



**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**

**MONDAY, 9 NOVEMBER 2020  
AT 9.58 AM**

**Continued from 6.11.20**

**DAY 52**

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)*

**MR A. BELL SC, MS N. SHARP SC, MR S. ASPINALL and MR N. CONDYLLIS appear as counsel assisting the Inquiry**  
**MR N. YOUNG QC appears for Crown Resorts Limited & Crown Sydney Gaming Proprietary Limited**

5 **MR T. O'BRIEN appears for CPH Crown Holdings Pty Ltd**  
**MR J. STOLJAR SC appears with MS Z. HILLMAN for Melco Resorts & Entertainment Limited**

10 COMMISSIONER: Thank you. Yes. Yes, Mr Aspinall.

MR ASPINALL: Thank you, Commissioner. Before I move to Southbank and Riverbank, I propose further tenders which are proposed exhibit AO72 to AO83 which are in a list which should be before you.

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COMMISSIONER: And the position is reserved in respect of all of them or - - -

MR ASPINALL: Correct.

20 COMMISSIONER: Yes, all right then. Those documents will be marked exhibit AO72 to exhibit AO83 as marked. Thank you, Mr Aspinall.

**EXHIBIT #AO72 TO AO83 DOCUMENTS IN LIST**

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COMMISSIONER: Mr Young. Thank you. Yes.

30 MR YOUNG: Commissioner, there are two matters I would like to raise, if it's convenient.

COMMISSIONER: Yes, please.

35 MR YOUNG: The first is the request you made of Ms Catherine Hamilton-Jewell on Friday.

COMMISSIONER: Yes, thank you. Yes.

40 MR YOUNG: We have considered that.

COMMISSIONER: Thank you.

45 MR YOUNG: Mr Aspinall's submission was that it was open to find that more probably than not the videos of the Suncity Room depicted money laundering activities.

COMMISSIONER: Yes.

MR YOUNG: That matter is in issue when the finding is framed in that way.

5 COMMISSIONER: Yes.

MR YOUNG: Our position is that such a finding is not supported by the evidence. It's not supported by the relevant legislative framework, and it would be inconsistent with applicable legal principles to make that finding.

10 COMMISSIONER: Yes.

MR YOUNG: We do accept, as our witnesses and, in fact, every witness has said, that the events depicted amount to a suspicious matter within the meaning of section 41 of the AML Act. We will address those matters in our submissions, and we will also explain in our submissions that Crown has taken steps to prevent such events ever recurring. That was the first matter, Commissioner, responding to your request.

20 COMMISSIONER: Yes.

MR YOUNG: The second matter is this, if I may go on to it.

COMMISSIONER: Yes.

25 MR YOUNG: We have been considering very carefully the timing of our final submissions. We received detailed written submissions from counsel assisting on Friday night, in the case of Mr Bell, last night in the case of the submissions so far made by Ms Sharp. And we don't know about this, but I expect we may receive yet further written submissions dealing with the balance of the addresses by counsel  
30 assisting. Now, doing everything we can, we are not able to be in a position to commence our submissions on Monday the 16<sup>th</sup>. We would seek an indulgence to commence our submissions the following day, on Tuesday, the 17<sup>th</sup> of November. We will need the weekend and that Monday to put ourselves in a position to commence, Commissioner.

35 COMMISSIONER: I see, Mr Young. Thank you for that. Anything further?

MR YOUNG: No. No, thank you.

40 COMMISSIONER: Yes. The first matter that you raise, I understand your point in respect of the legislative structure, but so far as that large amount of money in the cooler bags and in the shopping bags are concerned, putting aside the legislative structure for the moment, what other conclusion could I reach than those people were in fact bringing money into the casino in the way that Mr Aspinall has described?

45 MR YOUNG: Commissioner - - -

COMMISSIONER: I mean, really.

MR YOUNG: I will answer your question. Those - - -

5 COMMISSIONER: I would be grateful.

MR YOUNG: - - - events by themselves do not provide anything other than an indication of money laundering. It does not allow a conclusion in terms of more probable than not. That was the evidence given by every witness, including Mr  
10 Cohen, the witness from the Star, the Star compliance officer, Ms Arnott, Mr Preston  
- - -

COMMISSIONER: Just before you go into detail, when you say it provides an indication of money laundering, perhaps we're at odds, Mr Young. You see, what  
15 you've said to me is that an indication of money laundering, and I just want to understand what you mean by that.

MR YOUNG: Well, what I mean is within the language of section 41, those events as depicted provide a basis for suspecting on reasonable grounds that there is  
20 information relating to or relevant to a potential investigation or prosecution for an offence defined as money laundering in the relevant Commonwealth legislation. That's what I mean.

COMMISSIONER: And assuming that we put the Commonwealth legislation aside  
25 and deal with state legislation, you say that the indication of money laundering is that it would give rise to a suspicion that should be certainly investigated by the authorities, I think. Is that what you're putting to me?

MR YOUNG: Yes. It's a suspicion on reasonable grounds that the information  
30 depicted is relevant to a potential investigation or prosecution.

COMMISSIONER: Yes. And so - - -

MR YOUNG: It doesn't rely – yes, I'm sorry. You go on, please.  
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COMMISSIONER: And so what you have is the legislative structure, but so far as the casino operator is concerned, or a reasonable bystander looking at what's happening in that room – I mean we've seen it a lot of times, Mr Young, but to see that depiction of a very large amount of cash just in wads the way it comes in, surely  
40 it would have to be that anyone looking at that would have the relevant suspicion that you've identified. You would agree with that?

MR YOUNG: That's the effect of all of the evidence that's been given.

45 COMMISSIONER: You mean all of the evidence in relation to the bags?

MR YOUNG: Yes.

COMMISSIONER: Yes. All right. I understand your submission and I'm sure you will develop that in your detailed submissions.

5 MR YOUNG: Yes, we will. We would also note what Mr Aspinall said at the page 5075 to 5076, that in respect of large amounts of cash there may be a legitimate reason for bringing it in.

COMMISSIONER: Yes.

10 MR YOUNG: And as well his observation that ultimately it makes no difference whether it was the proceeds of crime, what was important was that it was suspicious. That's at 5077 to 5078.

COMMISSIONER: Yes.

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MR YOUNG: We note that way in which it's been put, and we will address all of these matters in our submissions.

20 COMMISSIONER: Yes. So I accept that this is the position, is this right, that you take issue with what Mr Aspinall said in respect of more probably than not money laundering, that there is an issue that you will detail in your submissions that accepts that it was material that would be a trigger for a suspicious matter, and that in those circumstances the casino operator would have those concerns, and I think that's it, isn't it?

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MR YOUNG: No. As I said earlier, we will detail in our submissions all the steps that have already been taken to prevent such events occurring.

30 COMMISSIONER: Yes. I'm sorry. I was only dealing with your answer to the question I had raised with Ms Hamilton-Jewell, and that was what was Crown's position in respect of the pictures of the money being handed over.

35 MR YOUNG: Yes. I understand, Commissioner. May I say that we understand from Mr Aspinall's submissions that he will use the same formulation, more probable than not, in relation to the entries in the Riverbank and Southbank bank statements.

COMMISSIONER: Yes.

40 MR YOUNG: Our position is to the same effect as I've just articulated in respect of the Suncity cash transactions. That is, that formulation is not supported by the evidence, by the legislative framework or by the applicable legal standards.

45 COMMISSIONER: Yes, of course, I will hear your submissions and listen very carefully, but so far as – I'm not sure what Mr Aspinall is going to put in respect of each of the many transactions in the bank accounts, but it's a slightly different position, but we will hear from you - - -

MR YOUNG: Yes. I only offer that – I'm sorry. I offered that, Commissioner, to avoid the need to have another similar exchange about those matters, just for the sake of saving time.

5 COMMISSIONER: Yes. Well, I would be grateful for that. Anything further, Mr Young?

MR YOUNG: Only that we would ask if you could, Madam Commissioner, give us an indication that we can commence on the 17<sup>th</sup>, the Tuesday.

10 COMMISSIONER: Can you give me an indication of how long you will be, Mr Young?

MR YOUNG: If we commence on the 17<sup>th</sup> I expect we will take the balance of the week.

COMMISSIONER: I see. And so I can be satisfied that anything that my counsel assisting may wish to address me on as in reply or to just clarify any matters that you or Mr Hutley have raised will not be able to be dealt with next week? That's my concern. You see, what I'm trying to do is to finish these public hearings. The written submissions, as I apprehend them, do not contain anything further than what is in the oral submissions other than perhaps detail, and so – and I would be greatly assisted to try and make sure that the public hearings are completed by next week, and it may be that if you've indicated that you expect that it will take the balance of the week, I'm hoping that you are telling me you expect that it might take less than the balance of the week. Is that possible?

MR YOUNG: Well, I doubt it, Commissioner, but you would understand that our submissions are still a work in progress.

30 COMMISSIONER: Yes. Yes. Mr Young, as you know, I've tried to accommodate everything that you've asked and if, on what I've said, that the written submissions as you find them at the end of today or whenever Mr Aspinall's written submissions are produced for you, if you find that you're still in a position not to be able to commence at all next Monday, if your solicitors could communicate with the solicitors for the Inquiry, I will then indicate during the course of the balance of this week what the position is so that it's clear when you commence. I would be most grateful if we could make sure that we finish next week, and so if you can't start on Monday and it's an impossibility, of course, I will accept from you that that is the case, but once you receive Mr Aspinall's submissions, and if you make a judgment that there's nothing additional that's in those than what was in the oral submissions and you may be able to start I would be grateful, otherwise I will hear in due course and then I will indicate if it's not possible, then the Tuesday it will have to be.

45 MR YOUNG: Thank you, Commissioner.

COMMISSIONER: Yes, all right then, Mr Young. Yes, Mr – and thank you very much, Mr Young, for your presence this morning and indicating what Crown's position is in relation to the alleged money laundering position of the large amounts of cash in the cooler bags, etcetera.

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MR YOUNG: Yes. Commissioner, could I just take this opportunity to ask about timing today.

COMMISSIONER: Yes.

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MR YOUNG: It's just I had to make special arrangements to appear this morning. Is it anticipated that the hearing will go beyond lunchtime?

COMMISSIONER: I do not know the answer to that, Mr Young. I will have to ask those assisting me.

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MR ASPINALL: I expect it would.

COMMISSIONER: Yes. That's the expectation, Mr Young.

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MR YOUNG: All right. Thank you.

COMMISSIONER: Mr Young, I appreciate your presence and those that are assisting you to be here. If it is not possible for you to remain, I will accept, of course, your absence and your courtesy. Thank you very much.

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MR YOUNG: Thank you, Commissioner, for that courtesy.

COMMISSIONER: Yes. Yes, Mr Aspinall.

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MR ASPINALL: Thank you, Commissioner. Just to address Mr Young's point, the concession as to the difference between suspicion and the probability of money laundering, that arises – the first question arises because of the Terms of Reference that we referred to on Friday; 15 refers to an allegation that Crown engaged in money laundering and so that question is one of the questions for the Inquiry - - -

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COMMISSIONER: Of course,

MR ASPINALL: - - - to ultimately answer.

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COMMISSIONER: Yes, indeed.

MR ASPINALL: But in terms of my submission, what matters in terms of the suitability of a casino licensee is, as I said on Friday, in our submission the ability to detect and react to suspicious transactions because, as I think I said on Friday, it's often not known with any certainty ever, or ability to trace back to the final criminal, whether or not a particular transaction is money laundering, but that means you don't

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know. So in circumstances where money laundering is a serious risk and a serious crime, as AUSTRAC have indicated in the document that I took you to, a suitable casino operator is vigilant and reacts to suspicions. So there is this two parts to the allegations and what the Inquiry has looked at.

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COMMISSIONER: So your submission in relation to the engaged in is one that you say I must grapple with and deal with in terms, and if I were to find, inconsistently with Mr Young's submission today and his obviously detailed submissions to come, that there was – I was satisfied that there was, on that balance, more probably than not money that was in fact laundered through that room, the Suncity Room, then what flows from that is, as I apprehend what you've said, is the ability and the consequences of stopping that happening within the casino and the obligation of a licensee to deal with that. Is that right?

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15 MR ASPINALL: Correct.

COMMISSIONER: Yes, thank you, Mr Aspinall.

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MR ASPINALL: As I foreshadowed on Friday the next part of the submissions goes to the allegation relating to Southbank and Riverbank, and the allegation there was that they were used to launder the proceeds of crime. So that again is a question aimed at the determination of whether, on the balance of probabilities, they were used for that purpose and so, again, I will have to address you on that issue.

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COMMISSIONER: Yes. I suppose you've identified the test as the balance of probabilities. In circumstances where the suitability of a licensee to be judged suitable or not suitable, as the first question is, it may be that that standard is akin to a Briginshaw standard.

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MR ASPINALL: Yes.

COMMISSIONER: But it may be a more serious circumstance to look at. Certainly, it's the more probable than not that you're putting to me.

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MR ASPINALL: Correct.

COMMISSIONER: Yes, all right then.

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MR ASPINALL: But informed by the Briginshaw standard, of course.

COMMISSIONER: Yes, thank you.

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MR ASPINALL: And just to make the distinction between allegation 4(a) and what I will address you on in respect of allegation 5, you will recall that allegation 4(a) related to an allegation that money had been laundered in Crown's Australian casinos, and so the way in which those assisting have interpreted that was that it happened within the confines of the casino complex.



COMMISSIONER: Yes.

MR ASPINALL: So that is why the example such as Veng Anh, the shopping bags were dealt with in terms of allegation 4(a).

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COMMISSIONER: Yes.

MR ASPINALL: Allegation 5 is different because it relates to alleged laundering through bank accounts of subsidiaries of the licensees, Southbank and Riverbank, and so we have dealt with that in a separate way under this allegation. So far as the allegation itself goes, in my submission, the ultimate finding is that it's open for you to find that money laundering did occur through those accounts, but because of the linkage between the way in which money which came into those accounts was ultimately swept into the accounts of the licensee, it would also be open to you to find, as a related matter under Terms of Reference 16(g), that the accounts of the casino licensees themselves, having received that money, had been part of the process of laundering.

Beyond that available finding, the more important question, in our submission, in terms of suitability is to examine how it came to be that these transactions occurred within the accounts of Southbank and Riverbank and perhaps more importantly how they persisted for years. These questions link back to allegation 4(a) in that they relate to questions of internal systems and controls within Crown, but also the culture within Crown which appears in respect of these accounts to have been either ignorant of the risk or apathetic to the risks and the need to react in respect of them.

The evidence before the Inquiry establishes, in our submission, almost conclusively that the bank accounts of Southbank and Riverbank were used for the purpose of money laundering. Within the accounts of those companies we identified four major categories of transactions which are either examples of money laundering or are transactions with a high probability of being so, in our submission. At this point it's worth noting that in media allegations regarding money laundering through the accounts in and following August 2019, very specific allegations were made in the media that law enforcement agencies such as the AFP and AUSTRAC had identified or passed to the journalists information that the accounts of Southbank and Riverbank had been used by criminals of a particular kind. These allegations are discussed in more detail below, however - - -

COMMISSIONER: Sorry?

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MR ASPINALL: Later in my submissions. But critically none of the media articles allege that Crown Resorts knew or ought to have known of the suspicions which the AFP or AUSTRAC are said to have held in the article. Accordingly, even if the media articles as to the belief or suspicions of the AFP or AUSTRAC were true, they do not go, in our submissions, in any significant way to Crown Resorts' suitability unless it was shown that Crown Resorts knew or ought to have known of the beliefs

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or suspicions which AFP or AUSTRAC are said to have held, and there was no evidence before the Inquiry of that.

5 To return to what I said earlier, in our submissions, in terms of suitability what is more important is what Crown itself could reasonably have inferred or ascertained regarding the use of its accounts and processes for money laundering rather than knowing what another entity thought or speculated about what was actually occurring in respect of the criminal use of the accounts, and this comes back to the question which we discussed at the beginning about whether or not it is actually  
10 money laundering would be a matter to be proven by an investigative body such as the AFP who can actually track the crime and so forth, but from the point of view of as a suitable operator what's important is to be alive to the risks and understand the signs and indicia and to react appropriately to them when they appear. That is, in my submission, where Crown ultimately failed in respect of these accounts.

15 COMMISSIONER: Because it didn't stop them.

MR ASPINALL: Correct. And that comes back to the submission that I made on Friday which is in a dangerous environment such as the casino business it's to be  
20 expected that from time to time a money launderer may be able to achieve their ends through a casino, tricking the casino or through a very sophisticated new way of doing something, and that that itself, evidence of money laundering, wouldn't be an indicia of unsuitability. In my submission, the problem arises when you see examples of money laundering with the indicia of money laundering that occur and  
25 then continue to occur and are not stopped and no internal control which stops them is put in place, or an internal control which is put in place is not enforced.

You are then in the realm, as the media say, of either turning a blind eye to what is occurring, that's one finding, being ignorant of the indicia and so not reacting to it, or  
30 simply not caring either way. And none of those three situations, as I put on Friday, are consistent with suitability. So in respect of Southbank and Riverbank, what they show, in my submission, is either one of those three options, and none of those are suitable – are consistent with suitability for the operative.

35 COMMISSIONER: Well, I think you put to me that they were either ignorant of the risk or apathetic to the risk.

MR ASPINALL: Correct.

40 COMMISSIONER: But assume that they did care about compliance, as they've said they did, what is it about the Southbank and Riverbank accounts and assuming, as I had to, or did, during the course of the Inquiry, that there were at least some reports to AUSTRAC in respect of the suspicious transactions, as Mr Howell seems to have suggested to me, it's the next step, I presume, of not stopping it, that is,  
45 turning inside or inwards and looking to see apart from telling AUSTRAC - - -

MR ASPINALL: Yes, yes.

COMMISSIONER: - - - stopping the process within the company.

MR ASPINALL: Yes.

5 COMMISSIONER: Now, that's not turning a blind eye to money laundering.

MR ASPINALL: Correct.

10 COMMISSIONER: And it's not not caring about compliance with the legislation, but it's the actual next step of stopping it within the company accounts or stopping it within the casino.

MR ASPINALL: Correct.

15 COMMISSIONER: Now, how does one characterise that, Mr Aspinall?

MR ASPINALL: Well, in my submission you would have to gauge the veracity of the statement "we care" based upon what actions were taken, and when you look at whether or not someone cares in terms of money laundering you would first look at  
20 what they have done to educate and inform themselves as to what money laundering is, what steps they took to identify suspicious transactions. Next, when someone raises with them, such as the banks in the case of Southbank and Riverbank did, how they react to that, and third, once it becomes clear that a problem has arisen in respect of what occurred in the account, what they did to change the situation so that  
25 it couldn't recur.

COMMISSIONER: Yes.

MR ASPINALL: And those are all problems which in my submissions we will see  
30 in respect of the way in which the Southbank and Riverbank accounts play out. So it's one thing to say that we care, and that that's a subjective question and it may be in their hearts they do care. The important thing in terms of suitability, in my submission, is not a subjective feeling that we care, but an objective review of what happened and a concern that it would not happen again. Until you could be satisfied  
35 of that, you couldn't say that the operator has the suitable business skills to run a successful casino because, as I said, guarding against the risks of money laundering is one of the important factors in doing that.

COMMISSIONER: Well, you might have a successful business, that is, a  
40 successfully financial business, but you're speaking of the cultural aspects of a licensee's obligations, as I understand it.

MR ASPINALL: Well, it's more than that because the success of the casino  
45 ultimately is a long-term prospect. You can allow money laundering to flourish for a certain amount of time, presumably, but ultimately you would expect that it would be detected and that that would put the licence and the business at risk. So in terms of what a successful running of a casino is, it's more than just looking at what's

happening next week, it's looking to run a sustainable model, and that is what allowing money laundering to occur, at least in the short-term, puts at risk.

5 If I might start at the beginning in terms of Southbank and Riverbank, neither of those companies is particularly new. Southbank was incorporated in July 1996 and Riverbank in May 2003. Mr Preston gave evidence that Southbank and Riverbank operated simply as a conduit for moneys which were deposited into the bank accounts of those companies, which was not a casino bank account, and then for it to be provided ultimately into a patron's account within a bank account held by the  
10 licensee itself. Mr Preston's evidence was that the companies operated solely for the purpose of having bank accounts and Mr Preston agreed that it occurred to him as early as 2007 that in addition to giving people privacy by providing Riverbank as a conduit to the casino, Crown Resorts was also providing persons with a means to disguise the transfer into their accounts or that the deposits were actually going to a  
15 casino.

And that comes down to this question of the naming of those two companies. They have both in their name the word "investments", but the evidence shows clearly that deposits made into them were ultimately for the benefit of the casino itself. So they  
20 provide a pretence. It's the casino, in a sense, providing a pretence to patrons to deposit money, and from the patron's point of view to have the ability to disguise the ultimate destination of those funds, and the evidence of Crown's officers was that that was provided in a sense of providing a customer service to enable the privacy of certain patrons who did not like the fact that money was ultimately going to the  
25 casino to be visible. But as I've said, Mr Preston's evidence was that he recognised as early as 2007 that they did give that potential to disguise, but as we will see he did nothing in respect of that issue.

Now, as the evidence emerged, it was asserted by Mr Preston, both in his oral  
30 evidence, but also in a memo that he gave to Mr Felstead and Mr Carr in August 2019 that the regulators were aware of these accounts and therefore that that somehow meant that it was satisfactory for them to carry on business with those names, and in fairness to Mr Preston there is some evidence which goes to that, and I would like to take you through that now, Commissioner, if I may. The use of  
35 Southbank for the purpose of receiving patrons' funds had been raised with the Victorian Office of Gambling Regulation as early as 2001. In October 2001, the director of gaming and betting at the Office of Gambling Regulation in Victoria wrote to a Mr Bunting, who was then the compliance manager at Crown Limited, referring to previous correspondence which we have not been able to obtain, saying:  
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*Regarding the proposed use of Southbank Investments Pty Limited in the transfer of funds from Crown's overseas patrons to Australia –*

45 Mr Bunting said –

*the VCGLR has no objection in principle to the use of Southbank Investments as a vehicle for overseas customers to transfer funds to Crown for privacy purposes.*

5 COMMISSIONER: That's an exhibit, is it?

MR ASPINALL: Correct.

COMMISSIONER: Could you tell me the number?

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MR ASPINALL: It is BA3.

COMMISSIONER: Thank you.

15 MR ASPINALL: On the 16th of November 2001, Mr Bunting stated in a letter to Mr Lahey that the transfer of funds from overseas patrons to Australia was "for the purpose of increased privacy". And on the 28th of December 2001, the director of betting and gaming at the office told Crown Limited – wrote to Crown Limited asking for clarification whether the accounts in question were to be known as  
20 Southbank Investment accounts and asking that, until further notice, Crown Limited provide, on a quarterly basis, details of the transactions in the accounts and an indication which transactions were in the name of Southbank and which were in the name of Crown itself. Importantly, on the 6th of February 2002, the compliance manager at Crown replied to that request - - -

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COMMISSIONER: Say that again for me?

MR ASPINALL: On the 6th of February 2002, the compliance manager at Crown Limited replied to that request for clarification saying:

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*The accounts in question are all Crown accounts –*

and in parentheses –

35 *(and will continue to be Crown accounts) which have been previously approved. The proposal is simply to allow funds, for example, cheques, drafts, telegraphic transfers in the name of Southbank Investments Pty Limited to be able to be deposited into those accounts even though the accounts are in the name of Crown Limited. Southbank Investments is a wholly owned subsidiary of Crown.*  
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On April the 3rd, 2002 the Office of Gaming Regulation replied and the heading of that letter said Southbank Investments – Conjoint Operation of Bank Accounts. The letter noted the clarification provided by Crown and the involvement of Southbank in  
45 the "conjoint operation" of four Crown Limited bank accounts with ANZ. The letter also confirmed that Crown Limited was required to provide quarterly reports of all

transactions on those accounts showing the ones that involve Southbank in the required format.

5 On the 12th of April, that is, a little over a week later, 2002, an internal email between Crown Limited staff noted that the Office of Gaming Regulation had required quarterly reports of all transactions on the Southbank accounts, but the email noted that the officer of the OGR:

10 *...did leave the door open a little when I questioned the sensibility of continuing with this reporting arrangement when we previously advised there would be no transaction through the nominated accounts for other than Crown patrons. He indicated that the board had requested that the OGR monitor the accounts, but he wasn't opposed to letting the reporting arrangement run for a few quarters and then have us submit a further proposal to dispense with the reporting requirements once the OGR had enough detail to report back to the board that the monitoring had been successful and no anomalies had been detected. He would not comment on the likelihood of success of that further proposal, but he did indicate a willingness to take it back to the board for consideration. I will diarise for October to follow up with a proposal to*  
15 *discontinue the quarterly reporting arrangement for the Southbank investment accounts.*  
20

Commissioner, it's unclear when the reporting obligations actually changed, but in a memo, to which I've already referred, of Mr Preston, dated the 4th of August 2019,  
25 Mr Preston noted that Crown Resorts:

*...provides information from this entity regarding total assets and total liabilities to the VCGLR on a quarterly basis.*

30 Importantly, Commissioner, what that means is that the regulator was not provided with bank statements or details of the transactions going on within the bank statements but, rather, just a quarterly figure of total assets and total liabilities.

35 COMMISSIONER: I'm not sure that – it depends on what was sitting in the account at the time - - -

MR ASPINALL: Correct.

40 COMMISSIONER: - - - if one could describe it as an asset, but in any event.

MR ASPINALL: I suppose – I haven't seen one of these reports, but I suppose, given the fact that the money was received by – as a conduit to Crown, there would be a corresponding asset held in the account and a liability to pay it on to Crown in any event.

45 COMMISSIONER: It seemed to travel through fairly quickly I think, Mr Aspinall.

MR ASPINALL: Yes. It depends how often the – how often deposits were being made, but usually by the time it reached five to 10 million, a sweep was taken out of the account, so its balance rarely exceeded 10 million.

5 COMMISSIONER: Yes, I see.

MR ASPINALL: In addition, it's unclear when the accounts went from being what have been described as being conjoint accounts of Crown Limited.

10 COMMISSIONER: That's interesting, that 10 million, or the time of the sweep.

MR ASPINALL: Yes.

15 COMMISSIONER: Because, from the regulator's point of view, you would never see what was recorded by Mr Preston in his memorandum, in relation to the 290 million or whatever it was, so that the regulator would only see the smaller amount at a particular time of the sweep.

MR ASPINALL: Yes.

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COMMISSIONER: As you say, being a maximum of about 10. The actual transactional amount throughout a 12 month period would be the 290-odd million.

MR ASPINALL: Yes.

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COMMISSIONER: Yes, I see.

30 MR ASPINALL: And so it's not clear when the accounts went from being conjoint accounts of Crown Resorts and Southbank to accounts which were held in the name of Southbank alone, but by the time period that we considered, which is 2013 to 2014, the accounts were just held by Southbank alone and Riverbank alone. So the assurance given to the VCGLR or their predecessor, in earlier days, that these are actually Crown accounts with the ability to pay money in the name of Southbank had changed and the accounts were held by the subsidiary in their name alone.

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COMMISSIONER: And that continued as you looked at – up to 2016/17.

40 MR ASPINALL: Yes, for the rest of their lives. As Mr Barton said, the accounts have now been closed. And steps, as I understand it, have been taken to deregister this company and, in fairness to Crown, I think all the witnesses said that they shouldn't proceed with this model and would not be opening accounts of this nature through subsidiaries again. It's also not clear when the use of the account changed from being for overseas patrons to receiving deposits generally. But what we can see in the bank statements discussed later will be that, from 2013, cash deposits and  
45 other deposits were being received locally at branches in Australia. They may ultimately have been for the benefit of patrons in the casino accounts who were overseas patrons, but the Inquiry did not investigate the identity of the patrons in any

5 detail. Some were – some information was available that, in certain circumstances, they may have been foreigners, but it's not clear, in terms of what – what the OGR was told initially were these accounts were for the deposits made by overseas patrons. In fact, what we see in the accounts is deposits being made by persons who are in Australia, potentially, for the benefit of an overseas patron. And in terms of the risks of money laundering that we see in the – at least in 2013/14, that was clearly a risk, the ability to deposit, locally, cash.

10 In his memorandum of 4 August 2019 – I should say that date is significant, Commissioner, because that's just a couple of days before the story which made the allegations relating to the use of Southbank and Riverbank for the purposes of money laundering in the Fairfax press – Mr Preston is responding to that imminent story because questions had been asked by the journalist about what was going on with those accounts and Mr Preston was trying to inform Mr Felstead and Mr Carr as to his understanding of what was happening. But Mr Preston in that memo said that both Southbank and Riverbank were authorised to be used for the purpose of receiving and transferring to and from casino customers of Crown Resorts “in accordance with casino regulated and legislative requirements”.

20 Now, I suppose, to someone reading that memo, such as Mr Felstead who was perhaps not – he wasn't a lawyer, but at least in respect of Crown Perth, Mr Preston's evidence was subsequently that the account didn't need to be approved by the Western Australian regulator, but it was seemed to be authorised if it was used for conducting the purpose. That's a decision made by the Western Australian Parliament, presumably, that that can occur, but in terms of taking any comfort from the fact that they were “authorised” in Western Australia, Mr Preston's memo allies the fact that the authorisation was just deemed to be authorisation perhaps gave comfort to Mr Preston and Mr Felstead and Mr Carr, which might otherwise not have been there.

30 Mr Preston, in his evidence, wasn't entirely sure about the details which the Western Australian regulator got about the account, but he was of the view that, on reasonably regulated basis, the balance of the account was provided to the regulator, but he agreed that line-by-line activity in that account had not been provided to the Western Australian regulator. In Mr Preston's memo there was also a reference to the fact that the VCGLR had considered these accounts in the Sixth Review. And there is some mention of them in the Sixth Review which I will show you, Commissioner; that is INQ.140.101.2949.

40 COMMISSIONER: Thank you.

MR ASPINALL: If that could be brought up.

45 COMMISSIONER: Yes.

MR ASPINALL: It is INQ.140.010.2949. We have that?



COMMISSIONER: Yes.

MR ASPINALL: The relevant page is 3086. And the relevant paragraph is the first  
5 paragraph on that page, and it refers to “AML/CTF obligations”. And the VCGLR  
report says:

*For example, in 16 November 2016, AUSTRAC published an update to the  
10 compliance guide, including scenarios of common international funds transfer  
conducted by casino licence holder. This guidance provides six examples of  
common types of international funds transfers conducted by the licensed  
casinos that are required to be reported to AUSTRAC. Scenario 6 outlines the  
obligation of an Australian casino operator which has a 100 per cent owned  
and controlled subsidiary company located in Australia with an Australian  
bank account which has been approved by the state casino regulator –*

15 and this is important –

*as is the case with Crown Melbourne.*

20 And then it goes on to say:

*It notes that where a customer instructs the Australian casino operator to  
25 transfer \$150,000 from the bank account of the subsidiary into the customer’s  
overseas bank account, the Australian casino is required to report the outgoing  
international funds transfer instruction under a designated remittance  
arrangement under the AML Act.*

And so the only subsidiary that the Inquiry found which fits that scenario of being  
30 approved by Crown Melbourne would be Southbank. And so, in terms of what, that  
- - -

COMMISSIONER: Well, I don’t know that, do I?

MR ASPINALL: Well, that the Inquiry found would be - - -  
35

COMMISSIONER: Well, just before you say that - - -

MR ASPINALL: Yes.

40 COMMISSIONER: - - - I’m not sure what you’re putting to me in respect of this  
particular paragraph. If there is a structure within Crown for receipt of overseas  
funds to its main accounts, as opposed to these subsidiary things for privacy, I think  
what you’re indicating to me is that we do not know whether those accounts have  
these transactions within them; is that right?

45 MR ASPINALL: Yes.

COMMISSIONER: I see.

MR ASPINALL: But what I am going to is, ultimately, a submission – or evidence was given by Mr Preston - - -

5

COMMISSIONER: Yes.

MR ASPINALL: - - - that he was not concerned about the fact that these accounts had Riverbank – “investments” in their name - - -

10

COMMISSIONER: Yes.

MR ASPINALL: - - - because the regulators were aware of that.

15 COMMISSIONER: Yes. All right.

MR ASPINALL: And in his memo to Mr Preston he says that’s because they were originally considered by the OGR, which is the information that I just took you to.

20 COMMISSIONER: Yes.

MR ASPINALL: And they were discussed in the Sixth Review. So, in fairness, I wanted to say that this paragraph does appear to be referring to a subsidiary, which is Southbank. Southbank is never mentioned by name in this report.

25

COMMISSIONER: No.

MR ASPINALL: But what I was intending to do was just put before you, Commissioner, what we can find in terms of the evidence that the regulators were aware of that and this paragraph, whilst not referring to Southbank specifically, does appear to be countenancing the situation which Southbank was in and the submission that I made was in terms of what is in the parentheses there “as is the case with Crown Melbourne”, that would appear to refer to Southbank at least.

30

35 COMMISSIONER: Yes.

MR ASPINALL: And then in terms of – I’m sorry, that was exhibit CD7.

COMMISSIONER: Thank you.

40

MR ASPINALL: And if I might take you to the memo that I was discussing, Commissioner, that is, CRL.563.002.4035. And you can see – that’s exhibit BA79.

COMMISSIONER: Thank you. Did you say BA?

45

MR ASPINALL: BA, yes, 79. That is the memo of the 4th of August, and it's to Mr Johnston, Mr Carr, copied to Mr Felstead from Mr Preston. And it's talking – the subject of it is Telegraphic Transfers - - -

5 COMMISSIONER: Yes.

MR ASPINALL: - - - and the Southbank/Riverbank Account.

10 COMMISSIONER: And this seems to be as a result of the inquiries made by the journalist.

MR ASPINALL: Yes.

15 COMMISSIONER: Yes.

MR ASPINALL: And when we turn to 4044, the question in blue about two-thirds of the way down is:

20 *What role does the VCGLR play in auditing/reviewing the Southbank account?*

I think Mr Preston, on the basis of the evidence he gave, was essentially nothing other than being given the total liabilities. But in this part of the memorandum, he goes a little bit further saying:

25 *Within the Southbank bank account, the following is relevantly noted with the VCGLR.*

30 COMMISSIONER: But this is all, really, just layer upon layer. What Mr Preston didn't tell the directors, or anyone, was what was going on in the accounts.

MR ASPINALL: Yes.

35 COMMISSIONER: So it matters not really that – I suppose it matters in that the directors were kept in the dark about what was going on in these accounts, and this is a memo that's going to – who was the recipient?

MR ASPINALL: Mr Johnston and Mr Carr, Mr Felstead.

40 COMMISSIONER: Yes. So Mr Johnston doesn't receive any information about the actual transactions in the account.

MR ASPINALL: Correct.

45 COMMISSIONER: And this is at a time after which Crown has already given its ASX release and, for some reason or other, nobody bothered to look at the accounts or tell Mr Johnston so he could tell his colleagues, hopefully, or tell the directors what was actually going on in the accounts.

MR ASPINALL: Yes.

COMMISSIONER: So what is the result of that, Mr Aspinall?

5 MR ASPINALL: The result of that is that it shows a lack of care in respect of very  
serious allegations being made in respect of what was occurring in Southbank and  
Riverbank being specifically mentioned in the media, but not just in terms of an  
assertion or speculation by the media, but an allegation that the AFP and AUSTRAC  
10 had information which supported that. So it wasn't just a freestanding allegation, it  
was made purportedly on the basis of some information from a credible source. And  
then what we see is a failure – and then what we see is the calling of this Inquiry,  
which was called to look into those allegations, including the allegation in respect of  
Riverbank, and what we still see is that, until July 31st – and I eventually took Mr  
15 Preston to the bank accounts of Southbank and Riverbank, the evidence is to the  
effect that nobody within the organisation had ever looked at those accounts. There  
had been this memo, which as we can see doesn't say very much about it and doesn't  
actually address the question.

20 COMMISSIONER: It doesn't say anything at all.

MR ASPINALL: No. And the problem with that going further is the problem that  
even after Mr Preston was shown those accounts, or the problems which I will take  
you to in due course, directors continued to come – sometimes several months later  
25 in the case of Mr Demetriou – who had apparently not appreciated or even looked at  
the accounts themselves at that point. Mr Demetriou went as far as to read from the  
memo which appeared to downplay the volume of the transactions and the  
seriousness of what had occurred in that transaction even though after further  
questioning Mr Demetriou accepted that the memo didn't say what he had purported  
30 it said at all.

And so in terms of culture it's a very frightening proposition, because even leaving to  
one side what had occurred – and we shall go back in terms of the warning flags that  
were raised by the bankers and the regulators – in terms of what happened from the  
4<sup>th</sup> of August - - -

35 COMMISSIONER: Last year?

MR ASPINALL: Yes, right up until this week, indeed, because there's still no  
concession that there's a probability of money laundering having occurred through  
40 these accounts, but in terms of what you would expect from a careful and competent  
operator, somebody should, long before the Inquiry got to Mr Preston, have been  
through these accounts, seen what was in them, worked out a plan, worked out what  
had gone wrong here, and worked out what needed to be done about it.

45 COMMISSIONER: We just seem to have lost – just pause there.

MR YOUNG: Commissioner – no.

COMMISSIONER: Yes, I'm sorry about that minor exclusion of those who are represented. Yes, thank you. Yes, please proceed, Mr Aspinall.

MR ASPINALL: I don't know where you - - -

5

COMMISSIONER: I think it was up to the time that you said someone needed to look at these accounts - - -

MR ASPINALL: Yes, someone needs – and even more surprising, perhaps, is that early this year, or perhaps late last year, it was early at that time period that the Inquiry summonsed the bank account and was provided with them by Crown, and so someone at Crown went through and found these accounts, provided them to the Inquiry and yet when Mr Preston, the AML compliance officer came to give evidence, he hadn't looked at them. Ms Manos, who was the company secretary and legal general counsel of Crown hadn't looked at them, but Ms Manos was also the company secretary of Southbank and Riverbank. Mr Alexander's evidence was that he had been on the board of Southbank and Riverbank since 2017 and that until the allegations were made in August 2019, he didn't even know what Southbank and Riverbank actually did. It was only then that he raised the question of what is going on here, but he then went to Mr Preston. He didn't ask to see the bank accounts either.

An important factor in that is the tenor of the evidence from people was that they didn't see any use or utility in looking at the bank accounts because they weren't experts in money laundering. That raises a bit of a double-edged sword because it begs the question why somebody who is the head of – or director of a company which conducts these sort of transactions hasn't got some skills in money laundering. But even if they didn't have skills themselves, we would have expected a reasonable director or company secretary faced with allegations in the media that their company had engaged in money laundering, would have taken serious steps to assure themselves that that wasn't true. And the media article itself referred to the bank accounts.

COMMISSIONER: Yes.

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MR ASPINALL: So there is, in my submission – and that fits with the submission I shall make generally that there was either an ignorance of the nature of the problem or an apathy towards whether it was occurring or not.

COMMISSIONER: Well, let's assume that one can expect of a company director of a public company to rely upon management so that the dichotomy of being a manager and being a director is one thing, but in public companies that have complex structures – and some of the directors have said this, justifiably in some ways, that they're entitled to rely on management to tell them the truth about what's going on in their company, and so you don't have directors messing with managerial matters, putting aside the services agreement for one moment. So that you have a respectable argument that is put, although it hasn't been put yet, but a respectable argument that

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the directors are entitled to rely on management to tell them the truth about what is happening in the accounts.

5 Now, here we see not a jot of evidence to put the directors in a position of being aware of the smurfing, obvious smurfing and obvious structuring. Now, if that is the case, that you have a directorial requirements for management to tell them and management doesn't tell them, what's the position then, Mr Aspinall?

10 MR ASPINALL: Then you look at whether or not what management tells them is in fact an answer to the relevant question.

COMMISSIONER: I see.

15 MR ASPINALL: And that is what Mr Preston does not do in this memo. In effect, Crown's response was, "These accounts are subject to all our usual regulatory reviews and requirements", but that wasn't an answer to the question. The question was, "Has money laundering occurred through these bank accounts?"

20 COMMISSIONER: Yes.

MR ASPINALL: To say that they are just subject to our usual reviews is a non sequitur in effect, because what – and it's perhaps even more concerning because it means not only, if the allegations are true, has money laundering occurred, but their usual transaction monitoring processes have failed.

25 COMMISSIONER: Well, I suppose the question is if the directors were curious, as you put before, to find out whether there was money laundering in the accounts then there was a need to ask that specific question of Mr Preston to go back and tell them what had actually happened rather than a philosophical approach or policy approach to money laundering. That is, what actually happened in these accounts.

30 MR ASPINALL: Yes, and there is probably another smaller problem which is that if the allegations were true then Mr Preston had failed in his job to stop or prevent money laundering from occurring. So he probably wasn't the person that management should have been asking as definitively to answer the question, because by its nature the allegation inferred that he wasn't up to scratch either in terms of the job that he had been doing. So when looking at the appropriateness of the response of the board, you have to ask what questions did they ask and were the questions correct and were the answers they were given coming from a source that could be trusted or relied upon to give the true position.

35 MR ASPINALL: Yes, and there is probably another smaller problem which is that if the allegations were true then Mr Preston had failed in his job to stop or prevent money laundering from occurring. So he probably wasn't the person that management should have been asking as definitively to answer the question, because by its nature the allegation inferred that he wasn't up to scratch either in terms of the job that he had been doing. So when looking at the appropriateness of the response of the board, you have to ask what questions did they ask and were the questions correct and were the answers they were given coming from a source that could be trusted or relied upon to give the true position.

40 In my submission, neither of those things apply here, which is why, in my submission, what should have occurred is that somebody should have looked at the bank accounts themselves, or they could have got an independent person to look at them if they didn't have time. Ms Manos said that – Ms Manos was the general counsel of a company where allegations were being made – serious allegations of money laundering occurring, said that it was – that she wouldn't get down on her

hands and knees to look at dusty statements. It bespeaks of a division in terms of the extent to which senior management and the board are willing to descend or, deign to descend into detail which they think is not their purview and to simply to rely upon management which in this case was disastrous.

5

COMMISSIONER: Well, from the point of view of a board you've got to remember that they're entitled to rely on the management structure, but the deficiency – this person had been an AML officer for many years and, objectively, when you look at that, and there had been no allegation all those years when he was an AML officer in any of the Sixth Review or Fifth Review or Fourth Review or whatever it was, there was no allegation that this sort of thing was happening. And so there is some complexity to this in terms of the parameters of a board's obligations, but once they had the specific reference to the accounts, it is difficult to understand why they didn't send him back to show them what had happened, but I understand your submission.

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MR ASPINALL: And that's important, Commissioner, in my submission, because when we do look at the accounts, as we will, it's pretty obvious you don't need any specialised training to see that there's a big problem. The other issue to which I will come in due course is the fact that as warning flags were raised, Mr Barton in particular was involved in - - -

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COMMISSIONER: Yes.

MR ASPINALL: - - - responding to those, and by the time of the allegations being made he was the CFO of the company, a senior executive, and he was later promoted to be the CEO, and it's curious to think that having had that involvement in circumstances where ANZ had raised suspicious transactions particularly and he had engaged in a dialogue with them, that Mr Barton as a CEO wouldn't have told the board, "Yes, I remember that this has been an issue and I dealt with ANZ when they raised this". That is inexplicable, and Mr Preston, on Mr Barton's evidence, was at the same meeting.

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COMMISSIONER: Yes.

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MR ASPINALL: And Mr Preston still gives this memo which doesn't make any reference to any of that. It's highly concerning in terms of a culture which doesn't raise things which seem to be against the general proposition that everything is fine, and instead raises things like, "Well, these accounts are subject to all our usual obligations and monitoring processes" which, in my submission, is a different issue altogether.

40

COMMISSIONER: It does seem to be.

MR ASPINALL: Now, in terms of how the accounts operated, Commissioner, the way in which that worked was that what was critical was the number which accompanied as a reference, the deposit, because what that referred to was the

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deposit number that the person depositing the money into Southbank or Riverbank wanted the money to be credited to in the accounts of the licensee, and that was their patron number. Given that he was the AML compliance officer, however, Mr Preston's understanding of how that actually worked was quite concerning because  
5 Mr Preston – when I asked whether or not – when I asked who made the decision whether or not money deposited into Southbank or Riverbank should be transferred over in the sweep to Crown Melbourne or Crown Perth, Mr Preston didn't know who made that decision and didn't know upon which basis they made that decision.

10 We then heard evidence from him of this question of whether or not law enforcement had indicated to Crown that there was a problem with the transaction, but that mere suspicion alone wouldn't, in his view, have been something that would stop the transfer in or the sweep over, which in my submission is highly problematic in terms of what we will come to later in terms of the criminal obligations for Southbank and  
15 Riverbank.

COMMISSIONER: You mean the obligations under the criminal law?

MR ASPINALL: Yes, and that arises because of this: whether or not Southbank  
20 and Riverbank should have been registered as reporting entities or not is an open question, we will come to that in due course, but ultimately they were never registered as reporting entities and what that means is that they didn't get the benefit of section 51 of the AML Act.

25 COMMISSIONER: Yes.

MR ASPINALL: And what that does is if you report in accordance with your obligations as a reporting entity, then effectively the knowledge issue which goes to  
30 the criminal act is removed from that equation and so no charge would stand against you.

COMMISSIONER: Well, they're not vulnerable on the knowledge.

MR ASPINALL: Correct, and because they're not vulnerable on the knowledge the  
35 rest of the charge couldn't presumably be made out. The problem for Southbank and Riverbank is that they weren't reporting entities and so they had no obligations to report under 41 and so section 51 doesn't give them any protection. That means that they are subject, just like any ordinary person, to the full rigour of the criminal law, and I will take you in due course to those provisions, but in effect they mean, at least  
40 in Victoria, that if you negligently deal with funds which may be the proceeds of crime that you are guilty of an offence, and that, in my submission, is an appalling situation for a subsidiary of a casino to be put in.

That we are even discussing at this Inquiry the possibility that a subsidiary of Crown  
45 may have engaged in criminal acts in respect of the laundering of money is simply astonishing, but it seems to have been the consequence of nobody within Crown understanding that that was the risk that they put those companies in by simply



receiving funds and then sweeping them into the casino funds, because what Southbank was doing each time it received those funds and then pushed them into the casino was dealing with the funds they had received.

5 I will take you briefly now into the types of transactions we found in the accounts, as  
by way of background, but then I will take you, Commissioner, to look at some of  
the bank accounts which show those examples. The four types we found which seem  
to have indicia of money laundering were, as I've have already said, Commissioner,  
structuring, sometimes called smurfing. Now, structuring is a method by which  
10 numerous transactions, deposits, withdrawals, transfers, are made involve – are split  
up into smaller transactions and they may be done by a variety of people and that is  
where the term “smurf” comes in because that was a cartoon character of little people  
who run around doing jobs.

15 But Commissioner, although that happy cartoon analogy might be there and smurfing  
might sound like a cute thing it's actually a serious issue, because it's facilitating  
money which is a crime.

COMMISSIONER: Money laundering.

20

MR ASPINALL: Yes. So perhaps the more serious term is “structuring”, although  
the experts all use this phrase “smurfing”. We found numerous examples of  
transactions of this type within the accounts of Southbank in the period between  
March 2014 and September 2017, and in Riverbank from August 2013 to July 2017.  
25 When the written submissions are provided for this section a schedule of the  
transactions that we've identified in these various categories will be provided, but I  
should say, Commissioner, that's not intended to be a definitive answer. We have  
not conducted a thorough review, but our question – the question we were asked was  
whether or not money laundering had been occurring in these accounts and in order  
30 to give Mr Young and Crown particular examples of what we say are examples of  
the problem, we have listed them and given references to them, but today I was not  
proposing to take you to all of them, but - - -

COMMISSIONER: I would be grateful.

35

MR ASPINALL: - - - just to give examples which give the flavour of each  
category. So the first one is smurfing and what we will see is that the reporting limit  
for cash transactions or threshold transactions in Australia is AU\$10,000.

40 COMMISSIONER: And that's a reporting limit to AUSTRAC.

MR ASPINALL: Yes.

COMMISSIONER: Yes.

45

MR ASPINALL: And so when you smurf or structure, what you do is break a  
bigger transaction up into smaller transactions under \$10,000.

COMMISSIONER: Yes.

MR ASPINALL: And in the accounts of Riverbank and Southbank we see examples of that.

5

COMMISSIONER: So this is through financial institutions.

MR ASPINALL: Yes.

10 COMMISSIONER: And banks have the obligation to report as well. So when one is using what you've just described of breaking the transaction up, if the bank sees it as well, and this is what you've referred to a little earlier, I think, about the banks speaking with Mr Barton and others, the banks have their own obligation to report to AUSTRAC as well.

15

MR ASPINALL: Correct.

COMMISSIONER: Yes, I understand.

20 MR ASPINALL: Yes. So there should be a double layer of protection.

COMMISSIONER: Yes.

25 MR ASPINALL: And as we will see from the banks there was – the response of the banks was generally to ask Crown what was going on then consider their response and then close the accounts. That was the bank's response.

COMMISSIONER: Yes.

30 MR ASPINALL: Whereas the response from Crown, just in general terms, was to try and answer the questions posed, accept the closure and then look for a new bank to open up the account with.

COMMISSIONER: Yes.

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MR ASPINALL: The second category were what we described as anonymous cash deposits because the anonymous deposit of cash into bank accounts in any manner whereby the identity of the depositor can't be identified with a reasonable level of certainty presents an inherent and obvious risk of money laundering since the source of the funds is obscured, effectively just cash put into a bucket. Even if the identity of the depositor is known, in order to be confident about whether or not it's money laundering, you have to know whether that person should have that sum of money, and so it's a two – it's a question of identity of depositor plus source of funds and depending on the source of funds that may give an even stronger indication of money  
45 laundering.

Within the bank accounts of Southbank and Riverbank were numerous examples of deposits made via a sealed envelope through what's called the QuickCash system. QuickCash is a method of deposit provided by the Commonwealth Bank and the terms and conditions of QuickCash which are exhibit AO64 - - -

5

COMMISSIONER: Yes, thank you.

MR ASPINALL: - - - show that the method in which you do it is to put – you complete a deposit slip, take your cash, put it in a sealed envelope and put it into a chute. We will see within the bank accounts of these companies' examples of QuickCash deposits, sometimes of \$50,000 or money in that realm but also we see examples where QuickCash deposits themselves are structured in respect of a QuickCash deposit of \$50,000 made at different branches of the bank to the same patron number in a close space of time.

10  
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COMMISSIONER: I see. Yes.

MR ASPINALL: So there are two ways – there are two problems with that: first, the anonymity and, secondly, the breaking down of a transaction that might be actually be hundreds of thousands of dollars into one that looks like 50, so that when whoever the teller taking the money out of the QuickCash machine at the end of the day sees \$50,000 only in that envelope may not recognise that this is part of a larger transaction of structured transactions.

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COMMISSIONER: Yes.

MR ASPINALL: But as you say, Commissioner, at some level you would expect that some – the bank itself will eventually find 50,000, 50,000 being made into the deposit, but then they would have to recognise that what was happening in the Southbank account was that all these funds were going to the same patron. So they'd have to understand the way in which the transactions worked.

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COMMISSIONER: Well, see, the person making the deposit wants to get around that by going to different branches - - -

MR ASPINALL: Correct

COMMISSIONER: - - - so that the alert, if it comes through, is a slower alert if it does happen, but by attending the different branches they're hoping to – I hate to use the term – fly under the radar a little bit.

40  
45

MR ASPINALL: Yes.

COMMISSIONER: I understand.

MR ASPINALL: And that is why we say that the – and Crown itself recognised this – there is no plausible explanation for why someone with a big chunk of cash would

break it down into smaller deposits and go to the trouble of travelling to sometimes I think 14 or 15 branches of the same bank in a day. I put to Mr Preston whether there was any other plausible explanation than that this was money laundering or indicia of money laundering and he couldn't come up with another plausible explanation. In  
5 my submission, there is no plausible explanation. And I accept what Mr Young says  
- - -

COMMISSIONER: That's in relation to the money in the Suncity Room. I didn't  
10 ask Mr - - -

MR ASPINALL: Yes. Well, I think it's been foreshadowed that Mr Young won't  
accept that was money laundering.

COMMISSIONER: Yes.  
15

MR ASPINALL: In my submission, the geographic movements point strongly to  
that being so as well as the breaking up. The next category were of misleading  
deposit references – and we shall come, in due course, to those – but each time a  
20 deposit is made from a telegraphic or other electronic means into the account the  
depositor gives a reference. They need to put the patron number on so that Crown  
eventually can work out - - -

COMMISSIONER: To whom it's going.

25 MR ASPINALL: - - - where it's going, but the references that are received are  
sometimes quite bizarre, such as “school fees”, “purchase of a home”, “repayment of  
a loan”, invoice number and then the patron number. And so the person making the  
deposit is obviously trying to disguise from someone the reality that this is just  
30 money being paid to the casino. And, in in our submission – and I'll take you to  
examples – where you see a deposit being made into your account which is having a  
reference which, clearly, is not truthful, because, in reality, money being paid into  
this account is just going to the casino, that's a red flag that there's something wrong  
with this transaction: someone is trying to hide something. And that, in my  
35 submission, is something that any prudent person – that is money that any prudent  
person wouldn't then touch. Just as an individual, if one received a large deposit into  
your bank account which said “school fees” and I'm not a school. Prima facie, I  
would say, “Well, that's not money intended for me,” and I wouldn't deal with it  
until I understood why. It may be that someone typed in the wrong reference and it  
40 was payment for me, but until that was sorted out, one wouldn't touch that money.  
Now, what we see in Southbank and Riverbank is the exact opposite of that. Those  
things all come through and they are simply then passed on. And, again, that sort of  
behaviour, in my submission, is – it may be ignorant, it may be apathetic, it's not  
suitable behaviour.

45 COMMISSIONER: Well, it was a structure that was approved and going for years.

MR ASPINALL: Yes.

COMMISSIONER: And that was the way that people just did it. They used to sweep the money in as a matter of course. It looks as though there was no analysis of the reality of what the money was for or why it was described like that other than the fact that it was for gambling and it was for patrons. And because it had started years ago and because it had continued for years, they simply kept doing it. That seems to be the evidence. Yes.

MR ASPINALL: The fourth category is deposits on behalf of individuals by companies. Now, from at least November 2014, Crown had realised that deposits by companies in favour of others were not a good idea because of the risk that entails, and the banking detail sheet which Crown provided to patrons, which gave the number and so on, indicated that Crown would not accept payments from company or business accounts. It was clearly stated there. I will take you to an example of that which could be shown on the live feed is exhibit BC42, which is INQ.950.001.0094. I hope that works. But you'll see at the bottom there, Commission – you'll probably recall this before.

COMMISSIONER: Yes.

MR ASPINALL: It says in bold:

*Please note: payments must be from a personal bank account. No company, business or trust accounts will be accepted.*

COMMISSIONER: Yes.

MR ASPINALL: A fairly strong statement and, in my submission, it's an appropriate statement and it's also indicative of Crown's own view of things and an internal control that it thinks is warranted. But as you'll see, in fact, Crown did accept deposits from companies, sometimes many million dollars from companies, and also over a long period. So that control, although sensible, was not being enforced, and again speaks of either – well, I suppose in this particular example, it can't speak of ignorance because that direction indicates that someone in Crown at some stage thought about the risks.

COMMISSIONER: Yes.

MR ASPINALL: But in terms of what actually happened, it either indicates that the person making the transfer wasn't aware of that control or had forgotten about it or it just wasn't getting - - -

COMMISSIONER: I think it must be the case that Crown thought about the risks. They had many documents through which I've travelled that indicates that they did have concern about risks. It's just exactly what happened that is the problem. I mean, your submission is, I think ignorance, or I'm not quite sure - - -

MR ASPINALL: Reckless indifference was the other - - -

COMMISSIONER: Yes. But I don't think I can find, on looking at this document, that Crown, other than in this area, was – it was careful to say do not accept money from companies, etcetera, or trust accounts, and that, more probably than not, would be because of the concern that money laundering occurred.

5

MR ASPINALL: Yes. And Mr Preston was asked about this and he said, in respect of it, at page 603 of the transcript:

10 *The risk was the inability to identify the true owner of the money, the ability for someone to use companies' moneys for personal matters.*

COMMISSIONER: Yes. So they well knew. They well knew of the risks. There's no doubt about that, Mr Aspinall.

15 MR ASPINALL: I think Ms Sharp took you to the example of Pai Pai Supply Chain  
- - -

COMMISSIONER: Yes.

20 MR ASPINALL: - - - which made 53 deposits over a four month period in 2016 to at least 20 different patron accounts totalling \$31.8 million.

COMMISSIONER: Yes.

25 MR ASPINALL: Now, for that to occur in circumstances where Crown has said "we won't accept company deposits at all" is quite astonishing. The failure - - -

COMMISSIONER: Yes.

30 MR ASPINALL: - - - to recognise quite obvious problems there and risks to act upon them. Similarly, bank accounts show a company called Mogacrea Innovation Furniture Limited made 41 deposits between September 2016 and January 2018 for various patron numbers totalling 19.7 million.

35 COMMISSIONER: Same problem.

MR ASPINALL: Same problem. But, again, this time it's called Mogacrea Innovation Furniture Limited, a furniture company. What does would it have, even to an ordinary person, to be making deposits of nearly \$20 million to various patron numbers, especially where Crown have said we won't be accepting - - -

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COMMISSIONER: Company accounts.

MR ASPINALL: - - - company deposits.

45

COMMISSIONER: Yes.

MR ASPINALL: So we've done that. And those are examples, we say, that are evident, just on the face of the bank statements without having to travel any further up to what the AFP or AUSTRAC knew or to chase down any criminals, just by looking at the bank statements themselves, you can see – anybody can see – that  
5 these transactions are suspicious and that, in terms of Southbank and Riverbank not being reporting entities, you shouldn't be touching this money. You should either be referring it to the police or going back to the transferee and saying, "What is the situation here? I can't accept money which says this is payment for school fees." And that's why – in my submission, that's what a suitable casino operator would  
10 have done.

At a high level, the evidence of the directors was that they had no understanding or no ongoing monitoring of the actions of Southbank and Riverbank, and that was true both at the level of the Crown board itself and the level of the boards of Riverbank  
15 and Southbank. And I think, Commissioner, you said yesterday that the board membership of those – the boards of those companies were titular – and that is true on the evidence – but it's also true that, when one looks at the names of the people who are holding that position, to an outsider, such as a bank or someone looking at the company, the board was a very August board. It including the chairman of  
20 Crown Resorts and Mr Barton, who was, at various times - - -

COMMISSIONER: Mr Barton.

MR ASPINALL: Yes.  
25

COMMISSIONER: Yes, that was on Friday. And the reference to "titular" meant what they actually did rather than the presentation of it, Mr Aspinall.

MR ASPINALL: Yes.  
30

COMMISSIONER: It doesn't seem that any of the directors ever looked at this.

MR ASPINALL: Well, the evidence was that there was no – there were resolutions made by circular, when that was necessary, but the board never met in any  
35 meaningful way and the board generally didn't know what the company was doing.

COMMISSIONER: Yes.

MR ASPINALL: And so I think Mr Alexander summed it up best in his evidence  
40 which is when he became CEO a board member of tens – scores of companies, I think, 60-odd companies, that he didn't – couldn't engage in the business of each one. The holding companies - - -

COMMISSIONER: Yes.  
45

MR ASPINALL: - - - and performed various functions. And I think it's fair to say that the directors all took the view of that. And there may be no problem with that

generally, but in circumstances where a media allegation makes – says that there’s money laundering occurring in the accounts of one of them, that changes a bit because then you – your membership of that board becomes important. And you then have duties to that company to make sure that it’s all right and that doesn’t seem  
5 to have occurred either.

COMMISSIONER: Well, the other thing is this was at a time when there was a leakage of documents from Crown, which does appear to include – must have been the bank accounts, or some form of information that was given to the journalist, to be  
10 able to identify these specific accounts. I think it might have come from the Federal Police from the sounds of things in terms of what they were looking at. Is that the allegation?

MR ASPINALL: I think so.  
15

COMMISSIONER: Yes.

MR ASPINALL: I’m not sure though.

20 COMMISSIONER: I see.

MR ASPINALL: I would have to investigate.

COMMISSIONER: Mr Young, with the structuring in the accounts, I just wanted to  
25 get a feel for this: I presume that if I were to find structuring – and the matters that Mr Aspinall has raised – that went on for years, and even accepting your submission that it was a suspicious transaction, I don’t think there’s any issue from Crown that they should have looked inwards and stopped it. I think that’s right, isn’t it?

30 MR YOUNG: Can I take that on notice, Commissioner, because actions were taken. And I’ll just take that on notice.

COMMISSIONER: Yes.

35 MR YOUNG: And we’ll address that in our submissions, if I may.

COMMISSIONER: You see, what Mr Barton told me in his third statement, I think, was that that should have happened: that they should have not just focused on reporting, they should have turned around, looked inside and said, “We’ve got a  
40 problem here. We should stop it.” But my next question was going to be, Mr Young, because we’re travelling through all of this, if that is the case and it wasn’t stopped then, historically, it would have to be, on one view of it, that if you did that as a licensee you could not be categorised as a suitable licensee. And it seems that, in terms of trying to get to the point of addressing all these questions, that from what  
45 the chairman of the company, or the chairperson of the company told me, that there is the capacity to be suitable with all the things they’re trying to do. But in terms of a licensee who allows, for whatever reason, this structuring to go on, I don’t think – if



you can address me on this in due course – that it could be suggested that anyone who allows this without checking and stopping it would be suitable - - -

MR YOUNG: Well - - -

5

COMMISSIONER: - - - even if you accept that it was a negligent or inadvertent step. And so I'd be grateful to hear from you as to why that would be a suitable licensee.

10 MR YOUNG: We will be addressing that, Commissioner. And we'll address it carefully, responsibly and in detail. And that involves what I mentioned earlier: we will be addressing all of the steps that have been taken, both historically, progressively and in recent times, to ensure that any of these problems do not recur.

15 COMMISSIONER: Yes.

MR YOUNG: That is the lens, in our submission, for the examination of suitability.

20 COMMISSIONER: Yes, so that, as I understand what you're saying, the fact that these steps have been taken is relevant to the decision as to, now, as to whether they're suitable; correct?

MR YOUNG: Well, the only issue is the current suitability - - -

25 COMMISSIONER: Yes.

MR YOUNG: - - - with respect to your report, Commissioner.

30 COMMISSIONER: What I asked you, though, was when these things happened at the time and it wasn't fixed, it's that point of time – you couldn't really suggest, which counsel assisting is addressing me on, you couldn't really suggest that the time that these things are happened and not fixed that any licensee would be regarded as suitable if they allowed this to happen at the time.

35 MR YOUNG: Well, Commissioner, we will address that. I'm grateful you've raised it. But that requires a pretty extensive examination of what steps were in fact being taken at the time. Now, whether those steps had shortcomings is another matter, but steps were being taken.

40 COMMISSIONER: That's a different question. I'm just trying to get, really, from you whether, if I were to find all these steps that Mr Aspinall has spoken about, structuring and the – permitted structuring in the accounts for all those years, that would not be akin to a suitable licensee's conduct, would it?

45 MR YOUNG: Well, Commissioner, all I can say at the moment is that we will address that.

COMMISSIONER: I see. Yes, Mr Aspinall?

MR ASPINALL: Is that a convenient time?

5 COMMISSIONER: It is. I will take an adjournment for 10 minutes.

**ADJOURNED**

**[11.31 am]**

10

**RESUMED**

**[11.44 am]**

15 COMMISSIONER: Yes. Thank you. Yes, Mr Aspinall.

15

MR ASPINALL: Thank you, Commissioner. As I said, the board of Southbank and Riverbank and the board of Crown Resorts indicated that they had very little awareness of what was going on within those companies and their accounts, but nevertheless warning signs and red flags indicative of money laundering were being  
20 waved at Crown from at least January 2014. Moreover, senior executives within Crown were aware of these warnings and yet, as we will see, the accounts continued to operate albeit with different banks over time.

20

The newspaper article in early August 2019 referred to the fact that Crown had had  
25 accounts with the HSBC bank which had been closed and that was found by the Inquiry to be true. In May 2013 - - -

25

COMMISSIONER: When you say – you mean your investigations of - - -

30 MR ASPINALL: Yes, it was found by investigations to be true. In or around May 2013 HSBC notified Riverbank that it would be closing the accounts held in the name of Burswood Nominees or Riverbank on the 31<sup>st</sup> of July in 2013. Prior to November 2013, Southbank and Crown Melbourne had also had accounts with HSBC, however, in September 2013 HSBC advised Crown that it would no longer  
35 provide Crown Melbourne with bank accounts and that the HSBC account – Southbank’s HSBC account would be closed. In response, Crown Melbourne organised for new accounts to be set up with the CBA in the name of Southbank, and the credit control officer asked that all staff be made aware of the changes so that there was a smooth transition to the new accounts.

35

40

The allegation which was made by Mr McKenzie in the Fairfax article on 5 August was that at this time HSBC were shedding high risk bank accounts. Ms Tegoni’s evidence was that she may have been aware that HSBC did not want to deal with Southbank Investments because of potential risks relating to money laundering.  
45 There is a later email that said that HSBC was determined to leave the gaming sector altogether. Whilst these allegations – whilst the closure of the HSBC accounts do not appear to have been accompanied by any particular warning to Crown as to the

45

reasons why they were being closed, Ms Tegoni's evidence does speak of a flavour of there being some potential risks of money laundering being behind it, but either way, in our submission, having a banker close your accounts and refuse to deal with you should have been a wake-up call to Crown to check and recheck that the controls upon its accounts were appropriate, but as we will see that did not happen.

Upon being informed of the closure of the Burswood and Riverbank accounts by HSBC, Crown Perth organised for new accounts to be opened in the names of Burswood Nominees and Riverbank with the ANZ bank. However, on 31 January 2014, that is, approximately only six months after they were opened, ANZ raised with Crown concerns regarding multiple cash deposits indicating structuring occurring within the ANZ Riverbank account in late 2013 and early 2014. The email which was sent to Mr Costin, a member of the treasury staff at Crown, said "As discussed" – so obviously there was a conversation beforehand:

*...we would like to discuss the operation of Riverbank Investments' bank account. See a series of questions below. This has been sparked by an internal investigation identifying a series of suspicious transactions, ie, multiple deposits on the same day at different Perth branches of cash amounts under \$10,000 –*

then in parentheses –

*...around eight to \$9,000 by the same person.*

That – the questions that Mr – which the ANZ were raising there were the following questions:

*What is the purpose of the account? What is it being currently used for? All funds are being transferred from this account to Burswood account; why are deposits being made into this account and not directly into the Burswood account? Why is this account being used as a conduit account? What are the reasons for establishing a separate legal entity to conduct this activity? How does the customer keep track of who is depositing into the account –*

the customer there being Southbank, presumably –

*Who is actually depositing into the account?*

COMMISSIONER: You mean Riverbank?

MR ASPINALL: Yes, sorry, Riverbank in this case:

*Who is actually depositing in the account? Are they local, foreign or a combination of both? What countries are the depositors from? How many depositors use this account? Is it common for the customer to accept cash deposits? This account appears to be being used for the patron account for*

5           *Burswood. What is the regular other patron accounts utilised by Burswood? Why has this entity utilised "Investments" in their company name? What other investment accounts under Crown Group are being utilised in a similar fashion? What, if any, monitoring is occurring over the account by the customer? Has the customer made any reports to a regulator body on the activity occurring through this account?*

10           Now, with respect, Commissioner, those are all very good and pertinent questions and answering them, had they been answered in a responsible and prudent way, would have, in my submission, led to a very different outcome than the one which we ultimately see occurred. Instead Mr Costin wrote back to – forwarded this email to Mr Kessel, Mr Spence and copied it to Mr Barton stating that he did not believe the accounts could receive cash deposits, which is a curious thing in the first place because it indicates that, at least from Mr Costin's point of view there may have been  
15           – his understanding there was an internal control that cash could not be received. If that was right then what he was about to see would have indicated to them that that control was not effective.

20           In any event Mr Costin responded to ANZ asking for further details about the transaction, and ANZ provided Mr Costin in reply with a detailed spreadsheet pointing to specific transactions over a number of days and pointing to the amounts of these deposits, the fact that they were made to the same patron number and that they were made at different branches of the bank. We might look at that spreadsheet now, Commissioner. It is CRL.557.001.0719.

25           COMMISSIONER: Did you say an exhibit number?

            MR ASPINALL: Yes, the exhibit number is BA25.

30           COMMISSIONER: Thank you.

            MR ASPINALL: This is actually – are we able to open it in native format? I see. We will just scroll through here. You see this part of the spreadsheet, Commissioner, is referring to transactions which happened on the 2<sup>nd</sup> of January 2014.

35           COMMISSIONER: Yes.

            MR ASPINALL: And you can see from the second column there that they are largely made to the same account number which ends in 364.

40           COMMISSIONER: Yes.

            MR ASPINALL: There is one that doesn't, and they're all, as the ANZ said, under the threshold limit.

45           COMMISSIONER: Yes.

MR ASPINALL: Can we move to the next page; perhaps you could keep going, again. This is the other side of the spreadsheet, and you can see that they were made at various branches of the ANZ bank around Perth.

5 COMMISSIONER: Yes.

MR ASPINALL: If we go back to page 2 of this document, we can see that the handwriting on the deposit slip, although it's been cut off, if you look at the numbers  
- - -

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COMMISSIONER: Yes.

MR ASPINALL: - - - they are very similar handwriting.

15 COMMISSIONER: Yes.

MR ASPINALL: And do you see that the depositor's name is simply a single word.

COMMISSIONER: Yes.

20

MR ASPINALL: Kenji.

COMMISSIONER: Yes.

25 MR ASPINALL: Alex, Alex, and if we keep going down, Yin. So those are examples from one day, but, in my submission, any reasonable person looking at that would accept that that's probably an example of money laundering occurring, because a single person or persons are going around making transactions under the threshold limit at various branches within Perth to the same patron number. And as I  
30 suggested to Mr Preston, there appears to be no plausible explanation as for why someone would do that other than to try and disguise that this was part of a larger transaction and to avoid the transaction reporting thresholds.

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COMMISSIONER: And the next question is why would they do that?

MR ASPINALL: Because they are laundering proceeds of crime and trying not to alert authorities to that.

40

The next spreadsheet that I would like to take you to – and I don't know how many pages this is now, because I was – do we have the original now? Good. Very good.

COMMISSIONER: So if they hadn't been in these dollops of 9000, they would have been in a deposit of about 50 – cash deposit of about 50, which would have then required the reporting - - -

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MR ASPINALL: No. Ironically, no, because - - -

COMMISSIONER: So what happens next?

MR ASPINALL: Because thousand – because these accounts weren't reporting entities.

5

COMMISSIONER: No, but if they were - - -

MR ASPINALL: Yes.

10 COMMISSIONER: If they were reporting entities, and perhaps the people who were making the cash deposit did not know of the status of the report or even the structure that was in place, but if the amount is not divided up into these lower proportions or portions, then somewhere along the way it's triggered – and it would be triggered, in any event, would it not, in the bank - - -

15

MR ASPINALL: It should have been.

COMMISSIONER: Yes. So, irrespective of the status of Riverbank and Southbank. So, in any event, it would be triggered if the bank took the view that the smaller amounts were suspicious. And it would be triggered in the minds of Crown if the smaller amounts were suspicious. And I'm going to assume in Crown's favour that it was.

20

MR ASPINALL: Yes.

25

COMMISSIONER: So the next step is why, then, would a person who's got the money divide it up into these smaller amounts? And you say consciousness of the structure of the law and desire to avoid the reporting regime. Is that what you say?

30

MR ASPINALL: Yes.

COMMISSIONER: I see. Yes. Thank you.

35

MR ASPINALL: The next tab, which is 06114/

COMMISSIONER: Yes.

MR ASPINALL: Yes. That's a similar set-up, but this time they're all made to the same patron account, but that three deposits under the threshold transaction limit made at one branch and three made at another. But when we scroll down, we see again that the depositor is just given by a single name, Maria. On the second slip, there's no depositor name given at all. On the third slip, there's a depositor name "Juita" given. If we scroll down to the next one, do you see, on that one, there's no depositor information at all.

45

COMMISSIONER: No.

MR ASPINALL: And if we go to the final one, the same issue, although that one's got a phone number.

COMMISSIONER: Yes.

5

MR ASPINALL: But if you go up again, please, operator, you see that phone number is the same phone number – keep going – of Juita. And that would tend to indicate that Juita – if that name is even real – who has gone to both the Marrickville and the Earlwood branches on the same day and made multiple deposits. The next one is tab number 3, which is 09114. You will see there, Commissioner, familiar handwriting from the first tab.

10

COMMISSIONER: Yes.

MR ASPINALL: But this time the deposits are being made to a different patron number than we saw in the first episode. If you scroll down, we see the phone number there, which ends in 280, which this time is supposed to be for Tony – whoever Tony is – is the same phone number which was given by someone called Alex on the 2nd of January. And those go on down that page. The next tab is 10 January '14. It's the same thing, all to the same patron number at different branches around Perth. And you can see, again, that characteristic handwriting. Tony is back with his phone number. And he seems to be making quite a few of the deposits that day with Alex's phone number. And if we move to the next day, the 15th, we see it's the same, but the client number has changed – the patron number has changed again. So obviously Tony or, Alex – he's called Kai today – is making transactions under the threshold limb at various branches of the same bank around Perth, but he's depositing the funds to the credit of different patron accounts on different days.

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25

I don't think I need to carry out much more analysis of this spreadsheet, but it goes on in this way. What I wanted to submit was that, even if Crown was ignorant beforehand, any reasonable person reading this structure is being led by the nose to the fact that money laundering is occurring within their account. That, in my submission, should have caused serious alarm within Crown. It should have been elevated to the risk management committee, probably the board, certainly the board of that company itself, but it also should have prompted questions of, "Why didn't we find this ourselves?" "Why is it necessary for our bank to be telling us about this?" And also questions of, "Well, you found a few examples. I had better look back at my account to see what has been going on up to this point." And that, in my submission, is what a reasonable and competent casino operator would have done.

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But that is not what happened, and now I will take you to the statements which precede these in that same account, which is exhibit BA498, which is ANZ.334.001.0066. That can go to the live stream because in these ones there are no client identifications at all. You see that's a statement of account, Commissioner, for June 2013. And that's statement number 1. So this is the first statement. This is the bank just opening this account newly. And if we turn to 0070, you can see there, on the 20th of August, all of those deposits have been made to a single patron number,

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and they're all under the \$10,000 limit. And that happens again on the 21st of August, and it happens again on the 22nd of August. Turning the page, please, operator. On the 23rd of August, the patron number changes for the first three and then it goes back to the earlier patron number for the last four. On the 27th of August, there's a new patron number with the same technique, breaking the transaction up, and the last three are a new patron number again. If we go over to 0073, now September, you can see it goes on: the 16th, 17th, the 20th. Turning the page, it happens again on the 11th of October. Next page, please, operator.

10 COMMISSIONER: September, I think. That's October.

MR ASPINALL: Yes, we've looked at those ones. There's October. The 11th of October. And then turning the page again, the 25th of October, the 29th of October. Going to the next statement – sorry, next – 0077, we're now in November. It happens on the 4th of November, the 5th of November. Turning the page, the same on the 14th of November, the 20th of November, the 21st of November – turning the page, please, operator – the 22nd of November, the 25th of November. And if we turn over to the final page – sorry, the next page, the 29th of November. And then going over to 0081, we're into December. The 3rd of December, the 4th of December, the 9th of December. Turning over the page, please, the 11th of December and the 20th of December. And then the next page, the 30th of December. And then we're into the month that the ANZ was telling Crown about in the spreadsheet. And if we see we can look at those briefly at 0084. You can see there, Commissioner, that those ones that we were looking at.

25 And so what, in my submission, a reasonable and prudent operator who cared about money laundering would have done was to look back and then see there are enormous problems with the operation of this account and it's clearly being used for nefarious purposes of money laundering. What that should have triggered, in my respectful submission, is a few things: firstly, somebody needed to tell members of the board and alert them to this activity; somebody needed to examine how this could have occurred and why it persisted for a month with nobody within Crown noticing it.

35 COMMISSIONER: A year – six months, isn't it? You said a month.

MR ASPINALL: Yes. Six months, I'm sorry.

COMMISSIONER: Yes.

40

MR ASPINALL: Yes. From June to January.

COMMISSIONER: Yes.

45 MR ASPINALL: And why it continued; third, what could be done to stop it happening again; fourth, to alert the regulator that they had a problem here and they needed assistance with what should be done. Now, we shall see, instead, what



happened, Commissioner. I go back to the chronology. You remember that Mr Costin had been asked the questions about what had occurred, and internal correspondence on the 31st of January Mr Costin was discussing the proposed response to ANZ with Mr Barton. He said:

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*I have spoken to Craig on this and he explained what has happened on these transactions. These are overseas patrons who use a money changer to provide the money into Crown's account where Crown cannot accept the money in that currency. He mentioned Indonesian and Malaysian customers. In terms of Paul queries, I can take him through the use of the account name, etcetera, but I am not 100 per cent sure what we should/shouldn't mention around the use of the company name.*

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15 And that was because, of course, the ANZ had raised why is "investment" being used in the company name. But – so that raises the level – it infers that there was sensitivity within Crown, or a knowledge that this company name was controversial or potentially detrimental, and a guardedness as to whether to tell their banker the truth about that. It also raises the question that the investigation done appears to have been to ask Craig and to take Craig's version of what occurred. There's no indication from Mr Costin that he has actually looked at the bank accounts himself or had Mr Preston or the AML people look at the accounts and determine what is actually happening. In effect, it's just an opinion from Craig as to what occurred.

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25 And, at this point, I want to unpack that explanation a little bit, because, in my submission, it doesn't explain anything. If anything, it raises further issues, because, firstly, why would a legitimate money changer be changing money into cash and then depositing it in blocks under \$10,000 at various branches of the bank? Why would a legitimate money changer be using names like Alex, Kai, Lee or putting no depositor name on the deposit at all? Why wouldn't a legitimate money changer have a bank account of its own which could transfer the money over to an account of Crown that the identity of that person could be verified and the transaction looked at?

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35 In my submission, the use – the explanation that overseas patrons are using a money changer should have raised more alarm bells rather than settled anyone as to whether or not there were problems within that account. In any event, whilst this email from Mr Costin to Mr Barton is discussing any proposed response to the bank, it appears that Crown never did provide any written response to the questions posed. In response to that email, Mr Barton replied recommending that Mr Costin first speak to Mr Birch at ANZ. Importantly, at this point, neither Mr Costin, Mr Barton or anyone else at Crown Resorts went to the risk management committee, alerted the board of either company or the regulator. As Mr Barton had suggested on the 3rd of February 2014, a meeting was held at Crown Melbourne's offices between Mr Costin and Mr Birch.

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45 COMMISSIONER: Mr Birch being the bank officer?

MR ASPINALL: Correct. And following the meeting, Mr Costin emailed Mr Theiler, who was the senior vice president of international business and who your Honour will be familiar with from Mr Bell's submissions. The email said:

5           *I just had a meeting with ANZ to discuss some transactions that occurred through the Riverbank Investments, specifically, money changers putting in multiple transactions. I got ANZ comfortable around the accounts, but one outstanding question was why the money changer deposits multiple amounts under \$10,000 at different branches.*

10           Three things emerge from this response, in my submission: first, Mr Costin, rather than being concerned about what is occurring and trying to escalate those problems to someone who might actually be able to investigate and deal with them, is trying to get "ANZ comfortable" with the accounts, which is not, in my submission,  
15 something that a responsible casino operator would do in those circumstances. The concerns which ANZ raise, in my submission, were serious and, on the documents themselves, they were valid. They were indicating that, in all probability, these accounts had been used for money laundering.

20           Second, Mr Costin appears to have assumed that the transactions were from money changers notwithstanding that at least, on the face of the deposit slips, that was not obvious, because some of them had no depositors information at all and, secondly, there was that problem that I mentioned already which – and which Mr Costin himself was aware of – that why would a legitimate money changer make deposits  
25 under the limit at various branches of the bank? In my submission the only credible answer to the one outstanding question which was not responded to was that they were doing that to avoid threshold reporting obligations, in an attempt to make it so that no one bank teller at any one branch saw that this was part of a larger transaction which was potentially money laundering.

30           After that, another meeting took place between representatives of ANZ and Crown, on the 27th of March 2014. The email invitation indicates that the invitees were Mr Neilson. And Mr Neilson's evidence was that he did go to that, because he had a relationship with ANZ previously; Ms Tegoni; Mr Preston; Mr Barton and Mr  
35 Costin. Now, the evidence from Mr Preston was that he didn't recall going to that meeting. The evidence from Ms Tegoni was that she didn't go to the meeting, positive evidence. The evidence of Mr Barton was that they both went to that meeting and that they gave a presentation on the AML compliance procedures at Crown. Now, just stopping there, I do not wish to submit that Ms Tegoni was giving  
40 false evidence when she told you that she did not attend, but I would submit that in the face of the document inviting her to the bank and Mr Barton's evidence that she did attend and he could remember her giving a presentation, it is likely that she was mistaken in the evidence that she gave and that she did attend that meeting. Mr Preston didn't recall, but on the same basis I would suggest that it's open to infer that  
45 he did.

COMMISSIONER: What does it matter?

MR ASPINALL: If that is true - - -

COMMISSIONER: But what does it matter?

5 MR ASPINALL: Then both AML compliance officers for Crown and Perth – for Crown Perth and Crown Melbourne were aware of this problem with ANZ and that is a serious problem because it means that the AML compliance officers should have then taken action to involve themselves in stopping it occurring further.

10 COMMISSIONER: Well, we've got the CEO of Crown Resorts, we've got the CFO of Crown Resorts being present. I would have thought there would be some direction from those two gentlemen.

MR ASPINALL: Yes, but you also have the person with the statutory obligation to  
15 oversee compliance with the AML programs being at ANZ and, on Mr Barton's evidence, trying to, as Mr Costin said, get them comfortable with what's happening here rather than trying to investigate what's a serious allegation and do something about stopping it.

20 COMMISSIONER: Yes.

MR ASPINALL: On March the 31<sup>st</sup>, 2014, a few days after that meeting, Ms Brown from the bank, ANZ bank, emailed Mr Costin raising what turns out to be an important point. Ms Brown said:

25

*We would like to clarify some points concerning reporting to AUSTRAC. It's our understanding from our previous conversations that when it comes to amounts deposited in account Crown would aggregate deposits through the course of a day and report the aggregated amount. However, this differs for cash received at the casino itself where we understand only amounts over the*  
30 *AU\$10,000 threshold are reported.*

30

In other words, Commissioner, ANZ took from conversations in March 2014 that aggregation of deposits within the account was Crown's policy. We look later – and  
35 I will come to it later – at this problem of aggregation which emerged within SYCO which actually ..... upon Mr Preston's evidence that the transaction monitoring system within Crown failed because information put into SYCO had been aggregated and that meant the report generated by SYCO did not alert AML cash reporting officers of the smurfing activity and, initially, Mr Preston told the Inquiry that that  
40 was inadvertent because that wasn't what was supposed to happen.

40

Now, you, Commissioner, asked him how he knew it was inadvertent and then Mr Preston told you that he hadn't asked anyone at either cage, Melbourne or Perth, either way. So his assumption was that it was inadvertent. But the fact is that it's  
45 unlikely it was inadvertent because if it was inadvertent because it was an error, if it was an error, that was being made independently in two separate cages in two separate states. This email would tend to indicate that it wasn't inadvertent; at least

at some stage it was just what was done. Mr Preston criticised the cage staff to an extent in respect of them not doing their jobs by aggregating these transactions which meant there was a failure of transaction monitoring, but in my submission - - -

5 COMMISSIONER: Do you mean Mr Preston?

MR ASPINALL: Yes. Yes. In my submission, Commissioner, you would be very cautious to mete out any blame against the cage staff in the circumstances of this kind of evidence which indicates that at least at this point, 2014, ANZ had formed  
10 the opinion from Crown itself that that was how things were done. It may be that policy changed. I wasn't aware of any directions given to the cage, but it would not be surprising if the cage took the view that aggregation was acceptable.

COMMISSIONER: Yes.  
15

MR ASPINALL: And if that's so then that shows that Mr Preston, as AML compliance officer, had no real appreciation of how the transaction monitoring process actually worked and that itself is a serious risk issue because the AML  
20 compliance officer should have been intimately familiar with how the transaction monitoring process worked because, as we saw later in the advertisement, and in Mr Preston's memo, the implicit assertion was that "nothing could have gone wrong in these accounts because they were subject to our usual transaction monitoring process". But the reality was there were problems with these accounts and the transaction monitoring process was failing to pick them up. A double problem.  
25

COMMISSIONER: When Ms Brown wrote to Mr Costin three days after the meeting with Mr Preston et al - - -

MR ASPINALL: Yes.  
30

COMMISSIONER: - - - and identified this matter of aggregation, was it just simply between Ms Brown and Mr Costin?

MR ASPINALL: I shall have a look at the email which is at CRL.557.001.0815.  
35

COMMISSIONER: Thank you.

MR ASPINALL: Which is exhibit BA34.

40 COMMISSIONER: Thank you. Yes, it appears that way.

MR ASPINALL: Yes.

45 COMMISSIONER: So she's writing to her superior or her colleague at the bank as well as Mr Costin at Crown.

MR ASPINALL: That's Mr Birch. He's the superior, yes.

COMMISSIONER: Yes. Yes. Thank you.

MR ASPINALL: Now, the next – the top two emails on that – the response at the bottom of that page is interesting because it says:

5

*Where cash is deposited in the cage, where it is under 10,000 threshold they are not reported as threshold transactions. If multiple receipts from the same patron under the threshold are placed on the same day, Crown would then report the suspicious transactions rather than threshold transactions.*

10

COMMISSIONER: Yes.

MR ASPINALL: But that was not the question that was being asked. The question – this is not what happens at the cage; this is what happens in the accounts. That answer is not responsive and because of that you can see in the email above Ms Brown presses for an answer to the question that she was asking:

15

20

*Just to clarify, in respect of the accounts when multiple deposits are made into the account on the same day, eg, at different branches would that be aggregated and reported as a threshold transaction or once again a suspicious transaction?*

And the next response is important because it comes six minutes later, and it's Mr Costin who says:

25

*My understanding is it's the same for bank accounts as it is for the cash deposits made into the cage.*

30

It's hard to see much care being given to that response when it's given six minutes later. Mr Costin hadn't answered the question in the first place and all he's giving is his understanding. This was a serious issue and as it turned out to be a very important issue because it meant that Crown were failing to detect instances of structuring.

35

COMMISSIONER: Well, isn't it the opposite, that what they were doing was saying we do report them to AUSTRAC and we report them as suspicious. So whether it happens in the cage or in the accounts, so that's consistent with what I've said previously, that I have assumed that Crown did identify them as suspicious transactions and did report them, but the problem is that they just kept going for years. And as Mr Barton said in his statement, "we focused on the reporting and we didn't look to do what we should have". So that seems to be the issue unless I'm missing something that you're putting to me.

40

MR ASPINALL: The issue that I'm ultimately getting to is the report which Mr Demetriou ultimately provided - - -

45

COMMISSIONER: The aggregation, yes.

MR ASPINALL: - - - indicated that there had been 102 instances of aggregation.

COMMISSIONER: Yes.

5 MR ASPINALL: And if that is so, and at least – and every instance had at least two transactions, and as you can see from the statement they usually have much more - - -

COMMISSIONER: Yes, of course.

10 MR ASPINALL: - - - then that would indicate, or at least an inference, that those things were not reported as they should have been. It may not be the case, but it raises the inference of that, and that means that the answer to this question was important because what Ms Brown is raising is the very issue that later came up in respect of aggregation and Crown have not taken the warning. This is in the section  
15 I'm talking about red flags from other people which a reasonable person would have taken on board and looked into. That's the context I put it in.

COMMISSIONER: Yes, but I'm not going to, am I, deal with whether they reported them or not because I've assumed that they have reported them.

20

MR ASPINALL: Yes.

COMMISSIONER: All right.

25 MR ASPINALL: But on the other hand, there's an admission that the aggregation problem occurred and that it occurred on at least 102 instances. In terms of the red flags that have been raised, it was raised here, and it wasn't just raised once, Ms Brown asked it twice.

30 COMMISSIONER: Yes, all right.

MR ASPINALL: And it wasn't investigated, and nothing was – apart from what Mr Young will tell you, but so far as the evidence shows, the smurfing continued.

35 COMMISSIONER: Yes. Well, I think Mr Barton has told me that already.

MR ASPINALL: Pardon?

COMMISSIONER: I think Mr Barton has told me that already.

40

MR ASPINALL: Now, on March – one thing was done and that was that Mr Barton requested, or investigated the potential engagement of Promontory to look at AML/CTF compliance programs at Crown Melbourne and Crown Perth, but it was specifically targeted to the VIP international business. Mr Barton, in answer to  
45 questions before the Inquiry, accepted that the purpose of this report could be characterised as being defensive, that purpose being apparently an attempt to

reassure ANZ that Crown's AML processes were sound, that it remained a suitable customer.

5 COMMISSIONER: Well, I think he told me he wanted to get around – he wanted to be comfortable with the AML processes.

MR ASPINALL: Yes, but the problem with the Promontory account is when look at it - - -

10 COMMISSIONER: The Promontory report.

MR ASPINALL: The Promontory report, at this time was that when you look at it, there was no review of the bank accounts of Southbank or Riverbank and indeed no mention of those accounts in the body of the report itself.

15 COMMISSIONER: Yes, Mr Barton accepted that was - - -

MR ASPINALL: Yes, and that may have been a deficiency which is explicable in terms of the question that was asked, because he asked for a review of the VIP international business and the AML compliance program. The problem that arises, in my submission, is that when Mr Barton got the report back and it didn't address the very problem which had prompted the question in the first place, that Mr Barton should have said, "Well, in effect, what's the answer to the Southbank and Riverbank problem? Why haven't you told me how that could have happened and how that can be stopped from occurring in the future?" The report in those circumstances passes the problem like a ship in the night. It doesn't address the problem that Mr Barton had been alerted to by ANZ, and it goes off on a different question which is related to the investigations and due diligence done on the international VIP patrons themselves.

30 COMMISSIONER: Yes.

MR ASPINALL: Which may, in effect, be relevant at an end point because eventually all this money flows into a patron account, but it doesn't address the problem of "Why is there indicia of money laundering happening in our account and what can we do to stop it" but more importantly, "Why didn't we identify that ourselves? Why was it necessary for ANZ to come to us and read us chapter and verse pointing out individual transactions in that spreadsheet, and why, when we go back into the statements from the previous six months, didn't we pick up all of those examples as well?"

45 So that then comes back to, perhaps, ignorance or inadvertence again, or it may just be an apathy in terms of, well, Mr Barton was too busy to read or properly understand that and didn't get the point that the problem here was the structuring in the account rather than the identification of the VIP patrons.

COMMISSIONER: Well, Mr Barton told me that he didn't have a full understanding of AML at that time.

MR ASPINALL: Correct.

5

COMMISSIONER: Which for a CFO is difficult to understand, but he indicated that he didn't really have a proper understanding of AML until the last six months or last 12 months.

10 MR ASPINALL: Yes. And in an organisation as prone to exploitation by money launderers, the very fact that Mr Barton, as CFO – well, as CFO, he didn't need to intervene in this question of keeping these accounts open and money laundering within them, particularly. Anybody could have done that. The person who did do it should have been properly qualified, had training in what was going on and drilled  
15 down to understand what was happening. See, in this circumstance, Mr Preston had so many jobs, so many responsibilities and no particular AML training, neither did Ms Tegoni, and Mr Costin is not an AML officer at all. So there are these people who are dealing with these accounts, negotiating and trying to discuss them with ANZ, but none of them have any AML training – specialised AML training, so - - -

20

COMMISSIONER: Mr Barton was only there because he said he was the relationship person with the bank.

25 MR ASPINALL: But as a cultural issue or a risk structural issue, it should be that where – you would think in a reasonable, competent, licensee, if a bank raises money laundering concerns with you, you have somebody who is suitably qualified to investigate and have a look at it and spare the time to do things like carefully consider a report that comes back which has been commissioned which doesn't answer the very issue that the bank has raised. So it's – I'm not being critical of Mr  
30 Barton for having no training. And if – and, of course, he says he was ignorant of the problem or didn't understand the details. But from a broader perspective, it begs the question why didn't someone within Crown have that expertise to be able to do it? Because then they could have informed Mr Barton, if necessary, what should occur as a structural issue.

35

COMMISSIONER: Well, you say you're not critical of Mr Barton having any training, but, as the CFO of a public company, surely he'd want to have some training in AML.

40 MR ASPINALL: Yes. But he didn't need to intervene in this particular problem for the .....

45 COMMISSIONER: I know that. But I'm just saying your proposition – and may I say, Mr Aspinall, it surprised me a little, because it does seem that a CFO of a public company who has a casino licence would want that person to have AML training.



MR ASPINALL: I very much would. But in terms – but my point in this situation was a little different, that if Mr Barton didn't have any AML training, he shouldn't have been dipping his oar into this issue.

5 COMMISSIONER: I see, yes.

MR ASPINALL: And if he didn't have the time to properly read and understand the Promontory report, he shouldn't have then gone back to ANZ and discussed it with them, which is what happened next.

10 COMMISSIONER: Yes, I see. Thank you.

MR ASPINALL: I think – and Crown also, I think, now accepts – that it would have been appropriate for the board and senior executives to have training in AML.

15 COMMISSIONER: Yes. There's no doubt about that.

MR ASPINALL: That's part of our submission - - -

20 COMMISSIONER: Yes.

MR ASPINALL: - - - as to what has been the problem here.

25 COMMISSIONER: Yes.

MR ASPINALL: Mr Barton did ultimately obtain the Promontory report, but the efforts to persuade ANZ to keep the accounts open failed. And when Mr Barton and Mr Costin met with ANZ again on the 29th of April 2014, ANZ informed Crown Resorts that the Riverbank account would be closed in July 2014.

30 COMMISSIONER: Did the structuring continue from January till the time it was closed?

35 MR ASPINALL: We can look at that.

COMMISSIONER: Come back to me on that. Yes.

MR ASPINALL: Following this decision, Mr Barton directed Mr Costin to inform Crown Melbourne and Crown Perth patrons to:

40 *Stop making multiple in branch cash deposits below the threshold.*

COMMISSIONER: I see.

45 MR ASPINALL: And on the 29th of April 2014, Mr Costin emailed various staff within Crown Resorts saying:

ANZ have advised they will be closing the Riverbank Investments account and have also advised that the Asian patron deposit accounts for Southbank Investments in Hong Kong and Singapore will be closed. Closure of the Riverbank accounts was expected. Can customers be advised by relevant  
5 people that multiple cash deposits in branch under \$10,000 reporting threshold will not be accepted in the new CBA accounts as we don't want this process to occur again with CBA in six months time deciding to close the Riverbank and Southbank accounts due to suspect transactions.

10 The same day Mr Theiler replied:

*We've already instructed our relevant office managers to advise customers not to make multiple deposits under \$10,000, and we will continue to remind them.*

15 There are three issues with – at least three issues with that, Commissioner: firstly it speaks of an attitude that rather than wishing to genuinely prevent money laundering, officers within Crown Resorts wanted the structuring to stop because the closure of bank accounts by bankers was inconvenient to Crown Resorts; secondly, the control,  
20 if that be what it is, of telling customers not to structure money is, in effect, a request from a money launderer to stop money laundering. It's unlikely to have been effective. And as Ms Tegoni indicated in her oral evidence, it may well have constituted a tipping-off offence; third, if you were going to tell customers that  
25 transactions – multiple transactions under \$10,000 would not be accepted, you were going to have to enforce it. And as we'll see in the statements to come, that didn't happen either.

So in terms of a response, it's a very curious response. It seems more aimed at avoiding the problem which ANZ had raised and, somehow, moving to a new bank with telling the customers "don't do this again" and an assumption that that would be  
30 enough, which, in my submission, is not something that a reasonable, competent casino operator would do. Again, that may be because Mr Barton and Mr Theiler and Mr Costin didn't know what they were doing, but, nevertheless, they were engaged in this very operation and they were authorised by Crown to do that.

35 Just to answer the question that you raised, Commissioner, the ANZ statement – if this could be brought up, ANZ.334.001.0067, which is the R version, the redacted version. If we could go to 0088. We see it's February now, and it goes on to the 27th of February, the 28th of February – turning over, please, operator – the 28th of February again, going to March, which is 0090.

40

COMMISSIONER: So at the time that the ANZ was, on the 3rd of February, it all starts with Mr Costin's transactional documents in-house, and then there's the 27th of March. If we could go to the 27th of March, please.

45 MR ASPINALL: Operator.

COMMISSIONER: So it continues through March. If the operator could turn the page, I'd be most grateful. Yes. So that's the end of that. And what about April? Have we got any April accounts? We don't have those. So by the time the ANZ demands some further action or some response, the structuring continues throughout  
5 January/February and the end of February and into March. Yes. Yes, I see. Thank you. Thank you for attending to that, Mr Aspinall, and Mr McCorn. Yes.

MR ASPINALL: And then, on the 29th of April 2014, just following up this issue of it being an inconvenience.  
10

COMMISSIONER: Yes.

MR ASPINALL: Mr Hancock wrote to Mr Costin saying:

15 *Good luck with finding a new bank. You will have contacts in every major and minor bank in Asian within a few short years as we continue to open and close accounts.*

COMMISSIONER: Who is Mr Hancock?  
20

MR ASPINALL: Mr Hancock was from the cage. We will bring up that email, because I'd like to show it to you for another reason – which is CRL.605.016.4170, which is exhibit BG2. Yes. Mr Hancock is the manager of cage and count operations at Crown Melbourne.  
25

COMMISSIONER: Yes.

MR ASPINALL: I would just like to, if I may, take you to the next page, Commissioner.  
30

COMMISSIONER: Yes, 4171. Yes.

MR ASPINALL: And invite your attention to the second-last paragraph there which starts:  
35

*Ken and I - - -*

COMMISSIONER: That's Mr Barton.

40 MR ASPINALL: Yes:

*Ken and I were surprised by the decision to close the Southbank accounts in Asia and Ken stressed the importance of the accounts to our VIP team with ANZ. Ken is trying to set up a meeting with some more senior management with ANZ to discuss these accounts, but, in the interim, I will attempt to find another bank who will be willing to offer us patron accounts in Hong Kong and Singapore. I will let you know of progress.*  
45

And so that speaks again, Commissioner, to Mr Barton trying to persuade the bank that they should remain open, because they were important to Crown. And they were important to Crown, obviously, because Crown wanted money to flow through them to it. And that perhaps goes back to the point Ms Sharp made in respect of the need  
5 to get money in or profit in overriding steps a sensible person or a competent casino operator would take to deal with an obvious problem which had arisen with respect to money laundering.

10 COMMISSIONER: What's the exhibit number for that email, please?

MR ASPINALL: It's BG2, Commissioner.

COMMISSIONER: Thank you. Thank you.

15 MR ASPINALL: And the email which says, "Good luck finding a new bank," from Mr Hancock is, again, in my respectful submission, indicative of a culture which tries to get around problems of money laundering in the most expedient way rather than addressing them and dealing with them.

20 COMMISSIONER: Yes.

MR ASPINALL: ANZ had done, in my submission - - -

25 COMMISSIONER: Just pardon me. What he's raising in that email is that the first paragraph, if you can help me with that - - -

MR ASPINALL: "Following on from our meeting"?

30 COMMISSIONER: No. On 4170, he says:

*I do remember, when I spoke to Ms Tegoni after the last meeting, I told her they were going to close the accounts, effectively, regardless of what we said, as some of their questions seemed a bit lame, as if they were going through the motions. It all seems an absolute certainty now that the HSBC man is now at the ANZ.*  
35

Is that right? Is that what he's saying?

40 MR ASPINALL: That's what he's saying.

COMMISSIONER: Yes. So:

*It all seems an absolute certainty that the HSBC man is ... at the ANZ.*

45 MR ASPINALL: Yes.

COMMISSIONER: So the HSBC man was the one who had closed the accounts at the HSBC?

MR ASPINALL: Correct.

5

COMMISSIONER: Yes, I see.

MR ASPINALL: And it's an interesting way of explaining what's happening - - -

10 COMMISSIONER: Yes.

MR ASPINALL: - - - in terms of, "The HSBC man is out to get us." In effect, "Regardless of what we say he's going to close them."

15 COMMISSIONER: Yes.

MR ASPINALL: Rather than dealing with the issue, which is that these accounts clearly show examples of money laundering happening.

20 COMMISSIONER: Yes, I see. Yes. Thank you.

MR ASPINALL: It's sort of an odd culture that tries to blame the HSC man - - -

COMMISSIONER: HSBC.

25

MR ASPINALL: HSBC man for what has actually occurred in the accounts of Crown itself.

COMMISSIONER: Yes. All right.

30

MR ASPINALL: Mr Barton, as I've said, did commission the Promontory report and, on the 29th of September 2014, he received it. The Promontory report noted that they had reviewed Crown Resorts' manual transaction monitoring and, whilst unable to definitively test, was able to infer that Crown Resorts implemented the manual controls in a manner consistent with the requirements of its AML/CTF program.

35

COMMISSIONER: Sorry. Just pausing there, albeit that it may be rather ham-fisted in asking the wrong questions or not directing them to the account, Mr Barton did take a step - - -

40

MR ASPINALL: He did.

COMMISSIONER: - - - to retain Promontory to review whatever he asked them to review, but not the accounts. So that, in itself, indicates that, albeit he didn't have an understanding of the AML structure – albeit that he didn't have an understanding of the AML structure, he at least retained a third party to have a look at it for him.

45

MR ASPINALL: Yes.

COMMISSIONER: Yes, all right.

5 MR ASPINALL: And I'm not critical of him in respect of the asking of the question.

COMMISSIONER: Yes.

10 MR ASPINALL: What I criticise is the response when the report comes back and does not answer the question, because the question is, effectively, "What has gone wrong in ANZ with our transaction monitoring and detection processes such that this could have occurred in ANZ and nobody noticed it before ANZ raised it with us?"

15 COMMISSIONER: But are you saying that Promontory was not briefed in that review, or in the request for the review, in respect of the existence of those accounts?

MR ASPINALL: Yes.

20 COMMISSIONER: So what were they reporting on?

MR ASPINALL: They were reporting on the AML/CTF program with respect to the international VIP business, and that is why they looked at questions of "what due diligence are you doing on junket operators and the source of their funds" and so on,  
25 and the problem was really that within the local community, smurfing was occurring at branches of the ANZ bank and that the casino was then transferring it into its own coffers. And that was the problem.

COMMISSIONER: Yes, thank you.

30 MR ASPINALL: And that was what ANZ was saying. That was why they were giving all those examples.

COMMISSIONER: Yes.

35 MR ASPINALL: So we – accepting that Mr Barton didn't have any real understanding or training in AML, the question that he asked Promontory was not a great question. It was framed - - -

40 COMMISSIONER: You mean not the relevant question?

MR ASPINALL: It was not the relevant question. And that is a failing of itself, but more critically, in my submission, is the failure to recognise when the report came back that it hadn't, in fact, dealt with the question that needed to be asked and that he  
45 had asked the wrong question, or that he needed to go back and ask them to look at other things which were the problems that ANZ had raised. One way of doing it might have been to say, "Well, look at these emails from ANZ. Can you tell me

what is wrong with our processes such that we didn't find those things?" Instead, the question was asked in a very high level and Promontory wasn't made aware of the existence of Southbank or Riverbank, and certainly didn't review any of the accounts. It's a very perplexing thing.

5

In an email on the 5<sup>th</sup> of March 2015 from Mr Birch to Mr Barton, it's made clear that in due course ANZ was provided with a copy of the Promontory report. In that email Mr Birch provided Mr Barton with some commentary and analysis of the Promontory report from ANZs AML team which he asked Mr Barton to get ANZ to get Crown Resorts' team to review. If we have a look at that email, it's at ANZ.334.002.0036, which is exhibit AO1. And so the analysis which is from Mr Birch, but it comes from ANZs AML team as you can see from the first line - - -

10

COMMISSIONER: Yes.

15

MR ASPINALL:

20

*Analysis, KYC information. It appears only minimal information is obtained from patrons, including name, DOB, residential address. For ANZ, the minimum collect requirements per is name, date of birth, address, occupation, citizenship, nationality for individual customers. Whilst World-Check screening is performed on all junket operators, patrons non-credit or patrons' credit there is no evidence of client review or rejection exit from adverse media sanction or peak related notifications where these would be deemed above Crown's risk appetite.*

25

Now, that is an interesting remark because that is exactly the issue that has been raised in respect of the junket problem because there was, in effect, no risk appetite and there were not, as Mr Birch points out, exits, which is to say "We won't deal with you any more", despite notifications of problems. Mr Birch continues:

30

*ANZ screen all customers against mandated sanctions list. It also screens all customers against PEP lists, crime and terrorist lists. Further, ANZ has a transaction monitoring program to alert potentially suspicious unusual transactions. At ANZ risk rating of customers is automatically set at low unless and until AML/CTF officer or cash transactions reporting manager decides to elevate the risk which would not be reassessed for another two years.*

35

COMMISSIONER: Is that ANZ or Crown?

40

MR ASPINALL: No, Crown.

COMMISSIONER: Well, I think you said ANZ.

45

MR ASPINALL: I'm sorry.

COMMISSIONER: This is referring to Crown, is it?

MR ASPINALL: Yes.

COMMISSIONER: Yes.

5 MR ASPINALL: Mr Birch is saying to Mr Barton “You automatically set the risk level of everybody at low until it’s raised by the AML officer”, or Mr Howell, so that’s either by Mr Preston or Mr Howell - - -

COMMISSIONER: Yes.

10

MR ASPINALL: A - - - and then it won’t be reassessed for two years.

COMMISSIONER: Yes.

15 MR ASPINALL:

20 *ANZ has an automated solution to determine customer risk base and so on. Review of customers with significant or high-risk ratings is done on a two-year cycle whereas ANZ performs this on a one year or six-monthly cycle or where an event is triggered. Crown CDD –*

which is customer due diligence –

25 *...is not aligned with ANZs customer risk rating requirements. For example, ANZ has automated solution to calculate customer risks and all customers are risk rated. ANZ has a position on managing high risk customers and on certain restricted customer types. Understanding the ultimate beneficial owner is not mandatory, whereas ANZ is required under the minimum standard to know and identify the ultimate beneficial owner. Under Australian customer due*  
30 *diligence reforms and Australian Know Your Customer policy is now required beneficial ownership information collected for all entity types with a risk-based approach.*

They then analyse the enhanced due diligence framework and say:

35

40 *In areas of enhanced due diligence, Crown does not prescribe any mandatory approach or information that must be collected. This is not in line with ANZs enhanced due diligence process where we prescribe certain collection of artefacts. No evidence in the report which indicates where enhanced due diligence has been performed and where heightened risk or a trigger event has led to escalation for review or ultimately exited.*

That’s the problem that Ms Sharp referred to in junkets whereby reports never triggered any action even if they were of concern.

45

*In two instances a patron has been charged or convicted and there was no evidence of review by Crown of the client account. Transaction monitoring –*



it said –

5                   *...is largely manual based on desk top reviews or reports. There is no automation. Again, there appeared no evidence of any exits following submission to AUSTRAC for SMRs or SCTRs.*

So those are the suspicious matter reports or the threshold transaction reports.

10                   *There is no evidence in the report determining the effectiveness of these transaction monitoring scenarios or what the approach is for monitoring, such as data mapping, generating exception reports –*

15                   and so on. So what Mr Birch is, for free, pointing out to Mr Barton are all the problems that we have subsequently touched upon in this Inquiry with respect to junkets and what's happening in the Southbank and Riverbank accounts. The red flags are reported, as we've assumed in the last line, but nothing else happens. It's a culture that seems to think that reporting itself is an end and that is where Crown's responsibility begins and ends. And the general tenor of this is "You've got problems. You've got serious problems and you're not up to the scratch of the bank". And in fact, Mr Barton, on the 6<sup>th</sup> of March, replied to Mr Birch saying:

20                   *This seems to be largely be a comparison between ANZs processes, not a commentary on the Promontory report. It's not clear that the implications are of a difference in approach to some of the processes between ANZ and Crown would be. Are there any specific areas that should be addressed from this comparison?*

30                   Mr Barton in his evidence said that he had further communications with Mr Birch, however, cannot recall what was said. ANZ did not provide any responses to Mr Barton, and with respect to ANZ it wasn't necessary to do so because they had pointed to many specific areas of concern. The response by Mr Barton to ANZ is concerning for many reasons, in our submission.

35                   COMMISSIONER: Well, I think he said that he didn't accept the email outlined any failures by Crown.

40                   MR ASPINALL: Well, in my submission, you wouldn't accept that. It assumes on, Mr Barton's point – from Mr Barton's point of view, that a casino doesn't need the same sort of due diligence policies and transaction monitoring as a bank, and it's obvious, in my submission, the casino needs the same level of due diligence and monitoring as a bank, if not more, because a casino is even more exposed to the risk of money laundering as a bank because of the cash sloshing around in the gambling world. So Mr Barton's response proceeds on a false premise that a casino is entitled to think that a bank is a different form of business which does not have relevance to

45                   what Crown should have been doing.

COMMISSIONER: Well, in exhibit AO76, which was the statement that Mr Barton provided - - -

MR ASPINALL: Yes.

5

COMMISSIONER: - - - it was with reference to a letter that was written to Crown, I understand, from what Mr Barton says. Mr Barton does not accept (1) that there were any failures identified by Mr Birch in this email, and (2) he does not accept that there were any serious issues raised. And so as I apprehend it, this comparative exercise was seen by Mr Barton at that stage of his career at Crown as a matter that was a comparative analysis which did not suggest to Crown that it had any vulnerabilities or issues that it needed to address. That in itself may be a problem.

10

MR ASPINALL: It's a huge problem, Commissioner, and if I take you to that particular paragraph, it's CRL.730.001.1547 at 1549, which the subparagraph there is subparagraph (3):

15

*For the reasons I do not accept that "serious issues were raised".*

Now, that email from Mr Birch said specifically in circumstances where red flags are raised Crown doesn't do anything about it. It never exits things despite making reports to AUSTRAC. How can that not be a serious issue? If someone says even now – this statement was made on the 4<sup>th</sup> of November. Even now Mr Barton, as CEO, having done the AML training, doesn't accept in evidence to the Inquiry that that's a serious issue. That's a cultural problem. In my submission, it's a very serious issue. It may – I'm not – that's Mr Barton's view, but in my submission it's wrong. The fact that he can't see that it's wrong is of grave concern.

20

COMMISSIONER: This is a statement that I see was provided after Mr Barton gave his oral evidence.

30

MR ASPINALL: Yes.

COMMISSIONER: And Mr Barton has only addressed that in writing.

35

MR ASPINALL: Correct.

COMMISSIONER: Yes, I see.

MR ASPINALL: The email that we just saw from Mr Birch to Mr Barton was produced by ANZ after the hearing – the oral evidence had completed, and so Mr Barton gave this statement upon the basis of a letter having been provided with that.

40

COMMISSIONER: I see. Yes.

45

MR ASPINALL: I see the time, Commissioner. Is that convenient?

COMMISSIONER: Yes. Yes. Yes. I will adjourn until 2 pm. Thank you.

**ADJOURNED**

**[12.59 pm]**

5

**RESUMED**

**[1.59 pm]**

10 COMMISSIONER: Yes, Mr Aspinall.

MR ASPINALL: Thank you, Commissioner. Before we – before lunch, we were discussing Mr Barton’s comparison with Mr Birch between the casino and a bank

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15

COMMISSIONER: Yes.

MR ASPINALL: --- financial institution. I just wanted to – I have referred to it already, but I just wanted to point again to exhibit A246.

20

COMMISSIONER: Yes.

MR ASPINALL: Which is INQ.220.001.0416 at 0428, which is the money laundering Australia document.

25

COMMISSIONER: Yes, I recall that.

MR ASPINALL: And at 0428, the second paragraph, it talks about the risk of cash in a casino, but then it goes on to point out, as is obviously the case, that:

30

*Many casinos and gaming facilities offer services similar to financial institutions –*

and so on.

35

COMMISSIONER: Yes.

MR ASPINALL: So this wasn’t a secret. And, in fact, obvious, I would have thought, but I just wanted to make that reference.

40

COMMISSIONER: Yes. Thank you.

MR ASPINALL: Now, in terms of what happened after ANZ closed the account, I need to go back a little. What happened, as I mentioned earlier, was HSBC closed the accounts of Riverbank and Southbank and associated casinos.

45

COMMISSIONER: In 2013.

MR ASPINALL: Correct. And what happened is Southbank and Melbourne then went directly to CBA - - -

COMMISSIONER: Right.

5

MR ASPINALL: Those accounts were moved to CBA. Riverbank went to ANZ.

COMMISSIONER: I see.

10 MR ASPINALL: They lasted there only, well, 10 months.

COMMISSIONER: Yes.

MR ASPINALL: And then they too went to CBA.

15

COMMISSIONER: I see.

MR ASPINALL: So that's how the two of them went. And I wanted to take you now, Commissioner - - -

20

COMMISSIONER: Just pardon me. So that would have been in the middle of 2014 that Riverbank transferred from ANZ to CBA; is that right?

MR ASPINALL: It was transferred on the 26th of March 2014.

25

COMMISSIONER: All right. Thank you. So that was before ANZ closed their accounts?

30 MR ASPINALL: Yes, because there was – as we saw in those accounts, transactions tapered off.

COMMISSIONER: Yes.

MR ASPINALL: And there was this new account that was to take over.

35

COMMISSIONER: Thank you.

40 MR ASPINALL: So what I might do now, Commissioner, having outlined the general categories of transactions we say are of concern, is to show you some statements from those CBA accounts. The first one is from Riverbank, which is CBA.050.001.0347\_ R.

COMMISSIONER: Thank you. This can go to the live stream, apparently.

45 COMMISSIONER: Yes.

MR ASPINALL: And that's Riverbank.

COMMISSIONER: This is the following year.

MR ASPINALL: The exhibit is BA584.

5 COMMISSIONER: Thank you.

MR ASPINALL: This is September 2014.

COMMISSIONER: Yes. Thank you.

10

MR ASPINALL: So it's about six months or five months after this account was moved over. And if we look at 0349.

COMMISSIONER: Is this Riverbank or Southbank, this one?

15

MR ASPINALL: This is Riverbank.

COMMISSIONER: Thank you.

20 MR ASPINALL: 0439 is useful because it shows an example of quick cash style smurfing at the bottom.

COMMISSIONER: Yes. Yes, I see.

25 MR ASPINALL: For 50,000 to the patron deposit numbers there. And it also shows an example of a misleading reference there at Feel Good Massage, 28 September.

COMMISSIONER: Well, it may not be misleading.

30

MR ASPINALL: It might not be. But the QuickCash deposits go over the page to 0350.

35 COMMISSIONER: So those cash deposits of 50,000 are just in the same way that we saw the \$9000 deposits but in the quick case?

MR ASPINALL: Yes. But through the envelope slip into the chute.

MR ASPINALL: Yes, but through the envelope slip into the chute.

40

COMMISSIONER: Yes.

MR ASPINALL: If we turn over the page we have an example of what I might call old style smurfing on the 21st of October.

45

COMMISSIONER: Yes, I see.

MR ASPINALL: You see that's the old cash deposited at the branch style.

COMMISSIONER: Under 10,000.

5 MR ASPINALL: Yes. And that is happening there in Sydney and in Perth on the same day. There's QuickCash happening in the last three actions on the same day.

COMMISSIONER: Yes, I see.

10 MR ASPINALL: Now, what's happening here, on the 21st of October, is a problem for many reasons. One of the problems is you recall that, when the ANZ account was closed, Mr Barton directed people to be told that, from now on, we won't be accepting deposits under \$10,000 at multiple locations. And that's exactly what is happening here six months later, in a new account with a new bank.

15 COMMISSIONER: But the direction that was to be given was a direction in accordance with the communication between Mr Costin and his colleagues.

MR ASPINALL: Mr Barton's evidence was that he directed Mr Costin to tell  
20 people not to do that.

COMMISSIONER: Yes.

MR ASPINALL: We then saw an email from Mr Costin and Mr Theiler and others,  
25 and Mr Theiler saying our people have been told to disseminate that - - -

COMMISSIONER: All right.

MR ASPINALL: - - - information and to keep reminding them.

30 COMMISSIONER: And that was back in - - -

MR ASPINALL: That was April.

35 COMMISSIONER: Yes.

MR ASPINALL: That was April.

COMMISSIONER: Yes.

40 MR ASPINALL: I can bring that up shortly.

COMMISSIONER: That's all right. And so, now, we are six months later, they're  
45 doing it again.

MR ASPINALL: Yes. But the bigger problem is not that they're doing it again, but that Crown is actually accepting the money. Because if we turn over to 0352 - - -

COMMISSIONER: Yes.

MR ASPINALL: - - - that \$5 million there is a sweep. On the unredacted version –  
5 I don't know why they redacted that entry – but that is a sweep over into the account  
of Crown Melbourne.

COMMISSIONER: Into Crown's account.

MR ASPINALL: And so you've got money, which is obviously suspicious being  
10 received – this is the point I come to later – being swept then – somebody decided  
that this was fit to be swept into the account of the casino, and this is a problem in  
terms of the criminal law, because this company is not a reporting entity and cannot  
be protected by the effect of the AML Act.

15 COMMISSIONER: Yes, I understand.

MR ASPINALL: That happens – so if we keep going on this page – where were we  
up to?

20 COMMISSIONER: 0350.

MR ASPINALL: So at 0351 - - -

COMMISSIONER: Yes.  
25

MR ASPINALL: - - - there's more QuickCash style deposits.

COMMISSIONER: Yes.

30 MR ASPINALL: The same patron number there at the 4th of August: George  
Barrick, Barrick, Barrick, Perth, Perth, and so on.

COMMISSIONER: Yes.

35 MR ASPINALL: And then going over the page, 13th of November, there's the  
same style of thing happening in Sydney this time.

COMMISSIONER: Yes.

40 MR ASPINALL: And then if we – and then that continues over on to the next page,  
two deposits at Park Street; that's that one. So that was a Riverbank statement. We  
will have a look at a Southbank statement, which is CRL.563.001.0700\_R.

COMMISSIONER: Yes.  
45

MR ASPINALL: This is Southbank, this time from April 2014. And right there on  
the first page it's happening again.

COMMISSIONER: Yes.

MR ASPINALL: All those transactions to the same patron number all being made at different branches around Sydney. In fact, it goes over the page, continues the  
5 next day, and it continues the day after at the bottom of that page.

COMMISSIONER: So this is into March 2015?

MR ASPINALL: '14.  
10

COMMISSIONER: '14.

MR ASPINALL: March 2014.

15 COMMISSIONER: Thank you.

MR ASPINALL: The ANZ has raised these concerns with Crown three months ago – two months ago. And the same thing is now happening at a new account with a different bank.  
20

COMMISSIONER: Yes. And that goes on for how long, Mr Aspinall?

MR ASPINALL: That goes – I gave you the time period. I think it's two - - -

25 COMMISSIONER: I think it's 2017.

MR ASPINALL: - - - thousand and seventeen. But there are also strange deposits that I wanted to just highlight which - - -

30 COMMISSIONER: Yes.

MR ASPINALL: - - - don't fit into the smurf category. But, for example, on 0702, there's, on the 7th of March, just \$200,000 in cash being deposited.

35 COMMISSIONER: Yes.

MR ASPINALL: And then on the next page, 0703.

COMMISSIONER: The same.  
40

MR ASPINALL: Another \$200,000 in cash. If we go to – there was a strange entry there of 11th of March to SkyCity Adelaide.

COMMISSIONER: Yes.  
45

MR ASPINALL: Which, again, is inconsistent with what, for example, the OGR had been told earlier in the piece about it only being for patrons, because this is - - -



COMMISSIONER: Yes.

MR ASPINALL: - - - why, one wonders, would a transfer between a casino need to go through this account. It's all very - - -

5

COMMISSIONER: Through this account, the question is certainly raised. But we've been told that the patrons sometimes asked for their accounts to be transferred to other casinos when they're travelling interstate. Yes.

10 MR ASPINALL: At 0706 there are some more.

COMMISSIONER: Yes.

15 MR ASPINALL: And I would just like to show you again, Commissioner, the sweep. This time it hasn't been redacted, but there's a sweep on 0705 of 2.8 million.

COMMISSIONER: Yes, I see, 31<sup>st</sup> of March.

20 MR ASPINALL: Yes, and there's another sweep on the following page, 0706.

COMMISSIONER: So just pause there. What date?

MR ASPINALL: The 7<sup>th</sup> of April.

25 COMMISSIONER: Yes. So the account reaches a particular point and the sweep occurs, I see.

MR ASPINALL: But then it's not regular as to when it occurs.

30 COMMISSIONER: No.

35 MR ASPINALL: But for example, you can see with respect to the entries on the 8<sup>th</sup> of April, those are suspicious, and then if you turn over to the next page, on the 14<sup>th</sup> the sweep happens anyway. So there's obviously a problem and Mr Preston wasn't able to tell me who made the decision to carry out the sweep, but that's obviously critical. We have another one from Riverbank which is CBA.050.001.0357\_R which is BA487.

40 COMMISSIONER: Yes.

MR ASPINALL: This one has a little bit of old-fashioned smurfing at 0358 for two cash deposits, Haymarket; the same patron number, the 24464.

45 COMMISSIONER: Yes.

MR ASPINALL: And then going down at the bottom of the page there's some more: a cash deposit of 5000 at the L and C Streets, Sydney and then Park and

Castlereagh another 5000. Go over to the next page, there's another one on the 20<sup>th</sup> of March. And then there's some QuickCash smurfing on the 20<sup>th</sup> of March for 50,000 all made at different QuickCash - - -

5 COMMISSIONER: So is it the case that we see that there's a greater use of QuickCash after the directions were given?

MR ASPINALL: Yes. And it may just because QuickCash became more available then, I'm not sure. Obviously, it's much more convenient to put in \$50,000 amounts  
10 than - - -

COMMISSIONER: Going around the branches.

MR ASPINALL: - - - to keep going around the town, yes. But in respect of that  
15 particular number, 244, you can see that continues with QuickCash on the 23<sup>rd</sup> of March.

COMMISSIONER: Yes.

20 MR ASPINALL: And then there's a bit more cash deposits being made on the 24<sup>th</sup>. There's more QuickCash at 0361.

COMMISSIONER: Yes.

25 MR ASPINALL: Then if we go to 0362, there's a bit of old-fashioned style smurfing on the 26<sup>th</sup> of May and 27<sup>th</sup>.

COMMISSIONER: Yes.

30 MR ASPINALL: And then a bit of QuickCash on the 28<sup>th</sup>.

COMMISSIONER: Yes.

MR ASPINALL: If we look at CRL.563.001.0719\_R. If we look at 0702, these  
35 transactions at the top are called remittance agent transactions and they themselves, according to the AUSTRAC guidance from 2011, are problematic. That is discussed at the document A246, INQ.200.001.0416.

COMMISSIONER: Yes.

40

MR ASPINALL: That starts at .425.

COMMISSIONER: Yes.

45 MR ASPINALL: And I won't take you through it, Commissioner, to save time, but it discusses there the risks that receiving money through money transfer and

remittance agents are, and it says that they've been identified as having links to serious criminal networks and so on.

5 COMMISSIONER: And these are the accounts in which the Pai Pai Supply Chain was identified by Ms Sharp.

MR ASPINALL: Yes, that's right, and in fact there's one on this page down at the 3<sup>rd</sup> of June.

10 COMMISSIONER: Yes.

MR ASPINALL: That continues on the next page, which is the 6<sup>th</sup> of June, and you will have seen – those are significant amounts now; nearly \$800,000 in one day on the 6<sup>th</sup> of June.

15 COMMISSIONER: Yes.

MR ASPINALL: And then if we go to 0723, this is an example of old-fashioned smurfing on the 9<sup>th</sup>.

20 COMMISSIONER: So this is in 2016.

MR ASPINALL: 2016, yes, June 2016. And this one – someone appears to have just ridden a train out along one of the train lines and hopped off at each stop and visited the bank.

25 COMMISSIONER: Yes, and it's the same – or we don't know from this account to which patron those moneys were destined, but it's the same set-up.

30 MR ASPINALL: Correct.

COMMISSIONER: Yes. I understand.

MR ASPINALL: And the same on the 10<sup>th</sup> of June.

35 COMMISSIONER: Yes.

MR ASPINALL: And it continues over the 0725, the 14<sup>th</sup> is similar.

40 COMMISSIONER: Yes.

MR ASPINALL: They're all the same amount made at different branches and so on.

45 COMMISSIONER: So this is the CBA.

MR ASPINALL: Yes.

COMMISSIONER: Which was opened in April 2014. This is two years later.

MR ASPINALL: Yes.

5 COMMISSIONER: This is still going on.

MR ASPINALL: Yes.

10 COMMISSIONER: What is the position vis-à-vis CBA and Crown in the communications about the accounts?

MR ASPINALL: There's nothing that we have found yet, but there is – and I will bring you in due course – some questions from ASB in New Zealand which is a subsidiary of CBA and their questions eventually reach CBA and are asked - - -  
15

COMMISSIONER: Of the CBA. Yes, thank you.

MR ASPINALL: Yes. Just to finish off this statement, 0726, most of that page is smurfing.  
20

COMMISSIONER: Yes.

MR ASPINALL: CRL.536.001.0641\_R. That's exhibit BA226.

25 COMMISSIONER: Thank you.

MR ASPINALL: Do you need me to read the number again; CRL.563.001.0641. This is a Southbank account from July/August 2016. This one has some Pai Pai Supply Chain deposits on the first page.  
30

COMMISSIONER: So that's a million dollars.

MR ASPINALL: Yes.

35 COMMISSIONER: Plus the 47. Yes, I see.

MR ASPINALL: Turning over to the next day, 2.1 million, three transactions.

40 COMMISSIONER: Yes. And this is inconsistent with the direction in relation to corporate deposits.

MR ASPINALL: Yes.

45 COMMISSIONER: I see.

MR ASPINALL: And also, you see on this page that Pai Pai Supply is depositing into three separate accounts just on this one day.

COMMISSIONER: Yes.

MR ASPINALL: And then - - -

5 COMMISSIONER: Three separate patron accounts.

MR ASPINALL: Yes. And Wave Union International is another company which is depositing nearly \$2 million.

10 COMMISSIONER: Yes, I see.

MR ASPINALL: In breach of that direction. And then there's another money remitter or exchanger at the bottom.

15 COMMISSIONER: Yes.

MR ASPINALL: Going to the next page, there's more Pai Pai of \$2 million just on the one day there.

20 COMMISSIONER: Yes.

MR ASPINALL: And then there's a cash deposit of \$3 million on the 29<sup>th</sup>.

COMMISSIONER: Yes.

25

MR ASPINALL: And then if we go over to – this is a Southbank account, but you see the sweep on the 1<sup>st</sup> of August goes to Burswood.

COMMISSIONER: Yes.

30

MR ASPINALL: And then if we go over to – this is a Southbank account, but you see the sweep on the 1st of August goes to Burswood.

COMMISSIONER: Yes.

35

MR ASPINALL: And then if we go to the next page, the sweep on the 3rd of August – I'm sorry. If you go back one, a sweep of 15 million on the 3rd of August is to Crown Melbourne this time, which is the usual - - -

40 COMMISSIONER: Yes. Well, these accounts do become much greater than 10 million or so.

MR ASPINALL: Yes.

45 COMMISSIONER: They seem to be up around the \$30 million mark before they're swept.

MR ASPINALL: Well, it goes on at 0645 there's some more smurfing.

COMMISSIONER: Yes. I think you've told me that they go into 2017. But Mr Barton's evidence was that it diminished over time.

5

MR ASPINALL: I think that's fair to say. The ANZ accounts that we saw in 2013 were virtually all smurfing.

COMMISSIONER: Yes.

10

MR ASPINALL: And by this time, there are some pages that don't have any.

COMMISSIONER: Yes.

15

MR ASPINALL: And I think it's fair to say that, after 2016, it did fall away, but you still have, at this point, the other problems like Pai Pai Supply Chain have become – and in terms of Pai Pai Supply Chain, the deposits are much larger.

COMMISSIONER: Yes.

20

MR ASPINALL: So the relative amounts, which are risky, probably are higher now than they were, because, in the olden days they were small, 8000 deposits – maybe there are 10 or 20 of them – but now Pai Pai is depositing two million or three million dollars in a day.

25

COMMISSIONER: And that continues into 2017; is that right?

MR ASPINALL: That's correct. I think. Yes.

30

COMMISSIONER: Yes, I see.

MR ASPINALL: CBA.050.001.0403, which is exhibit BA495.

COMMISSIONER: Thank you.

35

MR ASPINALL: This one just has some misleading references on the 1st of March "purchase machine photocopy" and a number 2209. And that number 220970 is in fact a patron number rather than an - - -

40

COMMISSIONER: Yes, I see.

MR ASPINALL: - - - invoice.

COMMISSIONER: Yes.

45

MR ASPINALL: And then on the 10th of March there's a loan repayment, bottom of that page there is that Mogocrea Innovation Furniture.

COMMISSIONER: Yes.

MR ASPINALL: That's, again, on the next page.

5 COMMISSIONER: They're cash deposits, are they?

MR ASPINALL: Yes. I think those are transfers.

COMMISSIONER: I see.

10

MR ASPINALL: The Mogacrea Furniture ones.

COMMISSIONER: I see. That seems to be a Hong Kong company.

15 MR ASPINALL: Yes, it is. Yes. We have, on CRL.563.001.0907\_R.  
CRL.563.001.0907.

COMMISSIONER: Yes.

20 MR ASPINALL: The deposits at the bottom of this page are by remittance agents  
Sun Hung Kai Forex. You can see they're for quite significant amounts - - -

COMMISSIONER: Yes.

25 MR ASPINALL: - - - and different patron numbers.

COMMISSIONER: Yes.

30 MR ASPINALL: Over the page there are some more of them, although two of them  
are to the same patron number broken up into 2000 deposits.

COMMISSIONER: Yes. I see all that.

MR ASPINALL: 0909, there's some additional smurfing there at 10 June.

35

COMMISSIONER: 10 June '16.

MR ASPINALL: Yes.

40 COMMISSIONER: Yes.

MR ASPINALL: Sorry. This is '15; 10 June '15. Over the page, at 0910, there's a  
payment by XYZ Consulting Company.

45 COMMISSIONER: Thank you.

MR ASPINALL: Over at 0913 there's another QuickCash smurf on the 23rd of June.

COMMISSIONER: Yes. I think you've prepared some schedules of all this.

5

MR ASPINALL: I have.

COMMISSIONER: Yes. All right. I think we can move on.

10 MR ASPINALL: And we will provide this to the parties. But some other of the misleading references are purchase house, company funds, purchase, medical expenses, school fees, investment mining, property investment, travel money and expenses. That one might be, "Purpose: investment in a company". And all of those things, in my submission, should have alerted Crown unless they were, in effect,  
15 content to play along with that kind of ruse that these were potentially funds which someone was trying to hide from somebody else, they shouldn't be using to put into the casino. Now, whether that be the government or their company or an auditor, I don't know, but then neither did Crown, presumably.

20 And so having done through – been through that exercise, the submission that we ultimately make is that the problems which had been identified in ANZ were no way addressed, because they carried on into the CBA accounts even though Crown knew that there'd been problems in ANZ and these same problems recurred. The controls that they had about we don't accept company deposits weren't followed. We don't  
25 accept – "please don't make multiple transactions under the reporting threshold, because we won't accept them." Not true; they did accept them. And all of that speaks, I'm sorry to say, of a – by this time, it's difficult to accept that it can be ignorance, because it's been drawn specifically to their attention by ANZ. And that leaves the option that it's apathy or some sort of willingness just to take the risk that  
30 it is money laundering. And the flavour of the evidence with respect to Mr Barton going to ANZ and stressing the importance of these accounts being open speaks to a wish to get the money in despite the risks, which, in my submission, an ordinary casino operator could have readily seen by now, even if they hadn't realised before the ANZ. I move then to what happened in terms of further questions.

35

COMMISSIONER: You mean by the banks?

MR ASPINALL: Yes. Southbank had an account in New Zealand with the ASB Bank, which is the Auckland Savings Bank.

40

COMMISSIONER: That's a subsidiary of - - -

MR ASPINALL: A subsidiary of the Commonwealth Bank. And on the 10th of June 2018, Ms Torina, who was a transaction relationship manager from ASB,  
45 requested a call with Mr Costin to ask him:



*Urgent due diligence questions regarding the operation of the Southbank account.*

5 There's a certain familiarity to this. And, on the 11th of July, at the request of Mr Costin, Ms Torina provided questions to Mr Costin:

*Please confirm if your ANZ bank account is: one, subject to Crown's casino's board senior management governance oversight?*

10 Critical question. And, as we've seen, the answer was really no, because the board – Crown Casino's board, in terms of the Crown Resorts board and the board of the licensee, had no real understanding of what these companies were doing let alone if they had a bank account.

15 COMMISSIONER: Well, I don't think some of them knew that they existed.

MR ASPINALL: Correct. Now, senior management might have known about them; Mr Barton did, Mr Preston did. But the question is about senior management governance and oversight. I suppose Mr Barton did have some oversight of them,  
20 but it wasn't oversight in the – in what ASB would have been asking about in terms of governance and oversight and making sure that they were properly managed. That was obviously not true:

25 *Are they covered by Crown Casino's AML program? Are they covered by Crown Casino's internal AML audit? Are they covered by Crown Casino's regulator's periodic audit?*

They weren't. As we've seen, the regulators were just told the assets and liabilities.

30 *Regulated by any regulator in New Zealand. Please confirm if you have your own transaction monitoring in place to detect unusual activities in the ASB account. Processes and procedures to identify cash deposits into the account –*

35 very important –

*.... processes and procedures in place to confirm the source of cash deposits. For each of the eight questions above, can you please provide something to confirm this, eg, policies, procedures, resources that specifically confirm each point.*

40

The same day Mr Costin forwarded those queries to Ms Lane, who was the group general manager of AML. Mr Costin received no reply from Ms Lane for almost two weeks at which point she apologised for the delay and said that she was pulling together something for him. Despite that Ms Torina from ASB subsequently asked  
45 Mr Costin to respond to the urgent queries which she had raised on 27 July 2018, 8 August 2018, 17 September 2018, and despite previous assurances from Ms Lane that she was pulling together a reply, by 18 September 2018 Mr Costin had received

no substantive response and he again asked Ms Lane to provide a response noting that months had passed since the urgent query from ASB.

5 Finally, on the 2<sup>nd</sup> of October 2018, nearly three months after Ms Torina had raised the urgent query, Mr Costin sent the response to ASB with answers that had been drafted by Ms Lane. The answers were this:

10 *Please confirm your ASB account is subject to Crown Casino's board senior management governance oversight. Yes.*

*Covered by Crown Casino's AML program? Yes.*

*Covered by Crown Casino's internal AML audit? Yes.*

15 *Covered by Crown Casino's regulator periodic audit? Yes, the VCGLR is also notified and supplied with a copy of all approved bank accounts pertaining to patron accounts when a new account is requested to be approved.*

20 *Transaction monitoring in place to detect unusual activity in the ASB account? Yes.*

25 *Processes and procedures in place to identify cash deposits into the account? Crown reviews all incoming and outgoing international funds transfer and regularly reviews the account in the CBA online system to identify any cash deposits. Crown understands that ASB will record and include on the statement when a cash deposit is made in Crown's account at the ASB branch.*

*Processes and procedures in place to confirm source of cash deposits?*

30 Answer:

*Where required, Crown may undertake inquiries as to the source of the cash deposits.*

35 COMMISSIONER: So that's an email from Mr Costin to the bank in New Zealand. The notification of the proposed answers from Ms Lane was merely an email from Ms Lane to Mr Costin, I presume.

40 MR ASPINALL: Yes.

COMMISSIONER: And what are the exhibit numbers of those, please?

MR ASPINALL: I will give you those; BA62.

45 COMMISSIONER: Yes.

MR ASPINALL: AO10 and BA63.

COMMISSIONER: So it took three months to get those answers, so it must have been that checks and balances were at least looked at, and those answers were clearly not true.

5 MR ASPINALL: No. Well, they were true in one sense, that because - - -

COMMISSIONER: Well, there was no board oversight, was there?

10 MR ASPINALL: Well, that's right, but in this sense, somebody was looking at these accounts almost every day because the person needed to work out this deposit was made to this patron number and credited over to that patron number, so there's no doubt that someone was looking at it. The problem seems to have been that the person looking at it wasn't an AML person and didn't raise the alarm sufficiently to do anything about it. We have assumed in this Inquiry that suspicious transactions  
15 were reported, as you've said - - -

COMMISSIONER: Yes.

20 MR ASPINALL: - - - whether or not they were. And so even assuming they were all reported, somebody who was looking at these accounts every day and seeing these block after block, week after week and not saying to somebody "Why is this account still open? Is this not a terrible occurrence that's happening here? And why are we accepting company deposits when we say we won't, and why are we accepting multiple small deposits?"

25

COMMISSIONER: So that was in – as late as 2018 – October 2018.

MR ASPINALL: That was when ASB were finally told those things.

30 COMMISSIONER: Yes.

35 MR ASPINALL: My submission is those responses lack candour and in some cases they were simply misleading, and it remains a serious question as to why it took so long for an entity such as the licenced entity that Crown needs to be able to respond to those questions and when the – and particularly when the answers ultimately were of such poor quality that they were liable to mislead ASB as to what the true situation was. In my submission, the ASB questioning was yet another opportunity for Crown Resorts to have a wake-up call and look at what's going on in these accounts and, again, to remediate them, but it was again another missed opportunity  
40 and it speaks of a culture, again, which doesn't have adequate – which isn't sufficiently alive to the problems of money laundering and doesn't do anything about it even when people are raising and waving a red flag right in front of them.

45 An important question after that email which is in general terms was that in – on the 2<sup>nd</sup> of November 2018, Ms Torina now raised urgent queries with Mr Costin regarding payments totalling \$15 million over the previous two years by a Crown patron which she had identified as indicated required investigation and sought

particular information from Mr Costin. So ASB is raising a particular concern about particular transactions and within Crown there was then this discussion whether or not they could provide ASB with that information for privacy purposes, and ultimately it wasn't provided. Later that month, Ms Torina raised further questions regarding Southbank, this time an issue which is important:

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10  
*Can you please confirm if Southbank Investments is an AML/CTF reporting entity in Australia? We must note from our investigations that we can't see that Southbank Investments is a reporting entity in New Zealand. Please refer here if you have any questions on what this means. Please come back to me as soon as you can today.*

15  
The necessity for this question to be raised again highlights the inadequacy of the response which Crown had given earlier, because Southbank obviously wasn't a reporting entity, and Ms Torina was clearly trying to find out what was happening and how safe these accounts were to be continuing to be dealt with by ASB. Mr Costin replied to that query:

20  
*No, Southbank is not an AML/CTF reporting entity in Australia. The AML/CTF reporting entity is Crown Melbourne, the parent company and the operator of the gaming facility.*

25  
On 22<sup>nd</sup> of January 2019 ASB notified Crown Resorts that they were closing Southbank account due to:

*...a number of factors including the type of business and information provided by Crown.*

30  
They said:

*This decision has been made in conjunction with ASBs obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and in accordance with the applicable terms and conditions, specifically section 10 of the Business, Rural And Corporate Banking Terms and Conditions which can be found on the website.*

40  
So this is now another bank all but saying to Crown, in this sort of polite way, "We don't want your business because you're too much of an AML risk and we've asked you various questions and none of the answers have satisfied us that risk is not serious." Despite ASBs queries, over time in relation to the transactions through these accounts, none of these queries were ever escalated to the risk management committee, nor was the fact that ASB ultimately closed the account or the reason for doing this. This was despite the fact that Xavier Walsh, chief operating officer for Crown Melbourne, Mr Preston and Ms Lane were all aware of ASBs decision.

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So this was the second occasion that Mr Preston had been made aware of bank accounts being closed due to a concern regarding money laundering and, as AML

compliance officer and chief legal officer, failing to escalate that issue to the risk management committee or the board, or to direct any review of the accounts themselves or ANZ – Crown Resorts’ AML controls. Even then, on the 22nd of January 2019, Mr Walsh emailed Mr Costin, copying Ms Lane and Mr Hancock, saying:

*Are we able to set up an account with a different bank or is that not an option?*

That’s exhibit CB22. Mr Costin replied to Mr Walsh, copying in Mr Preston and Ms Lane, regarding the opening of new accounts due to the ASB closure. He said:

*I would think it is unlikely with the brief look at banks that operate in New Zealand. ANZ have already shut down our Southbank Investments account in Australia due to AML concerns, hence, the switch to CBA in Australia. The Chinese, European and US banks won’t go anywhere near patron accounts which really only leaves us with Westpac and the bank of New Zealand, which is owned by NAB. Given the Royal Commission, the banks have become incredibly risk-adverse. Louise and I are meeting with CBA on Thursday to provide our relationship manager with some background to try and make sure they don’t close our Australian accounts.*

And that’s despite what we’ve just seen is occurring in those accounts:

*Happy to chat with NAB and Westpac to see if they think, but I would be hesitant to promise anything.*

Now, one interesting thing, in terms of remediation, is if you look at the Gantt chart at the back that Crown have supplied, Mr Xavier Walsh, who was a party to that email, has been put forward to the Inquiry as a person to be involved in remediating Crown Resorts’ AML compliance issues. This speaks yet again to Crown Resorts failure to investigate what has gone on in its own businesses and to work out what needs to be done to fix it. Simply putting up people to say these people were responsible for remediating without investigating what their role in all of this has been, simply speaks of a lack of the ability to understand the depth of the problem that is going on here and to provide these supposed solutions which don’t really grapple with the problem.

Sadly, the red flag of ASB closing the accounts did not prompt any further review of the wisdom of permitting Southbank and Riverbank to continue to operate bank accounts or any detailed review of the bank account statements of those companies or of Crown Resorts’ AML processes. This was despite the fact that ASB had clearly said that they were closing the account because of the answers which Crown had given to the questions it had raised. On the 10th of December 2018 CBA, in turn, raised queries with Crown Resorts regarding the operation of Southbank and Riverbank accounts. On 11 December, Mr Costin wrote to Ms Lane:

*So the ASB queries have finally reached CBA. Happy for you to respond directly if you want or you can go through me.*

5 So Mr Costin and Ms Lane have effectively been waiting for these questions to come through. And the attitude – the casual nature of this email, in my submission, demonstrates a complete failure of the culture of this organisation to take seriously what is occurring. On the 20th of December 2018, Crown Resorts responded to a CBAs queries as follows:

10 *The question is can you please confirm that Southbank is covered by Crown's existing AML processes program as a designated business group?*

The answer is:

15 *Southbank Investments Pty Limited is a related body corporate of Crown, but is not part of its designated business group for the purposes of the AML Act as it is not a reporting entity. In any event, all telegraphic transfers sent and received by Crown, including through Southbank Investments as part of remittance arrangements are covered by Crown's AML/CTF programs.*

20

Next question:

*What measures do Southbank undertake to identify and verify the identities of individuals for whom it is accepting funds?*

25

Answer:

30 *Under Crown's AML/CTF program, Crown conducts the know-your-customer checks, identification and face-to-face verification against primary ID provided by the customer in advance of accepting an outbound instruction from a customer and before providing funds to the customer on an inbound instruction. Once the KYC process has been conducted by Crown, as the non-financier, the instruction will be accepted for the transfer of an outbound and/or the money will be made available to the ultimate transferee on an inbound transfer. In addition, Crown uses the Dow Jones risk and compliance product to screen all active customers to detect if the customer is a peak sanctioned on a watch list which include those customers that are the transferor on an outbound transfer and the transferee on an inbound.*

40 Question:

*What measures does Southbank have in place to identify and prevent the receipt of illegitimate funds?*

45 Answer:

*Crown reviews the Southbank Investment account daily and all inbound and outbound transfers as part of its transaction monitoring program. The purpose of this review is to identify and appropriately action any potentially unusual transactions or pattern of transactions.*

5

So that is what CBA was being told about the accounts. But we were just looking at the accounts of that company and it was a very different situation, in reality. Again, it can be accepted that someone was looking at the accounts on a daily basis, but all of the unusual and potentially illegitimate funds which are embodied in the transactions that we've seen went on month after month, year after year.

10

COMMISSIONER: I see all that. But one of the problems we face is that Crown does not accept the proposition.

15

MR ASPINALL: The other problem with this response is that Crown says they verify the identity of people making incoming deposits, but how can that be true, when the QuickCash system is being used in terms of a method of depositing. And when millions of dollars are coming in through Pai Pai Supply Chain? I mean, you might know it's Pai Pai Supply Chain, but how can you identify where the real source of funds is from?

20

COMMISSIONER: This is the company with the – the ultimate company that was struck off in the Bahamas, I think; is that right?

25

MR ASPINALL: Yes. In the evidence, we followed it through a series of holding companies and maps of that particular - - -

COMMISSIONER: Yes.

30

MR ASPINALL: In February 2019, Ms Lane - - -

COMMISSIONER: Just before you move on, Mr Aspinall, the points you have identified, the main problem, on one view of it, from a casino operator's point of view with a licence, is even accepting that these are only suspicious transactions and one cannot find on the balance of probability that it was money laundering, as I apprehend what you've said to me, your submission remains just as powerful: it should have stopped.

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MR ASPINALL: Absolutely.

40

COMMISSIONER: Yes.

MR ASPINALL: And my submission goes further than that, because it's to be expected that you, as a casino, will never know more - - -

45

COMMISSIONER: Yes.

MR ASPINALL: - - - than what you can see.

COMMISSIONER: Yes.

5 MR ASPINALL: And, as I said on the last occasion, the Inquiry was repeatedly told that we're not a law enforcement body; we're not expected to know the back story.

COMMISSIONER: Yes.

10 MR ASPINALL: They have done some extended due diligence and got WorldCheck reports on them, but what they should be judged on is what the statements show, because everybody – that was available to them.

COMMISSIONER: Yes.

15

MR ASPINALL: Obviously, if suspicious transactions like that are showing up, the other thing you could do is then do what ANZ had done for them in January 2014, and say, "Give me the deposit slips. I want to see this."

20 COMMISSIONER: Yes.

MR ASPINALL: "Maybe this is a person I know. Maybe I can ring them and say, 'Did you make,'" – you could do all those sort of things, But just to allow what we've seen, on its face, to go on is, it's irrelevant whether or not it was money  
25 laundering – and you may never find out – the problem is that Crown doesn't know either way.

COMMISSIONER: Yes.

30 MR ASPINALL: And in the circumstances where money laundering is done by sophisticated organised criminals, you may never know either way.

COMMISSIONER: Yes.

35 MR ASPINALL: But you have to do what you can to prevent it happening, because, in a similar way to junkets, you're never going to be able to necessarily put your finger on it and say, "Yes, that's definitely money that's come from this to this to this," and so on, "and it's illegal." What you look at and say, "Well, the  
40 circumstances in which I've received it are not satisfactory to me to be satisfied that it's not proceeds of crime."

COMMISSIONER: Yes, I see. Yes, thank you for that clarification.

45 MR ASPINALL: Now, in April 2019 Ms Lane, who was the group general manager of AML met with CBAs account management team to discuss Crown Resorts AML controls. Mr Barton's evidence was that he was not aware of this meeting, and it was concerning to him and further concerning to the group general manager of AML, a



compliance person will be looking to try and protect the desires of the business unit to keep the account open in circumstances where the bank was raising concerns. We see that in a way in Mr Costin's response being drafted by Ms Lane who was supposed to be an AML compliance officer protecting the organisation from AML, and yet is providing information to ASB which really is not candid and not satisfactory to where ASB was raising legitimate concerns, serious concerns, and the answers which Crown gave them were – again, appear targeted just to make life as easy as possible so that these accounts aren't closed and they don't have to find someone else.

10 Again, the risk management committee and the board were not made aware of these meetings or of the questions that CBA had raised. On the 27<sup>th</sup> of August 2019 there was a meeting between Ms Lane, Mr Costin, Mr Barton and Mr McGregor. At the meeting, CBA stated that the article in The Age, which I previously referred to as raising these allegations, had raised red flags and that an investigation of the account had identified information in relation to transactions in the accounts they could not share with Crown Resorts. Now, that's because of the tipping-off offence and, obviously, that's code for saying, "We think money laundering has occurred" or at least, "We're not prepared to continue with you".

20 The Inquiry has not received evidence of Crown Resorts conducting a review upon the receipt of this information from CBA and, certainly, it's been left to the Inquiry itself to go back through these accounts and try and find the examples, rather than Crown coming to the Inquiry and saying, "We accept that there are problems in this account and these are all suspicious transactions". That in itself, Commissioner, in my submission, speaks of unsuitability because this Inquiry is an inquiry by the regulator of Crown Sydney Gaming and as a minimum what a regulator needs from a regulated party is its cooperation to assist it perform its functions.

30 COMMISSIONER: Well, you see, Crown says that they are constrained by reason of the AML Act. They couldn't have come to me and said, "These are suspicious transactions." What do you say to that, Mr Aspinall?

35 MR ASPINALL: They could have, at least accepted that suspicious transactions had occurred in these accounts over a prolonged period. That would have been a concession that didn't identify any particular transaction and would have answered the question that they now appear to resist which is that, on balance, money laundering did not take place in these accounts.

40 COMMISSIONER: Well, Mr Barton did indicate that they had some deficiencies in the way they dealt with it in that he says that they didn't – they focused too much on compliance with the legislation of reporting arrangements rather than fixing up what was in their accounts. So I suppose that goes some way to indicate that they accept that there were problems in at least September 2020 when he reported to the board  
45 that there were problems, but it did take a number of years.

MR ASPINALL: Yes, and all the concessions were, in my submission, hard won. They were made at the end of lengthy – they were almost made in circumstances where to deny them was unavoidable.

5 COMMISSIONER: I see.

MR ASPINALL: At the end of long periods of questioning where, for example, a statement was put clearly showed episodes of smurfing, and eventually a concession would be made that there was a deficiency – that some deficiency had been identified  
10 rather than – and this, in my submission, is a critical point – rather than accepting and recognising the problem and saying, “Well, what can we do to fix it because we want to be a suitable operator and we want to gain the imprimatur of the regulator such that we’re suitable to resist money laundering going forward?” Instead, there was evidence such as Mr Barton which is that “I didn’t accept there is any problems  
15 raised by Mr Birch”.

That sort of attitude of no problem, denial, concession made only when absolutely necessary, which is incompatible with a licensee that is always going to have to cooperate and work with the regulator if it’s to be suitable. And it’s not some  
20 gratuity or beneficence extended by the licensed party to do that. It’s, in my submission, part and parcel of being suitable because a person who is honest, a person of integrity, a person who is suitable to run a casino business, accepts that from time to time in business we all make mistakes. Money laundering might have occurred, as I said, but a person of honesty and integrity suitable to hold a licence,  
25 when that’s pointed out to them accepts it, investigates it and does what they can bona fide to fix it as quickly as possible. They don’t try to resile from it, deny it, ignore it.

So in my submission, at the end of all this, we’ve seen money laundering go on for  
30 year after year, but the bigger problem going forward in terms of suitability is the inability, apparently, of Crown to see and accept the gravity of what has occurred and to come to this Inquiry and say, “Well, we accept that. No need to talk about that any more, but let’s get on to how that would be fixed and what could be done to make us suitable”. That, in my submission, has not yet occurred.

35 COMMISSIONER: Well, they say they’ve closed the accounts and they’re deregistering companies.

MR ASPINALL: Yes, but in terms of suitability, money laundering is just another  
40 example where there is obviously a serious problem within this organisation and the failure to recognise that it’s a serious problem in this sphere gives no confidence that in other spheres where problems might arise or exist that are unknown, the company will come to terms with that, accept it and deal with it.

45 COMMISSIONER: I understand your point in relation to Mr Barton’s suggestion that there were no serious issues raised by Mr Birch. That is, as you put it, a peculiar or curious situation, but in respect of these accounts, the cut-off point for the

accounts was late last year when they shut them, and I believe at the moment they're in the process of deregistering the companies and not allowing any patron accounts for the future. So that would be at the very least, I presume, that you would say they would have to do to remediate the situation.

5

MR ASPINALL: Yes.

COMMISSIONER: All right.

10 MR ASPINALL: I'll come to our responses to the supposed fixes towards the end of the day.

COMMISSIONER: Yes.

15 MR ASPINALL: But I just want to go back and finish off the final allegations which were made in respect of the article which was part of allegation 5.

COMMISSIONER: Yes, of course.

20 MR ASPINALL: There were some quite specific allegations made in that article in relation to Riverbank and Southbank which was that:

*In June 2015 a Zanella –*

25 this is – AFP operations have code names and this one was Zanella –

*linked inquiry codenamed Haricot traced multiple deposits from a Chinese cocaine trafficker and money launderer into Southbank and Riverbank accounts. That same month Haricot found that another drug trafficker had deposited \$200,000 via a known money-laundering agent into the Southbank account.*

30

Now, in relation to that query it's effectively we did find deposits of \$200,000 throughout the accounts, but the Inquiry hasn't been able to link them back to what the AFP investigation found and, with respect, it's not really the purview of the Inquiry to conduct criminal investigations in respect of those sorts of matters. But I come back to the fact that it doesn't really matter because what's important is what you can see on the statements and what Crown could have garnered from that information.

35

40

In respect of the second allegation that Haricot found another drug trafficker had deposited \$200,000 via a known money laundering agent in a Southbank account, the Inquiry has identified two deposits in June 2015 of \$200,000 via a particular remittance agent, Sun Hung Kai Forex Limited, but again it's impossible for the Inquiry to know whether that's the remittance agent that was being referred to and, in my submission, it doesn't really matter for the reasons that I've given. I'll now move to the second part of the question with regard to Southbank and Riverbank, and that

45

was the allegation that talks about whether there's been a failure to enforce anti-money laundering controls. And we've already, Commissioner, seen that, in my submission, there was a gross failure to do that because we've already seen the company deposits despite the warning.

5

COMMISSIONER: The direction, yes.

MR ASPINALL: And the statement that they would not be accepted. And we've already seen the acceptance of multiple cash transactions under the limit despite Mr Barton's direction that people not do that. There were more examples, and another one I can deal with relatively quickly, which is that there was evidence that, in around late December 2016 and early January 2017, AUSTRAC queried with Crown whether or not Southbank Investments should be enrolled as a reporting entity in its own right. And you'll recall, Commissioner, that Ms Tegoni gave evidence about that inquiry. And what she did was email Ms Williamson, who is part of the legal team at Crown Melbourne, raising that query and asking her to assist with a position on that matter.

The answer to that question was, in fact, not straightforward to a legal – from a legal point of view, because, in addition to it potentially being a gambling service within the meaning of table 3, there was a possibility that, because Crown accepted instructions from – because Southbank and Riverbank accepted instructions, implicitly, from depositors by putting a patron number on to those deposits, then they were accepting a direction to pass that on to the casino accounts, and that may well – and I'm not saying either way whether it does or not – fall within a category of designated service under a designated remittance agents, and that's all a legal question. The problem is that Crown's AML/CTF program, approved on the 21st of November 2016, required that:

30 *Subject to complying with any specific timeframes required by law, Crown Melbourne will conduct all dealings with officers of AUSTRAC promptly and in good faith. All written requests, suggestions and comments by AUSTRAC, whether or not made pursuant to a specific statutory power of AUSTRAC, will be carefully considered by the AML/CTF compliance officer and if he or she so*  
35 *decides, or if AUSTRAC so requests, in writing also by the CEO.*

In response to the query about whether or not Southbank should be registered as a reporting entity, you will remember, Commissioner, that Ms Williamson came back and told Ms Tegoni that she didn't think they were for a series of reasons, but none of those – no consideration was given to her by whether this question of whether they were a designated remittance agent. And the curious thing is that Ms Tegoni knew that Ms Williamson had no expertise in money laundering law, and Ms Williamson said that she didn't have any expertise in money laundering law.

45 Now, the problem with that is that what it shows is a lack of seriousness within Crown by Ms Tegoni to make sure that the question which was raised, bona fide and properly, in my submission, by AUSTRAC was answered correctly and promptly.

To give it, then, to a lawyer within Crown who has no expertise on this difficult question falls, in my submission, short of that standard which is in their own AML/CTF policy. And just to underscore the fact that this idea of whether or not they were in fact designated remittance agents is not fanciful, in fact, they did, I think  
5 over a year later, in February 2019, seek external advice on that question.

COMMISSIONER: A good idea, I think.

MR ASPINALL: Quite. And of course it's not for you, necessarily, Commissioner,  
10 to decide either way. The reality was that they weren't registered as remittance agents. All that could be made worse is if they should have been, were not, that would just mean that they should have had an AML compliance officer of their own and they should have had a compliance plan, and all those things, and they've also failed to report as they should have. But the problem – and this is another issue that I  
15 say goes to the culture or the regulatory structure – is that the very answer to the question of whether or not they were a remitting agency and whether or not they were a reporting entity should have raised a second question to the question I raised earlier, which is if you answer that question “no”, what that means is you are not getting the protection of section 51. And that put Crown – that put Southbank and  
20 Riverbank in an exquisitely exposed position, because, as you can see, they were receiving all these suspicious transactions year after year and they're not protected from the criminal sanctions which are contained in the State and Commonwealth law. So - - -

25 COMMISSIONER: Well, Riverbank and Southbank are not.

MR ASPINALL: Correct. And to the extent that the money was then pushed over to Crown Melbourne and Crown Perth, if there was any deficiency in reporting, they wouldn't have the benefit of it either.

30 COMMISSIONER: And it doesn't really matter that they're being deregistered. If there's a problem they can be reregistered.

MR ASPINALL: Yes.

35 COMMISSIONER: Yes.

MR ASPINALL: Now, I mentioned earlier the criminal laws of the states and, in respect of Victoria, where Southbank presumably operated, or it dealt with the proceeds of crime – because, presumably, the dealing in case of Southbank is the receiving into the account and the decision to push the money and the sweep over to somebody else – the law is that a person must not deal with proceeds of crime knowing that it is proceeds of crime and intending to conceal that proceeds of crime; that's a level three penalty. But also a person must not deal with the proceeds of  
40 crime knowing that it is proceeds of crime; that's a level 4 penalty. A person must not deal with proceeds of crime, being reckless as to whether or not it is proceeds of crime; that's a level 5 penalty. And, perhaps critically, for Southbank, a person must  
45

not deal with proceeds of crime being negligent as to whether or not it is the proceeds of crime.

5 Now, it's not necessary, in my submission, for you, Commissioner, to decide either way whether or not that is actually made out. What is critical is that a subsidiary of Crown Resorts, where, even in this area of considering whether that is even a possibility, that is so far beyond what is expected of a suitable licensee that part of its subsidiaries may have committed offences under the State law for dealing with proceeds of crime, and that one has a penalty of five years imprisonment. It shows a major failure within the risk apparatus of the organisation that Ms Tegoni was asking Ms Williamson a question that she gave the answer to, inexpert in the area that she was, without realising anybody seeming to twig that if the answer to that question was no then Southbank and Riverbank were very much exposed, and that, potentially, a subsidiary of Crown Resorts was breaching the criminal law. Again those provisions are also in the Commonwealth and the Western Australian Act and I won't take you through them, Commissioner. But the question is, ultimately, whether Crown, as a licensee, acted reasonably in failing to make sure that none of its subsidiaries who were dealing with the funds were not even in the realm of breaching any criminal sanctions against it.

20

COMMISSIONER: But by the time they took the external advice, they were on their way to closing the accounts; is that right? What date did they seek the external advice?

25 MR ASPINALL: February 2019.

COMMISSIONER: Yes. So it's at the end of '19 that they decide to close the accounts after the troubles in the middle of the year.

30 MR ASPINALL: Yes. Well, there's another problem which is the Barnes v Addy knowing receipt problem for these companies, because under the Baden categories or whatever test is currently applied they've received funds in circumstances where they've been misappropriated ..... held them as constructive trustee and may be liable to repay them. So it may not be that they should be deregistered yet because nobody knows what the future for those companies holds. In any event - - -

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COMMISSIONER: That's true, but as I've said if there's a problem I'm sure that the Crown Resorts board would ensure that they're reregistered so that all those processes could be done properly.

40

MR ASPINALL: I wanted to now touch upon the culture issue and to talk about an email which Mr Barton received on the 31<sup>st</sup> of July 2019 from Mr Toscano who was a reporter on the newspaper article that referred to the problems in Southbank and Riverbank, and there were a number of them. The email in question is exhibit CB13; questions like:

45

*Why were they set up? Why did they have investments in their name?*

COMMISSIONER: Yes, we went to those.

MR ASPINALL: And so on. Mr Barton said that he was aware of the email but had no insight or input into the response to it. Ultimately, on the 6<sup>th</sup> of August, within the  
5 article itself, Crown – a Crown spokesman was – spokesperson – I think it was a lady – had made the following statements:

*The two companies were set up for receiving and transferring funds to and  
10 from casino customers of Crown Perth and Melbourne respectively. Both  
accounts are authorised to be used for that purpose in accordance with casino  
regulation and legislative requirements. Transactions through those accounts  
are subject to all our usual reporting obligations, including our obligations  
under AML legislation.*

15 Now, that response was given, Commissioner, in circumstances – all the  
circumstances that we’ve just spoken of in terms of red flags being waved by ANZ,  
the closure of the accounts by HSBC, ANZ, ASB on the basis of money laundering  
concerns, queries by ASB regarding the transactions, and the evidence showing that  
20 nobody had looked at those bank accounts until I took Mr Preston to them in July  
2019. Mr Toscano’s email was admittedly seen by Mr Preston, Mr Barton, two very  
senior executives within Crown and, in the case of Mr Preston, the company  
secretary of both Riverbank and Southbank.

Mr Barton and Mr Preston had clearly been aware that there were issues recording  
25 money laundering in the accounts and yet they did nothing to correct what the Crown  
spokesperson was telling the media, and a similar account to this account which was  
in that article ultimately went into the advertisement.

COMMISSIONER: Yes.

30 MR ASPINALL: In other words, implying that, “There can be no problem with  
these accounts because they are subject to regulation and we comply with all our  
regulatory obligations”. Now - - -

35 COMMISSIONER: Well, that was the tenor of Mr Preston’s and Mr Felstead’s, and  
Mr Murphy’s report to the board. So the board had been advised – the board had  
said, “We need to look into this, please”. That was in respect of the other  
allegations, but in respect of this allegation, which I think arose – I withdraw that.  
This allegation was published, albeit it arose prior to the ASX announcement, but the  
40 ASX announcement occurred prior to the 5<sup>th</sup> of August when this article was  
published.

MR ASPINALL: Yes. But it’s the same basic argument which is by implication  
there is nothing wrong because they are heavily regulated and they’re subject to our  
45 transaction - - -

5 COMMISSIONER: And so the board was advised of that and so more probably than not, from what I've been told in the evidence, the board believed – except Mr Barton has a problem, obviously – the board other than Mr Barton, not being – the other board members not being involved in the process, they could take from that report that this was true when it wasn't. Correct?

MR ASPINALL: Correct.

10 COMMISSIONER: I see.

MR ASPINALL: I come now to the conduct of the directors and company secretaries themselves. It's obvious from the evidence that they took no part in the actual management of the business and they were satisfied that other people were managing things for them. I think Mr Neilson had some vague idea that they may have had bank accounts, but generally the tenor of the evidence was that they were just one of the many companies that they were responsible – that put upon as a – by dint of their place in the organisation.

20 Now, in my submission, Commissioner, that sort of question comes back to the issue that you raised with me earlier as to what extent is a director entitled to rely upon queries that they made of management. And it is true that a director must take reasonable steps to place themselves in a position to guide and monitor the management of the company, but in my submission it's not – in ordinary circumstances it may be acceptable to rely upon reports from management, but it's not sufficient for a director to simply rely upon the judgment of others in circumstances that arouse or ought to arouse suspicion in the director's mind that something is amiss. In those circumstances, directors have a duty to inquire into the suspicious matters and that was from the judgment of Justice Robson in ASIC v Flugge and Geary [2016] 342 ALR 1 at 257.

30 So whilst everything was sailing along – and this applies to the board of the licensees and to the board of Crown Resorts, I would submit, whilst everything was sailing along and there was no indication that there were problems, the reliance upon management might have been satisfactory or understandable, but in circumstances after the allegation was made in the newspaper all that changed, in my submission. You can blame Mr Barton and Mr Preston and others for not escalating matters which were raised by the banks in the previous years, but once the newspaper had come out and specifically put their fingers on to the bank accounts of those two companies, in my submission, reasonable directors would have now said, 40 "Something is amiss, and in those circumstances I have a duty to inquire much more deeply than I would ordinarily, and I'm not now going to just accept what management tell me".

45 That would have been important in these circumstances because, in effect, the board weren't getting from Mr Preston and Mr Barton the true picture of what had taken place in these accounts over the years. I've spoken already about the culture which seems to have been, "Well, it's not my job to look at bank statements". Ms Manos



and the dusty bank statements that she said, “Nobody would expect me to look at those” And other directors said, “What would be the point of me looking at those bank accounts because I’m not an expert in money laundering?”, but as we’ve seen, that excuse might be satisfactory once you’ve actually looked at them and have said,  
5 “Well, I’ve looked at them, I can’t see anything unusual in them”. But if you had looked at them it wouldn’t take you very long to see, expert or not, that there was a major problem there.

10 So in my submission what happened here is not compatible with prudent and proper behaviour you would expect from the boards of these companies, be it Crown Resorts, the licensee or the boards of the subsidiaries themselves.

COMMISSIONER: But what of the remediation plans?

15 MR ASPINALL: I will go now to those.

COMMISSIONER: I’m told by Mr Barton that serious steps are being made or being taken to try and fix all these problems.

20 MR ASPINALL: In respect to the cessation of the activity in the Southbank and Riverbank, Crown obviously now accepts that it’s no longer appropriate for Southbank and Riverbank to operate and has indicated its intention to deregister those companies, although I should note that an ASIC search done last week revealed that the companies remain registered, although there’s no reason to doubt their  
25 intention to deregister them ultimately. In my submission, it’s entirely appropriate that Crown should adopt that course. On the evidence presented to the Inquiry, that course should have been adopted many years ago.

30 However, in my submission, the problems which the case study of Southbank and Riverbank demonstrate by Crown Resorts are not solved by simply closing down these accounts and deregistering the entity. What the evidence demonstrates are circumstances where Crown Resorts’ culture and risk management procedures permitted Southbank and Riverbank to operate despite obvious risks for many years and a culture which, when problems regarding the accounts were drawn to the  
35 attention of Crown Resorts or questions were asked about their operation, Crown took no adequate steps to deal with, investigate or act upon the issues which had been raised and which existed.

40 In my submission, unless and until ILGA could be satisfied that the risk control structure and the risk culture within Crown Resorts and its subsidiary had substantially changed such that there was no possibility of the type of issue that existed for many years in Southbank and Riverbank recurring, the cessation of operations of Southbank and Riverbank would only be the first step in remedying the problems they represent as a symptom of a problem rather than of a disease itself. In  
45 other words, the ILGA could not be confident that these problems would not recur, particularly, I submit, in light of what I’ve already said about the lack of recognition of the seriousness of the problems that existed.

In respect of the suggestions relating to personnel, during oral evidence it emerged that Crown Resorts AML staff was very limited in terms of its operation and scope. The evidence appeared to be that back in the previous times there was only one cash reporting transactions officer at each casino and one AML compliance officer. Ms Tegoni's evidence was that she wasn't even sure that she was the AML compliance officer. It's really quite difficult to understand how a casino of the size and scope of Crown, having international operations, operations in two states, could have thought ever that such a small AML staff was appropriate.

5  
10 But in any event, it's been indicated to the Inquiry that a recruitment process has commenced for the newly created head of financial and financial crimes which will report directly to the board. Ms Coonan's evidence was the role is expected to be filled in about mid-November. A memorandum from Mr Barton to the board of directors dated 7 October indicated that a recruitment for the following AML  
15 positions was underway:

*Firstly, an AML investigation officer for Melbourne, an AML compliance manager for Sydney, an AML compliance manager for Perth, an AML data analytics manager for Melbourne and two Group AML analysts.*

20 The memorandum indicated that recruitment for the AML investigations officer for Sydney would commence shortly. As at the 29<sup>th</sup> of Sydney - - -

25 COMMISSIONER: The 29<sup>th</sup> of when?

MR ASPINALL: The 29<sup>th</sup> of October, it's noted that the Crown Sydney website does not contain an entry for this position. Comparable positions, for example, the compliance manager, are advertised on that platform. Mr Barton outlined that one of the core purposes of these changes is the AML function will be separated out of the operating business to provide independence to the AML function. In circumstances where Crown Resorts has not even yet retained additional personnel, and it appears that only one or two additional personnel are to be retained in the area of compliance in Sydney, the Inquiry and the regulator cannot assess the competence of those persons to change and administer the AML system or how the new structure, which  
30 is thought to be going to be independent, would operate.  
35

In light of what's happened, the regulator could have no confidence that Crown Sydney Gaming is in a position to operate a casino with reasonable resilience to the exploitation for the purposes of money laundering. The next suggestion was for external consultants and independent reviews, and whilst the involvement of external experts is clearly necessary in any remediation program for Crown Resorts' AML program, without reviewing and appraising the results of such reports and inquiries there's not much that can be further said as to what needs to be done in respect of remediating the anti-money laundering processes within Crown Resorts.

45 COMMISSIONER: Well, I think the documentary evidence shows that the AML policy – the joint policy – has now been reviewed by Mr Jeans. Mr Jeans has – albeit

that he can't do it in an operational sense, but he's said that it will effectively comply with the legislation.

5 MR ASPINALL: Yes. The problem with those independent reports is that there is a history within Crown of requiring or asking for these independent reports and then not interpreting the results that they give properly or not realising that they don't answer the question which is necessary. That's why, until the regulator, or this Inquiry sees the questions that are going to be asked and sees the answers that are to be given to them responding to the relevant question, and it's hard to know what  
10 would come out of those reports that would be of use. I mean, that issue was shown exquisitely with what happened with Mr Jeans and his report which was interpreted by Mr Alexander to give a gold star to Crown's AML compliance officer, when, in fact Mr Jeans, said that he had been doing something quite different from what Mr Alexander said.

15 COMMISSIONER: The compliance program you mean?

MR ASPINALL: Correct. Yes. And that was seemingly used, around the time of the story breaking in respect of Southbank and Riverbank, to tell the media that all  
20 was well within Crown when it clearly wasn't.

COMMISSIONER: Quite.

MR ASPINALL: And so, in our submission, there's nothing wrong with getting  
25 external reports – and Crown will need a lot of external help if it's to remediate its culture and risk compliance systems – but until what those reports are asked to answer and the answer that is given is seen by ILGA, it's hard to know whether that will be satisfactory or not.

30 I didn't spend long upon the deficiencies within the SYCO system, Commissioner, but I did mention the aggregation problem. And Crown, I think, now accepts that the deficiencies within SYCO, or at least the way the information was entered into SYCO, bear heavily upon that problem; in particular, its reliance on manual inputs and review. And the Inquiry has been told that Crown Resorts has commenced the  
35 implementation of what's called the AML sentinel system, which is an automated transaction monitoring tool. The memorandum from Mr Barton to the board, dated the 7th of October, indicated the manual transaction monitoring would be phased out over the next three to six months to be replaced by the Sentinel system. Ms Coonan's evidence that phasing out program did not apply in respect of Sydney –  
40 Crown Sydney – and that the Sentinel system, in conjunction with what's called an IGT Advantage system, would be ready to be used in Crown Sydney from the commencement of its operations. The Sentinel system would be overseen by a dedicated data analytics manager, a role of which Crown is presently recruiting.

45 Whilst the Sentinel system, prima facie, would seem to be an improvement, its effectiveness is thus far untested. Furthermore, Sentinel is a key component of the joint AML/CTF complains program which, as you pointed out, is yet to be

implemented. In our submission, ILGA could not be confident that system is effective until further assessment of its implementation and assurance is provided. The Sentinel system relies on inputs from the transaction monitoring system. According to Mr Barton's evidence, for the next few years, transactions at Crown Melbourne and Crown Perth will continue to be monitored by the SYCO system before transitioning to the IGT Advantage system. That is, SYCO will provide the data inputs to the Sentinel system at Crown Melbourne and Crown Perth. This means for several more years, the transaction monitoring system at Crown Melbourne and Crown Perth will be reliant upon manual inputs of data via SYCO. He noted that Crown Resorts has been in receipt of advice from external consultants of the deficiencies of Crown Resorts' manual transaction monitoring process since 2014; that's exhibit CB12.

COMMISSIONER: Thank you.

MR ASPINALL: In respect of the reduction in cash deposits, in his third statement, Mr Barton acknowledged that cash deposits create an increased risk of money laundering. The statement describes efforts to liaise with ANZ, Crown Resorts' bankers, to reduce the amount of cash deposits at ANZ branches. ANZ has apparently indicated it is not possible to completely prohibit cash transactions by patrons at all of its branches. The proposed solution to this issue is that Crown Resorts and ANZ are investigating the implementation of a reporting mechanism which would enable Crown Resorts to be immediately notified when a customer does make a cash deposit in a Crown Resorts bank account. The status of those efforts is currently not clear to the Inquiry, those assisting. Regardless, the problems we have identified in this Inquiry are not limited to cash deposits. They are related to deficiencies in the know-your-client customer process, the use of misleading references by depositors, deposits by companies, remittance agents and individuals for the benefits of others. Crown Resorts has given no indication as to how these issues are being addressed or what would be involved in their remediation. Thus, to deal with the cash issue alone would not be sufficient to satisfy the Inquiry that the problems are resolved.

I turn, finally, to cultural issues. It's not clear that the necessary cultural shift from merely reporting to understanding the need to act and address and prevent money laundering continuing has gone through this organisation sufficiently. Changes to personnel, systems and structures may go some way to improving that culture, however, it's fairly clear that the culture of reporting alone being satisfactory is deeply embedded in this organisation up until even recently. That was consistent with the evidence which Mr Preston gave to you, Commissioner, in respect of accepting transactions from the Southbank and Riverbank deposits unless a law enforcement agency told Crown that there was a problem with it.

A responsible casino operator needs to be able to identify, mitigate and manage the risk of money laundering and counter-terrorist financing. One of the many concerning features of the operation of Southbank and Riverbank is the many staff, including lawyers, AML compliance officers, treasury staff and the CFO – now CEO

– was aware of the issues within Southbank and Riverbank and none apparently took any steps to escalate or raise any query at the appropriateness of what was occurring. This points to a serious issue in the risk and the culture of compliance. More particularly, what would it say to the rank and file employee of Crown, looking at  
5 their risk culture, to see that after what Mr Barton had been involved in in respect of the management of Southbank and Riverbank, that he had been promoted up from CFO, to CEO. It's not consistent with an organisation that recognises the seriousness that money laundering presents.

10 The need to heed and investigate credible allegations, escalate risks and oversee a culture of compliance with respect to anti-money laundering requires strong foundations and more than just cosmetic changes. Anti-money laundering compliance, like suitability, is an ongoing obligation and necessary for holding a casino licence. At least in the case of the directors, Mr Mitchell, Mr Demetriou and  
15 Ms Korsanos, these directors indicated they had not looked at the bank statements of Riverbank before giving evidence to the Inquiry. We have not received evidence from the other directors of Crown Resorts, with the exception of Mr Barton, as to whether they reviewed the bank statements. In my submission, this omission may have been explicable up and until 31 January, when Mr Preston was taken to those  
20 bank statements and conceded there was a serious problem within them, but in my submission - - -

COMMISSIONER: No. Sorry, you said 31 January.

25 MR ASPINALL: 31 July.

COMMISSIONER: Thank you.

30 MR ASPINALL: Sorry.

MR ASPINALL: Conceded there were serious issues in them, at which point, in my submission, each of the directors should have looked at them themselves and satisfied themselves as to what was happening in them. Despite this, as recently as last month, Mr Demetriou, as I said, went as far as attempting to assert to the Inquiry  
35 that the problems were relatively minor based upon the report that had been received.

COMMISSIONER: That's the aggregation report?

40 MR ASPINALL: Correct. That type of behaviour is wholly inconsistent with any real change in the culture of Crown in respect of money laundering. It may be, in due course, that they can change that process, but it's not going to be something that can be done overnight. It's something that needs to filter down within all levels of the organisation from the top down, and we're not yet seeing any evidence of that occurring. I wanted to make mention, in that respect, of Ms Coonan's evidence,  
45 which was that the evidence given before the Inquiry was that she accepted that whether by ineptitude or something else Crown had enabled money laundering to occur. At the AGM, several days later, she was asked this question:

*With the board failing to protect Crown against money laundering, how can shareholders be sure that other policies such as procurement policy and whistleblower protections are world best practice?*

5 Ms Coonan:

10 *To begin with, I don't agree that Crown has failed to protect against money laundering, which is in your question. What I said in response to the Inquiry was that there may have been some suspicious matters at Crown; that doesn't prove that there was money laundering. And what I said was there may have been some inadvertence or possibly some ineptitude in management not noticing suspicious matters. That all falls very short of failing to protect Crown against money laundering.*

15 Commissioner, you might think that's a somewhat curious response. Ms Coonan obviously hasn't given evidence since that statement was made and, in my submission, what we have seen there is a failure by the board of Crown to take steps to protect it from money laundering, particularly entities such as Southbank and Riverbank, who were put out there to receive these things without even any  
20 protection from the criminal law. And so – and that, in terms of the culture of the organisation, in my submission, is the ultimate reason that all the suggested changes cannot be accepted as satisfactory when this overlying cultural issue seems to remain. Now, absent any other questions you have, Commissioner, those are my submissions.

25 COMMISSIONER: Thank you, Mr Aspinall.

MR ASPINALL: It is intended to serve, tonight, a written outline which gives more details of the - - -

30 COMMISSIONER: That gives the references to the exhibits, and the like, to assist the parties.

MR ASPINALL: Correct.

35 COMMISSIONER: But it's the same submissions that you've made to me, as I understand it.

MR ASPINALL: Yes.

40 COMMISSIONER: Yes. Thank you, Mr Aspinall. Now, Ms Sharp, you're going to, as you promised, make some further submissions.

MS SHARP: Yes I will. Thank you, Commissioner. I just need to tender some  
45 final documents.

COMMISSIONER: Yes, of course.

MS SHARP: I'm hoping that you have before you a one-page document marked Proposed Exhibit AO84. I tender documents AO84 through to AO90.

5 COMMISSIONER: Yes. I have that now. Thank you. I will mark those exhibits as public exhibits. They're all public documents, AO84 to AO90.

### **EXHIBIT #AO84 DOCUMENTS AO84 TO AO90**

10 COMMISSIONER: Thank you, Ms Sharp.

MS SHARP: At the outset of these closing submissions it was submitted that the evidence that has been put before the Inquiry demonstrates that the licensee is not a  
15 suitable person to continue to give effect to the Barangaroo licence and that Crown Resorts is not a suitable person to be a close associate of that licensee.

Counsel assisting's closing submissions have identified specific failings and shortcomings on the part of Crown Resorts at least in respect of the following: first,  
20 its activities in China which culminated in the arrest and detention of its staff in mainland China; secondly, the sale of shares to Melco, which it has been submitted gave rise to a breach of Crown Resorts' regulatory agreements and which exposed a wider issue of its controlling shareholders failing to have regard to the interests of Crown Resorts; thirdly, Crown Resorts' approach to its relationships with junkets  
25 which resulted in Crown Resorts seeking and maintaining relationships with junket operators and others associated with junkets who it could not be satisfied why of good repute; fourthly, Crown Resorts' failure to take a proactive approach in relation to anti-money laundering and the facilitation of money laundering both on its premises and through the Southbank and Riverbank accounts; and, finally, Crown  
30 Resorts' management of its relationship with its controlling shareholder which has had a deleterious effect on Crown Resorts' corporate governance structures. I might refer to these as the "case studies", Commissioner.

Common themes have emerged from these case studies, including a failure by the  
35 board to formally set a risk appetite and, in practice, the endorsement of an excessive risk appetite; the failure to identify risks and thereby manage them; the failure to escalate matters of importance to the board; the board's failure to engage in active stewardship and to challenge management; and the mismanagement conflicts of interest. Commissioner, we particularly wanted to reflect on the requirement of  
40 active stewardship by the board. And, in this regard, I'd like to take you to a document. If I can call up exhibit AG51, which is INQ.100.001.0557. And what I'm showing to you, Commissioner, is a report of the ASIC Corporate Governance Taskforce. Can I take you, please, to page 8 of that report, which is pinpoint 0565.

45 COMMISSIONER: Is this to '17? To '16 and '17, is it?

MS SHARP: Yes. This is one of the things that came out of The Financial Services Royal Commission.

COMMISSIONER: I see. It's '19, yes.

5

MS SHARP: Can I direct your attention, please, Commissioner, to the heading at the top of the left-hand column Regulatory Basis for the Taskforce's Review. And what you'll see reference to is the director duties set out in the Corporations Act, at sections 180 to sections 184, including, of course, the duty to act with due care and diligence in the best interests of the corporation and for a proper purpose. And what we particularly rely upon is what follows, Commissioner:

15 *To effectively discharge their duties, directors must take necessary steps to enable them to effectively guide and monitor management of the organisation. Boards need to exercise active stewardship to ensure they have meaningful oversight of their organisation and management. Directors should take a diligent interest in information provided to them and apply an inquiring mind to the discharge of their responsibilities.*

20 Could I take your attention, Commissioner, to the footnotes and the references to the case authorities which supply the authority for those general principles. And, lastly, you will see a bit further down that page it is stated:

25 *Equally, the board needs to ensure it is receiving adequate information - - -*

COMMISSIONER: I'm sorry. I've lost you. I beg your pardon.

MS SHARP: If I could take you to the second-last paragraph in the first column.

30 COMMISSIONER: Yes. Thank you.

MS SHARP: And then go to the third line from the bottom.

35 COMMISSIONER: Yes, I have it now.

MS SHARP: Thank you:

40 *Equally, the board needs to ensure it is receiving adequate information to make informed decisions.*

And over the top of the right-hand column:

45 *Active stewardship requires directors to ensure they are properly informed so they can hold management to account regarding the operation of the company.*



We submit that that's a very useful collection of the relevant case authorities so far as what is required by way of active engagement of the board in the affairs of the company.

5 COMMISSIONER: That's the Court of Appeal decision in Daniels, isn't it.

MS SHARP: Yes, it is, Commissioner.

COMMISSIONER: Justices Clark and Sheller. Yes.

10

MS SHARP: Sheller; that is so. Commissioner, in addition to what I have already said, there is evidence before this Inquiry that demonstrates a culture within Crown Resorts that is dysfunctional and includes, firstly, an arrogant indifference to regulatory and compliance risk; secondly, a culture of denial and an unwillingness to  
15 examine and address past failings; and, thirdly, a culture which has prioritised the pursuit of profit above all else. We submit that these defects in culture are very well illustrated by the issue on the 31st of July last year by the board of the Crown Resorts' ASX media release; that's exhibit A219.

20

The events that are the subject of the various case studies, in and of themselves, lead to a conclusion of unsuitability, both separately and together. However, the problems go much deeper. Matters the subject of this Inquiry ultimately highlight fundamental problems in Crown Resorts' risk management, governance and culture. These are the levers that affect the manner which by Crown Resorts acts to achieve  
25 its corporate objectives. While it's possible to consider these levers as separate topics, in reality, they are independent and they must be considered in the context of each other. Each lever has consequences for and influences the other levers, that is, failures in culture have consequences for governance, while failures in governance will have consequences for risk management, and so on. In a sense, when the levers  
30 are flawed, as they are in the case of Crown Resorts, they create a vicious cycle: that is a cycle which we submit must be dissected and assessed in order to understand the causes of the failures and identify the appropriate remedies to be implemented and for Crown Resorts' future suitability to be assessed against.

35

To date, Crown Resorts has not conducted any comprehensive review or root cause analysis to ascertain the reasons or the causes for the failures that have been identified in these closing submissions. Without that, we submit there can be no confidence that the causes of the failings we have identified have been addressed.

40

Crown Resorts, primarily, since August and September of this year, has proposed, and in some cases implemented, measures which it contends will prevent similar failings taking place in the future. It is submitted that these measures remain inadequate in circumstances where the failures and the shortcomings stem from more fundamental problems in Crown Resorts' risk management, governance and culture.

45

Until the fundamental problems of risk management, governance and culture are fully understood by Crown Resorts, accepted by the board and senior management without reservation, and remediated, there can be no conclusion as to suitability.

At this stage, Commissioner, it is for Crown Resorts, having heard the evidence of this Inquiry, and on the assumption of unsuitability, to respond to the serious failings that have been identified and to establish what it says it must do to make itself suitable. At the very least, Commissioner, we would submit that any response would  
5 involve review and remediation by an independent external expert, or experts, as approved by the Independent Liquor and Gaming Authority in collaboration with Crown's senior management, the board and other relevant staff. Any such review should be informed by accepted best practice in terms of corporate governance, risk management and culture. It is submitted that, until such review and remediation  
10 have demonstrably occurred to the satisfaction of the Authority, it will not be possible to find that either the licensee or Crown Resorts are suitable in the sense required by the New South Wales Casino Control Act.

We would expect that the review stage of the process would include a detailed  
15 review of the risk management framework, of governance and of culture at Crown, and would consider, amongst other matters, the following: board governance and performance, the role and accountability of board committees, conflicts of interest, genuine independence of directors, succession planning, accountability and associated frameworks, reporting lines, the three lines of defence, risk appetite, due  
20 diligence on third parties, internal and external audit, appropriate controls, management of the relationship with Crown Resorts' dominant shareholder, culture, values, incentives and bonuses, resourcing, induction and training, future engagement with the regulators and with law enforcement agencies, program delivery and timing and outcomes for customers, relevant stakeholders and the New  
25 South Wales public.

Of particular relevance, Commissioner, will be the assessment of the relevant risk management framework, culture and governance structures where deficiencies have been identified with respect to anti-money laundering and counterterrorism financing  
30 compliance and junkets and VIP gaming. It would also include a detailed retrospective as to the circumstances and failings that gave rise to the arrests in China and in particular the role of particular individuals in those matters and how reporting lines within Crown Resorts became so significantly compromised.

The plan and program for remediation by Crown Resorts must be developed by it in  
35 conjunction with the independent expert or experts, taking into account the board and management's understanding and knowledge of its business and the outcome of the initial review. At a minimum, we would expect that the detailed remediation plan would address the issues identified including, first, specific outcomes to ensure  
40 effectiveness of the controls and associated compliance; secondly, milestone dates on which the outcomes will be delivered; thirdly, the resourcing required both internally and externally to achieve the outcomes; fourthly, how any additional instances of non-compliance identified will be reported to the authority, other regulatory bodies and law enforcement; and finally, how the outcomes will ensure  
45 the licensee remains compliant on an ongoing basis.

Commissioner, it is standard practice for an independent assurance reviewer to assess and report incrementally on the process of implementation and the alignment of implementation with the agreed remediation plan. We expect that would be necessary in Crown Resorts' case and for those interim reports to be provided to relevant regulatory and other stakeholders. It is submitted that this process should culminate in a report to the Authority that establishes to the Authority's satisfaction that the failures and the causes of the failures which we submit ought be found by this Inquiry have been addressed by Crown Resorts in a manner which is consistent with suitability.

Following completion of the remediation program, we submit it would be prudent for the Authority to seek regular assurance, the timing of which the Authority may take advice upon from the compliance auditor in the form of a certificate to be provided by appropriately qualified independent audit and assurance experts confirming that the issues identified by review and addressed by the remediation continue to have been resolved and, in the opinion of those auditors, the risk management, governance and culture of Crown Resorts are sufficiently robust to, firstly, defend against the prospect that the management and operation of the licensee are free from criminal influence; secondly, to identify, mitigate and manage the risks of money laundering and counterterrorism financing; thirdly, to report in an accurate and timely way to regulators and law enforcement; and fourthly, to operate in an environment of growing complexity of both extant and emerging risks for gaming and casino operators; and finally, comply with statutory obligations at a state, federal and, where required, international level. Those are our submissions if it pleases the Inquiry.

COMMISSIONER: Yes, thank you, Ms Sharp. Mr D'Arville.

MR D'ARVILLE: Yes, Commissioner.

COMMISSIONER: I think you're going to make some submissions, or your team are going to make submissions commencing on Wednesday; is that right?

MR D'ARVILLE: It is, Commissioner. Thank you.

COMMISSIONER: Yes, all right. Yes. And Ms Hamilton-Jewell, Mr Young has addressed the questions I posed for you last Friday.

MS HAMILTON-JEWELL: Yes, Commissioner.

COMMISSIONER: I am pleased to see you back. Mr Young made an application in respect of the commencement for the submissions. Just pardon me, do you know, Mr D'Arville, how long you might be in submissions and how long your team might be?

MR D'ARVILLE: Commissioner, we're expecting more than two days, but the current expectation is somewhere between two and two and a half days.

COMMISSIONER: Two and two and a half. All right then.

MR D'ARVILLE: Yes.

5 COMMISSIONER: Ms Hamilton-Jewell, the position so far as any documents are  
concerned, if I can indicate this, I'm assured by my counsel assisting that anything  
that has been sent across or will be sent across is not additional to the submissions  
that have been made, but merely of assistance to provide the detail underlay of the  
10 exhibit references and other references to assist you to get through the submissions  
that have been made in the last three days.

MS HAMILTON-JEWELL: Thank you, Commissioner. I appreciate that  
indication.

15 COMMISSIONER: In those circumstances, Ms Hamilton-Jewell I do have to finish  
all the evidence and the closing submissions no later than the Friday, and in those  
circumstances it will be a matter for you to know that I would have to leave some  
little time for my counsel assisting to address. At the moment, that seems to me to  
20 create these choices: they are to commence on Monday, the 17<sup>th</sup> of November – I  
withdraw that – Monday, the 16<sup>th</sup> of November; is that right, Ms Sharp?

MS SHARP: Yes.

COMMISSIONER: Yes, thank you. And then to complete, as I understand it by  
25 Friday at lunchtime. That's four and a-half days, which I think, hopefully, will be  
enough. There will be the prospect, on burdening everyone, that we will sit longer  
hours to ensure it's finished. That leaves only four weeks to Christmas – or four and  
a bit weeks to Christmas, so the reality is biting, and I'm afraid that the pushing back  
of the date is unreasonable in the circumstances, and so we have to adjust the way we  
30 do it so I will expect you to commence at 10 o'clock on Monday, the 16<sup>th</sup> unless  
there is further submissions that need to be made of really exceptional circumstances,  
I'm afraid.

35 So there's nothing in the written submissions that should take it beyond that, so that's  
the position and so I will look forward to your submissions, Mr D'Arville, your  
team's submissions commencing on Wednesday, and Crown's submissions  
commencing on Monday, and we must finish the public hearings by the Friday. Can  
I just remind those interested that the written submissions in respect of the part B – I  
40 think you all have the submissions of the Star now, the Star casino, in respect of part  
B, and I would appreciate your assistance in respect of that submission because it  
proposes a number of things which are, of course, relevant to the jurisdiction here  
and relevant to the regulation here.

45 So I would appreciate those submissions by no later than the 30<sup>th</sup> of November. That  
gives you a little extra time. It gives you another couple of weeks to get those in for  
me. Are there any further matters that you wish to raise today? I'm sorry, Ms

Hillman, I understood that perhaps your client is not wanting to make any submissions.

5 MS HILLMAN: Commissioner, we're just waiting to obtain final instructions from the client.

COMMISSIONER: I can't hear you, I'm sorry, Ms Hillman.

10 MS HILLMAN: I'm sorry. Can you hear me now, Commissioner?

COMMISSIONER: I can, yes.

15 MS HILLMAN: Thank you, Commissioner. No, I anticipate that we will not, but we don't have final instructions, and I will clarify that as a matter of urgency.

COMMISSIONER: All right then. Thank you, Ms Hillman. I will hear from you whenever you're ready to indicate, but I thought that was the position. Anything further from you, Mr D'Arville or Ms Hamilton-Jewell today?

20 MR D'ARVILLE: No, Commissioner. Thank you.

25 COMMISSIONER: So what I will do now is to then adjourn until 10 am on Wednesday to hear from the CPH and CPH directors who are directors of Crown. Thank you. Thank you, Ms Sharp.

**MATTER ADJOURNED at 4.00 pm UNTIL  
WEDNESDAY, 11 NOVEMBER 2020**

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