play
15:48 29 and the calculation of gross gaming revenue is concerned?
15:48 30
- 15:48 31 A. They are not deducted.
15:48 32
- 15:48 33 Q. Only deducted from when they are generated by gaming
15:48 34 machine play?
15:48 35
- 15:48 36 A. Issued by the gaming machine system, yes.
15:48 37
- 15:48 38 Q. Now, when they are generated in that way, what does that
15:48 39 do to the balance of the patron's Crown Rewards account?
15:48 40
- 15:48 41 A. Nothing. The points are not deducted for the issuance of
15:49 42 those vouchers.
15:49 43
- 15:49 44 Q. So they can spend their own points, but if they get
15:49 45 a voucher, it's just a voucher?
15:49 46
- 15:49 47 A. That's right, it is on top.

15:49 1
15:49 2 Q. This terminology of "bonus jackpots" again has some scope
15:49 3 for people to be talking about different things in different
15:49 4 contexts, so I just want to make sure everyone understand how
15:49 5 that express can be used.
15:49 6
15:49 7 CRW.563.007.4149, please, operator.
15:49 8
15:49 9 Can you see here we are looking at a gross gaming revenue
15:49 10 report. This one happens to be for February 2018. Is it correct
15:49 11 that this basic format of the reporting to the VCGLR has been the
15:49 12 same throughout at least since around the time you joined the
15:49 13 business?
15:49 14
15:49 15 A. As I understand it, that's correct.
15:49 16
15:50 17 Q. You see the column "bonus jackpots"?
15:50 18
15:50 19 A. Yes.
15:50 20
15:50 21 Q. And this one totals 7.8 million?
15:50 22
15:50 23 A. Yes.
15:50 24
15:50 25 Q. Does that column comprise all of the eight subcategories
15:50 26 that are rolled up in this description of bonus jackpots?
15:50 27
15:50 28 A. I believe so, yes.
15:50 29
15:50 30 Q. So, based on this report alone, you would agree the
15:50 31 VCGLR couldn't tell exactly how much or that these sums were
15:50 32 made up, what makes up these sums?
15:50 33
15:50 34 A. Not off this report alone, no.
15:50 35
15:50 36 Q. I want to then turn to the exchange that was had with the
15:50 37 VCGLR in 2017 to 2018. Could the operator bring up
15:50 38 CRW.512.147.1181. I think we might have looked, with
15:51 39 Mr Rozen's examination, another version of this document. This,
15:51 40 we can see Michelle Fielding is forwarding to you and others the
15:51 41 response that was issued to Jason Cremona of the VCGLR; can
15:51 42 you see that?
15:51 43
15:51 44 A. Yes, I can.
15:51 45
15:51 46 Q. Can you see in the second paragraph it says:
15:51 47

15:51 1 *Regarding the definitions from the Bonusing Reports and*
15:51 2 *your query as to what those points earned outside can be*
15:51 3 *redeemed on machines, the categories are as follows*
15:51 4
15:51 5 She goes through 1 to 8?
15:51 6
15:51 7 A. Yes.
15:51 8
15:51 9 Q. By reference to the --- I withdraw that. You gave some
15:51 10 evidence earlier that you had some residual concern about the
15:51 11 bonus jackpots but you didn't have concerns about the company's
15:51 12 position in respect of free play?
15:51 13
15:52 14 A. No, that's correct.
15:52 15
15:52 16 Q. Of these eight categories, which is the category that you
15:52 17 had a residual concern about the company's position and the
15:52 18 disclosure and the stance taken with the VCGLR?
15:52 19
15:52 20 A. Number 8.
15:52 21
15:52 22 Q. Not the others?
15:52 23
15:52 24 A. No.
15:52 25
15:52 26 Q. Now, if the operator could go to the next page.
15:52 27
15:52 28 You can see there is a query from Mr Cremona to Ms Fielding,
15:52 29 copied to Ms Shen, 31 May 2018. He starts off by saying:
15:52 30
15:52 31 *..... I spoke to Tracy re the response we apparently*
15:52 32 *received from Matt Asher. We are unable to locate this*
15:52 33 *response. No excuse that we should have followed this up*
15:52 34 *a lot sooner, but it would be good if you can send me the*
15:53 35 *email response that Matt provided in November last year*
15:53 36 *that addressed the bonus question/s to tidy up the loose*
15:53 37 *end.*
15:53 38
15:53 39 Is it your understanding there had been some communication in
15:53 40 late 2018 about the bonus issues?
15:53 41
15:53 42 A. Yes, there had been some misunderstanding in terms of
15:53 43 email addresses or --- I think that was the problem, the requests
15:53 44 coming from Ms Shen were going to an email address that didn't
15:53 45 exist or had been changed and, therefore, I'm not sure why there
15:53 46 wasn't a bounce-back, but there was confusion there. The
15:53 47 information had been provided but Ms Shen hadn't received it.

15:53 1
15:53 2 Q. I will come back and show you something on the email in
15:53 3 a moment, but look at the third last bullet point. You see there
15:53 4 Mr Cremona asks:
15:53 5
15:53 6 *Can I also get an explanation of each of the 'Bonus*
15:53 7 *Jackpots' outlined on the Bonus Jackpot Analysis Report.*
15:53 8
15:54 9 See that?
15:54 10
15:54 11 A. Yes, I do.
15:54 12
15:54 13 Q. And he goes on to list them, and one of the ones he lists is,
15:54 14 and the information he wants, is each of the bonuses under the
15:54 15 bonus jackpot banner; you see that?
15:54 16
15:54 17 A. Yes.
15:54 18
15:54 19 Q. He says he is looking for information on how the bonus is
15:54 20 earned, how the prize is redeemed, and you see in bold there is Ms
15:54 21 Fielding's response, "See listing above".
15:54 22
15:54 23 A. Yes.
15:54 24
15:54 25 Q. Did you understand that Ms Fielding's listing of the eight
15:54 26 items was in response to Mr Cremona's request for information to
15:54 27 give him a better understanding of what was in these eight ---
15:54 28 within all of the eight categories that together make up, if I can
15:54 29 call it, the global bonus jackpots?
15:54 30
15:55 31 A. Yes.
15:55 32
15:55 33 Q. Just before I take you away from this document, you can
15:55 34 see in the next bullet point, there is a question again by reference
15:55 35 to the same, "DACOM bonus jackpot analysis report, what does
15:55 36 %TRO mean?" Do you see that?
15:55 37
15:55 38 A. Yes.
15:55 39
15:55 40 Q. There is an explanation given.
15:55 41
15:55 42 Is the operator able on the system to do a split screen? On the
15:55 43 other split screen could we bring up CRW.563.007.4174. If the
15:56 44 split screen isn't going to work, that's okay.
15:56 45
15:56 46 You can see this document is headed "Bonus jackpot analysis
15:56 47 report" and it is for the period February 2018 to the end of

15:56 1 February 2018; you see that?
15:56 2
15:56 3 A. Yes.
15:56 4
15:56 5 Q. Was it your understanding that this was --- the VCGLR had
15:56 6 this report, this report that is generated from Dacom, which
15:56 7 Mr Cremona has queried some detail of in his email?
15:56 8
15:56 9 A. Yes.
15:56 10
15:56 11 Q. Now, could we go through this. Can you see at row 12,
15:56 12 "FREE CREDITS PROGRAM"?
15:56 13
15:56 14 A. Yes.
15:56 15
15:57 16 Q. If we had the split screen we would see that that
15:57 17 corresponds with number 1 in Ms Fielding's explanation.
15:57 18
15:57 19 If you look at line 17, that then, at the start of the mail-out,
15:57 20 corresponds with her item 2?
15:57 21
15:57 22 A. Yes.
15:57 23
15:57 24 Q. If we go to line 50, we get "Matchplay", which is
15:57 25 Ms Fielding's item 3?
15:57 26
15:57 27 A. Yes.
15:57 28
15:57 29 Q. We then have "miscellaneous", which is jackpot payments,
15:57 30 miscellaneous total. That has a less direct correlation, perhaps
15:57 31 with the way she's explained it, but she does deal with jackpot
15:57 32 payments as her item 5. Take it from me because you don't have
15:57 33 the split screen.
15:57 34
15:57 35 Then at line 58 there is "Random Riches", which was
15:58 36 Ms Fielding's item 4 which she explained?
15:58 37
15:58 38 A. Yes.
15:58 39
15:58 40 Q. And at line 26 we have consolidation which was
15:58 41 Ms Fielding's item 6 which she explained?
15:58 42
15:58 43 A. Yes.
15:58 44
15:58 45 Q. Similarly at line 66, "pokie credit", which was Ms Field's
15:58 46 item 7.
15:58 47

15:58 1 A. Yes.
15:58 2
15:58 3 Q. And then at line 72, "bonus jackpots" which was
15:58 4 Ms Fielding's item 8?
15:58 5
15:58 6 A. Yes.
15:58 7
15:58 8 Q. Okay, now we have the split screen.
15:58 9
15:58 10 You can see in the split screen that Ms Fielding has given
15:58 11 an explanation of bonus jackpots because to be fair to
15:58 12 Mr Cremona the Excel file is not necessarily --- it is not
15:58 13 self-explanatory, put it that way.
15:58 14
15:58 15 A. Yes.
15:58 16
15:58 17 Q. Then if we can just go back --- if the operator, on the Excel,
15:59 18 could scroll down a little bit, you can see the total at line 94,
15:59 19 7.8 million.
15:59 20
15:59 21 A. Yes.
15:59 22
15:59 23 Q. This shows, does it not, how the first document I showed
15:59 24 you, the gross gaming revenue report, which had the 7.78 million
15:59 25 for February 2008, the eight buckets that made up that figure?
15:59 26
15:59 27 A. Yes.
15:59 28
15:59 29 Q. Then we have Ms Fielding's explanation that says what
15:59 30 they are all about?
15:59 31
15:59 32 A. Yes.
15:59 33
15:59 34 Q. Was it that change that gave you comfort in 2018 that the
15:59 35 VCGLR knew these amounts were being deducted?
15:59 36
15:59 37 A. Yes.
15:59 38
15:59 39 Q. And that the VCGLR knew that the deductions included
15:59 40 matters or deductions in respect of car parking, meals and hotels?
16:00 41
16:00 42 A. Yes.
16:00 43
16:00 44 Q. You mentioned the lost emails. Could the operator bring
16:00 45 up CRW.520.011.1337. If you can see the middle email there,
16:00 46 the recipient has been redacted but I think I can say without
16:00 47 disclosing personal information that it is Mr Cremona.

- 16:00 1
- 16:01 2 A. That could be right.
- 16:01 3
- 16:01 4 Q. So Ms Fielding has said to Mr Cremona:
- 16:01 5
- 16:01 6 *Matt relayed that Tracy's first two emails in July didn't go*
- 16:01 7 *to him because they were sent to an incorrect email*
- 16:01 8 *address.*
- 16:01 9
- 16:01 10 Is that the matter you were referring to about confusion about
- 16:01 11 email addresses?
- 16:01 12
- 16:01 13 A. That's what I understood was the reason for the delay in the
- 16:01 14 matter first being raised by the VCGLR and the --- Ms Fielding's
- 16:01 15 email setting it all out. There is a long time between those two
- 16:01 16 pieces of correspondence and I knew there was a reason. It
- 16:01 17 wasn't we were just dragging our feet on it.
- 16:01 18
- 16:01 19 Q. In fact, the response, once Mr Cremona and Ms Fielding
- 16:01 20 made contact, once Mr Cremona had the matter elevated to him
- 16:01 21 by Tracy Shen and he contacted Michelle Fielding, the response
- 16:01 22 went back within a week?
- 16:01 23
- 16:01 24 A. Yes.
- 16:01 25
- 16:01 26 Q. 29 May to 5 June?
- 16:01 27
- 16:01 28 A. Yes.
- 16:01 29
- 16:01 30 Q. Now, I want to then ask you some questions around the
- 16:02 31 issue of disclosure of the bonus jackpots matter to this
- 16:02 32 Commission. You've been taken to, or asked questions about
- 16:02 33 a meeting held with Allens on 18 March of this year. Do you
- 16:02 34 recall that?
- 16:02 35
- 16:02 36 A. Yes.
- 16:02 37
- 16:02 38 Q. Who organised that meeting, who asked for that meeting to
- 16:02 39 occur?
- 16:02 40
- 16:02 41 A. I did.
- 16:02 42
- 16:02 43 Q. Is there a reason that it couldn't happen the instant that you
- 16:02 44 wanted it to happen?
- 16:02 45
- 16:02 46 A. Probably not other than we raised it with --- I had raised it
- 16:02 47 with various Allens lawyers. However, we were in a mad

16:02 1 scramble, as I say, and I know everyone is busy, but we were in
16:02 2 a mad scramble to respond to the Commission. At that point
16:03 3 I was also, I will stand corrected on this because I have them in
16:03 4 front of me, I was either in writing witness statements or had
16:03 5 launched in writing statements and it was a very intense time.
16:03 6
16:03 7 Q. Was it the case you wanted a meeting held specifically on
16:03 8 this issue?
16:03 9
16:03 10 A. Yes.
16:03 11
16:03 12 Q. And that meeting was to address this issue in the context of
16:03 13 the Commission's RFI-002?
16:03 14
16:03 15 A. Yes.
16:03 16
16:03 17 Q. Which is all about disclosure to the Commission?
16:03 18
16:03 19 A. Correct.
16:03 20
16:03 21 Q. Now, in the meeting that you had with Allens, I don't want
16:03 22 you to tell me the substance of the advice, but did you reveal to
16:03 23 Allens --- "reveal" is the wrong word, but you told Allens that the
16:03 24 company had obtained internal advice?
16:03 25
16:03 26 A. Yes.
16:03 27
16:03 28 Q. And you told Allens that the company had obtained
16:04 29 external legal advice?
16:04 30
16:04 31 A. Yes.
16:04 32
16:04 33 Q. And you also said, as the file note of the meeting records,
16:04 34 that you were concerned that the corporate behaviour was not as
16:04 35 good as it could have been, would rather be criticised about the
16:04 36 action than for hiding it; do you recall saying that in the meeting?
16:04 37
16:04 38 A. I do.
16:04 39
16:04 40 Q. What was your expectation about what was to occur after
16:04 41 that meeting was held?
16:04 42
16:04 43 A. That Allens would take it away and come back to us with
16:04 44 (a) advice, and (b) we'd need to work out how we then responded
16:04 45 to that advice.
16:04 46
16:04 47 Q. In substance it was suggested to you by Counsel Assisting

16:04 1 that, and I paraphrase, that you or Crown was essentially trying to
16:04 2 slip this one past the Commission or not really be forthright with
16:05 3 the Commission. Do you want to respond to that?

16:05 4
16:05 5 A. Well, yes. The purpose of the meeting was to raise it to
16:05 6 ensure that at a minimum, it went to the Commission. The
16:05 7 RFI-002 was a very wide request in terms of not only actual, but
16:05 8 potential, which meant that virtually everything, as the word
16:05 9 suggests, "potential", needs to be disclosed to the Commission,
16:05 10 and this was one that I thought whether it fell into the actual or
16:05 11 potential bucket --- it certainly fell into potential in terms of my
16:05 12 mind and it needed to be raised. Hence, we had had meetings
16:05 13 where there were various topics discussed with Allens and
16:05 14 procedures and documents and the requirements of the
16:05 15 Commission. I wanted a specific meeting to flag this issue as
16:06 16 a single issue.

16:06 17
16:06 18 Q. Allens was asked to provide some advice and I understand
16:06 19 a folder of documents went to Allens the next day after the
16:06 20 meeting?

16:06 21
16:06 22 A. That's correct.

16:06 23
16:06 24 Q. Did you follow-up where is the advice?

16:06 25
16:06 26 A. No, I followed up internally with our lawyers to say "Where
16:06 27 are Allens at?"

16:06 28
16:06 29 Q. Do you recall the occasions on which you followed up, how
16:06 30 many times do you think it was?

16:06 31
16:06 32 A. I thought it was three. One in March, one in April, and it
16:06 33 was either late April or early May.

16:06 34
16:06 35 Q. And you are aware that the responses to RFI-002 were
16:06 36 being provided to the Commission in tranches?

16:06 37
16:06 38 A. Yes.

16:06 39
16:06 40 Q. You were aware that, you may not know, or keeping count,
16:06 41 but the first tranche was provided on 24 March 2021?

16:06 42
16:06 43 A. That sounds right.

16:06 44
16:06 45 Q. Second tranche on 21 April 2021?

16:07 46
16:07 47 A. Yes.

16:07 1
16:07 2 Q. Do you recall that the covering letter for that tranche, which
16:07 3 is CRW.0000.0002.0097, foreshadowed further tranches would
16:07 4 be forthcoming?
16:07 5
16:07 6 A. Yes, that was part of it. I wasn't sure whether it would go
16:07 7 in a later tranche than not.
16:07 8
16:07 9 Q. To your mind, following tranche 2 in April, it wasn't as
16:07 10 though Crown had said to the Commission, that's it, we've
16:07 11 finished answering RFI-002?
16:07 12
16:07 13 A. No.
16:07 14
16:07 15 Q. And by "no", do you mean ---
16:07 16
16:07 17 A. No, that's right, I expected there may well be further
16:07 18 tranches coming.
16:07 19
16:07 20 Q. And you are aware that there was another tranche, or
16:07 21 another response to RFI-002 on 19 May 2021?
16:07 22
16:07 23 A. Yes.
16:07 24
16:07 25 Q. A further response on 18 June 2021?
16:07 26
16:07 27 A. Yes.
16:07 28
16:07 29 Q. Further response on 3 June 2021?
16:07 30
16:07 31 A. Yes.
16:07 32
16:07 33 Q. And there has been another disclosure, whether you call it
16:08 34 a tranche or not, on 29 June 2021?
16:08 35
16:08 36 A. Yes.
16:08 37
16:08 38 Q. You were asked some questions after Counsel Assisting
16:08 39 had finished his examination by the Commissioner. You had
16:08 40 an exchange with the Commissioner. The Commissioner raised
16:08 41 with you the evidence that had been given about cash being
16:08 42 brought into the casino.
16:08 43
16:08 44 A. Yes.
16:08 45
16:08 46 Q. And you said, according to my note, if there were volumes
16:08 47 of cash, there should have been --- should have submitted SMRs?

- 16:08 1
16:08 2 A. Yes, if they were coming in as described.
16:08 3
16:08 4 Q. Yes, And the Commissioner then asked you "Why haven't
16:08 5 you been doing what you should have done", and your answer,
16:08 6 that was prefaced by your statement that the company should
16:09 7 have submitted SMRs on that?
16:09 8
16:09 9 A. Yes, and I assume we were.
16:09 10
16:09 11 Q. So in answering the Commissioner's question, and
16:09 12 submitting SMRs, you weren't intending to suggest to the
16:09 13 Commissioner that the company had not been submitting SMRs?
16:09 14
16:09 15 A. No, not at all.
16:09 16
16:09 17 Q. Just so we understand where the treatment of cash is at the
16:09 18 moment, what is the limit on the total cash that can be brought in
16:09 19 at the moment?
16:09 20
16:09 21 A. In one transaction, across a single day it is \$150,000. At
16:09 22 \$25,000 we request a source of funds declaration from the person
16:09 23 holding the money. And over \$100,000 it needs my approval.
16:09 24
16:09 25 Q. To what extent does that process tie in with the significant
16:09 26 player and the other work that the company does to understand
16:09 27 the probity of the customers who might be coming in with cash?
16:10 28
16:10 29 A. Well, I think there is a number of different initiatives we've
16:10 30 launched to try and triangulate if you like, a position on
16:10 31 a customer bringing large amounts of cash in. If they are
16:10 32 bringing cash in, and they don't have a reasonable explanation for
16:10 33 where it has come from, then we will refuse that transaction
16:10 34 because we will be suspicious it is not legitimate. But, if for
16:10 35 example, and I saw one on Saturday night, where the customer
16:10 36 had brought in \$25,000 but he had won it two days before and the
16:10 37 lady in the cage was able to show me that the transaction where
16:10 38 he'd won \$25,400 or whatever it was, it was slightly more, So
16:10 39 when the money came in it was in straps, it had signatures from
16:10 40 Crown's cage, and we knew where that money was coming from.
16:10 41
16:10 42 Q. If you mention that someone wanted to use more than
16:10 43 \$100,000 it would require your approval; is that what you said?
16:10 44
16:11 45 A. Yes.
16:11 46
16:11 47 Q. How many times has that instance arisen since the change

16:11 1 was put in place to request your approval?

16:11 2

16:11 3 A. It hasn't. I think in the last three months we've had maybe
16:11 4 six transactions between 50 and 100. There were a couple at
16:11 5 \$100,000, but we previously had a limit of 150 and we brought it
16:11 6 down to 100 before it gets my approval and I haven't had to sign
16:11 7 one yet.

16:11 8

16:11 9 Q. What ID do you get or check for patrons going into the
16:11 10 salons and the higher end rooms, not the general gaming floor;
16:11 11 are they IDed on the way in?

16:11 12

16:11 13 A. Yeah, so if they go to the Mahogany Room, they would use
16:11 14 their Crown reward card. We have an ID scanned into the system
16:11 15 and they will be greeted by a host who will swipe their card. The
16:11 16 image that we have scanned, whether it is a passport or a driver's
16:12 17 licence, will pop up so we know the person standing in front of us
16:12 18 with the card is on the system. If they have a guest, they have to
16:12 19 provide primary ID and be registered, and we run that through
16:12 20 our database to ensure the guest is not excluded for any reason. If
16:12 21 they are going to a salon, all players on a program need to play
16:12 22 with their card, and they won't get on a program unless they have
16:12 23 provided primary ID.

16:12 24

16:12 25 Q. So Crown knows who is in the salons and it knows who is
16:12 26 in the rooms that you need a membership to get into?

16:12 27

16:12 28 A. Yes.

16:12 29

16:12 30 Q. Now, just give me one moment. The next question I was
16:12 31 going to ask is the one where Mr Gray would like ---

16:12 32

16:12 33 COMMISSIONER: I was going to ask, is that a Mr Gray
16:12 34 question? Is there an issue about the question or is there an issue
16:12 35 about where we should hear the question and answer?

16:12 36

16:12 37 MR GRAY: The latter. In closed session would be more
16:13 38 appropriate.

16:13 39

16:13 40 COMMISSIONER: All right. I will ask the question first.

16:13 41

16:13 42 Is this pretty much the end of your questioning, so if we close
16:13 43 now?

16:13 44

16:13 45 DR BUTTON: Yes, I've left until last the one Mr Gray wants to
16:13 46 close for.

16:13 47

16:13 1 COMMISSIONER: Yes, then I have a question, completely
16:13 2 unrelated, but going back to one of my questions earlier, and also
16:13 3 at the beginning when Dr Button was asking you some questions,
16:13 4 so I get it clear in my mind, I can get pokie point bonuses,
16:13 5 whatever, pokie points playing on the EGMs?
16:13 6
16:13 7 A. Yeah, that's the only place you get a pokie point, playing on
16:13 8 an EGM, yes.
16:13 9
16:13 10 COMMISSIONER: And I can do two things with those pokie
16:13 11 points?
16:13 12
16:13 13 A. Yes.
16:13 14
16:13 15 COMMISSIONER: I can either play a game ---
16:13 16
16:13 17 A. Yes.
16:13 18
16:13 19 COMMISSIONER: --- or I can go and spend the value of the
16:13 20 pokie point at a store?
16:13 21
16:13 22 A. Or F&B or a hotel, yes.
16:13 23
16:13 24 COMMISSIONER: Yes. Let's say I go to a fancy watch
16:14 25 company and buy my \$50,000 watch with my pokie points ---
16:14 26
16:14 27 A. Yes.
16:14 28
16:14 29 COMMISSIONER: --- so far I've got the store out of pocket, not
16:14 30 by \$50,000, but if I forget margins and that kind of thing,
16:14 31 \$50,000. I take it Crown that then pays the store so that it gets its
16:14 32 \$50,000 for the watch that I've just taken away or put on?
16:14 33
16:14 34 A. That's my understanding of how it works, Commissioner,
16:14 35 yes.
16:14 36
16:14 37 COMMISSIONER: Okay. And this is probably completely
16:14 38 irrelevant, but do you pay the rack rate or do you get a discount?
16:14 39
16:14 40 A. I think the customer would pay whatever rate they negotiate
16:14 41 and we would pay --- because the points all have a value, we
16:14 42 would pay, again I'm not an expert in this area, but my
16:15 43 understanding is we would pay the value of whatever the
16:15 44 customer paid to the store.
16:15 45
16:15 46 COMMISSIONER: The points have a value. So I would know
16:15 47 I have \$50,000 worth of points. I think it is 100 points a dollar.

16:15 1
16:15 2 A. A dollar, yes.
16:15 3
16:15 4 COMMISSIONER: So I can go into the shop ---
16:15 5
16:15 6 A. Yes.
16:15 7
16:15 8 COMMISSIONER: --- and say there is a \$50,000 watch and
16:15 9 I have \$50,000 worth of points. I give the voucher to the shop,
16:15 10 they give me the watch, you pay the shop?
16:15 11
16:15 12 A. Yes, that's a lot of points, but, yes. You are correct, yes.
16:15 13
16:15 14 COMMISSIONER: Okay, thank you. Can we go straight into ---
16:16 15 media, no or yes?
16:16 16
16:16 17 MR GRAY: Is that an invitation for me?
16:16 18
16:16 19 COMMISSIONER: No, a question.
16:16 20
16:16 21 MR GRAY: Thank you, Commissioner. It is difficult for me to
16:16 22 aver that this would attract public interest immunity and I don't
16:16 23 want to prevent Dr Button from asking the question, it would be
16:16 24 better if the media didn't hear it and would be better if the public
16:16 25 didn't hear it. It is the sort of material that is sensitive, and in
16:16 26 certain circumstances it could give people of ill-intent
16:16 27 an advantage, but I can't swear that it attracts public interest.
16:16 28
16:16 29 COMMISSIONER: We'll sort it out. We'll exclude everybody
16:16 30 and listen to the question and answer and make some judgment
16:16 31 about whether it is to remain secret or not.
16:16 32
16:16 33 MR GRAY: Thank you, Commissioner.
16:16 34
16:16 35 COMMISSIONER: We can just sit here and wait. You can do
16:16 36 that? Does it include the parties with leave?
16:16 37
16:16 38 MR GRAY: Perfectly all right if the parties with leave hear it ---
16:17 39
16:17 40 COMMISSIONER: Can stay.
16:17 41
16:17 42 MR GRAY: Commissioner, if in the end you direct them not to
16:17 43 publish it further, we would be welcome can to that. Thank you.
16:17 44
16:17 45 COMMISSIONER: Okay.
16:17 46
16:17 47 DR BUTTON: I think the discussion will take longer than the

16:17 1 question!

16:17 2

16:17 3 COMMISSIONER: It better be a good one!

16:17 4

16:17 5 DR BUTTON: No pressure!

16:17 6

16:17 7 Confidential

16:17 8

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