IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

No. M117 of 2012

BETWEEN

HARRY KAKAVAS
Appellant

and

CROWN MELBOURNE LIMITED
(ACN 006 973 262)
First Respondent

JOHN WILLIAMS
Second Respondent

ROWEN CRAIGIE
Third Respondent

APPELLANT'S CHRONOLOGY

Part I:

I certify that this chronology is in a form suitable for publication on the internet.

Part II:

1. In 1994, the Appellant, then aged 27, first gambled at the casino (J[1]). His gambling got him into real trouble, a matter which was known to Crown (J[1],[25],[463]). In that year he gambled and lost $110,000 of his father's money (J[82]), defrauded Esanda Finance Corporation Ltd of $286,000 to support his gambling (J[1]),[82],[463]) and, by November 1994, was indebted to Crown for $47,500 (J[1]).

2. In 1995, the Appellant applied for and was granted a self-exclusion order by Crown which prevented him gambling at the casino (J[2]). In 1995, the Appellant was referred by Crown to Dr Jack Darmody, who ran a program for problem gamblers, the Crown Assistance Program (J[94], [467]). The Appellant, to Crown's knowledge, was treated by Dr Darmody for ongoing gambling issues (J[467]).

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3. In 1996, Dr Darmody referred the Appellant to Mr Bernard Healey, a clinical psychologist who specialized in gambling related diseases (J[103]). Mr Healey, to Crown's knowledge (J[110]), treated the Appellant. Mr Healey, diagnosed the Appellant as a "*classic pathological gambler*" (J[103] & [104]).

4. In mid 1998, following a period of imprisonment for the Esanda fraud, the Appellant applied to have his self exclusion order with Crown revoked (J[4]). His application was accompanied by a psychologist's report from Mr Tim Watson-Munro which noted that the Appellant no longer felt the pathological compulsion to gamble (J[5],[114]). The self exclusion order was revoked by Crown [J[5],[122]). Crown's concerns about the Appellant's difficulty in controlling his gambling were not entirely satisfied when it acceded to his application to revoke his self exclusion order (J[477]). At the same time Crown withdrew the Appellant's licence to enter the casino complex (**WOL**) (J[5],[122]).

5. On 28 September 2000, the NSW Chief Commissioner of Police directed that the Appellant be excluded from Star City Casino in Sydney (J[138]).

6. Two officers of Crown, Mr Horman (J[36]) and the Third Respondent (**Mr Craigie**) (J[32]), were aware of the IEO in early November 2000 (J[143], [144],[145],[146] & [559]). Their knowledge was Crown's knowledge (J[86]). The IEO was recorded in several Crown documents (J [144], [150],[166] & [559]).

7. Between mid 1998 and 2001, the Appellant applied repeatedly to resume his patronage at the casino but his requests were denied (J[8] & [157]). After 2001, the Appellant made no serious attempt to return to the casino and had little contact with Crown (J [157], [165] & [172]).[1]

8. From about the year 2000, the Appellant held himself out to the world as a very successful Gold Coast businessman who had managed seamlessly to combine the roles of real estate salesman and recreational gambler (J[7]).

9. In 2000, the Appellant self excluded from Jupiters Casino on the Gold Coast (J[137]). Crown, through Mr Horman, became aware of this self exclusion and Mr Horman was told by the Appellant that it was still in place as at July 2002 (J[478]).

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1 See Mr Horman's evidence at T.1456.29-1457.1 & T 15991-21.

In April 2001, the Appellant self-excluded from Burswood Casino (J[159]). Crown, through Messrs Horman and Fleming (J[193]), knew of this self exclusion (J[479]).

10. The *Gaming Legislation (Amendment) Act* 2002 (Vic) amended the *Casino Control Act*. As a result, any person subject to an "*interstate exclusion order*" (as defined in s. 3 of the *Casino Control Act*) became excluded from all casinos in Victoria. Further, the amendment imposed a duty upon Crown to include the name of any person the subject of an interstate exclusion order of which it is or was aware in a daily list of excluded persons to be provided to regulatory personnel (CA[185]). This change took effect on 19 June 2002 (CA[185]).

11. In January 2003, Mr Horman referred to the Appellant's IEO in an email to Mr Fleming for the purposes of passing information onto the Burswood Casino (J[166]).

12. The *Gambling Regulation Act* 2003 (Vic) was assented to on 16 December 2003. Section 12.1.2 of that Act inserted s. 78B into the *Casino Control Act*. The new section headed "*Forfeiture of Winnings*" took effect on 1 July 2004. It provided that all winnings paid or payable to a person the subject of an interstate exclusion order are forfeited to the State of Victoria (CA[186]).

13. By October 2004, Crown's senior executives including the Second Respondent (**Mr Williams**) (J[32]) and Mr Craigie learned that the Appellant was travelling well financially, and that he was losing money gambling in Las Vegas (J[178],[181],[182] & [186]). They considered his return to Crown should be encouraged (J[5]). Between May and October 2004, Crown's senior executives including Mr Williams, Mr Craigie and Mr Horman, were arranging for the Appellant's return to the casino (J[177]-[191]).

14. On 29 October 2004, a "*Persons of Interest Committee*" (**POI Committee**) met and concluded that the Appellant be permitted to return (J[195],[200],[488]). A "*Withdrawal of Licence Committee*" also met and agreed to revoke the Appellant's WOL. That Committee was aware of the Appellant's past gambling problems (J[198],[199] & [228]). The decision to permit the Appellant to return was approved by Mr Craigie (J[198]).

15. The IEO resonated in Mr Horman's mind in late 2004 (J[166] & [197]).

16. On or about 12 November 2004, Crown initiated contact with the Appellant (J[204],[205],[212],[214]). At that time, Crown's officers had a residual concern about his standing as a "*some time*" problem gambler (J[25], [493]). Crown subsequently informed the Appellant that his WOL would be revoked upon the Appellant making a written application accompanied by an opinion from a psychiatrist or psychologist stating that he no longer had any gambling problems (J[219], [220], [224]).

17. On or about 8 or 9 December 2004 Mr Doggett, a senior Crown officer (J[182]), had a telephone conversation with the Appellant. Mr Doggett explained that Crown was "*being very pedantic with your application...because you've been excluded from other casinos and you were excluded by the Chief Commissioner of Police in New South Wales...*" (J[222], [583] & [584]).. On 9 or 10 December 2004, Mr Doggett flew to the Gold Coast to have the Appellant sign an application prepared by Crown to revoke his WOL. The Appellant had not then been assessed and no opinion from a psychiatrist or psychologist had been obtained (J[222], [223]).

18. In December 2004, Mr Healey declined to provide the Appellant with a report clearing him of gambling problems. He informed Mr Doggett that Mr Healey had declined to provide a report and Mr Doggett urged the Appellant to "*try any psychologist*" (J[213], [494], [583],[584]).

19. On 23 December 2004, the Appellant obtained a letter from Ms Brooks, a psychologist on the Gold Coast, which he sent to Crown, and in which she wrote that she was unable to assess his suitability for re-admission to Crown (J [10],[224]-[226]).

20. The Appellant was invited by Crown to the Australian Men's Open tennis final at the end of January 2005 (J[232]).

21. Between June 2005 and 17 August 2006, the Appellant visited the casino on numerous occasions. He entered into premium player agreements (J[226], [270]). He was provided with inducements which influenced him to gamble at the casino (J[592]) including the use of a private jet (J[302],[311],[405]), lucky money

(J[263],[405],[599],[606]), special rebates and commissions (J[643]-[646]), cheque cashing facilities (J[404],[406],[613]), and free food, beverage and accommodation (J[598]).

22. Between June 2005 and mid-August 2006, the Appellant "never suggested to Crown that he was other than financially capable of maintaining his high roller status and, keen to do so". Nor did he attempt to employ the self exclusion mechanism (J[18]).

23. Had the Appellant known that he could not have retained his winnings, he would have declined to have anything to do with the casino (J[26]).

10 24. On 6 March 2007, the Appellant issued proceedings claiming that Crown engaged in unconscionable conduct contrary to s. 51AA of the *Trade Practices Act* 1974 (Cth) (**TPA**) and that the Second and Third Respondents were involved in that contravention. He claimed further or alternatively that Crown engaged in unconscionable conduct under the general law. The Appellant also claimed Crown engaged in misleading and deceptive conduct contrary to s. 52 of the TPA.

25. On 13 December 2007, the primary judge struck out the s.52 claim. On 8 December 2009, the primary judge dismissed the Appellant's claims and gave judgment for Crown on its counterclaim for $1 million. On 21 May 2012, the Court of Appeal dismissed the Appellant's appeal.

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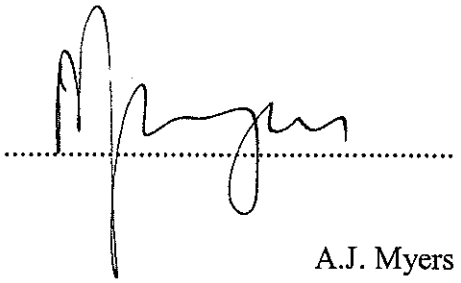
Dated: 25 January 2013



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