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| RC One Pty Ltd Licensee Rose & Crown Hotel [REDACTED] | Mr Paul Camkin Close Associate of Licensee Rose & Crown Hotel [REDACTED] | Mr Jason Marlow Close Associate of Licensee Rose & Crown Hotel [REDACTED] |
| Mr Damian Kelly Close Associate of Licensee Rose & Crown Hotel [REDACTED] | Mr David Byrne Director Investigations, Intervention and Review Department of Customer Service [REDACTED] | |

25 February 2022

Dear Sir/Madam

**Disciplinary complaints under the *Liquor Act 2007* and *Gaming Machines Act 2001*
Rose & Crown Hotel (LIQH400105118)**

I refer to the complaints received by the Independent Liquor & Gaming Authority (**Authority**) about the licensee of Rose & Crown Hotel (**Licensee**) and the following close associates of the Licensee under the *Liquor Act 2007* (**Liquor Act**) and *Gaming Machines Act 2001* (**GM Act**):

- Mr Damian Kelly
- Mr Paul Camkin
- Mr Jason Marlow.

Following consideration of the available material, including the outcome of the mediation between the complainant and respondents, the Authority decided at its meeting on 11 August 2021 to:

- order the Licensee, RC One Pty Ltd, to pay a monetary penalty of \$107,358 to the Secretary of the Department of Customer Service (**DCS**), under section 141(2)(c) of the Liquor Act and section 131(2)(a) of the GM Act, within 28 days of receiving notification of this decision
- reprimand Mr Damian Kelly under section 141(2)(m) of the Liquor Act and section 131(2)(j) of the GM Act
- disqualify Mr Paul Camkin from being a licensee or manager of a licensed premises for a period of 12 months, under section 141(2)(h) of the Liquor Act
- order Mr Paul Camkin to pay a monetary penalty of \$10,000 to DCS under section 141(2)(c) of the Liquor Act and section 131(2)(a) of the GM Act, within 28 days of receiving notification of this decision
- reprimand Mr Jason Marlow under section 141(2)(m) of the Liquor Act and section 131(2)(j) of the GM Act
- order the Licensee, Mr Camkin, Mr Marlow and Mr Kelly to pay DCS \$30,000 under section 141(2)(l) of the Liquor Act and section 131(2)(i) of the GM Act, within 28 days

of receiving notification of this decision, for the costs incurred by DCS in investigating the matter.

A statement of reasons for the Authority's decision is attached.

If you have any questions about this letter, please contact the Authority Secretariat at ilga.secretariat@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, enclosed in a thin blue rectangular border. The signature is cursive and appears to be the name 'W. J. ...'.

Statement of reasons

Background

1. On 3 July 2020 the Independent Liquor & Gaming Authority (**Authority**) received four complaints from a delegate of the Secretary of the NSW Department of Customer Service (**Complainant**).
2. The complaints were made against the following parties (**Respondents**) under section 129 of the *Gaming Machines Act 1992* (**GM Act**) and section 139 of the *Liquor Act 2007* (**Liquor Act**):
 - RC One Pty Ltd, a company that holds the liquor licence (**Licensee**) of Rose & Crown Hotel (**Hotel**) at 11 Victoria Road, Parramatta (licence number LIQH400105118)
 - Mr Damian Kelly, who has full ownership and control of the Licensee company, and was therefore a close associate of the Licensee under the GM Act and Liquor Act
 - Mr Paul Camkin, who was the Hotel's approved manager from 2014 to the time of the complaints, and therefore a close associate of the Licensee
 - Mr Jason Marlow, who was the director of Marlow Hotel Group (**MHG**), a company contracted by the Licensee to manage the Hotel since 2014, and therefore a close associate of the Licensee.

3. The Complainant alleged the following grounds of complaint:

Licensee (RC One Pty Ltd)

- The Licensee has failed to comply with:
 - conditions of the licence (section 139(3)(b) of the Liquor Act), and/or
 - conditions of the authorisation or approval held by the Licensee (section 139(3)(c) of the Liquor Act), and/or
 - a requirement of the Liquor Act or the regulations relating to the licence or Hotel (section 139(3)(d) of the Liquor Act).
- The Licensee is not a fit and proper person to be the holder of the licence (section 139(3)(i) of the Liquor Act).
- The licence has not been exercised in the public interest (section 139(3)(s) of the Liquor Act).
- The Licensee has contravened a provision of the GM Act or the regulations (section 129(3)(a)(i) of the GM Act).
- The Licensee has failed to comply with a requirement of the GM Act or the regulations that relate to the Licensee (section 129(3)(a)(ii) of the GM Act).
- The Licensee has engaged in conduct that has encouraged, or is likely to encourage, the misuse and abuse of gambling activities in the Hotel (section 129(3)(b) of the GM Act).

Damian Kelly

- Mr Kelly is not a fit and proper person to be a person interested in the Hotel's business, or the conduct or profits of the Hotel's business (section 139(3)(m) of the Liquor Act).
- Mr Kelly is not a fit and proper person to occupy a position of authority in the Licensee company (section 139(3)(q) of the Liquor Act).
- The licence has not been exercised in the public interest.

- Mr Kelly is not a fit and proper person to be a close associate of the Licensee (section 139(3)(j) of the Liquor Act and section 129(3)(g) of the GM Act).
- A complaint has been made against the Licensee, and Mr Kelly knew or ought reasonably to have known that the Licensee was engaging (or likely to engage) in the kind of conduct complained of, and failed to take all reasonable steps to prevent the Licensee from engaging in such conduct (section 139(3)(k) of the Liquor Act and section 129(3)(h) of the GM Act).

Paul Camkin

- Mr Camkin has failed to comply with:
 - conditions of the licence (section 139(3)(b) of the Liquor Act), and/or
 - a requirement of the Liquor Act or the regulations relating to the licence or Hotel (section 139(3)(d) of the Liquor Act).
- Mr Camkin is not a fit and proper person to be the manager of the Hotel (section 139(3)(i) of the Liquor Act).
- The licence has not been exercised in the public interest (section 139(3)(s) of the Liquor Act).
- Mr Camkin is not a fit and proper person to be a close associate of the Licensee (section 129(3)(g) of the GM Act).
- A complaint has been made against the Licensee, and Mr Camkin knew or ought reasonably to have known that the Licensee was engaging (or likely to engage) in the kind of conduct complained of, and failed to take all reasonable steps to prevent the Licensee from engaging in such conduct (section 129(3)(h) of the GM Act).

Jason Marlow

- Mr Marlow is not a fit and proper person to be close associate of the Licensee (section 139(3)(j) of the Liquor Act and section 129(3)(g) of the GM Act).
 - A complaint has been made against the Licensee, and Mr Marlow knew or ought reasonably to have known that the Licensee was engaging (or likely to engage) in the kind of conduct complained of, and failed to take all reasonable steps to prevent the Licensee from engaging in such conduct (section 139(3)(k) of the Liquor Act and section 129(3)(h) of the GM Act).
 - The licence has not been exercised in the public interest (section 139(3)(s) of the Liquor Act).
4. On 10 September 2020 the Authority issued a show cause notice to the Respondents in respect of the complaints.
 5. A number of extensions of time were subsequently sought by and given to the Respondents and Complainant.
 6. On 23 February 2021 the Respondents and Complainant participated in a mediation.
 7. On 16 April 2021 the Complainant and Respondents made a joint submission to the Authority, stating the following agreed facts:
 - Between 2015 to 2018, a person employed by MHG as a manager of the Hotel, Ms Samantha Glynn, stole a sum of over \$400,000 from the Hotel by manipulating the gaming machine payout system.
 - In the same period, Ms Glynn also encouraged staff to provide free drinks to gaming machine players. Unlike other areas of the Hotel, the quantity of free liquor provided within the gaming room was not recorded.

- In addition, Ms Glynn and staff under her management allowed players to withdraw money on credit using their credit or debit card, through the EFTPOS machine at the Hotel. On one occasion a patron was given cash advances totalling \$8,000 to spend on gambling.
 - The practice of providing free drinks and allowing cash advances likely encouraged some patrons to gamble at the Hotel.
 - Mr Camkin and Mr Marlow became aware of the practice in August 2018 and commenced an audit and investigation into the Hotel's gaming operation.
 - Mr Camkin suspended Ms Glynn from her duties in October 2018.
 - An operating ATM was visible and accessible to patrons in the gaming room.
 - A gaming machine was visible from outside the Hotel.
 - A gambling-related sign was visible from outside the Hotel.
 - The required gambling contact cards were not located on some gaming machines.
 - On 19 April 2019 (Good Friday) between 10 am and 12 noon, gaming machines were operated and liquor was supplied at the Hotel.
8. The joint submission also set out the controls and measures implemented at the Hotel since the complaints, to address the issues identified and improve compliance with legal requirements. These included new compliance tools and processes, enhanced training, and increased management attendance at the Hotel.
 9. The Complainant and Respondents agreed on the following penalty:
 - A monetary penalty of \$107,358 against the Licensee under section 141(2)(c) of the Liquor Act and section 131(2)(a) of the GM Act.
 - A reprimand against Mr Kelly under section 141(2)(m) of the Liquor Act and section 131(2)(j) of the GM Act.
 - Disqualification of Mr Camkin from being a licensee or manager of a hotel for 12 months, under section 141(2)(h) of the Liquor Act.
 - A monetary penalty of \$10,000 against Mr Camkin under section 141(2)(c) of the Liquor Act and section 131(2)(a) of the GM Act.
 - A reprimand against Mr Marlow under section 141(2)(m) of the Liquor Act and section 131(2)(j) of the GM Act.
 - Payment of \$30,000 by the Licensee, Mr Camkin, Mr Kelly and Mr Marlow, for the cost incurred by the Department of Customer Service (**DCS**) in investigating this matter.
 10. On the basis of the agreed penalty, the Complainant also agreed to withdraw the allegation under section 129(3)(g) of the GM Act that Mr Camkin is not a fit and proper person to be a close associate of the Licensee.
 11. Following consideration of the joint submission, on 2 July 2021 the Authority requested further information from the Respondents about the mediation and the agreed outcome. The Respondents provided a response on 23 July 2021.
 12. The Authority noted that Ms Glynn was prosecuted by NSW Police, and convicted in March 2021 for the offence of "steal property as clerk/servant >\$15,000". The Complainant did not include Ms Glynn as part of the complaints, as they did not consider Ms Glynn to meet the legal definition of a close associate of the Licensee.
 13. The Authority made a final decision at its meeting on 11 August 2021.

Relevant legislation

Powers and procedures for taking disciplinary action

14. Section 141 of the Liquor Act and section 131 of the GM Act confer on the Authority powers to take a range of disciplinary action against a hotel's liquor licence, its licensee, and close associates of the licensee. The meaning of a close associate is defined in section 5 of the *Gaming and Liquor Administration Act 2007*.
15. The Authority may take disciplinary action under the two Acts if it is satisfied that any of the prescribed grounds of complaint are made out. These grounds are set out in section 139 of the Liquor Act and section 129 of the GM Act.
16. The procedures for determining a complaint and implementing disciplinary action are set out in sections 140 and 142 of the Liquor Act, and sections 130, 131A and 131B of the GM Act.

Sections relevant to the alleged contravention

17. Section 108 of the Liquor Act prohibits a responsible person for licensed premises from extending a cash advance, or any other form of credit, to a patron to enable that patron to gamble on the premises. The definition of a responsible person under section 4 of the Liquor Act includes the licensee, manager, employee or person acting on behalf of the licensee or manager of the licensed premises.
18. Section 109 of the Liquor Act prohibits a responsible person for licensed premises from describing any cash advance to a patron, who intends to use the cash advance to gamble on the licensed premises, as payment for goods or services.
19. Section 44 of the GM Act prohibits the display of any gambling-related sign anywhere inside or outside a hotel, where the sign can be seen from outside the hotel.
20. Section 47C of the GM Act prohibits the location, installation or use of any cash dispensing facility that can provide cash from a credit card account in any part of the hotel.
21. Clause 8 of the Gaming Machines Regulation 2010 (**GM Regulation**) provides that gaming machines in a hotel cannot be seen from any public area outside the hotel.
22. Clause 32 of the GM Regulation provides that a money withdrawal facility such as an ATM or EFTPOS terminal must not be located in a part of a hotel where gaming machines are located.
23. Clause 54 of the GM Regulation requires gambling contact cards to be displayed in a clear, plastic, see-through container attached to every gaming machine in a hotel, in a clearly visible manner.
24. Clause 55 of the GM Regulation prohibits the offer or supply of any free or discounted liquor as an inducement to play gaming machines in a hotel.

Findings

25. Having regard to the complaint material and submissions from the Complainant and Respondents, including their joint submissions, the Authority accepts the alleged facts in respect of the:
 - misappropriation of over \$400,000 of the Hotel's funds by Ms Glynn as the Hotel's former manager between 2015 and 2018
 - provision of free liquor to the Hotel's patrons in the Hotel's gaming area, in breach of clause 55 of the GM Regulation

- location of an ATM in the Hotel's gaming room, in breach of clause 32 of the GM Regulation
 - provision of cash advances to the Hotel's patrons through fake purchase transactions using the Hotel's EFTPOS machine, in breach of sections 108 and 109 of the GM Act and section 47C of the GM Act
 - visibility of a gaming-related sign and a gaming machine from outside the Hotel, in breach of section 44 of the GM Act and clauses 8 of the GM Regulation
 - failure to display gambling contact cards on every gaming machine as required by clause 54 of the GM Regulation
 - supply of liquor at the Hotel on 19 April 2019, in breach of the trading hour restrictions set out in condition 101 of the Hotel's licence.
26. These breaches occurred on multiple occasions at the Hotel, over an extended period. Most of them occurred in the gaming area and, as accepted by all parties, would likely have encouraged increased gambling activities, including the misuse and abuse of gambling activities, at the Hotel.
27. The Authority considers that the lack of adequate management oversight, staff training and supervision, and measures to monitor credit transactions, were major contributing factors to the breaches.
28. While none of the conduct that led to the complaints were direct conduct of the Respondents, the Authority finds that the Respondents are jointly and individually accountable for the contraventions and deficiencies identified above.
29. Each of the Respondents held a position of authority, either as the Licensee or a close associate of the Licensee. They had a responsibility to ensure that the management and operations of the Hotel complied with licence conditions and legislative requirements. They are also required by section 3 of the GM Act to have due regard to the need for gambling harm minimisation, responsible conduct of gambling, and the public interest in exercising their functions under that Act.
30. The Authority finds that in the current matter, each of the Respondents had failed to meet the level of operational and management oversight, control and supervision expected of a licensee or close associate of a licensee.
31. Having regard to the duration, extent and monetary value of the contraventions, the Authority considers the Respondents' failures to raise concerns about their suitability to act in a position of authority that could influence the management and operations of a hotel.
32. Accordingly, the Authority finds that the following grounds of complaint are made out:
- The Licensee:
 - failed to comply with conditions of the licence and requirements of the Liquor Act (sections 139(3)(b) and 139(3)(d) of the Liquor Act)
 - is not a fit and proper person to be the holder of the licence (section 139(3)(i) of the Liquor Act)
 - did not exercise the licence in the public interest (section 139(3)(s) of the Liquor Act)
 - failed to comply with requirements of the GM Act or the GM Regulation (section 129(3)(a) of the GM Act)
 - engaged in conduct that has encouraged, or is likely to encourage, the misuse and abuse of gambling activities in the Hotel (section 129(3)(b) of the GM Act).

- Mr Kelly:
 - is not a fit and proper person to be a person interested in the Hotel's business, or the conduct or profits of the Hotel's business (section 139(3)(m) of the Liquor Act)
 - is not a fit and proper person to occupy a position of authority in the Licensee company (section 139(3)(q) of the Liquor Act)
 - is not a fit and proper person to be a close associate of the Licensee (section 139(3)(j) of the Liquor Act and section 129(3)(g) of the GM Act)
 - did not exercise the licence in the public interest (section 139(3)(s) of the Liquor Act).
 - knew or ought reasonably to have known the conduct which led to the complaints, but failed to take all reasonable steps to prevent such conduct (section 139(3)(k) of the Liquor Act and section 129(3)(h) of the GM Act).
- Mr Camkin:
 - failed to comply with conditions of the licence and requirements of the Liquor Act (sections 139(3)(b) and 139(3)(d) of the Liquor Act)
 - is not a fit and proper person to be a manager of the Hotel (section 139(3)(i) of the Liquor Act).
 - did not exercise the licence in the public interest (section 139(3)(s) of the Liquor Act)
 - knew or ought reasonably to have known the conduct which led to the complaints, but failed to take all reasonable steps to prevent such conduct (section 129(3)(h) of the GM Act).
- Mr Marlow:
 - is not a fit and proper person to be close associate of the Licensee (section 139(3)(j) of the Liquor Act and section 129(3)(g) of the GM Act)
 - did not exercise the licence in the public interest (section 139(3)(s) of the Liquor Act)
 - knew or ought reasonably to have known the conduct which led to the complaints, but failed to take all reasonable steps to prevent such conduct (section 139(3)(k) of the Liquor Act and section 129(3)(h) of the GM Act).

Disciplinary action

33. In considering the disciplinary action to take, the Authority has had regard to the circumstances of the matter and submissions from all parties. While the penalties agreed to by the Complainant and Respondents do not bind the Authority, they have been given significant weight in the Authority's deliberation.
34. Having requested and considered additional information from the Respondents in respect of the remediation action taken since the complaints, and rationale behind the agreed monetary penalties, the Authority accepts that the agreed penalties are appropriate and proportionate to the contraventions in the current matter.
35. Accordingly, the Authority has decided to:
 - order the Licensee to pay a monetary penalty of \$107,358 to DCS under section 141(2)(c) of the Liquor Act and section 131(2)(a) of the GM Act, within 28 days of receiving notification of this decision
 - reprimand Mr Kelly, as a close associate of the Licensee, under section 141(2)(m) of the Liquor Act and section 131(2)(j) of the GM Act

- disqualify Mr Camkin from being a licensee or manager of a licensed premises for 12 months, under section 141(2)(h) of the Liquor Act
- order Mr Camkin to pay a monetary penalty of \$10,000 to DCS, under section 141(2)(c) of the Liquor Act and section 131(2)(a) of the GM Act, within 28 days of receiving notification of this decision
- reprimand Mr Marlow under section 141(2)(m) of the Liquor Act and section 131(2)(j) of the GM Act
- order the Licensee, Mr Camkin, Mr Kelly and Mr Marlow to pay \$30,000 to DCS for its investigation costs, under section 141(2)(l) of the Liquor Act and section 131(2)(i) of the GM Act, within 28 days of receiving notification of this decision.



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Important Information:

In accordance with section 144 of the Liquor Act and section 131C of the GM Act, the Respondents or Complainant may apply to NCAT for an administrative review of this decision under the *Administrative Decisions Review Act 1997*.

For more information, please contact the NCAT Registry at 1300 006 228 or visit the NCAT website at ncat.nsw.gov.au.

This decision may be published on the Liquor and Gaming website at:

<https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions/disciplinary-decisions>.