



INDEPENDENT LIQUOR AND GAMING AUTHORITY OF NSW

INQUIRY UNDER SECTION 143 OF THE CASINO CONTROL ACT 1992 (NSW)

**THE HONOURABLE PA BERGIN SC
COMMISSIONER**

**PUBLIC HEARING
SYDNEY**

**TUESDAY, 25 FEBRUARY 2020
AT 9.59 AM**

Continued from 24.2.2020

DAY 3

Any person who publishes any part of this transcript in any way and to any person contrary to an Inquiry direction against publication commits an offence against section 143B of the *Casino Control Act 1992 (NSW)*

MS N. SHARP SC appears with MR S. ASPINALL as counsel assisting the Inquiry

MR N. YOUNG QC appears with MS R. ORR SC, MR P. HERZFELD and MS C. HAMILTON-JEWELL of counsel for Crown Resorts Limited and Crown Sydney Gaming Pty Ltd

5 **MR T. O'BRIEN appears with MS A. RICHARDS of counsel for CPH Crown Holdings Pty Ltd**

MR J. STOLJAR SC of counsel appears for Melco Resorts & Entertainment Limited

10

COMMISSIONER: Yes, Ms Sharp.

15 MS SHARP: Good morning Commissioner. Before we get started with our witnesses today, could I tender some further material for the purpose of this hearing?

COMMISSIONER: Yes, of course.

20 MS SHARP: Commissioner, you should have in front of you two documents. One of them is supplementary index of prospective tender materials dated 23 February 2020.

COMMISSIONER: Yes.

25 MS SHARP: And you will see 12 numbered documents.

COMMISSIONER: Yes, I see that.

30 MS SHARP: I tender each of the documents in that list. Possibly, Commissioner, you would consider marking it as exhibit B.

COMMISSIONER: Yes. The second list is unrelated, is it?

35 MS SHARP: Yes.

COMMISSIONER: I see. Yes, the documents in the list as identified by Senior Counsel Assisting will become exhibits B1 to 12, so B1, B2, through to B12.

40 **EXHIBIT #B1 TO B12 NUMBERED DOCUMENTS IDENTIFIED BY SENIOR COUNSEL ASSISTING**

45 COMMISSIONER: Thank you. Did anyone want to say anything about the tender?

MR O'BRIEN: No, your Honour.

COMMISSIONER: I'll just assume that you don't unless you rise. Yes, Ms Sharp.

MS SHARP: Then there's a further supplementary index of documents, this is dated
24 February. There are 12 documents on that list. I tender those. You may consider
5 marking those documents as exhibit C1 to 12.

COMMISSIONER: Yes, thank you, I think they're 1 to 21.

MS SHARP: That is so, thank you.
10

COMMISSIONER: Yes, all right. Exhibit C1 to 21.

EXHIBIT #C1 TO C21 SUPPLEMENTARY INDEX OF DOCUMENTS
15

MS SHARP: Thank you, Commissioner. Now, the first witness this morning is
Professor Cabot. He will be appearing by way of video link from Las Vegas. With
your leave my learned junior, Mr Aspinnall, will be taking Professor Cabot.
20

COMMISSIONER: Yes, of course.

<ANTHONY NATHAN CABOT, AFFIRMED **[10.01 am]**
25

<EXAMINATION BY MR ASPINALL

30 MR ASPINALL: Mr Cabot, could you please state your full name for us.

PROF CABOT: Sure. It's Anthony Nathan Cabot.

MR ASPINALL: Your professional address is University of Nevada, Las Vegas.
35

PROF CABOT: That is correct.

MR ASPINALL: And you are currently a distinguished fellow in gaming law at the
Boyd School of Law at that university.
40

PROF CABOT: I am.

MR ASPINALL: You have held that position since March 2018?

45 PROF CABOT: Correct.

MR ASPINALL: And in that role, what do you do?

PROF CABOT: I head up the gaming law program here at Boyd School of Law. The gaming law program is an – about eight classes for both JD and postgraduate students – we call them in the US LLM students – on various aspects of gaming law. So I'm in charge of that program.

5

MR ASPINALL: I see. And you teach those classes at the moment, do you?

PROF CABOT: Well, I teach two of the eight.

10 MR ASPINALL: All right. Could we call up document INQ.500.001.0222, please. [Exhibit A-248]

COMMISSIONER: That is exhibit C21, is it?

15 MR ASPINALL: I will just check that.

COMMISSIONER: All right. No?

MR ASPINALL: Can you see that document, Professor Cabot?

20

PROF CABOT: Actually, it says loading. Yes, I can. Yes, I can.

MR ASPINALL: You can see it. That is a copy of your resume or your CV.

25 PROF CABOT: That is correct.

MR ASPINALL: And I see there you obtained your JD in May 1981.

PROF CABOT: That is correct.

30

MR ASPINALL: And if we go over the page, at the top of that page, it appears that since 1981 to last year you were in private practice?

35 PROF CABOT: Well, it was actually until about two years ago when I left private practice. I actually left the full-time practice in December of 2017.

MR ASPINALL: Right.

40 PROF CABOT: But I stayed on as a senior partner with my firm for a little over a year to help with the transition of me leaving the practice to me going to academics.

MR ASPINALL: Right. And I see that during the time that you were in private practice, the focus of your practice was primarily in the area of gaming law?

45 PROF CABOT: It was.

MR ASPINALL: And in private practice you worked in the area of gaming law and regulation from the time you were a junior lawyer right up until you were a senior partner of the firm that you were with.

5 PROF CABOT: That is correct.

MR ASPINALL: And you led the gaming practice group in those practices over time?

10 PROF CABOT: Yes. Obviously when I started, I was just an associate. And by the time I became a partner, was a partner for a number of years before I chaired the department at my first firm. And then when I left my first firm and went to my second firm, I chaired that practice as well for about eight years.

15 MR ASPINALL: Yes, now in private practice – and you need not name any names that will breach confidentiality – but what types of clients did you act for?

PROF CABOT: I had a variety of different types of clients. Virtually all my clients were either operators, manufacturers or suppliers to casinos. I also represented on
20 occasion some governments.

MR ASPINALL: I see. Now, when you were in private practice, did you act for any of the following entities: Melco Resorts, Crown Resorts or the Star Entertainment Group which was formerly known as Echo Entertainment Group?
25

PROF CABOT: So over the course of 36 years of practice I did provide a lot of services to a lot of different clients. None of them – none of those that you mentioned were regular clients in any sense of the word. I do recall that probably a dozen years ago I did some work for Melco which was on US law. And I may have
30 records from the old firms that would give me an indication I did any work for anybody else.

MR ASPINALL: All right. But to the best of your recollection, any retainer was 12 years ago or so?
35

PROF CABOT: Yes, correct.

MR ASPINALL: And do you have any ongoing affiliations or obligations to any of those entities that I've mentioned?
40

PROF CABOT: I do not.

MR ASPINALL: If we move down the page on your CV to the section regarding recognition, you received various accolades and commendations listed there.
45

PROF CABOT: That is accurate.

MR ASPINALL: And you have been listed as the preeminent mind in the field of gaming regulations; is that correct?

PROF CABOT: Not my words, but yes.

5

MR ASPINALL: I see, yes. And moving down, you've been teaching in the field of – teaching experience and over on to the next page, please – you've been teaching at the university for – since around 2002; is that correct?

10 PROF CABOT: That is correct.

MR ASPINALL: And you were the editor of various journals on gaming research and law which are set out there? Sorry, next page. Editorial Experience.

15 COMMISSIONER: Yes.

MR ASPINALL: That's correct?

PROF CABOT: Yes, those are accurate.

20

MR ASPINALL: And you were on the various boards and councils which are listed beneath.

25 PROF CABOT: Go over to the next page, please. Now, in terms of special consulting, the heading there, I see that you've consulted to various state governments within the United States and also to the city of Kansas City in Kansas.

PROF CABOT: That is correct.

30 MR ASPINALL: Is that on the issue of gaming regulation generally?

PROF CABOT: The answer would be – the answer is correct, it would be related to either gambling regulation or the development of casinos within those jurisdictions.

35 MR ASPINALL: I see. Now, you next are said to have been a participant team leader in money laundering through emerging cyberspace technology. When was that?

40 PROF CABOT: It would have to have been around 20 years ago, I would guess, I don't remember exactly.

45 MR ASPINALL: We will come to this in a moment but around the turn of the century, you wrote an article on money laundering, which was published. Since that time is it correct that you haven't really followed the area of money laundering in casinos?

PROF CABOT: Well, I have not followed it to degree on which I would consider myself to be an expert in the area.

5 MR ASPINALL: All right. Thank you. Now, if we return to the section which was Consultations. You see in the final paragraph under that heading you were invited to speak to testify before the United States Senate and the National Gambling Impact Study Commission. When was that?

10 PROF CABOT: I would say it was around in the early 2000s. Both of those I had to deal with the advent of gambling over the internet to which I took a strong interest, and they invited me to testify before a Senate subcommittee and then before the national Gaming Impact Study Commission.

15 MR ASPINALL: So that was on the issue of internet gambling, was it?

PROF CABOT: Yes.

20 MR ASPINALL: And if we look down under the next heading, you are the author or co-author of various books listed there.

PROF CABOT: That is correct.

25 MR ASPINALL: And I see one of them which we will come to a little later is called Casino Math.

PROF CABOT: That is correct.

MR ASPINALL: But as I understand it, you are not a mathematician?

30 PROF CABOT: That is correct.

MR ASPINALL: But the co-author of your book in that case – of that book was, or is?

35 PROF CABOT: That is correct. He was, he is.

40 MR ASPINALL: If we turn over to page 225, that is a list of, I suppose, published articles that you have published over the years on gaming law history and the regulation of the gaming industry.

PROF CABOT: Yes, these are academic articles as opposed to articles you would find in non-academic sources like newspapers, magazines and trade journals.

45 MR ASPINALL: Yes, I see. Other than teaching in Nevada do you teach in any other places?

PROF CABOT: I – well I have guest taught at some different universities, where they invite me to give a speech. I’ve done that in Macau. I’ve also – I also – I’m affiliated with the International Centre for Gaming Regulation and they hold classes on a regular basis for people from outside the United States – inside the United States. I will teach classes for them as well, though like just last week I taught a class for Japanese regulators under the licensing process. That sort of thing is fairly – you know, not that regular but I do it on occasion.

MR ASPINALL: Sorry, I just couldn’t hear the last answer.

COMMISSIONER: That was in relation to Japanese regulation, was it not?

PROF CABOT: Yes, it was.

COMMISSIONER: I wonder if we might pause there for a moment. I’m sorry to interrupt. We’re having just a little delay in the presentation through the video linkage. I’m going to adjourn for a couple of minutes just to see if we can adjust it. If we can’t we will, of course, have to live with it. I’m not sure whether you are experiencing it at your end, professor, but at the moment I will adjourn and we will see if we can adjust the presentation and we will be back shortly. Thank you. I will adjourn.

PROF CABOT: Okay. Thank you.

ADJOURNED [10.14 am]

RESUMED [10.28 am]

COMMISSIONER: Yes. Thank you. Yes, my apologies for that delay. I understand that there has been some rectification of the problem. Thank you, Professor. Yes, Mr Aspinall.

MR ASPINALL: Thank you, Commissioner. Can you hear me all right now, Mr Cabot.

PROF CABOT: I can.

MR ASPINALL: We were talking before the break about your teaching in jurisdictions other than in Nevada, and I was particularly interested in your teaching in Macau.

PROF CABOT: So I’ve been asked to give lectures a few times at the University of Macau and then at Macau Polytechnic Institute on two or three occasions.

MR ASPINALL: I see. And when was the last time you visited Macau?

PROF CABOT: I believe it was two years ago.

5 MR ASPINALL: I see. Now, what is your level of understanding of the gaming laws and the regulation of gaming in Macau?

10 PROF CABOT: It's actually quite superficial. I talk a bit about it with the professors in Macau and also some of the industry members in Macau when I try to get insight into particular areas of public policy, and how what's happening in Macau might impact that.

15 MR ASPINALL: I see. Now, in terms of your expertise in gaming law it's correct that it's primarily within the USA.

PROF CABOT: It is. It's primarily Nevada law but I teach a class in comparative law and so I spend a fair amount of time looking at the laws of other jurisdictions in order to assess how their laws could impact public policy.

20 MR ASPINALL: So in terms of the laws within the USA which jurisdictions would you say you had a working familiarity and expertise in?

25 PROF CABOT: Well, an expertise in Nevada law for certain. An expertise in US federal law as it relates to gaming for certain. I have familiarity with the laws in most of the other major jurisdictions such as New Jersey and Mississippi.

30 MR ASPINALL: Thank you. And it's correct, isn't it, that in terms of the United States regulation of gambling that is primarily done at a state level and each jurisdiction will have slightly different regulatory settings and structures?

PROF CABOT: Yes, that is correct. It's not only done at a state level. There's two different types of casino gambling in the United States. There is state authorised and tribal gaming.

35 MR ASPINALL: Tribal gaming?

PROF CABOT: So in the states – yes. In the states that have state-authorised gambling it's regulated by the state. In the states that have tribal gambling it's typically regulated at the tribal level.

40

MR ASPINALL: I see. Now, other than Macau, are there any jurisdictions outside the USA with which you have particular experience or expertise?

45 PROF CABOT: I wouldn't call it expertise. As part of my studies of gambling law, I will frequently spend time and study jurisdictions in order to give the students a broader base of knowledge on how different jurisdictions approach gambling laws.

MR ASPINALL: And which jurisdictions do you look at?

PROF CABOT: Well, most recently I've been spending a fair amount of time on Japan and their processes leading to their casino gambling. But in the past I've
5 looked at South Korea, Macau, Puerto Rico, a number of different jurisdictions depending upon what the topic is and how they approach gambling law.

MR ASPINALL: I see. Have you done any study of the casinos in Singapore?

10 PROF CABOT: I have looked at Singapore to a certain degree. I would not consider myself an expert in Singaporean gaming law.

MR ASPINALL: I see. Thank you. Now, yesterday Mr Bromberg gave some evidence on the definition of various casino terms including dead chip, rolling chip,
15 VIP, premium player, cage, VIP room, and some other matters. Have you been able to review the transcript of Mr Bromberg's evidence relating to those definitions?

PROF CABOT: I did. And I actually listened to Mr Bromberg's testimony.

20 MR ASPINALL: I'm sorry, could you say that again?

PROF CABOT: And I listened to a lot of his testimony.

MR ASPINALL: I see. In terms of the definitions that he gave, is there anything
25 that he said regarding those terms that you would disagree or wish to add to?

PROF CABOT: No, I thought he did a fine job of talking about those different terms. You know, a lot of those are terms that have relevancy to the jurisdiction, but overall I thought he did a very good job.
30

MR ASPINALL: There is one further question that we didn't ask Mr Bromberg which was the term "marker". Are you able to give us a working definition of that term in the casino industry?

35 PROF CABOT: Sure. A marker is a – is written evidence of a debt that is owed to – by a player to a casino. It's typically in the form of a negotiable instrument. In Nevada, in particular, it looks just like a cheque. And so when the player requests chips, he will typically sign a marker. The marker will have the amount of the chips that he request and he will sign it at that point. If it's applied towards credit, the
40 casinos may, at some point actually send that through the banking channels, like a regular cheque, or he can redeem the credit instrument by paying his debt.

MR ASPINALL: I see. Sitting behind the marker, is there usually a credit facility which is pre-assessed by the casino, or is it simply a stand-alone document?
45

PROF CABOT: Well, so can I explain the credit process just a little bit? That might help.

MR ASPINALL: Yes. Of course.

PROF CABOT: So typically if a player wants to get credit at a casino, they will complete a credit application. The credit application will have – it looks like a
5 typical credit application that you would fill out if you were getting financing for a car or something of that nature. The casino will take that. They will do some form of credit check and they will have to make a decision whether or not to grant the patron credit. Depending upon the amount of the credit line, the internal controls will require different levels of approval. For a very high credit line, you might need
10 the president of the company or somebody of that stature to approve the credit line. Once they approve the credit line, then the person has credit at the casino.

And the way they draw upon the credit is they typically will go to the table and then request to draw against their line, their credit line. And they will ask, “Well, how
15 much do you want to draw?” And let’s say they say, “I want to draw \$10,000.” The pit boss will check to make sure the person has credit and if they do, they will complete a marker for the \$10,000. The patron will sign the credit instrument at that point – it’s typically in triplicate – then he will be given \$10,000 in cash. If he loses it, then the original credit instrument will go back to the cage and he will be expected
20 to either redeem it at some point or they will send it through for collection like you’d send a normal cheque through the bank account.

MR ASPINALL: Okay. Before we move on, I wanted to talk to you about junkets in the various jurisdictions that you’re familiar with, but before that I wanted to talk
25 to you briefly about a history of legal casinos in the United States, and I know this is one of the areas that you have looked into in your work. Most of us in Australia would be familiar with Las Vegas as a place where there has been for several decades casinos, but I was wondering if you could give us an overview of how the legal casino industry in the United States developed.
30

PROF CABOT: Sure. So, Las Vegas is in a state called Nevada, and Nevada became a state in 1864 during the Civil War we had here. Prior to that, it was a territory of the United States, and they discovered gold in an area around Reno called the Comstock Lode. So Nevada went from a place with almost no people to a place
35 that was filled with miners. And the miners brought two things with them: they brought gambling and prostitution. And so Nevada had a very vibrant casino-type industry in the mining towns back in the 1860s. By the early 1900s, the mines were running out of gold that was mineable and the temperance movement took hold in the United States. So in 1910 they actually passed laws making the gambling illegal.
40 But it never really went away, underground at that point and not very much underground. It was fairly prominent and permitted but still illegal.

It wasn’t until 1931 and the height of the Depression that Nevada decided to break ranks with every other state of the United States and legalise casino gambling. So it
45 passed the law opening up wide open gambling. And when I say wide open, it was wide open. There was practically no regulation whatsoever of the gambling industry. But it really didn’t take off until after the Second World War, and the reason it didn’t

was because if you've been to Nevada, you will know it's very hot in the summers, and after the Second World War air-conditioning became popular, and also automobiles became popular. So Nevada after the 1940s started to boom. There still was no regulation. So organised crime started to come into Las Vegas, in particular,
5 and started to build a number of hotels and casinos. It started to become a problem with the Federal Government because they looked at Las Vegas, and they looked at the ownership by organised crime in the casinos and were starting to be concerned.

10 So it wasn't until 1949 that Nevada even started looking at the backgrounds of the people who were buying the casinos, or building the casinos. But it started to intensify in the 1950s because there was a particular US senator, Estes Kefauver, who started to do an inquiry into organised crime influence in the casinos. And by the mid-1950s, it became evident that Nevada had to either clean up its industry or the Federal Government was likely to close the casinos because they have the power
15 to do so under the supremacy clause of the United States Constitution. So in the 1950s Nevada decided that they were going to actually regulate casinos.

And when they did it, the primary focus, probably the only significant focus was to get organised crime out of the casinos. And they created – they took the jurisdiction
20 away from the Tax Commission into a new Nevada Gaming Commission. They gave the oversight to the Nevada Gaming Commission, they created a new commission. And they created a new law enforcement agency called the Gaming Control Board. They started to go after organised crime, and it was quite a struggle that lasted probably from the late fifties to about the early 1980s. And it was
25 primarily focused on the licensing process. What they were doing was they were starting to conduct more thorough due diligence on applicants before they would grant casino licences.

As organised crime started to get out of the ownership of casinos, they started going
30 into other aspects of the casino industry. And as they started doing that, then the scope of the licensing inquiry, the breadth of the licensing inquiry started getting larger and larger. So what effectively happened in Nevada over the course of 35 to 40 years is they started, you know, very simple licensing of casino owners but as they – as organised crime found ways to get around the laws, they kept expanding
35 the laws to take care of all the gaps. And then they started getting into other things that were – as organised crime started getting out of the industry, started getting into other things that were in the public interest. So they started to look at things like the suitability of the financing for the casinos, or other matters that had to do with the financial health and stability of the industry for the collection of taxes.

40
COMMISSIONER: Just pausing there for a moment. I have the benefit of seeing the screen in front of me, which is perfectly timed and there is no delay. So I suppose that's helpful that I can see it but, Professor, we're just going to reboot the main screen and we may have a little delay. I do apologise for this, but it's helpful
45 for counsel assisting to have a screen and others to have a screen where you are not delayed. So we will just pause for a moment and I will ask the expert in front of me to fix it. Yes, thank you.

PROF CABOT: Okay.

COMMISSIONER: Yes, thank you, Professor. It has been rebooted. What that means in practical terms, we shall see. Thank you very much. Yes, Mr Aspinall.

5

MR ASPINALL: Thank you, Commissioner. Mr Cabot, you were telling us about the expansion of the oversight of the regulator in Nevada, and I think we were up to around the mid-seventies; is that correct?

10 PROF CABOT: Yes, that is correct. And so I got to Nevada in 1981 and at the time there was a shift – well, had shift had already occurred between '67 and '81 from organised crime ownership of the casinos to corporate ownership of the casinos. And when that happened, the emphasis in the regulation changed and it changed, you know, really dramatically. It changed from let's keep organised crime out through
15 the licensing process to let's try to figure out how we can create a vibrant industry through the introduction of public companies, and to properly control the public companies through internal controls and to make sure that the state of Nevada gets all of its taxes through proper audits, and to prevent the industry from – (a)
20 continuing to keep organised crime and criminals out of the industry, but also to protect it from people who would cheat the casinos and things of that nature.

MR ASPINALL: And in terms of the impact of the corporatisation of casinos, how was that felt?

25 PROF CABOT: Dramatically. Once the large corporations started coming into Nevada, they had access to financial markets that the prior casino owners did not. And though while the prior casinos owners were going to questionable sources for their financing such as the Teamsters pension fund and things of that nature, the new casinos had access to the banks, the corporate owners had access to the banks. So we
30 started to see the start of what some people called the integrated resorts. But I really call them the casinos that had the ability by virtue of their opulence and services to draw international crowds.

MR ASPINALL: Okay. And this is around the mid-seventies that this started to
35 happen; is that right?

PROF CABOT: Well, it was the late – it was the late-sixties when a fellow named Howard Hughes came into Las Vegas, and he started buying the casinos, but it was the seventies and the early eighties that we saw the transformation, and ultimately the
40 creation of what we now consider to be the opulent type casinos that we see throughout the world.

MR ASPINALL: And in terms of the involvement of organised crime in Nevada casinos, over the course of your career, you regard that as having been an eradicated
45 or largely eliminated in Nevada?

PROF CABOT: Well, there's still organised crime figures in Las Vegas. They do not have any direct involvement in the casino industry.

MR ASPINALL: I see.

5

PROF CABOT: So there's quite a few vice industries that are still left here, that there's no doubt there's criminal – organised crime influence in those industries.

MR ASPINALL: Right. From 1931, I think, until 1978 or so Nevada was the only
10 state that had legal casinos?

PROF CABOT: Correct.

MR ASPINALL: And what happened next?

15

PROF CABOT: Well – so in New Jersey, they attempted to pass casinos on a broad basis and failed. And then in, I think it was '78, they passed legislation to allow casinos in one particular jurisdiction within New Jersey called Atlantic City.

MR ASPINALL: And why - - -

20

PROF CABOT: Atlantic City - - -

MR ASPINALL: I'm sorry. Why did they restrict it to Atlantic City?

25

PROF CABOT: Well, I believe that they did it because it was one way to get the legislation passed in New Jersey. People didn't necessarily want casinos in their own city but they were willing to allow it in Atlantic City which had fallen into a state of urban disrepair, and was looked upon as a methodology for urban
30 revitalisation.

MR ASPINALL: Through the introduction of people, tourists who would gamble?

PROF CABOT: It would be through the introduction of casinos and the
35 construction of casinos, ancillary industries to supply the casinos, the employment of workers in the casinos from the community, and infrastructure improvements and things of that nature.

MR ASPINALL: Right. Now, what was the approach of the regulator in New
40 Jersey from the start?

PROF CABOT: Well, so New Jersey – I think there was a bit of hostility towards the gaming industry at the state level when it first started and they took a position that they were going to be the most rigid regulatory agency in the world at the time.
45 And so they came out and started regulating the industry in a fairly draconian fashion where they tried to regulate virtually everything down to, you know, the colour of the carpet.

MR ASPINALL: Yes. And in terms of the New Jersey – that’s called the New Jersey model?

5 PROF CABOT: Yes. For many years some people would refer to the Nevada model as the Nevada model and some people would refer to New Jersey as the New Jersey model.

10 MR ASPINALL: I see. And what at that time was the difference between the Nevada model and the New Jersey model, say, in 1978?

15 PROF CABOT: So, the New Jersey model – the New Jersey regulatory process attempted to be more stringent than the Nevada model or the Nevada system in virtually every respect. They tried to be stricter with who got licensed. Nevada allowed credit. New Jersey restricted credit. There was – you know, New Jersey, for example, dictated the rules of every single game, and you couldn’t vary from the dictated rules. In Nevada, they allowed the operators to determine the rules. So what they tried to do is they tried to get in and have government involvement in virtually every aspect of the casino industry.

20 MR ASPINALL: And in terms of what happened to that model since 1978, has that model changed in New Jersey?

PROF CABOT: Yes, it has. It’s actually changed rather dramatically.

25 MR ASPINALL: Could you tell us, that’s happened over the course of your professional career?

PROF CABOT: It did.

30 MR ASPINALL: Can you tell us about how it’s changed and, if you can, why?

PROF CABOT: Sure. So in New Jersey - - -

35 MR ASPINALL: I’m sorry, I have lost you on the speaker. Can you just stop for a moment. I’m sorry about that. Mr Cabot, if you can hear me, we are having some technical difficulties again at this end.

COMMISSIONER: The professor is back, I think.

40 MR ASPINALL: He is back? Can you say something, Professor? It seems that we can hear you on a very small speaker but I can’t hear you in the room.

45 COMMISSIONER: All right. We will just pause there for a moment, thank you Professor. I do apologise for this. It’s one of the ways that we, of course, see it as cost efficient and appropriate in the circumstances of what’s happening in the world at the moment, but I do apologise. We will try and rectify this. I will take a short adjournment.

MR ASPINALL: Thank you, Commissioner.

ADJOURNED

[10.56 am]

5

RESUMED

[11.04 am]

10 COMMISSIONER: Professor, thank you for your patience. This is a heritage building in the city of Sydney, and I do have to congratulate the technicians on being able to get us to you in any event. So we shall proceed thank you very much.

15 MR ASPINALL: And I thank you too, Mr Cabot. You were telling us before the break about the way in which the regulatory system in New Jersey started out with a prescriptive model and then over the course of your career, talking us through the changes. Perhaps you could carry on with that.

20 PROF CABOT: Sure. So what happened to New Jersey was in the 1990s it started to have a significant amount of competition, first from tribal casinos in the area and then other states started to legalise different forms of casino gambling within their state. So New Jersey was put in the unfortunate position of having to compete for customers at that point in time, and the prescriptive model that they had in place when they were a monopoly just didn't suit the new competitive environments. And
25 so they had to figure out to you to liberalise it both maintain proper regulatory control but also to allow its industry to become more competitive with its neighbouring states.

30 MR ASPINALL: And how did they do that?

PROF CABOT: Well, a good example of that is I think New Jersey does probably the best job of getting new gaming devices that have innovative features to the gaming floor of any of the state regulated casinos. What they're trying to do is they're trying to encourage the casinos to innovate their casino floors so that they can
35 have a competitive advantage over the competing casinos in other states. So you see in them become much more aggressive in terms of encouraging their casinos to be cutting edge and innovative.

40 MR ASPINALL: And in terms of the prescriptive model, that has changed, it's no longer prescriptive?

PROF CABOT: Well, I mean all regulation is prescriptive to a degree. In this particular case, I think they've gone from something where the idea of being strict was replaced by the idea of being practical. And so I think what they try to do is
45 they're trying to optimise their regulatory system so that they are cognisant of the fact that they have to be competitive in order to reap the benefits of having a casino industry.

MR ASPINALL: And in terms of the surrounding states or venues that you can gamble at in that area, are there regulatory structures or levels of regulations less than New Jersey now?

5 PROF CABOT: It's difficult to rank regulatory systems because there are so many different aspects of regulation and they may adopt certain things from certain jurisdictions and not from others. But I think as a general rule, the regulatory processes throughout the United States at the state level are relatively comparable today.

10

MR ASPINALL: Right.

PROF CABOT: You have got to remember back when New Jersey started there was no models other than Nevada, there was no systems in which to look at and try to take best practices from. And so New Jersey came up with their model. Nevada had their model. In the intervening years since New Jersey had started casinos, those models have been refined and refined and refined so that new jurisdictions are really not starting from scratch, they're really starting from, you know, New Jersey and Nevada certainly came closer together and everybody is sort of in the middle now.

20

MR ASPINALL: In terms of their relative size, what is the comparison between the casinos in Las Vegas and the casinos in New Jersey?

PROF CABOT: Okay. So I haven't checked the last numbers for Atlantic City but from a gaming revenues perspective they're significantly greater than they are. Back to where we were before the recession in 2008 – 2008 but Las Vegas has dramatically changed. So when I got here in 1981, 70 per cent of our revenues came from gaming and 30 per cent of our revenues came from non-gaming. It's about flipped. And so what's happened in Las Vegas is while our gaming revenue has stayed relatively flat in the last 10 years, our non-gaming revenue has increased dramatically. That's not the case in New Jersey.

25

30

MR ASPINALL: They are dependent upon the casino gaming?

35 PROF CABOT: Yes.

MR ASPINALL: In terms of the markets to which they cater, are the markets in Nevada different from that in New Jersey?

40 PROF CABOT: The answer is yes and no. In New Jersey they're primarily what I call neighbourhood and in casinos. So most of their customers will come from surrounding areas to New Jersey. So they're more what, in the industry we call day trippers as opposed to people who are here for more extended stays. Nevada is really – depending upon the casino, it could be a locals' casino, it could be a casino that caters to people from California or Arizona, which are drive-in customers. Usually not day trippers because of the distance. Or they're international customers. So we have casinos that cater to all segments.

45

MR ASPINALL: Yes. And in terms of the relative composition of international customers, is there a difference between Nevada and New Jersey?

5 PROF CABOT: Yes, clearly. Nevada has a very substantial international clientele. New Jersey does not.

MR ASPINALL: I see. Thank you. Can we move on now to talk about the regulations of junkets in Nevada.

10 PROF CABOT: Yes.

MR ASPINALL: Now, I know that you've written a number of books and one of them is called Nevada gaming law from the year 2000 and that has a passage which goes through the history of junkets in Nevada. Would it assist you to see that or are
15 you able to give me a history of Nevada junkets without that?

PROF CABOT: Well, I can do a broad overview of Nevada in their junket history.

MR ASPINALL: Yes, if you wouldn't mind.
20

PROF CABOT: If you like, you can certainly put that into evidence.

MR ASPINALL: I will bring it up. It's INQ.110.002.0483 [Exhibit C-1]. And the relevant section is called Independent Agents; is that right?
25

PROF CABOT: That is correct.

MR ASPINALL: And that's a junket representative, what you call, as called in Nevada.
30

PROF CABOT: Well, yes. And so back in the history of Nevada - - -

COMMISSIONER: Is this an exhibit?

35 PROF CABOT: They were called junkets.

MR ASPINALL: Yes.

PROF CABOT: They were called junkets and they were called junket
40 representatives. They were basically unregulated back in the 1960s and in fact throughout most of the '70s as well. They – you know, organised crime, unfortunately, they tried to figure out any methodology to get into the casino industry and in this particular case, after they started cracking down on ownership of the casinos and involvement in the casinos themselves, there started being issues with
45 organised crime involvement in the junkets.

MR ASPINALL: Yes.

PROF CABOT: And I think if you go to the next page, it gives you some examples of some of the problems that had arisen in the early 1970s, vis-a-vis the junket industry.

5 MR ASPINALL: Yes.

PROF CABOT: There's a passage there - - -

10 MR ASPINALL: That's described there in the quote from Professor Skolnick.

PROF CABOT: Correct. The House of Cards was a very famous book that chronicled the history of Las Vegas up until the 1980s, and he talked about, in that, a number of different instances where organised crime was involved with the casino industry – I mean, sorry, with the junket industry in Las Vegas. And there was incidences in Hawaii and incidences in Tokyo and Miami. So it was relatively problematic in the 1970s.

15 MR ASPINALL: Yes. I think you say there in 1972 the commission, that's the Nevada Regulatory Commission, adopted regulation 25 to control the conduct of junkets.

20 PROF CABOT: Correct.

MR ASPINALL: And regulation 25, as I understand it, remains in force?

25 PROF CABOT: Yes, there was a major revision to regulation 25 in the early 1990s and there was an amendment more recently in 2018/2019.

30 MR ASPINALL: Yes, but I think you say in the book that from the first decade of its existence regulation 25 received little attention from gaming regulators or the gaming industry.

PROF CABOT: That is correct. It wasn't until - - -

35 MR ASPINALL: And why was that, do you know?

PROF CABOT: I really don't know. You know, part of the problems that you had back in that time period was there was limited resources among the regulators, and there were issues with regard to organised crime ownership of the casinos still. And so I don't know if it's because you had to do – dedicate your resources to particular problems but it was obviously neglected in the 1970s.

40 MR ASPINALL: But in general terms, regulation 25 was a response to a recognition that organised crime had infiltrated into junkets?

45 PROF CABOT: That is correct.

MR ASPINALL: I understand that the regulation 25 has been revised over the years and that you had a hand in drafting some of the revisions over the course of that time.

5 PROF CABOT: That is correct. In the early 1990s, as a private attorney, I was the industry's consult that worked with the Gaming Control Board on a major revision of regulation 25 and which stayed basically in place until about a year ago.

10 MR ASPINALL: Now, if I might take you to regulation 25, which is at INQ.070.001.4263 [Exhibit B-4].

COMMISSIONER: What exhibit is that?

PROF CABOT: Okay.

15 COMMISSIONER: Someone can tell you so the transcript can cross-reference it in due course, and I would be appreciative if you would tell me what the previous document was as an exhibit as well. Yes, thank you, Mr Aspinall.

20 MR ASPINALL: Thank you. Yes, do we have that up. Now, to a person from outside the jurisdiction this is a little hard to follow but I was wondering whether you could talk me through its effect and how, in practice, it operates. There is under the definitions a definition of an independent agent which is a term described in the Nevada Revised Statute.

25 PROF CABOT: Right.

MR ASPINALL: What is an independent agent?

30 PROF CABOT: So – yes. So an independent – so the reason it's – the reason it's this way is because we have statutes and regulations in Nevada. Statutes are adopted by the legislature, and the regulations fill in the gaps and they're adopted by the Gaming Commission.

35 MR ASPINALL: Yes.

PROF CABOT: So when it makes reference to the statute, the statute defines what a junket rep. A junket rep is basically someone who is in charge of arranging travel, room, food and beverage in excess of \$1000 for a player, for compensation.

40 MR ASPINALL: For compensation?

PROF CABOT: Yes.

45 MR ASPINALL: And who pays the compensation?

PROF CABOT: The casino.

MR ASPINALL: The casino pays the representative or the independent agent?

PROF CABOT: No, they pay – it's the independent agent. They're basically the same thing, a junket rep and an independent agent are the same persons, same term.

5

MR ASPINALL: All right. Now, if we look at the registration requirement, which is down at 25.020, there is a requirement there for:

10 *An independent agent who has the authority to authorise customer incentives with a cumulative value exceeding \$10,000 a calendar year; receives compensation from a licensee –*

can I just interpose there, is the licensee the casino operator?

15 PROF CABOT: That is correct.

MR ASPINALL:

20 *...for his or her services as an independent agent; or approves grants or grants the extension of gaming credit on behalf of a licensee or collects a debt evidenced by a credit instrument shall register with the board and have a written agreement with the licensee evidencing such authority or compensation.*

25 Now, is this the primary method through which junket reps are registered in Nevada?

PROF CABOT: That is correct.

30 MR ASPINALL: Now, do most junket representatives fall within one of these categories?

PROF CABOT: Yes. The answer is I don't know of a junket rep who does not receive compensation for their services.

35 MR ASPINALL: I see.

PROF CABOT: So - - -

MR ASPINALL: In terms of (c), 1(c) there:

40 *Approves or grants the extension of gaming credit on behalf of the licensee or collects a debt evidenced by a credit instrument.*

Does that – is that commonly the function of a junket rep?

45 PROF CABOT: The answer is no.

MR ASPINALL: And why is that?

PROF CABOT: It would be very – so in Nevada, the junket reps typically are not the people who are granting credit for collecting the debt. Those are typically done by the casino itself. They have the right – they have a right to do that if the casino authorises them to act as the casino’s agent in extending the credit or collecting the debt. But it’s something that is, I think, rarely done. There may be certain
5 circumstances where they will ask the junket rep to assist them in collecting the debt but it would be rare that they would actually collect the debt.

MR ASPINALL: And is there some disincentive for the casino operator to use the
10 junket reps to do those things?

PROF CABOT: The answer is clearly yes. So, for example, on the extension of credit, we have other regulations that require the casino to undertake certain activities to verify the creditworthiness of the casino. So the casino has to do that anyway,
15 right.

MR ASPINALL: Yes.

PROF CABOT: And now, with the overlay of the anti-money laundering laws and
20 Know Your Customer, they have other obligations to collect information from the customer and in certain circumstances to do due diligence on the customer. So the likelihood that they would delegate that authority to a third party would be, I think, exceedingly rare.

MR ASPINALL: I see. Are you aware of how many independent agents are
25 actually registered in Nevada?

PROF CABOT: Yes, there’s approximately 500.

MR ASPINALL: Right. Going down to subsection 2 in Registration:

*A registration issued by the board pursuant to this section expires after five
years –*

35 unless it’s extended. What is involved in the process of registering to be an independent agent in Nevada?

PROF CABOT: In order to get registered as an independent agent, you’re going to have to complete a number of forms. One form is a short version of a personal
40 history record. So that’s effectively a documentation where you have to provide personal information that would allow the regulators to do a due diligence review on you. You also have to supply fingerprint cards, which are used by the regulators to do your basic criminal checks through the different criminal databases. You have to sign an authorisation to release information so that they can present the release to
45 different parties and get your information.

You have to make certain affirmations in a different document. And you have to supply a copy of the junket agreement of the independent agent agreement with the casino. Keep in mind that in Nevada the casinos submit this directly to the board, not the junket representative. So the junket rep completes everything, gives it to the
5 casino. The casino makes the filing.

MR ASPINALL: And this regulation speaks about registration rather than licensing of the independent agent. In terms of Nevada law, what is the difference between those two processes, practically speaking?
10

PROF CABOT: This is somewhat confusing to people on the outside. So I will kind of walk you through it. In Nevada, the only – in the casino operation business, the only entity that gets licensed is the casino operator. The executives to go through the process aren't actually licensed; they're found suitable. So there's – it's unlike
15 New Jersey and other places where you actually have employee licences, right; you have findings on suitability. When it gets down to the independent agents, they are registered as opposed to be given a licence. But the registration is being used more frequently by the Nevada regulators as a methodology to do initial due diligence on the applicant for registration.
20

So in the case of an independent agent, they have to make a filing. They also have to pay a fee of \$2000 and that allows the division within the Gaming Control Board to do initial due diligence on the independent agents which would be similar to some other jurisdictions that would give a licence to a junket rep.
25

MR ASPINALL: I see. The independent applicant has to supply that \$2000 or the casino has to supply that \$2000?

PROF CABOT: It has to be supplied. I'm assuming in most cases it's supplied by
30 the junket rep or the independent agent.

MR ASPINALL: All right. Can we turn over the page to 4265, please.

COMMISSIONER: What is the exhibit number?
35

MR ASPINALL: It's Exhibit B4. Do you have that page, Mr Cabot?

PROF CABOT: I do.

MR ASPINALL: You see at point 25.025 it talks about independent agent compensation.
40

PROF CABOT: Yes.

MR ASPINALL: It says:
45

A licensee –

in other words a casino operator –

5 ...shall not compensate an independent agent based on the actual earnings or profits from a gambling game played by the patron unless the independent agent has been found suitable by the commission to act as an independent agent. The licensee may compensate an independent agent based upon a theoretical earning potential.

10 Now, can you tell me about that? I see within that there's the term "suitable" and you've just been talking about the difference between being suitable and being registered.

COMMISSIONER: Licensed.

15 PROF CABOT: Right. So a suitability approval in Nevada is comparable to a person who has to get a casino operator's licence. If you think about gaming licensing, there are levels of investigation. If you look at the lowest level being a shorter investigation and the highest level being a nine month investigation involving
20 three agents on unlimited budget, a suitability finding is the highest level of investigation. So in order for an independent agent to, actually, share in the actual earnings or profits, he would have to go through the same licence that a casino owner would have to go through.

25 MR ASPINALL: And I take it that not many independent agents would want to do that?

PROF CABOT: The answer – it's never happened.

30 MR ASPINALL: I see. And so as a result of that, the independent agents can only be compensated on a theoretical earning potential; is that right?

PROF CABOT: That is correct.

35 MR ASPINALL: If we turn back to page 4263, which is the first page, there's a definition of theoretical earning potential at subparagraph (5) under Definitions. Could you talk me through what, in practice, that means?

40 PROF CABOT: Sure. So before the advent of computers, somebody in the pit would be actually recording the player as they're playing. And what they're recording is how much is the person betting, their average bet, how many hours have they played, the decisions per hour is really the pace of the game. So different games have different paces and how many people are playing at the game determines how many – how the pace of the game is as well. But they're considering the pace of the game. And then the house advantage is really just given the odds of the game, what
45 can the casino expect to retain from every dollar bet. And so it's a basic mathematical formula. You plug in those different things that have been observed and it will come out with the theoretical earning potential of the player. And the

junket rep would be compensated on a percentage of that theoretical earning potential.

5 MR ASPINALL: Now, in effect, that rewards an independent agent who brings a player who plays for a long time, plays quickly and bets a lot.

COMMISSIONER: You mean a large amount.

10 PROF CABOT: These are all factors.

MR ASPINALL: A large amount.

PROF CABOT: These are all factors that would help.

15 MR ASPINALL: Yes. Now going back to 4265, can you tell me what the advantage or perceived advantage of having the compensation of an independent agent based upon that theoretical earning potential rather than actual win/loss or however it's described in.

20 PROF CABOT: Well, I'm not sure there's an advantage. There's advantages and disadvantages to both of them. In this particular case, however, Nevada made a decision that people who haven't gone through the full licensing process could never share in casino revenues. And that is going back to its organised crime days. You know, once the organised crime was forced out of ownership they're always trying to
25 figure out ways to get revenue from a gambling activity and they made an absolute prohibition, unless you are going through the entire licensing process, the highest level, you should never be able to share in profits. So we ended up with this formula which actually has some advantages because it does – ties the junket reps to bring high quality players in and not have to worry about whether the player wins or loses,
30 just whether or not they have upheld their part of the contract by bringing a quality player to the casino.

MR ASPINALL: In terms of what regulation 25 achieves in a practical sense, what does it leave in Nevada for independent agents to do for their junket patrons?
35

PROF CABOT: So I've looked – I look at independent agents in Nevada as being a premier service provider. So what their job is, you know, they're an executive travel agent. They're a concierge, they're a butler, they're an assistant. Their job is to, you know, help recruit the players but then to make sure that their experience once they
40 get to Las Vegas, meets their expectation, whether it be show tickets, whether it be the limbo from the airport, fine dining, the best wines, it would be to meet – to service that customer consummate with their value.

MR ASPINALL: And because of the theoretical earning potential is it also to keep
45 them gambling at the casino as much as possible?

PROF CABOT: Yes – well, there’s always an expectation that the players that they bring in play to the level of their competence. So that means, if you’re expecting the highest level of comp, you expect to be playing to those levels.

5 MR ASPINALL: Now, in some jurisdictions on a junket the junket operator will purchase the chips and distribute the dead chips and at the end of the play will return the chips to the cage themselves and then distribute the winnings amongst the junket patrons. Does that happen in Nevada?

10 PROF CABOT: No.

MR ASPINALL: And why is that?

15 PROF CABOT: Because in Nevada the contractual relationship is always between the player and the casino. And so the internal control procedures in Nevada are very rigid to respect that relationship. So, you know, in practice, the junket rep should never be doing those types of functions.

20 MR ASPINALL: And you’ve told us that in practice they don’t provide credit either.

PROF CABOT: They – no, they do not provide credit for certain. The credit is always with the casino itself.

25 MR ASPINALL: Right. Now, I think we looked back in the regulations that the junket – that the independent agent couldn’t extend credit on behalf of the licensee. In other words, on behalf of the casino. But does the independent agent extend credit on their own behalf to the players?

30 PROF CABOT: No, the answer is that they can never extend credit under the Nevada system directly to the player.

MR ASPINALL: Right and so that means - - -

35 PROF CABOT: The - - -

MR ASPINALL: Sorry, does that mean if the casino operator is to extend credit they must extend it directly to the player?

40 PROF CABOT: Exactly right.

MR ASPINALL: And what implication does that have on players who are from a jurisdiction like China where the debts are not legally enforceable, gambling debts?

45 PROF CABOT: So the Nevada casinos have to make a qualitative decision when they grant credit to people who live in jurisdictions where credit is not enforceable. And that’s a different qualitative decision than making a decision to grant credit to

people where the debts are enforceable because it brings along with it a higher risk of non-payment. And so you have to include that within your decision-making process whether to grant credit to begin with.

5 MR ASPINALL: In practical terms, does the fact that the casino operator cannot extend – well, has a difficulty enforcing a debt of a mainland Chinese player in China mean that the casinos are unwilling to extend credit to those players?

10 PROF CABOT: No. It doesn't. It just means that they have to be much more cautious in doing so. You know, most – most gamblers will repay their debts without having to go to court in order to enforce it. And so you have to make a decision whether or not you're comfortable that will be the case with regard to these patrons because you foreclosed of the option of bringing a legal action in their jurisdiction to enforce the debt.

15 MR ASPINALL: In terms of Nevada's attractiveness as a destination for VIP players from mainland China, does the fact that they have to deal directly with the casino in terms of the credit pose any disincentive to gamble in Nevada, do you think?

20 PROF CABOT: Do I think? I think yes, because one of the things that Nevada – before you can issue credit to a player, you have to get their full identification. So you have to know your customer to the extent you know who they are and, you know, their basic identifiers. If a player doesn't want to do that for various reasons, 25 they're not going to come to Nevada.

MR ASPINALL: I see. Now, in terms of Mr Bromberg yesterday discussed, and I don't know if you saw this part, the capital controls, the restrictions on capital movement out of China. Are you aware of those?

30 PROF CABOT: I am.

MR ASPINALL: And Mr Bromberg discussed the fact that organised crime might assist gamblers from China to remove money from China in circumvention of those controls. As an industry observer in Nevada, are you aware of the methods or the persons who might assist in circumventing those capital controls to allow premium players to gamble in Nevada?

40 PROF CABOT: I am not but I can say that a Nevada casino that would intentionally allow those practices would be subject to significant ramifications from both the federal and state law enforcement perspective.

45 MR ASPINALL: What I'm interested in, in particular, was whether the independent reps might play some role – the independent agents might play some role in that capital controlled circumvention.

PROF CABOT: They could, for certain. But the casino should never have knowledge or involvement in that.

5 MR ASPINALL: Yes. Now, you were involved in drafting or had a hand in drafting regulation 25 and I don't want to belittle your work in any way but are you aware of ways in which nefarious persons might be able to circumvent regulation like regulation 25?

10 PROF CABOT: So the answer is there may be ways to circumvent it. No regulation is infallible, but you have a situation where you have to come up with what a reasonable regulatory response to define risk. You know, I think you can't look at regulation 25 in isolation because it interplays with a number of other regulations. This is just one piece of the puzzle that they use to prevent what I consider regulatory rest from independent agents. Are other things that are involved, 15 you know, including the regulations with regard to the issuance of credit, regulations with regard to the collection of credit, regulations with regard to AML and know your customer, the internal controls that they use to regulate the flow of funds there. All of those things play a role – I think put together a relatively robust safety net against independent agent abuse. But it's never going to stop it.

20 MR ASPINALL: No. Would one way to get around regulation 25 be for an effectively a junket operator, if we would know them in Macau, to pretend to be a player?

25 PROF CABOT: Yes. I'm not sure why they would do that but they could, I guess.

MR ASPINALL: And in terms of – I mean, again, you had a hand in drafting it, but as an experienced person in the industry, would you regard regulation 25 as having been relatively effective in its aim of removing organised crime from the junket 30 industry in Nevada?

PROF CABOT: I do think that has been relatively effective, yes.

35 MR ASPINALL: What would you base that upon, in your observation?

PROF CABOT: So one thing you always look at to determine the effect of the regulation is to see if there's exceptions to the regulation, and the exceptions to the regulation are sometimes public and sometimes not. But when they're not, you typically have a regulatory response to tighten the regulations to address the 40 exceptions. And I'm relatively proud of the fact that we drafted this regulation in 1991 and it stood up for, you know, without change for 27 years.

MR ASPINALL: Yes.

45 PROF CABOT: So I think – I think it's a pretty good regulation to begin with. And they updated it in ways that I think are quite reasonable, you know, given the time periods.

MR ASPINALL: Commissioner, I was about to leave Nevada and move to New Jersey and I see the time.

5 COMMISSIONER: Perhaps I could just ask a couple of things, if I may clarify, professor. The question of the client as opposed to the junket representative, you've said a number of times that the contract is between the player and the casino and that the casino has an obligation to know its client, it having to obtain the full identification from the client, as I understand what you're saying.

10 PROF CABOT: That is correct.

COMMISSIONER: And if the people who are organised international travellers who come in with the agent from overseas obviously, is there advance notice given to the casino in respect of those players, their details and full identification or does it
15 happen when they're on the ground in Las Vegas?

PROF CABOT: So there are different types of junkets. You know, for example, people who drive buses into Los Angeles of slot players, you could have a junket where they're bringing in low-level players. When we start to talk about premium
20 players, I think we're talking about here, in most circumstances they're either creating a front money account or they're creating a credit line. In both of those situations, the casino would always have advance notice of the player because they have to establish the credit line or establish the front money account and, at a minimum, they need to do the basic due diligence of the KYC for the player. And if
25 they're high-level players, they will typically do even deeper due diligence. They can identify that the player is not either a person who has funds from illegal sources or is a politically exposed person because they're, for example, a politician from a foreign jurisdiction.

30 COMMISSIONER: So is the – just concentrating on this thorny question of due diligence for the moment, assume the casino operator wants to comply and wants to identify the source of funds and that's before the player comes in and the front money is set up or the credit line is set up. The obligation from – I withdraw that. It seems from what you're saying that the obligation for the due diligence on the player
35 is the casino operator's obligation under the regulatory regime; is that correct?

PROF CABOT: That is correct.

40 COMMISSIONER: And so far as the regulator is concerned, does the regulator of any type, be it a casino regulator or a law enforcement body or an information gathering intelligence group, do any of those agencies have vision into the due diligence process that the casino enters into in respect of its players?

45 PROF CABOT: The answer is do they do – are they involved in the process before the player arrives; the answer is no. Are they involved in audits and reviews of the junkets after the fact; the answer is the casinos need to file reports and maintain

records. So the regulators, if they desire, can do audits of the prior junket or independent agent reps.

5 COMMISSIONER: So the casino operator, in looking at the player that's due to come in, in a fortnight or so, has access to various means, I presume, to work out the source of the funds of the player; is that right?

PROF CABOT: Well, there are different databases that they can access - - -

10 COMMISSIONER: I see.

PROF CABOT: - - - with regard to that information. But they also have the ability to do what – so all casinos have something called a compliance division, and the compliance division is doing due diligence on all sorts of things. They could have an
15 AML compliance division that is really doing nothing but looking at the players before they come in to make sure that the players are not going to pose a risk to the casinos that is violating anti-money laundering laws. And so they will be experienced investigators; quite a few are IRS, Internal Revenue Service, employees that have the knowledge and the means to actually look at the players.

20 COMMISSIONER: Whatever that might mean.

PROF CABOT: Whatever that might mean.

25 COMMISSIONER: So - - -

PROF CABOT: The failure - - -

30 COMMISSIONER: Go ahead.

PROF CABOT: The failure to do that can be relatively significant. So there have been significant multi-million dollar fines against casinos who have failed to undertake the due diligence to determine the source of revenues of some of their high
35 rollers.

COMMISSIONER: But I suppose if the structure is one where the burden is on a casino operator to diligently look into the prospect of a risk to the casino's reputation by reason of the credentials or lack of them of a player, then from what you tell me, the way they do it is rather informal and not regulated by a need to liaise with law
40 enforcement agencies and the like. Is that right?

PROF CABOT: Well, I wouldn't characterise it as informal.

45 COMMISSIONER: Right.

PROF CABOT: The casinos are required to comply with anti-money laundering laws, and so therefore they have to have procedures in place to effectively know your

customer. Those requirements would appear to take a risk analysis and, you know, with regard to any customer who establishes a credit line or a front money deposit, they have to give basic identification. Once you start dealing with premium players, the higher the risk is because the revenues involved are much higher, the
5 responsibilities of the casino escalate, and the failure of the casino to undertake those types of efforts to know your customer at those levels can result in a significant fine.

10 COMMISSIONER: Is there any cash limit on the games or processes of gambling in the casinos in Nevada?

PROF CABOT: Yes, there is. So if a person comes in and they're a cash player, the – there is something called a cash transaction report. It has to be completed once the player effectively does anything with \$10,000 or more in cash, cash in or cash out. And when that occurs, they get identification from the player and file a cash
15 transaction report.

COMMISSIONER: With whom?

20 PROF CABOT: They file it with the Federal Government. There's an agency of the federal called the Financial Crimes Enforcement Network. It's part of the US Treasury that oversees anti-money laundering, and they have experts within the department that concentrate simply on the casino industry.

25 COMMISSIONER: And did I correctly hear you that it's the casino that files that report?

PROF CABOT: That is correct.

30 COMMISSIONER: Yes, I see. And the other matter that I would like to clarify, if I may, you said earlier that the process under the regulation 25.025 of the independent agent compensation has never happened; that is, that no one has gone through the process of being found suitable. Is that right?

35 PROF CABOT: Yes, to my knowledge – and I think I have pretty decent knowledge, it's never occurred.

COMMISSIONER: And so everybody opts for the theoretical earning capacity; is that the way it goes?

40 PROF CABOT: That's correct.

COMMISSIONER: Yes. And so far as the theoretical capacity that you've referred to, you also referred to bringing in a quality player. What did you mean by that?

45 PROF CABOT: Well, when I say a quality player, I'm referring to a player that plays to their – to their – you call play to the line. It's a player that, if they're granted

– if they’re expecting a certain level of complimentary services, including room, food and beverage or air fare, that they will earn that level of complementaries.

5 COMMISSIONER: I see. Do the casinos in Las Vegas have cordoned-off areas that are for these quality players or what I see might be VIP players?

PROF CABOT: Yes, Las Vegas does have VIP lounges.

10 COMMISSIONER: And does the casino keep control of those with their own employees or do they allow the players to have the independent agent overseeing what’s going on?

15 PROF CABOT: No. In Las Vegas 100 per cent of the casino is always under the control of the casino itself, and in the VIP areas you have to get special permission for those VIP areas. And you have to work with the Gaming Control Board with regard to the surveillance of those areas so that the board can maintain control – consistent control over the entire casino, including the VIP areas.

20 COMMISSIONER: So the Casino Control Board has access to view what’s happening in the VIP area; is that right?

PROF CABOT: That is correct.

25 COMMISSIONER: And so far as - - -

PROF CABOT: The VIP - - -

COMMISSIONER: I’m sorry, you go ahead.

30 PROF CABOT: The VIP area is not like the VIP areas in Macau. They’re there to protect the privacy of the high end players. They’re not there as a separate revenue area under the control of anybody other than the casino.

35 COMMISSIONER: And how does one qualify for entrance?

PROF CABOT: To the VIP area?

COMMISSIONER: Yes.

40 PROF CABOT: Well, it’s – VIP areas are under the control of the casino. They make a decision which players can play in the VIP area.

COMMISSIONER: Do you have any idea what the credentials are for entry?

45 PROF CABOT: I don’t. I can assure you that they’re going to be different between casinos because – they’re going to be different between casinos.

COMMISSIONER: Yes, I see.

PROF CABOT: Because a VIP player at one casino will not be a VIP player at another casino.

5

COMMISSIONER: But, once again, as I understand what you have said in your evidence, the people who are admitted to the VIP areas must also provide the detail to which you referred earlier, their full identification and the like, to the casino?

10 PROF CABOT: The players in the casino, regardless if they're in the VIP section or the regular casino, all have to comply with exactly the same requirements. The VIP in Las Vegas is only there because the player wants to have privacy.

COMMISSIONER: Yes, I understand.

15

PROF CABOT: Okay. Let's say for example a famous athlete was to come in and gamble, they don't want to gamble in the casino, in the main casino. They want a private area. That's the purpose of it.

20 COMMISSIONER: Yes. Thank you very much for that clarification. I will take a five-minute break and I will adjourn. Thank you.

ADJOURNED

[12.02 pm]

25

RESUMED

[12.09 pm]

30 COMMISSIONER: Yes, Mr Aspinall.

MR ASPINALL: Thank you, Commissioner. Hello again, Mr Cabot. Can you hear me?

35 PROF CABOT: Hello. I can.

MR ASPINALL: Now, we've finished for the moment with Nevada. I was wondering if I could take you now over to New Jersey and discuss the way in which they deal with junkets. Could I call up document INQ.460.001.0001. That's exhibit B10.

40

COMMISSIONER: Thank you.

MR ASPINALL: Now, Professor Cabot, that's a copy of the Casino Control Act from New Jersey and that's the Act, I think, that was originally passed in 1977 that we were talking about a bit earlier. If we could turn to page 0036. You see the Casino Control Act in New Jersey defines junket unlike the Nevada regulation. And

45

the junket is to arrange the inducement of any person to participate on the basis of a willingness:

5 *...to satisfy a financial qualification related to his ability or willingness to gamble or on any other basis related to his propensity to gamble, to come to a licensed casino hotel for that purpose ... and as consideration for which any and all of the costs of the transportation, food, lodging and entertainment is paid directly or indirectly by a casino licensee or agent thereof.*

10 Is there anything in that definition that is important, in your view, for the regulation of junkets in New Jersey?

PROF CABOT: No, I think that's a standard definition of what a junket would be.

15 MR ASPINALL: I see. Turning over to page 0037, there's a definition of what a junket representative is, and it has to be a natural person - - -

PROF CABOT: Correct.

20 MR ASPINALL: - - - in New Jersey. In Nevada, by contrast, can an independent agent be a corporation or must it be a natural person?

PROF CABOT: I don't think the regulations are specific that it has to be an individual, but as practice every one of the 500 that are registered are individuals.

25 MR ASPINALL: I see. And obviously in Nevada that must be the same position?

PROF CABOT: Yes – well, the regulation isn't – doesn't actually say you have to be an individual to get registered.

30 MR ASPINALL: All right.

PROF CABOT: But I think that there's – I think that that has been the practice in Nevada. To my knowledge there has never been a deviation.

35 MR ASPINALL: Right. So a junket representative has to be a natural person in Nevada, but if we go back to the preceding pages, 0036, there's a definition of a junket enterprise:

40 *Any person other than the holder of or an applicant for a casino licence –*

sorry, in other words, any person who isn't a casino licensee or operator:

45 *...who employs or otherwise engages the services of a representative in connection with a junket to a licensed casino, regardless of whether or not those activities occur within the state of New Jersey.*

Does that definition allow corporations to act in the junket business in New Jersey?

5 PROF CABOT: I don't know the answer to that. I think that the reason they have a difference between – in definition between a junket enterprise and a junket rep is because a junket enterprise is a person other than the holder or an applicant for a casino licence. Whereas a junket rep could work for a junket enterprise or work for the casino itself.

10 MR ASPINALL: I see. Now, in Nevada, this distinction does not exist between the independent agent and an enterprise?

PROF CABOT: It does not.

15 MR ASPINALL: Looking at this definition, does that add anything to the regulation of junkets in New Jersey, do you think?

20 PROF CABOT: Well, you know, in New Jersey the junket enterprise has not in this particular provision but in other provisions, has much – has limited – has more limited authority and also has to file a greater amount of information upon initial application.

25 MR ASPINALL: Right. Can we move on to page 0194, please. And, Professor Cabot, you can see this is the section that actually deals with the regulations of junket in that Act.

PROF CABOT: Yes.

30 MR ASPINALL: And reading through the first part it sort of prohibits junkets other than in accordance with this provision and says that:

No person may act as a junket rep or enterprise except in accordance with this section.

35 Next, it sets out one circumstance where:

A junket representative employed by a casino licensee shall be licensed as a key employee in accordance with - - -

40 PROF CABOT: Correct.

MR ASPINALL: - - - something called PL1977, chapter 110. Can you explain to me what that notation PL1977, c.110 means?

45 PROF CABOT: Sure. So in some states rather than referring back to the codified section of the Gaming Control Act they refer back to the original bill that was passed. So when they say section 92 of PL1977, it's referring back to the original

bills in 1977. And you will see in parentheses afterwards, that's the reference to the actual codified section.

5 MR ASPINALL: All right. Could I – it talks about the licensing of – sorry, the holding of a key employee licence. If we go now to page 0146, this is the section that talks about licensing of key casino employees within that Act.

PROF CABOT: Correct.

10 MR ASPINALL: So would that be the relevant section that is being talked about in the section that we were just looking at?

15 PROF CABOT: Well, there's actually, I think, two references in the prior section. There's a reference to the junket enterprise which has to get an ancillary casino licence. And it makes reference to junket representatives who have to get casino key employee licences.

MR ASPINALL: Yes.

20 PROF CABOT: So we're talking - - -

MR ASPINALL: I'm sorry - - -

25 PROF CABOT: We're talking actually about two different parts of the same.

MR ASPINALL: Yes, but for a junket representative who is an employee of a casino, would this be the correct section?

30 PROF CABOT: This would apply, I think, to a junket rep, as I understand it, a junket rep who is either employed by a junket enterprise or employed by a casino.

MR ASPINALL: All right. And looking down at section 5:12-89(b)(1) it says that:

35 *Each applicant for a casino key employee licence shall produce information –*
and so on. And is –

40 *...required to establish by clear and convincing evidence the financial stability*
–

and so on –

45 *...including not limited to bank references, personal income, disbursements, schedules, tax returns –*

and so on. And in each case the:

...applicant shall, in writing, authorise the examination of all bank accounts deemed to be necessary by the commission or the division.

If we just shrink that down again, please. And then subsection (2) - - -

5

PROF CABOT: Yes.

MR ASPINALL: - - - at the bottom of the page says:

10 *Each applicant for a key casino licence shall produce such information,*
documentation and assurances as may be required by clear and convincing
evidence the applicant's good character, honesty and integrity. Such
information shall include data pertaining to family, habits, character,
15 *reputation, criminal and arrest record business activities, financial affairs, and*
business –

it goes over the page, I think, covering a –

20 *...10-year period immediately before the filing of application.*

So that, on its face at least is a very stringent type of requirement for the licensing of a junket repetitive, isn't it?

25 PROF CABOT: It is, and in New Jersey they prescribe forms that the applicant
must complete when they submit their application for a casino key employee licence.
That form is about – I believe it's about 22 pages in New Jersey. In Nevada they
have a similar form. It's a bit shorter; it's only about 12 pages. But they both are
asking substantially the same type of information that gives the investigators the
ability to conduct the due diligence investigations. So if you want to see specifically
30 what the applicant for a casino key employee licence has to file, you can actually pull
up the application on their website. And you can see the nature and the depth of the
investigation – nature and depth of the information requested.

35 MR ASPINALL: Yes. Thank you. Now, going back to page 0194, if we look at
subsection (c) there:

40 *Junket enterprises and junket representatives that are not employed by the*
casino operator or a junket enterprise who engage in the activities governed by
this section shall be licensed as an ancillary casino service industry enterprise
–

and it gives another reference, I think, to the original statute:

45 *...unless otherwise directed by that division provided, however, that any such*
junket enterprise or representative who is disqualified –

under a certain section –

...should not be entitled to establish his rehabilitation from such disqualification –

5 and so on. If we go to 0152, you see that section 5:12-92 talks about the licensing of casino service industry enterprises. Would that be the section that is relevant to the licensing of a junket rep who is not employed by a casino licensee or applicant?

PROF CABOT: I don't know for sure. If that's – whether - - -

10 MR ASPINALL: If we turn over to 0155, and we look at subsection (4), assuming that this is the section which is appropriate to that decision, it says:

Each ancillary casino service industry enterprise –

15 and so on - - -

PROF CABOT: Yes.

MR ASPINALL:

20

...needs to establish their good character, honesty and integrity by clear and convincing evidence and shall provide financial information as may be required. Any enterprise required to be licensed as an ancillary casino service industry enterprise shall be permitted to transact business with a casino licensee upon filing of the appropriate vendor registration form and the application form.

25

30 And if we go over to – if we look at that, does that put the burden of showing the things there upon the applicant, the junket enterprise or the junket representative if they want to be licensed?

PROF CABOT: Sure. So in New Jersey, like Nevada, the burden of proving suitability is always on the applicant.

35 MR ASPINALL: Yes.

PROF CABOT: And, you know, in this particular case, they actually set a standard for that being clear and convincing evidence, which is a relatively high standard that the – that the junket enterprise needs to meet.

40

MR ASPINALL: Yes.

45 PROF CABOT: So your answer is yes, it's a high standard. In New Jersey, they have a separate application for ancillary casino services, and in one respect it is much – it is much more involved than the Nevada application. Theirs has a 28-page entity application and a 53-page personal applications. Both those applications, if you want, you can go and pull down and you can see the extent to which they request

information with regard to the junket enterprise in New Jersey. The fees, however, are pretty similar. The fees in New Jersey are \$2000; the fee in Nevada is \$2000. But in New Jersey they have additional fees for each junket representative, which can be – which is at least \$750 and can go to 4000.

5

MR ASPINALL: All right. If we turn back to 0194, please, see that section that we were looking at before. If we could just then go to the next page, you will see that prior to the – the second paragraph down, which starts (d):

10 *Prior to the issue of any licence required by this section, an applicant for*
licensure shall submit to the jurisdiction of the state of New Jersey and shall
demonstrate that he is amenable to service of process within this state. Failure
to establish or maintain compliance with the requirements of this subsection
15 *shall constitute sufficient cause for denial, suspension or revocation of any*
licence pursuant to that section.

And do you know – and that is, I suppose, intended to deal with the case where an applicant for a junket enterprise or junket representative permission was someone who came from outside the state?

20

PROF CABOT: Yes. That's correct. This is a common feature that you find both in New Jersey and Nevada, and the purpose of it is to establish the jurisdiction of the regulators within the state, to both revoke any approvals that have been granted but also to subject the independent agent, disciplinary action within the state.

25

MR ASPINALL: Yes. Now, in practice, do you know how a foreign junket rep would do that?

30 PROF CABOT: They – I'm not sure how they do it in New Jersey. In Nevada, there's actually a form which they have to sign which says that they submit to the jurisdiction of the state of Nevada.

MR ASPINALL: I see. But they don't have to maintain any presence within the state, it's just a formal submission to jurisdiction?

35

PROF CABOT: That is correct.

MR ASPINALL: And if we look down at (f) on that page, this provision says that:

40 *Every junket agreement entered into between the casino licensee and a*
representative is deemed to include a provision for its termination without
liability on the part of the casino licensee if the division –

and I assume that's the division which controls the casino operations; correct?

45

PROF CABOT: Yes, that's correct. Division of Gaming Enforcement.

MR ASPINALL: Decides to revoke the licence of the junket representative. And so I'm assuming that that – this clause is to protect the casino operator from liability if the regulator decides that the licence of the junket operator or enterprise should be terminated; correct?

5

PROF CABOT: That is correct, and there's comparable requirements in Nevada.

MR ASPINALL: Yes.

10 PROF CABOT: And I believe that every junket rep agreement I've ever seen would actually have a provision in the agreement that reflects this as well.

MR ASPINALL: Yes. Thank you. Could we now look at subsection (g) and perhaps if we put (h) in that frame as well. This subsection puts responsibility:

15

...for the conduct of any junket representative or junket enterprise associated with it, and for the terms and conditions of any junket engaged in on its premises, upon the casino licensee regardless of the fact that the junket may involve persons not employed by the casino licensee.

20

And it also makes the casino licensee:

...responsible for any violation or deviation from the terms of the junket.

25 Now, can you tell us what the impact of this set of clauses is?

PROF CABOT: Sure. This is a clause that one would consider to be more stringent than, for example, the regulations in Nevada, because effectively this is a strict liability provision that the casino is going to be held strictly liable for any deviations of regulation or law by a junket rep or a junket enterprise.

30

MR ASPINALL: I see.

PROF CABOT: And, therefore, left the burden to the casino to ensure that the junket rep or enterprise is in compliance with all laws and regulations.

35

MR ASPINALL: All right. Can I ask you this question: would the effect of this provision be that if a junket enterprise was engaging in, for example, money laundering in Corporations Act with the junket, the casino licensee would by operation of this clause be liable for that money laundering in a criminal sense?

40

PROF CABOT: They would be responsible for the conduct of the junket rep for purposes of the Nevada and for are purposes of the New Jersey Gaming Control Act and could be disciplined by the New Jersey regulators as if they were the junket enterprise themselves.

45

MR ASPINALL: I see. Now, I suppose the obvious impact of that is to incentivise a casino operator to keep a close eye on the operations of the junket representative.

PROF CABOT: That would be a huge incentive.

5

MR ASPINALL: Is there anything else about that clause that I have missed in my summation of it?

PROF CABOT: No, I don't think so. That's a good summation.

10

MR ASPINALL: I see. Next, I think New Jersey there seemed to be a variety of reporting obligations in respect of junkets and casino operators need to make reports to the regulator in accordance with the set of rules; is that correct?

15 PROF CABOT: That is correct.

MR ASPINALL: And what do you see as the utility of those reporting obligations?

PROF CABOT: Well, the utility of those is that if a regulatory agency has dedicated staff that looks at junket activity, they will take a look at the recorded junket activity, look at who is doing it and who they're bringing in, and they can actually utilise the intelligence information that they're getting from other jurisdictions and from their own investigations to determine if there's something that requires further investigation.

25

MR ASPINALL: Thank you. Could we just shrink that down again, please. And now if we – and so I didn't show you that the part that deals with the reporting obligations is (i) there. If we go over the page, please. That's all right, we can move on to the next one which is (l), down the bottom of page 0197. And are you able to go over the page to complete that section in one box, please. Thank you.

30

Now, little l seems to restrict what a junket enterprise or representative can do and it restrict them from engaging in effectively dead collection, for authorising credit -- debt collection, for authorising credit, for acting on behalf or under any arrangement with the casino licensee or a gaming patron with regard to the redemption, consolidation, from individually obtaining any fee from a patron for the privilege of participating in a junket. Can you explain to me, that provision, the restricting of payment of any fee has?

35

PROF CABOT: Well, I mean, it is what – I don't know the origins of this particular provision. So they were obviously trying to address some problem in the regulation, the original regulation. I'm not sure what that problem was. But the impact of it is that a junket cannot receive anything from the patron outside of its compensation from the casino vis-a-vis the junket arrangements.

45

MR ASPINALL: I see. So any compensation that the junket enterprise or representative receives must come from the casino itself?

PROF CABOT: It has to come directly from the casino itself.

MR ASPINALL: I see. Now, in terms of the final one, (5), to pay for any services including transportation or other items of value provided for the benefit of any patron
5 participating in a junket. Does that mean that all of those complimentary services must be paid for by the casino operator and not the junket?

PROF CABOT: Absolutely.

10 MR ASPINALL: I see. Is that common in Nevada as well?

PROF CABOT: There is no complimentary or similar provision in Nevada law.

MR ASPINALL: In Nevada, would it be possible for the independent agent to pay
15 for those services and then to seek to recover them from the casino operator?

PROF CABOT: So, typically what would happen is that the casino pay the travel and RF and E for the players based upon the players' theoretical win. They qualify for the complimentaries. I think what's different in New Jersey is that the
20 arrangement has to be between the casino and the player and junket rep cannot be involved in paying for any of those services.

MR ASPINALL: Now, you just used the term RF and B in your answer. Could you just explain to us what RF and B is?
25

PROF CABOT: Yes. RF and B is a common term in the industry for room, food and beverage. And transportation is obviously tran.

MR ASPINALL: I see. Thank you. Now, having looked at these provisions, they
30 seem in New Jersey to be much stringer in terms of the junkets than in Nevada. In practice, is that the case?

PROF CABOT: Well, I don't know about in practice, but clearly the regulation itself is more strict than Nevada.
35

MR ASPINALL: Now, in terms of the number of junkets that go to Nevada, I think you told me earlier that New Jersey – sorry New Jersey – that New Jersey was not a big destination for VIP players. Now - - -

40 PROF CABOT: That's correct.

MR ASPINALL: We have looked at these regulations which are much stricter than New Jersey do you consider that is a factor why New Jersey is not attractive to VIP
45 players or not?

PROF CABOT: No, I don't. I mean, I think the reason that New Jersey didn't – doesn't attract the VIP players is because of the nature of Atlantic City. It's very

difficult to get to Atlantic City. The amenities that they have in the casinos in Atlantic City don't rival the amenities that they have in Las Vegas. When Atlantic City first got – they first built the casinos in Atlantic City they tried to pursue and to some degree were successful in pursuing international customers but they never
5 reached the level of Las Vegas and when the downturn occurred and the infrastructure and the capital maintenance of New Jersey casinos declined, it became far less attractive destination for international players.

MR ASPINALL: Now, Mr Cabot, I know that you had a hand in drafting regulation
10 25 so perhaps this is a bit of an unfair question, but as between the regulatory system in New Jersey and the regulatory system for junket or independent agents in Nevada, are you able to point to any preference for why you think regulation 25 is the superior model?

15 PROF CABOT: Well, I think that the regulation of independent agents in New Jersey and Nevada had actually come fairly close to each other. Nevada has increased its efforts to regulate the junket representatives and, in fact, in a lot of places are emulating of the New Jersey regulations. For example Nevada raised its
20 fee of \$2000. It put the same five year limitation as the length of the registration as New Jersey. So, you know, in terms of how different they are today, they're not substantially different. You know, in New Jersey I – they specifically state the strict liability of the casino for the violations of the junket reps. Nevada doesn't have that. But I think Nevada would hold their casino licensees to probably about the same standard. So – and so I'm not really sure that there's significant difference in
25 Nevada. As the industry matured and the public policy goals in New Jersey and Nevada have sort of reconciled that the actual practices utilised to reach those goals are really similar today.

MR ASPINALL: The Commissioner touched upon this issue earlier in terms of
30 where – what role the casinos themselves should play in the licensing or approval of certain persons that they are associated with and, in particular, with junket reps. And the New Jersey model seems to put the responsibility for licensing junket reps and enterprises into the regulator. In Nevada the system seems to be that your regulation means that the junket reps have become effectively glorified travel agents and so the
35 need to really do very much probative checking upon them has been avoided. Is that a fair way of putting it?

PROF CABOT: It wouldn't be the way I would put it. I mean – so in New Jersey, the application processes probably more burdensome in terms of the application
40 forms but the amount of fees isn't that significantly different. Nevada charges for registration of a junket rep. So I don't know if – I think New Jersey is a little more dependent upon the regulatory review of the junket reps than Nevada. But that's a way in most of the regulation as well. Because people forget that in Nevada we have two – I think we have 200 licensed casinos in the state and we only have three
45 hundred and some agents to regulate over. So we have a culture of self-compliance in Nevada that may be more pronounced than New Jersey.

MR ASPINALL: And just to wrap this part up, the two models which seem to be available for the casino operator themselves to assess what I might in inverted commas call the suitability of a junket rep or for the regulator, a third party, to make those determinations as to suitability, so-called. In your experience and having
5 engaged in this area for a long time, what is your view as to the preferable entity to make those decisions?

PROF CABOT: My preference would be for both; that the casino, before they're submitting an application for a junket rep or an independent agent, should have
10 processes that proceed through their own due diligence departments and made a determination as to the suitability of that person before we submit it to the regulators. And the regulators then have, you know, they're the checking balance on that system. But, frankly, if that occurred, if I were a regulator, I would be very
15 concerned about the quality and the effectiveness of the casino compliance process.

MR ASPINALL: Right. Can I ask you, I know you've been giving evidence for a long time but can I ask you, and you've been very patient with us but can I ask you one further matter which is to help me with what turnover consists of in a program where dead chips are used.
20

PROF CABOT: What turnover?

MR ASPINALL: Yes.

PROF CABOT: I mean, turnover is the amount of the wagers.
25

MR ASPINALL: Yes, I just wanted to take you through an example and ask you if you could explain it to me. Where dead chips are purchased in a program that uses dead chips and there is a win, as I understand it, the win is paid in so-called live
30 chips; is that correct?

PROF CABOT: That is correct.

MR ASPINALL: But then in your book on casino maths, you say that then the player will take the live chips and use them to purchase more dead chips. Is that
35 correct?

PROF CABOT: Correct. That is correct.

MR ASPINALL: I was wondering what would be the incentive for a player who has live chips which can be converted into cash now to take them and buy more dead
40 chips?

PROF CABOT: So I think I understand your question now. The reason that a
45 player would do that is because their count, their discount or rebate is going to be determined based on the turnover of the dead chips. Right. So let's say for example I bought \$100 in dead chips at, say, \$100, I can get a discount on this hundred

dollars, I can either get like 103 chips to start, or at the back end, I can get a rebate on those 3,000, right. So I play the 100 and I end up with \$90 in live chips. Right. If I play those live chips, which I could, I don't get a rebate on those.

5 MR ASPINALL: Right.

PROF CABOT: I have to convert them to dead chips in order to get a rebate on them, or for those to count towards my comp. So I have an incentive as the player to consistently change my live chips to dead chips because that's the way I get comped or I get rebated, right.

MR ASPINALL: I see.

PROF CABOT: We say turnover in order to qualify for programs in different casinos, you've got to turn over your chips a minimum number of times. So I go from all live chips, I go from all dead chips to live chips and I convert those to dead chips. That's we turned it over once.

MR ASPINALL: I see.

PROF CABOT: So a minimum is turn it over four times in order to qualify for the program.

MR ASPINALL: What I didn't understand was that on one definition, turnover means the amount that you wager.

PROF CABOT: Right.

MR ASPINALL: And I hadn't understand how you would calculate that if, for example, you bet \$5, won \$5, bet \$5 again and lost \$5, there has been no net change in your position.

PROF CABOT: Right.

MR ASPINALL: You have gambled \$5 twice so your turnover might be \$10 but in a dead chip scenario that is not the way that turnover is calculated; is that correct?

PROF CABOT: Well, I have a look at the term but I think what you're referring to is the number of times that you've converted your live chips to dead chips.

MR ASPINALL: Right. Okay. So in a dead chip scenario that is why the purchasing of the dead chips is important because it shows the turnover from live to dead; is that correct?

PROF CABOT: That's right, exactly right.

MR ASPINALL: Thank you. Could you just excuse me for one moment.

COMMISSIONER: Of course.

MR ASPINALL: Mr Cabot, thank you very, very much for your time. The
5 Commissioner may have some more questions but from my point of view those are
all the questions I wanted to ask you, and I wanted to thank you very much.

PROF CABOT: You're welcome.

10 COMMISSIONER: Thank you, Mr Aspinall. Are there any questions of the
professor?

MR O'BRIEN: No, Commissioner.

15 MR STOLJAR: No, Commissioner.

COMMISSIONER: Thank you, Professor. There's just one aspect of the evidence
that you just gave that I would like to ask you about, and that was the process for
approval. And you said you would prefer both: the casino and the regulator, to be
involved but you indicated that you were – that the regulator should be cautious, as I
20 apprehend what you are telling me, and be concerned about the casino's due
diligence. Is that what you said?

PROF CABOT: That is correct.

25 COMMISSIONER: And so one of the processes that has been adopted in parts of
this country, in particular in this state, is to move what they call the risk from the
regulator to the casino and that, of course, has been controversial in part. But when
you identify the concern that you have that a regulator should be concerned, are there
aspects of what a regulator could do to diminish its concern about the due diligence
30 process in casinos?

PROF CABOT: Yes. The answer is clearly yes. So in Nevada almost all the – I
think all the major casino companies are required to have compliance plans and
compliance committees, and compliance officers. And it's a fairly well-defined
35 process in Nevada. And the regulators will rely upon the casino to do the necessary
due diligence on people like vendors and consultants and lenders. But it's trust but
verify philosophy. And so when the compliance completes their due diligence and it
goes to the compliance committee, all those reports will go to the gaming regulator.
And when it goes to the gaming regulators, they will conduct audits of those reports.

40 And so what they're doing is they're just effectively verifying that the casino is using
adequate compliance methodologies and ferreting out the people who would
otherwise be unsuitable to be in the industry. If the casino is proven to have
deficiencies in its due diligence process, that's a big problem for the casino. And it
45 invokes intervention by the regulator into the casino operations at a much higher
level than if the audits would show that they're conducting proper due diligence.

COMMISSIONER: And so does the regulator in Nevada have a separate bureau or division that has capacity to deal with such things?

5 PROF CABOT: Yes, they do. They have something called the Corporate
Investigations Division – the Investigations Division of the Gaming Control Board.
And they're the ones that are in charge of assuring that the casinos and the
manufacturers have a proper compliance plan in place, that they're following the
compliance plan, and that in fact that is an effective compliance plan to meet the
10 public policy goals of keeping unsuitable persons out of the industry. Any
deficiency in that can be determined in an audit. It also can be determined in the
board's own intelligence division, which is separately determining whether or not
there's any improper influences in the industry, and if there's deficiencies then the
regulators can actually bring disciplinary action against the casino for a failure to
conduct the compliance process in accordance with the expected standards.

15 COMMISSIONER: And the board is an independent entity with its own division, as
you've just described, I understand. Is that right?

20 PROF CABOT: Yes. The Gaming Control Board is the law enforcement agency of
the state of Nevada, and they have a number of different divisions. One of the
divisions is the Investigations Division, and another division is the Enforcement
Division. So the review of the applications is in the Investigations Division's hands.
The corporate securities section is part of the investigations, they handle compliance.
Enforcement does enforcement and intelligence. So they're all working together to
25 assure that unsuitable persons are not involved in the industry.

COMMISSIONER: I understand that there's this concept of regulatory capture that
has excited some debate, and you indicated earlier that there were individuals who
had come from regulators who then worked within casinos. Do you have experience
30 with such a phenomenon, Professor?

PROF CABOT: Yes. Regulatory capture is a theory that was espoused by an
economist named George Stigler. And it effectively says that over time as agencies
age, industry tends to have a disproportional influence over the decision of the
35 regulators. And that the regulatory process effectively becomes a vehicle for the
industry's goals, as opposed to the public's goals.

COMMISSIONER: And how - - -

40 PROF CABOT: I'm quite familiar with them.

COMMISSIONER: How does one guard against it, in your view?

45 PROF CABOT: That's probably another two-hour discussion. Well, I actually – I
wrote a book called Regulating Land-based Casinos, and I spent an entire chapter –
it's called Protecting the Process, and it contains what I consider to be best practices
that should be implemented in any regulatory system to guard against capture.

COMMISSIONER: Thank you. I shall not burden you any further, Professor, unless there are other questions. Yes, thank you, Professor. We will terminate the link to you now. Thank you very much. We're most appreciative of your assistance.

5 PROF CABOT: No problems, thank you.

<THE WITNESS WITHDREW

[12.58 pm]

10

COMMISSIONER: Yes, Ms Sharp.

MS SHARP: Commissioner, unfortunately we lost a bit of time this morning because of difficulties with the video link. I'm calling Professor Rose from another video link this afternoon, this time to Los Angeles. I'm a little concerned that I won't get through him in two hours. I wonder if you would consider perhaps sitting at 1.45 just to make sure we get through everything.

COMMISSIONER: Yes. Is that inconvenient to anyone?

20

MR YOUNG: No.

COMMISSIONER: All right, then. Yes, Ms Sharp, I will accede to that request, I will adjourn now until 1.45. Thank you.

25

ADJOURNED

[12.59 pm]

30 **RESUMED**

[1.46 pm]

COMMISSIONER: Yes, Ms Sharp.

35 MS SHARP: Commissioner, the next witness I will call is Professor I. Nelson Rose. He is appearing by video link from Los Angeles.

COMMISSIONER: Professor Rose.

40 PROF ROSE: Hello.

COMMISSIONER: Professor, thank you very much. I understand that you are willing to take an affirmation to give evidence to the inquiry today?

45 PROF ROSE: Yes. Let me put my - - -

COMMISSIONER: That's very kind. Thank you for your courtesy.

PROF ROSE: Are you the Commissioner?

COMMISSIONER: I am, indeed.

5 PROF ROSE: Well, thank you for - - -

COMMISSIONER: Yes. My name is Ms Bergin, and I am the Commissioner chairing this inquiry.

10 PROF ROSE: Thank you, Commissioner, for inviting me.

COMMISSIONER: Thank you, Professor.

15 <I. NELSON ROSE, AFFIRMED

[1.48 pm]

<EXAMINATION BY MS SHARP

20

COMMISSIONER: Thank you, Professor. Ms Sharp, my counsel assisting, will now ask you some questions. Thank you, Ms Sharp.

PROF ROSE: Thank you, Commissioner.

25

MS SHARP: Professor Rose, could you tell the inquiry your full name, please.

PROF ROSE: Yes, it's I. Nelson Rose, first initial is I, middle name Nelson, N-e-l-s-o-n, Rose, R-o-s-e.

30

MS SHARP: And your address is known to those assisting this inquiry.

PROF ROSE: You know something, I couldn't quite hear you.

35 MS SHARP: Your address - - -

PROF ROSE: Would you repeat - - -

MS SHARP: Your address is known to those assisting this inquiry.

40

PROF ROSE: Yes.

MS SHARP: Professor Nelson, you were for many years - - -

45 PROF ROSE: Rose.

MS SHARP: I beg your pardon. Professor Rose, you were for many years a tenured professor at Whittier Law School in California.

5 PROF ROSE: Yes. I'm now a Professor Emeritus at Whittier College in California.

MS SHARP: At Whittier you taught gaming law.

PROF ROSE: Yes.

10 MS SHARP: And in fact gaming law has been your specialty for many decades now.

15 PROF ROSE: Yes, really – before I graduated, I attended Harvard Law School, graduated in 1979, and I started my writing on gaming law while at Harvard for the required third year paper.

MS SHARP: You have provided a detailed curriculum vitae to those assisting this inquiry.

20 PROF ROSE: Yes, I have.

MS SHARP: I will just show you that document, Professor Rose. Could I please bring up INQ.500.001.3857. That's exhibit A254, Commissioner.

25 COMMISSIONER: Thank you very much, Ms Sharp.

MS SHARP: Do you have a copy of the CV that you provided to this inquiry before you, Professor Rose?

30 PROF ROSE: Yes, that's the first page.

MS SHARP: And just to confirm, this is – and please feel free to scroll through it, this is the CV that you provided to this inquiry.

35 PROF ROSE: I don't think I can change the pages.

MS SHARP: I see. I might just have those assisting this inquiry scroll through that document.

40 PROF ROSE: Very good. Yes, that is my CV.

45 MS SHARP: And one of the things to be observed when we scroll through that CV is the very, very large number of articles you have published over the years on gaming law in various jurisdictions.

PROF ROSE: Yes. Gaming law is my specialty, and I was actually the co-editor-in-chief of the Gaming Law Review which meant I was writing 10 law review

articles a year about gaming law so – and I also had a syndicated column, so it does add up.

5 MS SHARP: In addition to that, Professor Rose, it's right that for many years you've been a visiting professor at the University of Macau?

10 PROF ROSE: Yes, for 14 years. I'm actually scheduled to teach this May. The University of Macau is closed at the moment so I don't know exactly what's going to happen.

MS SHARP: And what you teach there is international gaming law, is it?

15 PROF ROSE: Yes. It's a post-grad class so these are mostly lawyers going for Masters of Law and an occasional PhD of Law.

MS SHARP: And you've also taught postgraduate courses in gaming law at the University of Melbourne here in Australia.

20 PROF ROSE: Yes, twice.

MS SHARP: And that was in 2012 and 2015, wasn't it?

PROF ROSE: Yes. I co-taught a class with Jamie Nettleton.

25 MS SHARP: You are the author of a widely used case book in the United States called Gaming Law: Cases and Materials.

PROF ROSE: That is correct – one of the authors.

30 MS SHARP: You also authored a book called Gaming Law in a Nutshell in 2012.

PROF ROSE: Yes, that was the first edition and there has been a second edition.

35 MS SHARP: You mentioned a column that you write for. In fact, this is an internationally syndicated column called Gambling and the Law.

PROF ROSE: Yes, although I've pretty much stopped writing a monthly column now. I blog occasionally.

40 MS SHARP: And that syndicated column in fact has its own website.

PROF ROSE: Yes, gamblingandthelaw.com. Actually, that's my website so it includes my CV and other material.

45 MS SHARP: Now, it's the case that you have attended at casinos in the state of Nevada in the United States?

PROF ROSE: You mean – well, I taught, actually, at the University of Nevada, Reno Business School on gaming law but I certainly have visited casinos all over the world.

5 MS SHARP: Have you – just focusing on Nevada for a moment – have you had the opportunity to go into VIP rooms in Nevada casinos?

PROF ROSE: You know, I don't think I have since they allowed them to be isolated from the general public, not in Nevada.

10

MS SHARP: And when was that, that they were isolated from the general public?

PROF ROSE: It's been a few years. I don't know the exact date.

15 MS SHARP: And how about – you've obviously spent some time in Macau; have you spent time in the casinos in Macau?

PROF ROSE: Certainly. I first visited Macau in 1986, and then I made my connections with the University of Macau in 2004, and I've been teaching this class for the last 14 years. And every time – I'm co-teaching it with a professor, Jorge Godinho, and he and I always visit a lot of casinos to see what's going on, what the developments are.

20

MS SHARP: Have you had the opportunity to go into any VIP rooms in Macau?

25

PROF ROSE: Yes, I have.

MS SHARP: How frequently have you done that, would you estimate?

30 PROF ROSE: Probably – I should say we probably do it every single year because I want to see that – what's going on and as long as it's open to the public, they may not like it but I walk in.

MS SHARP: Now, it's the case that you were also a consultant in relation to legalised gambling and gaming.

35

PROF ROSE: Yes, I often act as a consultant to governments and industry.

MS SHARP: And just to confirm some examples, your past clients have included the Arizona Department of Gaming.

40

PROF ROSE: Yes, I'd actually worked on cases, probably mostly for the Department but occasionally for applicants who have been denied approval by the department.

45

MS SHARP: And other clients have included the Delaware State Lottery, the Florida State Senate, the Illinois Gaming Board, Michigan State Lottery, Loto-

Québec, Nevada and Atlantic City casinos, Californian gaming clubs and you have also consulted for international corporations, Indian tribes, racetracks, internet operators, and major law firms.

5 PROF ROSE: Yes, and state and provincial and national governments.

MS SHARP: In addition to that you have testified as an expert on a number of occasions in both criminal and civil judicial procedures and legislative proceedings.

10 PROF ROSE: And administrative proceedings.

MS SHARP: And that, of course, has been in relation to gaming law.

15 PROF ROSE: Only gaming law.

MS SHARP: Amongst other places, you've testified before the United States National Gambling Impact Study Commission, the National Research Council of the National Academy of Sciences, the Federal Government of Mexico in the first NAFTA tribunal on gaming, and the Oregon Governor's Taskforce on Gaming.

20 PROF ROSE: Yes, and others, of course.

MS SHARP: Yes. Indeed, you have also testified as an expert in cases involving casino gaming.

25 PROF ROSE: Yes.

MS SHARP: In addition to all of that, Professor Rose, you've advised the Federal Government of Canada on legal gambling, haven't you?

30 PROF ROSE: Yes.

MS SHARP: And you have also advised the United States Government.

35 PROF ROSE: Yes.

MS SHARP: Now, you were interviewed on a media program here in Australia called Four Corners in September 2014 on a program called High Rollers – High Risk?, weren't you?

40 PROF ROSE: I could have been. I don't remember it.

MS SHARP: It's right, of course, that you have a great deal of expertise in areas of gaming law.

45 PROF ROSE: Yes. I am recognised, yes.

MS SHARP: Indeed, you are recognised as one of the world's experts on gaming law.

PROF ROSE: Yes.

5

MS SHARP: Can I ask you, Professor Rose to tell us what a VIP player is.

PROF ROSE: The VIP – it used to be an informal designation and now in places like Singapore it's actually defined by law. In Singapore I believe they have to deposit \$100,000 before their gambling session. And when you are a VIP player, you get special privileges but the casino can also, like in Singapore, get special privileges like paying a lower tax on their gambling winnings.

10

MS SHARP: Is one aspect of being a VIP player placing bets over a certain amount of money?

15

PROF ROSE: It's up to the definitional requirements of the individual jurisdictions. So in Singapore, it's depositing a certain amount of money, \$100,000 before a session. Other jurisdictions it could be making a minimum bet of, say, 5000 Hong Kong dollars per bet.

20

MS SHARP: And what's that roughly in United States dollars?

PROF ROSE: Hong Kong dollars are divided by eight. So 5000 is 1 thousand – what is that, divided by eight, so it's like \$700 US. I don't know what the current exchange rate is for Singapore dollars.

25

MS SHARP: Are you able to give us any indication as to what minimum bets are for VIP patrons in Macau?

30

PROF ROSE: I would think – I don't know if there is a – or what the statute or regulation is, but certainly from what I've observed it would be – well, I think it's around 5000 Hong Kong dollars. So that's 625 US and that's – and, of course, that's the minimum.

35

MS SHARP: Are you able to give us any indication of the minimum bets to qualify as a VIP player in Nevada?

PROF ROSE: I do not know – I don't actually know if that's by statute or regulation or it could even be self-defined by the individual casinos. I don't know what the current standard is. It used to be just self-defined – the casino would decide if somebody was a high roller or a whale who was making, say, bets of 100,000 US dollars a hand. But it may now – I don't know if it's Stuart orally or regulatory distinction is made because they do now are allowed to have rooms that are available only to.

45

MS SHARP: But certainly as an industry practice there's an expectation that a VIP player will place a bet, say over and above that that one would expect a mass market player to place.

5 PROF ROSE: Of course. The casinos really are not that much concerned with the wins or losses of an individual player at an individual session. What they're doing is they want to know what the average size bet is, how frequently they bet and how long they play. So if a person makes a couple of very large bets but then walks
10 away, they're not particularly rewarded with perks. But they want a player who is making significant bets like 5000 US dollars per hand or an hour. That person would be rewarded with many more perks. Even if – whether they win or loss.

MS SHARP: Is that concept you have just described to us sometimes referred to as the theoretical win?

15

PROF ROSE: Absolutely.

MS SHARP: Can I give you an assumption and ask for your comment. I want you to assume there is a casino in Australia that has VIP gaming and the minimum bet for
20 baccarat is 30 Australian dollars. Does that sound like the minimum kind of bet you would expect from a VIP player?

PROF ROSE: \$30,000?

25 MS SHARP: 30 Australian dollars.

PROF ROSE: 30 Australian dollars is about 20 dollars US. That's not even a premium mass market player.

30 MS SHARP: Is it right, Professor Rose that the great majority of VIP players these days come from mainland China?

PROF ROSE: I think that is correct. I don't know what the new virus threat has –
35 has changed things. But going back to – it's probably been over 10 years that – well, I can tell you when it was. It was in 2004 when China changed its laws and allowed individual – individuals to travel outside of the Chinese mainland as opposed to having to go in a group. And so once that law was changed, the Chinese started travelling. They are by far the number one tourists in the world. And they have enormous – the wealthy have enormous cash and they are the VIPs in certainly
40 Macau but even in Las Vegas.

MS SHARP: And is it correct to say that all over the world casinos are competing for the business of VIP players from mainland China?

45 PROF ROSE: It's mostly true. It depends on the casino. I mean, there are smaller casinos that are niche casinos and maybe can't afford the potential damage that a high roller can make. The VIPs are – gamble so much that they actually can cause a

casino to have a losing month. But they never – never losing year. And they are definitely wanted by – all the big casinos would love to have their business.

MS SHARP: Now, Professor Rose - - -

5

PROF ROSE: Because of that theoretical win.

MS SHARP: - - - you have explained some of the reasons why we see a high proportion of VIP players from mainland China. You've referred to the relaxation on travel restrictions in 2004.

10

PROF ROSE: Right.

MS SHARP: You have also referred to the, essentially, the economic growth in China. Are there other factors which explain the very large number of VIP players from China?

15

PROF ROSE: Yes. The rich in China, the wealthy class, are very rich. They have enormous amounts of cash in vaults, that they would love to get out of the country. And they mostly like to gamble too. So high stakes – casino gambling is one way for them to get their cash out of the mainland, particularly some of the other means like buying land in foreign countries is being cut off.

20

MS SHARP: Gambling is not legal in China, is it?

25

PROF ROSE: The only forms – the Chinese believe that gambling is not legal in China. They actually do have three lotteries and one of them is very successful. Macau and Hong Kong are part of China and Macau has gambling and Hong Kong does, although they don't – Hong Kong does not have casinos but it has got the Hong Kong Jockey Club – racing – largest racetrack in the world, but on the mainland there is no – you cannot even bet at a horse race in China.

30

MS SHARP: Is the prohibition in mainland China against many forms of gambling, including at casinos, one of the matters that explains the large proportion of VIP players who come from mainland China?

35

PROF ROSE: Absolutely. It is actually – they have two sets of laws: a civil law that makes it illegal to gamble and you can get, I believe, two weeks hard labour, and then it says and this can be referred for criminal prosecution. So they clearly consider that separate and criminal law, I believe the current penalty is something like four years.

40

MS SHARP: It's right - - -

45

PROF ROSE: In prison.

MS SHARP: It's right to say that until comparatively recent times Macau was the destination of choice for VIP players from mainland China.

5 PROF ROSE: After 2004. Before that, it was difficult for mainlanders to go to Macau or Hong Kong. I mean there really was the bamboo curtain. It was hard for money to be transferred across the border of China and it still is hard but at least – but now at least they allow people to cross.

10 MS SHARP: Just to take up the clarification that you have made, is it correct that from 2004 when the restrictions on travel of mainland Chinese were reduced, that Macau - - -

PROF ROSE: Yes.

15 MS SHARP: - - - until comparatively recently was the destination of choice for VIP players from mainland China.

20 PROF ROSE: I think that's absolutely true. Before 2004 I don't think there were very many visitors from the mainland China to, say, Las Vegas. And after 2004, which also saw the opening of the first western style casino, the Sands, the market for gambling just exploded in Macau.

25 MS SHARP: And is it the case that in recent years we have seen a change to the casino market in Macau because of a crackdown in corruption in mainland China.

30 PROF ROSE: Yes. The casinos in Macau still make an overwhelming majority of their money from the VIP players. They've been trying to expand it to get a mass market or now they're calling it a premium mass market. But still it's overwhelmingly the VIPs and prior to the crackdown against corruption, the market in Macau actually hit \$40 billion a year. And then I think this was 2015 and 2016 the high rollers basically stopped going to Macau and stopped going to Las Vegas because they were endangering – well endangering their lives if they were caught with conspicuous consumption. The crackdown has definitely eased, eased a few years ago and the high rollers are coming back to Macau.

35 MS SHARP: You mentioned that the crackdown had an effect in Las Vegas. Could you expand on that, please.

40 PROF ROSE: Yes. Yes, I actually did my own study by comparing blackjack and baccarat because the VIP players, the high rollers from China are – they play baccarat. That by far is their favourite game. In fact, it's their only game. And the baccarat tables in the entire state of Nevada, there are nine times as many blackjack tables as baccarat tables. Before the crackdown, the baccarat tables actually made \$400 million more than all of the blackjack tables. And then when the crackdown hit 45 they lost – that money disappeared. So the blackjack tables and the baccarat tables became basically the same amount of revenue or even blackjack might have been greater. So it is – it's a nice way to see exactly what the impact is of mainland

Chinese high rollers on Las Vegas by looking at what baccarat makes in Nevada. And these are public reports.

5 MS SHARP: And am I to understand your last answer as meaning that blackjack is a game played in what I will describe as the mass market segment of a casino.

PROF ROSE: Yes, that's exactly right.

10 MS SHARP: So does that mean, Professor Rose, that revenues from VIP gaming decreased in Las Vegas following the crackdown on corruption in China.

PROF ROSE: Yes, it decreased by \$400 million during that period of the crackdown.

15 MS SHARP: Now, is it correct that Nevada has never been dependent on VIP players as Macau.

PROF ROSE: That's absolutely right.

20 MS SHARP: Are you able to give an indication, if you can, of the proportion of revenue derived from the VIP players in Nevada as opposed to the proportion derived from the mass market in Nevada?

25 PROF ROSE: Interesting question. I would think again you could actually look at baccarat and track that back over the years and as I said, there are nine times as many blackjack tables than baccarat tables but baccarat makes more money. That – I don't know when that happened. Well, it was probably after 2004, I would guess. It's just looking at the historic profitability of those two games. Now, those are table games. The slot machines in Nevada may contribute 70 or 80 per cent of the revenue. So –
30 and then there's the other table games like roulette and craps. So the high rollers, you know, it's probably at most 10 per cent and it may be less than that.

MS SHARP: Is it right that the casinos in Macau don't tend to have many slot machines when compared with the casinos in Nevada?

35

PROF ROSE: The feed froze, I didn't hear the question.

MS SHARP: I'm sorry, I will put that again, Professor Rose. Is it right that the casinos in Macau don't have the same amount of slot machines or dependence on slot machines as compared with the casinos in Nevada?

40

PROF ROSE: Yes. And I want to say that we have to be careful about high rollers or VIPs. In Nevada, they do now have actually high roller, say, \$500 coin slot machines where people are betting \$1500 on every – every time they play, press a
45 button on a slot machine. But those are not from Chinese mainlanders. The people from the high rollers from China play baccarat. Macau, prior to 2004 when The Sands opened up they actually had almost no slot machines. And I talked to the

executives of The Sands and they said they were told that the Chinese players don't like slot machines. They put in about 100 just as an experiment and found out they were popular. But Chinese players of any economic basis do not really trust machines, and so the slot machines are growing, they're definitely growing in popularity.

And actually one of the ways that they're growing is the casinos now have stadiums where they will be playing baccarat on their own screen and there will be a live dealer with a TV camera showing the cards that are played. And you can have a stadium with 500 people playing baccarat at the same time, and it introduces the idea that it's okay to gamble on a machine and their slot machines now have Chinese themes. So they are spreading but it's still a small – not – a small slice of the revenue for the casinos in Macau.

MS SHARP: Just returning to one of your earlier answers, Professor Rose. You said that one of the effects of the crackdown on corruption in mainland China was that VIP players from mainland China were not coming to Macau in such - - -

PROF ROSE: Yes.

MS SHARP: - - - great numbers any more. Does that mean that they stopped gaming anywhere or that they went places elsewhere than Macau, and Las Vegas for that matter?

PROF ROSE: Yes, a great question. Apparently they actually did stop gambling to a great extent because I was – I went to the Philippines during that period where the Filipino casinos allow what is called proxy play where there will be a human being playing baccarat for a person who is in Beijing. And they will have – it will be televised but – and that revenue went down. So – which was surprising because you would have thought that was safe. But they stopped going to Las Vegas. It really was a fear of being prosecuted or persecuted for high stakes gambling.

MS SHARP: One of the other things you mentioned a little earlier was that the VIP players from mainland China are starting to return to Macau. Can you tell us a little bit more about that, Professor Rose?

PROF ROSE: Sure. Just looking at the numbers because Macau makes its numbers public and they do tend to break – they break it down so you can see – they like to do year-on-year, so year-on-year revenue. When I started going – teaching in Macau 14 years ago, the year-on-year revenue growth was sometimes 80 per cent. I mean it was just fantastic growth. Then the crackdown hit and it actually – the growth was negative. Sometimes spectacularly negative. It went from, say, 40 billion, I think, down to \$25 billion. And since that bottom it has been growing and the numbers are – some of it is mass play, mass market. Some of it is this new category of premium mass market but mostly it is the high rollers are coming back – have come back.

MS SHARP: You've just mentioned premium mass market. Can you tell us a little bit more about that, Professor Rose?

5 PROF ROSE: It's basically an industry standard that says these are regular players and they are not VIPs but they're betting substantial amounts. And remember it's that theoretical win. So they're betting fairly high amounts for long periods of time, and they're considered better than the mass market. And so it has been a category that has been created and I don't know when, in the last couple of years.

10 MS SHARP: I will come back to ask you a little bit more about junkets a little later in our discussion.

PROF ROSE: Yes.

15 MS SHARP: But just for now, can you tell us do junkets in Macau have any role to play in the premium mass market segment?

PROF ROSE: They're absolutely essential.

20 MS SHARP: That's the premium mass market, is it?

PROF ROSE: I'm sorry, I thought you said the VIP. That's – I – they probably – that's a good question. The junkets, of course, are always considered to be related to the VIP. I don't – there are junkets, I believe, associated with the premium market because the People's Republic of China has put such low limits on the amount of money that mainlanders can take out and premium market players are betting so much that they somehow have to get money out that is greater than the Chinese government allows, and junket providers are the ones who provide that money normally. There are other ways to do it but a lot of it is junket operators.

30 MS SHARP: I will come to that topic now, Professor Rose. It's correct, isn't it, that the mainland Chinese government does place great restrictions on the ability of the mainland Chinese to move money out of China.

35 PROF ROSE: Absolutely, very severe restrictions on any way and every way they can think of.

MS SHARP: For example, there is a limit on the amount of money that can be taken out in any one trip out of mainland China?

40 PROF ROSE: That's right, and how much money you can take from a machine, an ATM machine in, say, Hong Kong or in Macau. There's yearly limits as well, and they're all low enough that it would – it impacts the VIP. I mean, the limits are less than an average bet. But I would think they're affecting the premium market as well.

45 MS SHARP: You mentioned there are limits you can take out of a machine. I take it you mean an ATM.

PROF ROSE: An ATM, yes. I mean we're talking about legally taking cash as opposed to phoney sales which are a way to get the money out of the mainland.

5 MS SHARP: I will come back to the phoney sales. But now is it right that in recent years further restrictions have been imposed in Macau on the amount of money that mainland Chinese can withdraw from ATM machines?

10 PROF ROSE: Yes. Macau is part of China, and if Macau, for example, also had proxy play, like I mentioned the Philippines have, and the government in Beijing finally said, "Well, you might not be violating Macau – Macanese law but you're violating Chinese law" and they forced Macau to stop the proxy play. And there is pressure for Macau to stop ATMs giving large amounts of cash.

15 MS SHARP: So the amount of cash that could be withdrawn from an ATM was decreased in recent years.

PROF ROSE: I believe so.

20 MS SHARP: Now, what impact have the currency controls in mainland China had on the ability of people from mainland China to gamble at casinos in Macau?

25 PROF ROSE: Well, it's made it slightly more difficult to get the money out but it's actually not much of a barrier. A lot of it, a lot of the money that comes out is straight smuggling with – a person from the mainland has shopping bags filled with various items they've bought, and at the bottom are tens of thousands of yuan, of
30 currency and maybe they're smuggling for somebody else or maybe they're smuggling for themselves and every year the governments of both mainland China and Macau stop very, very few people who, given the hundreds of thousands of people who are crossing the border, almost nobody gets arrested. And then there's a lot of other ways to get the money out of China. So it's just made it more difficult. It's actually also created a nice market for people like junket operators to help them, the Chinese mainlanders, get their money out of the country.

35 MS SHARP: Is it fair to say that in fact that is one of the key functions that junkets perform in Macau, when the junket players are from mainland China?

40 PROF ROSE: Yes. I mean, there are other ways for a mainlander to get large amounts, say, a million dollars Hong Kong, which would be 125,000 US to get them out but it's just the simplest way is you go to a junket operator. And when you show up at the casino in Macau, the junket operator gives you the million dollars in Hong Kong, and then when the player goes back to the mainland, they have to, if they've
45 lost or won, frankly, they pay it off. The insiders tell me that, in fact, the lenders which are the junket operators, don't like to be paid off because they're charging as much as 10 per cent a week interest. So they like it, even if a person won, they don't want to be paid off because, you know, they – usury is very profitable.

MS SHARP: Can I turn now to ask you more specifically about junkets. We've spoken - - -

PROF ROSE: Yes.

5

MS SHARP: - - - in some detail about junkets in Macau. Now, I understand they're actually called gaming promoters in Macanese law; is that right?

PROF ROSE: Yes, and it's important – one of the things I would emphasise is that the New South Wales statute has to break what they're calling junkets completely apart. There are traditional junkets which have existed for – since the 1950s in Las Vegas where someone arranges for an individual or a group of people to come to Las Vegas. They provide the transportation and work with the hotel casino for accommodations. Those are – that's one type of junket. But the gaming promoters in Macau are not those type of junkets. The gaming promoters are the first one under your statute, the traditional type of junket are usually called independent agents.

The Macau type of junket – and we really should not call them junkets – are gaming promoters and they lend money. And so I think it's your section 76 puts those both together, and there's really no connection between the two.

MS SHARP: Just to tease out some of the differences between what you call the traditional junket, which is a junket in Las Vegas and a Macau junket. Is one of those differences that Macau junkets make available money to junket players, whereas the Nevada junkets or international agents do not do that?

PROF ROSE: Yes, independent agents were not lenders. Right. The junket – and I think we should use the different phrases. Independent agents are providing transportation and, you know, making it easy to get there, and they could be – they actually could be paid per head by the casino for bringing in people. The gaming promoters are a completely different type of animal; they are actually lenders. Because of the currency restrictions on the mainland in China that if you want to be – if you want to gamble, say, a million dollars Hong Kong on a trip, you've got to figure out a way to get that money to the casino. And the gaming promoters are the ones who facilitate that. That also means that they're the ones who collect on that loan. The casinos have never been particularly successful in breaking into the mainland Chinese market themselves for – basically for cultural reasons.

MS SHARP: You've mentioned a little earlier that the independent agents can be paid, I think you said per head. Is that a different - - -

PROF ROSE: Per head.

MS SHARP: The remuneration arrangements; are they different in relation to independent agents as compared with gaming promoters?

45

PROF ROSE: Yes. Gaming promoters get basically 1.25 per cent of the amount that the player gambles. So if they gamble \$100,000, the gaming promoter is going to get \$1250. They could also get – they could also share in the win or a loss but mostly today the gaming promoters simply take a percentage of the amount that the player gambles, win or lose.

MS SHARP: Now, one feature that gaming promoters and independent agents share in common is the location of players to come to the casinos.

PROF ROSE: In China, yes, in Macau because – well, I actually – there are independent agents acting in China but that can be dangerous, as one of your companies discovered, that it’s also a crime to advertise gambling in mainland China. So it’s really got to be the junket operator has subagents and sub-subagents who know the individual players. And they make the arrangements. But, again, the gaming promoters, sure, they will arrange for transportation but that’s not their main function.

MS SHARP: Would it be right to describe gaming promoters in Macau as being like travel agents?

PROF ROSE: No, that would not be correct. The independent agents are kind of like travel agents but – in other words in Nevada and elsewhere in the United States you can join one of these junkets that an independent agent puts together, like a travel agent. The gaming promoters, the transportation and other facilitation like that is such a minor part of their function that I would not call them travel agents. Travel agents don’t normally lend you a million dollars when you visit a site.

MS SHARP: Can I move to a different topic now, Professor Rose. I want to ask you about a report published - - -

COMMISSIONER: Just before you do that.

MS SHARP: Yes.

COMMISSIONER: Professor, you did refer to the New South Wales statute and you referred to section 76 of that statute.

PROF ROSE: Yes.

COMMISSIONER: I presume that you are referring to the definition in that section, is that right, of “junket”?

PROF ROSE: Yes, Commissioner. The section has – I don’t have it in front of me but they have an A and B – or maybe I do have it – where the first definition, if I remember correctly, apply to what we are calling – I’m calling and Macau calls the gaming promoter. And the second definition – because it even talks about getting a

share of – it's paid, you know, a percentage. And the second is the traditional junket operator who is acting more like a travel agent.

5 COMMISSIONER: Yes. The second, the subparagraph (b) to which you refer, refers to the arrangement for the promotion or promoting of gaming in a casino by groups of people, usually - - -

PROF ROSE: Right.

10 COMMISSIONER: - - - involving arrangements for food and beverage and rooms.

PROF ROSE: Yes.

15 COMMISSIONER: But your point, if I could go back to it, just to understand what you are really suggesting, your point is that the definition should be made clearer. Is that what you are saying?

PROF ROSE: Yes, they're not – the two – putting the two together like that, you end up with strange law, like there is a reference to slot machines.

20

COMMISSIONER: Yes.

PROF ROSE: Well, slot machines are played by your average person and so they would be played by people who were brought by that subsection (b), facilitator.

25

COMMISSIONER: Yes.

PROF ROSE: The high rollers, the subsection (a) gaming facilitator, those people don't play slot machines. They play baccarat. That's all they play. And so even – every time there's a reference – when I was going through the statute and I saw reference – I actually searched for junket – and you end up with some very strange law because you're grouping basically somebody who is lending money to a high roller with the same law that is somebody who takes, you know, a small – a regular – what were you saying, \$30 better, to help them get the airfare and hotel covered.

35

COMMISSIONER: Yes. Thank you, Professor, and I'm sorry to interrupt.

MS SHARP: Just following up on the question the Commissioner asked you, Professor Rose, you said it was a strange grouping to have these different limbs of the junket definition together because one notion of junket has a role in providing credit to players; whereas the other one simply provides services like a travel agent would. Why do you see this as a strange grouping to have these two concepts together in the one provision?

45 PROF ROSE: Well, first of all, I think it increases the problem that has arisen in Macau that these people in English are called junket operators. They're not junket operators. Not in the traditional way that Nevada junket operators work. They are

lenders of large amounts of money to VIPs. So it has the danger of masking what is actually going on, of confusing – we’re just calling them both junket operators. The biggest problem is it doesn’t make sense. It would be like having a single statute that covered banks and travel agents. And saying, you know, banks have to be regulated and licensed and travel agents may be regulated and licensed but not to the same extent the banks are. They perform completely different functions, present different dangers to society.

MS SHARP: Professor Rose, can I move now to ask you about a report published in November 2013 by the United States China Economic and Security Review Commission. You are familiar with that report?

PROF ROSE: Yes. That’s the one where I testified, correct.

MS SHARP: Yes. And - - -

PROF ROSE: Yes.

MS SHARP: And section 3 of that report dealt with Macau and Hong Kong.

20

PROF ROSE: Yes.

MS SHARP: Can I show you an extract from chapter 3. If I could bring up INQ.130.001.1374 and Commissioner that is exhibit A37.

25

COMMISSIONER: Thank you.

MS SHARP: Now, you may not have seen this for a while, Professor Rose, but do you recognise this as section 3 of that report by the US China Economic and Security Review Commission?

30

PROF ROSE: Yes, I do.

MS SHARP: And indeed you did provide testimony to that commission.

35

PROF ROSE: Yes.

MS SHARP: First of all, can you tell us what that commission is?

PROF ROSE: What the commission is?

40

MS SHARP: Yes.

PROF ROSE: Okay. It was created by the United States Congress as an independent commission to basically study the impact of China on the United States, in all ways you can conceive of. This particular one was focusing on Hong Kong which has a completely separate problem with crackdowns by the central

45

government against protestors and Macau which has all this enormous amount of cash, I mean literally billions of dollars that are coming into Macau, technically illegally in many cases, from the mainland. So they called on me to testify about what was going on in Macau, particularly what they call money laundering but it's
5 the enormous amounts of cash that are being funnelled through Macau.

And once the – someone from the mainland has that money in Macau, they then can use it and convert it usually into Hong Kong dollars or US dollars and can, say, buy land in the United States or – they need to get that money out of Hong Kong. Even if
10 you're not an embezzler or something nefarious, let's just say you're really rich and you're in the mainland of China, what can you do with it? I mean, how many cars can you buy? And houses. So they need to get that money out somehow.

MS SHARP: I will come back to discuss your testimony in more detail. But just for
15 the moment, the report of the United States China Economic and Security Review Commission – that's a publicly available document, isn't it?

PROF ROSE: Yes.

20 MS SHARP: And it appears on a US government website?

PROF ROSE: Yes. It was published actually in hard copy originally.

MS SHARP: And now it's on a website?
25

PROF ROSE: Yes.

MS SHARP: Of the United States government?

30 PROF ROSE: Yes. This is an official government institution agency that was created and issues reports, including reports to the United States Congress.

MS SHARP: Is it right that your testimony took the form of a written submission
35 and an oral presentation?

PROF ROSE: Yes. I think I did – yes, I think I did do a written submission and definitely testified in person.

MS SHARP: Could I show you a document, please, Professor Rose. If we can
40 bring up INQ.130.001.2522. I'm showing you the first page of a document that bears your name and the date 27 June 2013. Is this the written testimony that you gave to that commission?

PROF ROSE: Yes. Yes, that is the report I prepared.

45 MS SHARP: I just - - -

PROF ROSE: The first page.

MS SHARP: Can I just ask you a few questions about that report. Can I take you to
page 2, which is pinpoint reference 2523 and while we're going there,
5 Commissioner, this is exhibit A35.

COMMISSIONER: Thank you very much.

MS SHARP: And - - -
10

PROF ROSE: Can you make it larger.

MS SHARP: Yes, what I will do is I will take you down to the fifth paragraph, if I
can enlarge that, the one beginning "But there are".
15

PROF ROSE: I got it. Very good, thank you. Yes.

MS SHARP: My pleasure, Professor Rose. Could I ask you please to explain what
you are describing there?
20

PROF ROSE: Yes. I have actually seen this a number of times where there will be
a jewellery store literally on the floor of the casino, and since they've got glass walls
and an open door, they kind of have trouble stopping people like me from observing
it. And I have seen people use a credit card, pretend to buy a watch and they don't
25 walk out with a watch. Instead, there's a currency counting machine and the
machine counts – so say it's a \$100,000 watch, Hong Kong dollar, and they then get
literally \$100,000 in cash but the credit card company has recorded that as the
purchase of a watch when it actually is using a jewellery store as an ATM.

MS SHARP: And you have actually observed this happen?
30

PROF ROSE: Yes, I've actually seen it happen.

MS SHARP: And - - -
35

PROF ROSE: And I remember – I remember actually wondering why the regulators
were allowing that since if I observed it, anybody can observe it.

MS SHARP: And this is one of the ways of subverting the currency restrictions in
40 mainland China?

PROF ROSE: Right, because it isn't recorded as cash. It's recorded as the sale of a
very expensive watch. And then when they go back to the mainland, they pay off
whatever the bill is.
45

MS SHARP: Just so we understand, no watch is actually purchased but a watch is
paid for?

PROF ROSE: That is correct.

MS SHARP: But - - -

5 PROF ROSE: And right in front of you there is a currency counting device and it has got lots and lots of – they’re usually – they’re Hong Kong dollars, and the purchaser of the watch walks out with a bundle of cash.

MS SHARP: Because - - -

10

PROF ROSE: I remember when I - - -

MS SHARP: Is it right to say that’s what’s happened is they have paid for nominally the watch with the credit card.

15

PROF ROSE: Yes.

MS SHARP: And then refunded the watch and been given cash for that putative refund?

20

PROF ROSE: I’m sorry, say the last – well, I will tell you what happens. They get the cash and – instead of a watch. And I asked one of my students who kind of worked with some of the junket operators, I said, “Well, I assume if the person wins, they go back to the jewellery store and pay back, say, the 100,000 Hong Kong dollars” and he said “Oh, no, everybody gets a piece of this”. So even if the person wins, you don’t – you can’t – or don’t pay it off there. You pay it off on the mainland.

25

MS SHARP: Now can I take you to a few pages further in your written testimony to pinpoint reference 2525. And if we can go down to the last paragraph and highlight the first sentence, what you’ve stated there is that the problem of the VIP gaming promoters will not be solved until The People’s Republic modernises its laws. What do you mean there?

30

PROF ROSE: The two motivations – the reason the junket – there’s many reasons the junket operators exist, including, by the way, giving – making it so that the casino operator can say, “We didn’t know that this was a government executive, an official who isn’t even allowed to be in Macau. We don’t know who these people are. The junket operators bring them in”. But the main thing is that the People’s Republic of China won’t let money out of the country even to Macau. And the second is that gambling debts are not legally collectible through the court system in Macau. So it means that the – it’s very hard for a legitimate lender to be lending somebody money to gamble in – on the mainland and then know they can collect if they don’t pay, because the courts are closed to the lender with – of a gambling debt.

35

40

45

MS SHARP: Just while we’re in that testimony that you gave, Professor Rose, could I take you to page 8 of that document which is pinpoint reference 2529. This

is a slightly different topic. If you have a look at the second last paragraph and perhaps we can have that blown up. What you say there, Professor Rose is that casinos in New Jersey have to meet a tough standard rather than by a mere preponderance of evidence. And then you say that New Jersey requires applicants
5 and licensees – and, of course, the casino licensee applicants – to prove their worthiness by clear and convincing evidence.

PROF ROSE: Yes. The – go ahead.

10 MS SHARP: Is that something we see reflected in, I hope I get the reference to the law right here, in section 5, 12 to 84 of the New Jersey Casino Control Act.

PROF ROSE: I don't remember the number. It happens I just looked up the Massachusetts law and they have that clear and convincing evidence also standard.
15 We're talking about something completely different now.

MS SHARP: Yes.

PROF ROSE: We're talking about getting the licence to be a casino operator in
20 New Jersey, the applicant has the burden of the proof. And the burden of proof is much greater than a mere preponderance of evidence. It's not 50 per cent plus one. The burden is that the applicant has to prove by clear and convincing evidence which is still less than beyond a reasonable doubt but it is a much tougher standard to prove that they are basically honest and should be given a licence.

25 MS SHARP: And, in fact, is it fair to say that it's actually doing two things. First of all it's assigning a burden of proof but, secondly, it is imposing a standard of proof?

PROF ROSE: Yes, absolutely. Normally, in normal civil cases the plaintiff has a
30 burden of proof and the burden is a preponderance of evidence. This is saying if you're applying for a licence, you, the applicant, and even once you get your licence, you have to prove your worthiness. You – the burden is on you. And then the clear and convincing standard is a tough standard. That is usually reserved for like civil commitments of people who can't handle their own affairs any more.

35 MS SHARP: Are you able, given your long history in advising regulators and your consulting work, are you able to give us any indication of why a burden of proof has been imposed and a standard of proof has been imposed.

40 PROF ROSE: Sure. I hope you can hear. They're vacuuming outside the door. We have to remember the history of casino gambling. It was completely infiltrated by organised crime during the 19 – we know in the 1940s and fifties in Nevada. So like the New South Wales statute, all regulatory statutes for casinos always start with let's keep out organised crime. Let's keep out criminal influence. And then more
45 recently there has been an emphasis also – of course, the games have to be conducted honestly but also we worry about protecting the vulnerables, protecting people who

are problem gamblers or minors. So the New South Wales statute, that's it. Those are your three main requirements.

5 It's not to make the casinos profitable; that's not listed. Because the goal is, okay, for whatever reason this jurisdiction, say in New Jersey, has decided we're going to put in casinos which is going to be an exception to the common law that says gambling is always evil and gambling debts can't be collected. We are going to put in casinos but we want to really make sure these are regulated and stay regulated. And there are – now, there are so many jurisdictions that have casinos around the world but they all generally have the same standards: keep out criminal influence, 10 keep the games honest, protect the vulnerables, and a few more which, like I would recommend for New South Wales, not bring disrepute on the industry.

15 So that you have a fairly vague statute that gives the regulator power to say, "This will not stand. This activity is – that's not why we licensed and legalised casinos. It's not to exploit children", for example. And the best way – there's really two ways to regulate. One is you investigate everybody who has any ability to affect the games, any ownership interest. The second is if it's possible you try to keep track of every dollar in and every dollar out. And if you can do that, which, of course, it's 20 impossible to do completely, you will prevent the casinos from doing the harm that we know casinos do. You know, like liquor stores; you don't allow liquor stores everywhere.

25 MS SHARP: Professor Rose just picking up on a few points you made there, you're referring to the objects in the New South Wales Casino Control Act of 1992.

PROF ROSE: Yes.

30 MS SHARP: And you're quite right that section 4A, subsection (1) puts the first of the primary objects of the Act as being to ensure:

...the management and operation of a casino remains free from criminal influence or exploitation.

35 Now, in view of that objective, is it the case that casinos are inherently susceptible to criminal infiltration?

40 PROF ROSE: I think there is a greater danger in that regard than – with casinos than with any other business. First of all, the casinos' only product is cash. So they have cash transactions usually with – or chips which are convertible into cash, without any paper records. I mean, even loan sharks have paper records. And you end up with – think about getting a loan to gamble. Imagine going into a bank on Sunday, which would be difficult, and saying, "I want \$A10,000 because I want to go and play blackjack." All I'm going to do is sign a piece of paper, and I think the 45 bank is going to say no. So you've got enormous amounts of money going back and forth on the gambling tables, and what organised crime is interested in is the skim.

They want to just take some of that before it goes, say, to the rightful owners or to the taxing authorities. It's an all cash business and it is the only business where the company makes its money by beating its own customers at games of chance. There has been, of course, scandals with race tracks but in general, you know, the racetrack
5 doesn't care who wins or loses. The lottery doesn't care who wins or loses. With the casinos they care who wins or loses because if the player wins, the casino has lost.

MS SHARP: Can I just go back to that extract of the November 2013 report of the United States-China Economic and Security Review Commission, and I'll have that
10 pulled up again. It's INQ.130.001.1374. That is exhibit A37, Commissioner.

COMMISSIONER: Thank you.

MS SHARP: Could I take you – I imagine you have studied this fairly carefully in
15 the past, Professor Rose, this report?

PROF ROSE: I've read it, yes. I mean, when it came out, of course.

MS SHARP: Can I take you – it's page 361 of that report, which is at pinpoint
20 1381. Now, could I just have highlighted that bottom paragraph commencing, "According to".

PROF ROSE: I see.

25 MS SHARP: You will see that first sentence:

According to experts who provided testimony to the commission, Macau's junkets may have links to organised crime.

30 Now, is that a proposition you agree with?

PROF ROSE: Absolutely, that they may.

MS SHARP: Now, this report was published in November 2013. Of course, it's
35 2020 today. Is it still a proposition you agree with today?

PROF ROSE: I would think that the Macau junkets may – yes, they may still have the links. I think it's important to notice that the person who they quoted was not
40 me. It was Burnett who was the head Nevada regulator of casinos.

MS SHARP: And he is the person quoted as saying:

*It is common knowledge that the operation of VIP rooms in Macau casinos had long been dominated by Asian organised crime, commonly referred to as
45 "triads".*

PROF ROSE: Yes, that was the Nevada head regulator.

MS SHARP: Of course, not all VIP rooms are operated by junkets in Macau but some VIP rooms are operated by junkets in Macau.

5 PROF ROSE: And there – yes. And there are – VIPs normally need a junket operator – look, again, a gaming promoter to get them the cash so that they can gamble, even if the VIP room is operated by the casino. Now, again, casinos in Macau have tried to eliminate that sometimes, like Steve Wynn. Before he opened his casino in 2004, he said he would not open it unless Macau changed its law to allow the casinos themselves to lend money to players. And they did change the law.
10 It's just that the players don't know Steve Wynn but they do know their local junket operator's subagent.

MS SHARP: Just while we're in that report, can I take you a few further pages along to page 365, which is pinpoint 1385. And if we could just highlight the top
15 paragraph there. So what is stated in this report is:

Although casinos and junket promoters are licensed by Macau's gaming regulator, there remain significant vulnerabilities with unlicensed junket operators, junket affiliates and satellite casinos.

20

Now, as at 2013 was that a proposition with which you agreed?

PROF ROSE: Yes, I would probably have been a little stronger. Singapore allows junkets but of the two operators, one has no junket operators, and the other one has
25 three, and no junket operator from Macau has ever met the Singapore standards.

MS SHARP: I take it you have some familiarity with the licensing regime for gaming promoters in Macau?

30 PROF ROSE: A little bit. It didn't exist originally and they have been – the government has been trying hard to clean it up. They do have suspicious activity reports. They have cash transaction reports. The problem is a lot of the junket operators – let's just say some of the junket operators, we don't know who these people are or who really owns the junket because it's – what really is going on is –
35 takes place behind the wall around the mainland of China. I mean, we don't even know if, when somebody bets HK\$5000 on a hand of baccarat, is he really betting \$5000 or is there a separate arrangement with the junket operator that it's \$50,000. Which prevents the – yes.

40 MS SHARP: That's called a side bet, isn't it?

PROF ROSE: Yes, that's side betting and, as you can imagine, the casinos and the government do not like that. The casino has no chance to win its small percentage advantage, and the government doesn't get any taxes from it. But it appears that it
45 often does take place, maybe not 10 times, maybe five or six times. So a \$5000 bet is actually a \$25,000 bet.

MS SHARP: Can you tell me this, Professor Rose: does the fact that a junket or a gaming promoter has a licence to operate in Macau, should that give me much comfort about the probity of that operator?

5 PROF ROSE: I would – I think some – yes, some of them are legitimate. I mean
there was one that was – is traded on the Stock Exchange. But because there is no
real transparency, that’s a problem. And the problem with the connection with the
10 triads is where it really gets scary. Macau Polytechnic did a study a few years ago
and they looked at every newspaper they could find on mainland China that had any
indication of what they called an extrajudicial death by somebody who had a money
problem with a casino. And what they found was they found 99 people who had died
extrajudicially, meaning it was suicides or murdered or – you know, and
15 investigators have told me, yes, there’s kind of standard operating procedures for
organised crime to make sure that a loser pays what was lent them when the loser has
run out of money.

MS SHARP: Can I move now to a different topic, and when asking these questions,
I would like you to draw upon your experience in advising gaming regulators and
casino regulators and also the many decades you have spent as an industry observer.
20 Now, in the course of preparing to give evidence today, you have been provided with
a report authored by The Agenda Group called the Casino Modernisation Report; is
that right?

PROF ROSE: Yes.
25

MS SHARP: Could I bring up the cover of that document. It’s INQ.080.050.3299.
Commissioner, that’s exhibit A74.

COMMISSIONER: Thank you very much.
30

MS SHARP: This is – you would agree this is the document that you’ve previously
reviewed, Professor Rose?

PROF ROSE: Yes.
35

MS SHARP: And I would just like to ask you some questions about this. It’s dated
February 2016 but, in fact, it was publicly released by the New South Wales
government in August 2017. By way of background, Professor Rose, Mr Cohen, the
principal of the Agenda Group was retained by the Office of Liquor and Gaming in
40 New South Wales to review casino legislation. And this review was something that,
in part, was caused by an agreement that the New South Wales government entered
into with Crown Resorts Limited which allowed for the grant of a restricted gaming
licence in New South Wales.

45 Can I take you, firstly, to page 7 of that report, which is pinpoint 3305. Can I just
direct your attention, please, Professor Rose, to the summary at the last full
paragraph there, if we can blow that up. You will see it says that:

...once implemented, the recommendations should take New South Wales from its current position where it substantially still operates a 1990s model of casino regulation to one which would see New South Wales be a world leader in casino regulation.

5

And I just wanted to ask you some questions about this. Firstly - - -

PROF ROSE: Sure.

10 MS SHARP: - - - can I take you to page 12, which is pinpoint 3310. Can I direct your attention to the four dot points at the bottom, if we can have that last paragraph blown up. You will see that it's stated that "The pieces of the puzzle" that are required to look at are, firstly:

15 *Is strict regulation or light touch regulation appropriate?*

The second dot point:

20 *Are the expected operators capable and willing to comply with the regulatory scheme –*

and so on. Let me ask you this: what is your view about the validity of asking these questions when looking at the optimal way of regulating a casino?

25 PROF ROSE: I think the biggest problem with this report is it's treating the casino industry as if it were any other industry, and that the goal of the legislation and regulation is to make the casinos profitable. As we discussed earlier, there's nothing in the objects of the statute that says our goal is to make a world class or profitable casino. It's all controls. It's all keep out crime, make the games honest, protect the
30 public. And so this is pretty much treating the industry as if it were any other industry, and casinos are - - -

COMMISSIONER: Can I – sorry to interrupt you, Professor, but just on your point about the Act not saying anything about profitability of casinos.

35

PROF ROSE: As a main object.

COMMISSIONER: As a main object. But you do accept that the Act does deal with, indeed, imposes on the regulator, an obligation - - -

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PROF ROSE: Yes.

COMMISSIONER: - - - to work out whether an applicant for a licence will have the capacity to make profits, in other words, have a viable casino. You understand that.

45

PROF ROSE: Right. Of course, Commissioner. In fact, it's standard that one of the issues that the regulators look at is: is this person financially sound and is their

plan financially sound, because at least, historically, the worry has been when a casino was on the verge of bankruptcy maybe organised crime will come in and try to bail them out.

5 COMMISSIONER: Of course.

PROF ROSE: Yes, and I do have to say - - -

10 COMMISSIONER: You have the corollary - - -

PROF ROSE: - - - there is - - -

15 COMMISSIONER: You have the corollary, I think you would accept, that the Act does require the regulator to assess that the applicant for a casino licence, at least in this State, and it happens in other states of Australia, will have the capacity to be profitable. You accept that?

20 PROF ROSE: I think it's a necessity that they have the capacity to be profitable. Otherwise - - -

COMMISSIONER: So in terms of looking at the report that you're looking at now with senior counsel assisting, you've said that it treats it like any other industry or business.

25 PROF ROSE: Right.

30 COMMISSIONER: It is an incredibly regulated business on one view of it, but on the other hand you would accept, would you, that in New South Wales at least there is a need for it to be profitable to ensure that the regulator gets it right so that if it is not profitable, it is vulnerable or even more vulnerable to organised crime coming in?

35 PROF ROSE: I think that's absolutely right. And I have to say, I've worked with casinos. I am not an anti-gambling person.

COMMISSIONER: No.

40 PROF ROSE: What I - I don't want to give the impression that - you know, there are people who are just opposed to gambling or casinos.

COMMISSIONER: Yes.

PROF ROSE: What I am opposed to people thinking it's just an adult Disneyland.

45 COMMISSIONER: Yes. No, I don't think that's - that's within the evidence. Yes, Ms Sharp.

MS SHARP: Can I just take you, please, Professor Rose, to page 13, which is pinpoint 3311. You will see there's a pyramid depicted on that page.

PROF ROSE: Yes.

5

MS SHARP: Now, this is – and, of course, you're aware this is a pyramid known as Braithwaite's pyramid - - -

PROF ROSE: Right.

10

MS SHARP: - - - which talks about the different models of regulation with the most prescriptive model at the top of the pyramid, and self-regulation at the bottom of that pyramid. Now - - -

15 PROF ROSE: Right.

MS SHARP: - - - I was just wondering if you think that analysing casino regulation by looking at this pyramid is something that is apposite to the regulation of casinos?

20 PROF ROSE: Yes. If you – the Braithwaite pyramid depends on other factors, like that there be shaming as an issue. And a pyramid like this works well with – in a society where shaming is very important. It's a real factor. And where the dangers are not great. A tea house in Japan could be self-regulating. I don't think this works for what I call a morally suspect industry, an industry that in fact was illegal, that
25 used to be considered a victimless crime but now we're legalising it. And from what I have seen through all my studies is self-regulation does not work for the casino industry. It's so – it's just – there's too much cash, and there's too much opportunity for things to go wrong.

30 Now, I do have to say the – we don't want crazy regulation like when New Jersey required that if a casino moved a stove they had to submit 17 copies of the plans, and when somebody actually asked, "What do you do with the 17 copies?" and the regulator said "Well, we throw away 14 of them." You know, I mean that's crazy, and they required that all the felt on all the tables had to be the same colour. But that
35 was because the technology at the time, they wanted to make sure the cameras could read the felt. Modern technology says we don't need to have the felt all the same colour. But self-regulation – well, they use – he uses as an example in this report keeping minors out.

40 And I was involved in a case – it was the only case I ever took to the US Supreme Court – of a 19 year old who had won more than a million dollars at a large Nevada casino. And we did formal discovery and discovered, first of all, Nevada had basically let the casinos decide for themselves what they wanted to do with minors and up until that time, no casino had ever been fined a penny for allowing children to
45 gamble. So it would be crazy not to exploit children. And this casino, through formal discovery, we found that they had filed – in two years there had been less than two dozen complaints about minors on the floor of the casino.

The same two years in New Jersey there were 400,000 complaints because New Jersey had a really tough regulatory system to keep minors out. So I don't – and this is a well-regarded licensed casino at the time, and I just don't think self-regulation works.

5

COMMISSIONER: Is the majority in the United States of all states 21?

PROF ROSE: Are there casinos in 21 states?

10 COMMISSIONER: No, I'm sorry.

PROF ROSE: I'm sorry.

15 COMMISSIONER: In New South Wales it's a little different but I think you're a minor until you are 21; is that right?

PROF ROSE: In the United States it's universal that you are a minor until you are 18.

20 COMMISSIONER: 18, I see.

PROF ROSE: 18. But what happened was all of the drinking ages of every state was raised to 21, and there were big fights that you're not allowing adults and you're prohibiting adults from doing activities that are legal. And basically the Mothers Against Drunk Driving and the other groups won. So the drinking age is 21, and the gambling age for casinos is almost always linked to the drinking age.

25

COMMISSIONER: I see.

30 PROF ROSE: So the age – legal age to gamble in Nevada is 21 - - -

COMMISSIONER: Thank you.

35 PROF ROSE: - - - even if you can buy a drink – I mean even if you can vote at 18.

COMMISSIONER: Yes, thank you for that clarification. Yes, Ms Sharp.

40 MS SHARP: Returning to this report, Professor Rose, one of the things that it does is distinguish between a highly prescriptive approach to casino regulation and what's described as a risk-based approach. And the report proffers Singapore as an example of a highly prescriptive approach, and Victoria as a risk-based approach. And the report proposes that New South Wales adopt a risk-based approach to casino regulation. Can you tell us what a risk-based approach is?

45 PROF ROSE: It's kind of the current fad for regulators to say they're a risk-based regulator. I believe it started with areas where there was actual danger to life and limb. But now most regulation is called risk-based. And the good news is that it

does require analysing the – what the regulation will do in terms of its potential to eliminate risk, whatever risks are out there; usually risk to the public. There’s a nice article from July 8th, 2019, from the Regulatory Review which is entitled What Does Risk-based Regulation Mean and basically it doesn’t mean much of anything. It
5 means you must – regulators must really analyse what the regulation is supposed to do.

But it doesn’t help you make policy decisions that – and the author says even with perfect knowledge of what the risks are and what the costs are, it’s still up to the
10 regulator and the legislature to decide, okay, of the various alternatives which do we want to do. You know, do we want to spend endless amounts of money to prevent a small risk or, well, if the small risk is – there’s a small chance of an atomic bomb going off in the city, you probably want to spend the money. So the risk-based regulation is kind of a nice way of saying analyse it, try to figure out what the odds
15 are of the risk occurring, what the damage will be, what it will cost, and then that will help you make a decision based on policy. Do we want to actively promote casinos, for example.

MS SHARP: Professor Rose, this may sound rather obvious, but does the success of
20 a risk-based approach to regulation depend upon correctly identifying and measuring risk in the first place?

PROF ROSE: I think that’s essential. I mean, one of the problems I have with this report is they looked at some pretty strict regulations that were in place and said,
25 “Well, there haven’t been any problems, therefore we don’t need the regulation.” But it may be there weren’t problems because the regulation worked. So you have to know – it’s very hard to know what the probabilities are of something bad happening. But you do try to take that into account and you need to – and you have to take into account changing society. Nobody really knew that Steve Wynn was
30 going to have this problem with the allegations of sexual harassment and much worse.

In fact, it wasn’t viewed – the exploitation of women in the workplace wasn’t viewed as a major problem as recently as, you know, 10 years ago. So times change,
35 technology changes. And it really should be the regulators who take care of regulating. I do not like having the legislature try to regulate because legislature can’t act fast enough and they – they – the standards they put in are going to be outdated too quickly.

40 MS SHARP: Can I take you to a statement in this report at page 17 which is pinpoint reference 3315.

COMMISSIONER: Just before you leave the case in relation to Mr Wynn. That was the Massachusetts Gaming Commission that looked at that, was it not?
45

PROF ROSE: Yes, and I was telling people at the time - - -

COMMISSIONER: Just before you go on - - -

PROF ROSE: Yes.

5 COMMISSIONER: - - - isn't it the case that the Massachusetts Gaming Commission had to review the licence application for the new casino integrated resort that opened last year at the same time as looking and reviewing the questions of the board's conduct in relation to the allegations.

10 PROF ROSE: Exactly.

COMMISSIONER: Is that right?

PROF ROSE: That's exactly right, and they had already approved it.

15

COMMISSIONER: Yes.

PROF ROSE: And now they had to look at it again.

20 COMMISSIONER: And isn't it the case that concurrently, consistently with the rules of the Massachusetts Gaming Commission they were able to reach a conclusion in respect of that aspect of the matter, that is, the misconduct allegations, but also deal with the licensing arrangements for the Encore Casino.

25 PROF ROSE: Yes. And it is – it's always tougher to change your mind if – if a company has been approved, it's more difficult for the regulator to then say "We made a mistake" than if it's the initial. I am not involved in that. So it appears that the board did not have an active role. There are times, by the way, when boards' members do get into big trouble and often the company can simply get rid of them and get in – and put in its own internal controls, get in anyone who is involved in a scandal and get their licence and continue to operate.

30

COMMISSIONER: And so - - -

35 PROF ROSE: And they in fact - - -

COMMISSIONER: The Massachusetts Gaming Commission also has the clear and cogent evidence question and onus and standard of proof, does it not?

40 PROF ROSE: Yes, clear and convincing standard.

COMMISSIONER: Yes, I'm sorry to deflect us. Yes, Ms Sharp.

45 MS SHARP: Thank you. Professor Rose, could I take you to pinpoint 3315 in this Casino Modernisation Report. You will see under the heading In Summary, it is stated that:

5 *A risk-based co-regulatory model provisions for the best outcome for regulation of the major forms of casino gambling in sophisticated markets whereas the prescriptive, top-of-the-pyramid approach will lead to unnecessary regulatory interference which constrains innovation and competition (for international and interstate players) while costing the state more to regulate than is necessary.*

10 Now, this summary does identify an important objective which is to foster innovation and ensure that competition is not unnecessarily hampered. However, you have indicated that you have concerns about applying risk-based regulation to casinos. Where – and I would ask you to draw upon your long experience in advising regulators – where do you draw the appropriate line?

15 PROF ROSE: Well, if you look at the history of casino gambling around the world, it was – almost always limited to areas away from the main population to resorts and then it was legalised in countries like Australia that said one per state. Competition is not necessarily one of the goals of regulating casinos. The idea is the legislature and the people decide we want it. But maybe we don't want it to be real big. Maybe we want to make sure it is profitable but also controlled. A couple of things happen.
20 First, yes, the regulators start out very strict and interfere with business decisions, and often do really go overboard. But after a few years or more of only talking to the casinos, the casino executives – they never talk to patrons. They almost never talk to employees, unless there are unions. So – and they're always asked to change the regulation and make it easier for the casino to make money, you know, like the
25 casino wants fewer people doing – giving change, we used to call them change boys and girls on the slot machines and the regulator will say no, nine times out of 10.

30 From the casino points of view, the regulators are still tough, but there was one study done in New Jersey that showed over a multi-year period every single change in the regulations was favourable or neutral to the casinos and not necessarily favourable to patrons. So I think it is very tough and I don't know any way to prevent that softening of the relationship where a regulator of any regulated industry can become captured.

35 Maybe the regulators who are looking at airplane safety right now are not tough enough. So it's very tough. I think there's nothing wrong with risk-based analysis. I mean, I think that's fine. But I think this gives the impression that risk-based analysis, the risk should be one of the risks is, for example, is it going to cost the state too much to regulate? Well, the states shouldn't be paying anything to regulate.
40 All the regulations should be paid for by the casinos. So that really is not a major problem but, yes, the regulator getting involved in run-of-the-mill business decisions, that's a problem. This – again, this report seems to say let's just treat it like any other industry.

45 MS SHARP: Again, does it come down to successfully identifying what the risks are in determining what needs to be regulated in a more interventionist way?

PROF ROSE: Yes, and I think the – your statute tells you what the three main risks are. Any other risk is secondary. This is looking at the risk as being oh, dear, too much regulation. And I don't see that as being a major worry for casino regulation.

5 MS SHARP: And, again, just to be clear, when you talk about our statute, that is the Casino Control Act of 1992 in New South Wales, telling us what our main risks are, you are referring to section 4A and the primary objects of the Act which are, first, ensuring that the management and operation of the casino remain free from criminal
10 influence or exploitation. Second, ensuring that gaming at a casino is conducted honestly and thirdly containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.

PROF ROSE: Yes. I'm a professor of law so the first thing I'm going to go to is the enabling statute, the Act. Those are your three main objectives. Those are what the
15 regulations should be trying to do. I'm not even sure it's legal for a regulator to say, "We're coming up with another object that is more important."

MS SHARP: Just while I'm taking an excursion through the terms of the legislation, I might draw your attention to section 31 of the Casino Control Act. It
20 provides that the authority, which is the independent and Liquor and Gaming Authority must, at intervals not exceeding five years, review a casino licence by investigating and forming an opinion as to the, essentially, the suitability of the casino operator.

25 PROF ROSE: Yes.

MS SHARP: In other words it provides for a periodic review. Now, if I can - - -

30 PROF ROSE: Yes.

MS SHARP: - - - take you to page 38 of this report, which is pinpoint 3336, if I can bring it up and if you go – perhaps what I can have highlighted for you, a little bit over midway down the page, there's a paragraph beginning "Should the obligation". If we could highlight that half of the page. Now, the proposition, you will see, is put
35 here that the obligation to conduct mandatory reviews under section 31 would be a highly inefficient use of its limited resources. And then even if the operators pay for the cost of these reviews, the time of the regulator will be distracted. And then a little further down, the review is strongly of the view that section 31 of the Act should be repealed. What's your view on that?

40 PROF ROSE: I certainly think that would be a major step away from the regulation of casinos around the world. New Jersey started when they gave the licences the casinos had to apply for a renewal of their licence every year. And it was treated as if they were applying for a licence. It was so burdensome and it didn't make sense.
45 So then they went to okay, every two years. Having a review every three years, you know, you're dealing with big legitimate companies here, and a pretty sophisticated

regulatory system. So maybe even every three years is too soon. Maybe it should be like every five years.

5 But I would expand it to say you really should look at everything. You should be
looking at things like the granting of credit. I mean, I have real problems with the
fact that you're treating these two casinos differently. I would not treat them
differently, except for the parts that have to be treated differently, like, you know, the
way the games are placed on the floor. But I would certainly think that both of the
casinos should be allowed to issue credit themselves to anybody outside of Australia.
10 I don't understand why one is going to be treated differently than the other.

COMMISSIONER: I don't think they are. I think there's an amendment - - -

15 PROF ROSE: Really?

COMMISSIONER: Yes, there's an amendment - - -

PROF ROSE: Thank you.

20 COMMISSIONER: There's an amendment that, if I can use the vernacular,
equalises the situation to a level playing field between the new casino at Barangaroo
and the Star Casino so that each will be able to do what is in section 74, I think it is.

25 PROF ROSE: Yes, I was – Commissioner, I was reviewing – using the report, and
in the report they do go through and I disagree with the report where they said there
still should be other differences. I think it should be a level playing field in just – in
every regard.

30 COMMISSIONER: Yes, I understand.

PROF ROSE: It looks like to me. But this mandatory review should – and what is
the limit right now in granting credit? Do the people, the players have to be outside
of Australia?

35 COMMISSIONER: Yes.

40 PROF ROSE: Because then there's the question well maybe they should only be
outside of New South Wales. Or maybe we should allow credit to people in New
South Wales and I think that should be done with a major study like what you're
doing now and doing it five years or three years from now, I think would be a good
idea rather than getting yourself locked into say a law about the issuing of credit
which is no longer applicable or just outdated.

45 COMMISSIONER: Thank you for that comment in relation to the review. You will
have noticed that there is, in our statute, as I apprehend it, not the same requirement
on either the licensee or an applicant to produce - - -

PROF ROSE: Yes - - -

COMMISSIONER: The same type of evidence as we've seen in Nevada and various other places. Do you have any comment to make on that?

5

PROF ROSE: Yes. I know your statute was based on New Jersey's - - -

COMMISSIONER: Yes.

10 PROF ROSE: And in 1995, New Jersey eliminated investigative hearings on
"Development and wellbeing of the casino industry." I think that's exactly what you
need, is investigative hearings on development and wellbeing of the industry like
should we allow other forms of gambling or should we restrict the – put extra
restrictions on the VIPs? I mean, there are, you know, major – there's major changes
15 happening. Nevada – I mean New Jersey also eliminated pre-approval of internal
controls, and I think, you know, personally I think that internal controls should go
first to the regulator rather than find out that they made a mistake that either violates
the law or it simply isn't a good control.

20 COMMISSIONER: Thank you. Yes, Ms Sharp.

MS SHARP: And I should indicate if it assists, Commissioner, that under section
124 of the Casino Control Act there is provision made for the internal controls of the
casinos in New South Wales, if I can put it that way, to be approved by the regulator.

25

COMMISSIONER: Yes. I think they have some problems.

MS SHARP: I'm conscious of the time. It's coming up to 4 o'clock in the
afternoon at our time and I'm sorry to say for you 9 pm. So I will just ask about two
30 further matters and then I will leave it there. First of all, I wanted to ask you a
question about the regulation of junkets in Australia and.

PROF ROSE: Yes.

35 MS SHARP: Could you please assume for the purpose of answering these questions
that junkets in Australia do provide credit to junket members or players, and they are
responsible for enforcing any debts to which that credit gives rise. Now, Victoria
and New South Wales, in Australia, have a system where the regulator does not
licence the junkets. Rather, the casinos have internal controls which make some
40 provision for how junkets are to be dealt with. What do you recommend is the
appropriate way to regulate junket operators? Is it through licensing by the regulator
or by internal controls, developed by the casino operator and approved by the
regulator?

45 PROF ROSE: I think you can see the difference between Macau and Singapore.
The two casinos in Singapore, one of which doesn't even have junkets, are the most
profitable casinos in the world. You don't really need junkets depending on, of

course, we know who the customers are going to be, but again we're talking about gaming promoters who lend money. That is probably the most common way money is laundered through a casino, is through junkets. I absolutely think they should be licensed. I think they should be continuously reviewed, and the casino, of course,
5 has to have its – its internal controls. And there have been – there have been accusations in Macau of casinos openly colluding with junket operators who have ties with organised crime. So I think those are – they're very dangerous and I think the casino doesn't really have the capacity or perhaps the desire to regulate in the way the government would.

10

MS SHARP: What do you say to the proposition that casino operators are better placed to assess the risks of particular junkets and their probity as compared with the regulator?

15

PROF ROSE: I think the study by Macau Polytechnic where they found 99 people had extrajudicial deaths due to owing money to casino junkets, and if you look at who those 99 people were, some of them were government officials who probably were embezzling, some of whom were big manufacturers who had the money but some of them were accountants and book keepers who were clearly embezzling and
20 clearly should not be gambling hundreds of thousands of dollars. And yet the junket operators knew they could get the money because they could embezzle it. I don't buy that at all. I don't think that the junket operators have any incentive to make sure that they're getting legal money and I don't see how the casino is going to know what the junket operator is doing, as long as they're bringing in people who have the
25 money from the junket – from the casino's point of view, it looks like everything is okay.

25

MS SHARP: Could I just show you, if I can bring up document number INQ.130.001.2578. Commissioner, this is exhibit C5.

30

COMMISSIONER: Thank you.

MS SHARP: You will see I've placed before you, Professor Rose.

35

PROF ROSE: That's it.

MS SHARP: That's the one?

PROF ROSE: I think that's it, yes.

40

MS SHARP: That article.

PROF ROSE: Yes.

45

MS SHARP: A final topic, Professor Rose. I won't take you to it in view of the time, but for the transcript, I will indicate that you recently made a presentation in Japan about casino regulation.

PROF ROSE: Yes.

MS SHARP: And it is in evidence at exhibit A33, with document reference
5 INQ.130.003.0034. One thing you say there, and it's at page 4, which is pinpoint
reference 0036, is that regulators need to have the same police powers as – I
withdraw that and put it again. Casino regulators need to have the same police
powers as your top police officials.

PROF ROSE: Yes.

10

MS SHARP: Now, why do you say that?

PROF ROSE: The best example is Pennsylvania where the regulators did not have
15 the police powers so they could not get confidential information from police around
the world, from law enforcement authorities, and they accidentally gave a licence to
somebody who should not have been licensed and it became a great scandal. You
need to be able, as a regulator, to get the most confidential information on people,
meaning you have to get – be able to talk to other – you have to be able to talk to law
20 enforcement, I would say other law enforcement because the regulator does act, the
casino regulator does act as a law enforcement agency but you need to have that
written into your law so that law enforcement around the world will be willing to talk
to you. Of course, you also have to have written in your law that anything and
everything that is revealed to you is always going to be confidential, and cannot be
revealed to anybody else.

25

MS SHARP: Commissioner, those are my questions.

COMMISSIONER: So that situation that you've just described about
30 confidentiality - - -

30

PROF ROSE: Yes.

COMMISSIONER: - - - creates difficulties for information sharing across agencies,
35 obviously.

35

PROF ROSE: Yes.

COMMISSIONER: You said a little while ago that casino doesn't have the capacity
40 to know the source of the funds that the players will be using.

40

PROF ROSE: Yes.

COMMISSIONER: I suppose the only answer or one of the answers may be to
45 require players to disclose to whoever it is that you decide is the most appropriate
person to disclose it to, the source of their funds that they're bringing into the
country. Do you agree with that?

PROF ROSE: Yes. I mean, the problem that's happening around the world now is there are very sophisticated money laundering operations going on with why you're transfers, including to casinos in Nevada, and I would think – I would say the – you could – you make exceptions for your anti money laundering officials in the country
5 but I, for the most part they really are confidential. I mean, I remember talking to a lawyer who said he had to reveal that his client, a principal in a casino, was having an affair. And there were some checks out there. And they said "Okay, we understand" and they decided, they gave him the licence anyway. But you can imagine that was a tough thing for the applicant to want to reveal. But it was also
10 nobody else's business apparently, once they decided that it didn't affect anything else of his business. I think it's fairly universal that the casino – information that the casinos gather – they really are very top level confidential, because they need to know everything.

15 COMMISSIONER: And so the question was whether you had a comment to make upon a proposal that the players within the junket, or whatever you like to call it, have to disclose the source of funds.

PROF ROSE: I personally think that that is – I like that idea. The largest
20 embezzlement in Canadian history was a loan officer who was embezzling money and gambling it away with a casino in New Jersey. And the casino in New Jersey certainly should have known that this person was only a loan officer in a bank. He couldn't lose \$12 million. And he said, well, his parents had left him a big ranch or well that's easy enough to check. So there is the Know Your Customer, which is a
25 rule which is spreading across certainly banks and other parts, and yes, I think it would be very interesting. I bet if you required junket operators to discover and prove the source of the funds from the person from mainland China, you would have a lot less patrons from mainland China.

30 COMMISSIONER: Yes.

PROF ROSE: Because their funds were not obtained legally.

35 COMMISSIONER: Yes. So the balance is, I suppose, the commercial imperatives versus the regulatory need.

PROF ROSE: I find – I think the commercial imperative should always be
secondary. What you're going to be faced with, and this is inevitable, it happens
everywhere, is competition from other casinos who want those high rollers. And so
40 there's going to be tremendous pressure on the regulators to loosen the regulations, because it really is competition and those players, their theoretical win is, you know, collectively, in the hundreds of millions of dollars.

45 COMMISSIONER: Yes.

PROF ROSE: So that's why – I mean, I guess with that pyramid, I would tend to think for casino gambling, it pretty much should be prescriptive. It should be this is

the law. This is the regulation and no we're not going to loosen it just because you would make more money. Assuming you're making enough to stay viable.

5 COMMISSIONER: Yes. Professor, I'm most grateful. I will just see if there are any questions arising from your evidence. Mr Young.

MR YOUNG: No, Commissioner, not today.

10 COMMISSIONER: Thank you.

MR O'BRIEN: No, Commissioner.

MR STOLJAR: No, Commissioner.

15 COMMISSIONER: Professor, that brings us to the end of your evidence and I'm grateful for you sitting so late in America. Thank you very much. We will now terminate - - -

20 PROF ROSE: You are welcome. Thank you. I did get into studying gambling so I could sleep late. So nights are fine.

COMMISSIONER: Thank you very much, Professor. We can terminate the video linkage now to California. Thank you.

25 PROF ROSE: Thank you.

<THE WITNESS WITHDREW

[4.05 pm]

30 COMMISSIONER: Ms Sharp.

35 MS SHARP: Could I just indicate that tomorrow I propose to call Ms Jessica Lin first of all. She will be by way of video link.

COMMISSIONER: I see. From where?

40 MS SHARP: And she will be from Las Vegas. And then I shall call Dr John Langdale and he will be here in person.

COMMISSIONER: Yes, thank you. Anything further before I adjourn until 10 am tomorrow?

45 MS SHARP: No, thank you.

**MATTER ADJOURNED at 4.06 pm UNTIL
WEDNESDAY, 26 FEBRUARY 2020**

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