



INDEPENDENT LIQUOR AND GAMING AUTHORITY OF NSW

**INDEPENDENT REVIEW OF THE STAR PTY LTD BY ADAM BELL SC
UNDER THE CASINO CONTROL ACT 1992**

**PUBLIC HEARING
SYDNEY**

**WEDNESDAY, 30 MARCH 2022
AT 10:00 AM**

DAY 10

**MS N. SHARP SC appears with MR C. CONDE, MS P. ABDIEL
and MR N. CONDYLLIS as counsel assisting the Review
MS K. RICHARDSON SC appears with MR P. HOLMES
and MR D. WONG as counsel for The Star Pty Ltd**

**Star Witnesses
MR MICHAEL JAMES ALLAN WHYTCROSS
MR KEVIN JOHN HOULIHAN**

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to a direction against publication commits an offence against section 143B of the Casino
Control Act 1992 (NSW)*

<THE HEARING RESUMED AT 10:01 AM

MR BELL SC: Mr Whytcross, you remain bound by the affirmation which you made yesterday.

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<MICHAEL JAMES ALLAN WHYTCROSS, ON FORMER AFFIRMATION

MR BELL SC: Yes, Ms Sharp.

10 **<EXAMINATION BY MS SHARP SC:**

MS SHARP SC: Mr Whytcross, after Mr Kuan Koi notified The Star in May 2018 that his bank account in Macau had been blocked, I suggest that Star continued its arrangements with Kuan Koi until September 2019. Do you agree?

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MR WHYTCROSS: Yes. My understanding was the - the relationship with Mr Koi continued until that time.

20 **MS SHARP SC:** And he continued to facilitate the arrangement where patrons would deposit funds and those funds would end up in The Star's operating accounts to either repay cheque cashing facilities or provide front money?

MR WHYTCROSS: Yes. That's my understanding.

25 **MS SHARP SC:** And I suggest that at all times during the period May 2018 to September 2019, you were well aware of the arrangement between The Star and Kuan Koi.

30 **MR WHYTCROSS:** Yes. I was aware of the arrangement.

MS SHARP SC: And in fact, you were at the centre of that arrangement, weren't you?

35 **MR WHYTCROSS:** No, I would not believe I was at the centre of the arrangement. I believe the credit and collections team at the time were the centre of that arrangement.

40 **MS SHARP SC:** But you kept an eye on how much money was moving to the casino via the Kuan Koi channel?

MR WHYTCROSS: I didn't take an active review of that. That was undertaken by the credit and collections team.

45 **MS SHARP SC:** Isn't it the case that Aozhi Shen kept you updated about the movement of money through that channel?

MR WHYTCROSS: On a monthly basis, Aozhi Shen would send a template to myself for processing the payment to Mr Kuan.

MS SHARP SC: And that meant that you kept an eye on money moving through that channel?

5 **MR WHYTCROSS:** Yes, it does.

MS SHARP SC: Now, what that arrangement involved in the period May 2018 to September 2019 is that third-party remitters became involved in the process. Do you agree?

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MR WHYTCROSS: I was not aware of that at the time.

MS SHARP SC: Well, you're aware, aren't you, that a third-party remitter called Silver Express became involved?

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MR WHYTCROSS: I have been made aware of that subsequently, however, was not aware of that at the time.

MS SHARP SC: Are you sure about that, Mr Whytcross?

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MR WHYTCROSS: Yes, I am.

MS SHARP SC: You are absolutely confident you weren't kept aware that a third-party remitter named Silver Express was involved in this Kuan Koi channel?

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MR WHYTCROSS: I - I don't believe I was, Ms Sharp. I - I was of the understanding that the arrangement was continuing in line with the agreement that The Star had with Mr Koi.

30 **MS SHARP SC:** Well, what I suggest is that there was a significant variation of this arrangement from May of 2018 because third-party remitters became involved and the funds that Kuan Koi collected from patrons would be disbursed to the remitters who, in turn, would deposit the money into the accounts controlled by Star Entertainment. Do you agree?

35

MR WHYTCROSS: I - I understand subsequently that - that that has occurred. However, I was not aware of that at the time.

40 **MS SHARP SC:** Why weren't you aware of that at the time if you were being provided with monthly updates by Mr Shen?

MR WHYTCROSS: At the time, my understanding was the operations of that agreement were being undertaken by the credit and collections team, and the credit and collections team were having oversight of that agreement at that point in time.

45

MS SHARP SC: But Mr Shen was providing monthly updates to you, Mr Whytcross?

MR WHYTCROSS: Yes, he was providing monthly updates to me for the purposes of processing the payment to Mr Koi, and I believe that's the role I took in processing those payments.

5 **MS SHARP SC:** And are you suggesting that at no time did you familiarise yourself with the fact that these payments were actually coming from third-party remitters?

MR WHYTCROSS: No, Ms Sharp, I don't believe I did. I was of the understanding that the payments were being made in line with the agreement.

10

MS SHARP SC: Now, it's right, isn't it, that during this period, Mr Koi continued to receive a service fee of about 3.15 per cent?

MR WHYTCROSS: Yes, I believe he did.

15

MS SHARP SC: And it's right, isn't it, that it was on about 13 August 2019 that Kuan Koi advised Star that he wished to terminate the arrangement?

MR WHYTCROSS: Yes, I believe that was the time it occurred.

20

MS SHARP SC: And he advised them of that termination during a meeting with representatives of the credit and collections team?

MR WHYTCROSS: I believe so.

25

MS SHARP SC: And were you made aware of that meeting at the time?

MR WHYTCROSS: I believe I was made aware after the fact, not - not before the meeting.

30

MS SHARP SC: And who were you made aware of that matter by?

MR WHYTCROSS: I cannot recall specifically, I'm sorry.

35 **MS SHARP SC:** Would it be Oliver White?

MR WHYTCROSS: It may have been, or it may have been Adrian Hornsby.

40 **MS SHARP SC:** Could I show you, please, exhibit B, tab 707. I believe I took you to this document yesterday. STA.3410.0043.7608. Now, if I could direct your attention to the bottom of the first page. You will see that this is an email from Adrian Hornsby dated 31 March, sent to people including you?

MR WHYTCROSS: Yes.

45

MS SHARP SC: All right. And it was at this time you were notified that Kuan Koi had advised that the Bank of China in Macau had blocked his international wire transfers and so on?

MR WHYTCROSS: Yes.

5 **MS SHARP SC:** Now, could I take you further down that email chain to pinpoint 7609. Do you see - if we go a little bit further down the page, please, operator. Do you see that in this email to you, it is stated that:

10 "Regal Crown has expressed interest in arranging a permanent contract with Star previously and Oliver has spent some time researching them in regards to their AML compliance, size and market reputation."

15 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: Now, you knew at the time that an arrangement with Regal Crown was being considered, didn't you?

20 **MR WHYTCROSS:** Yes, around that time I was aware - or am aware that an arrangement with Regal Crown was being considered.

MS SHARP SC: And you understood, didn't you, that Regal Crown was a third-party remitter of currency?

25 **MR WHYTCROSS:** Yes, I did.

MS SHARP SC: Can I take now, please, to exhibit B, tab 1022, which is STA.3401.0005.4467. And you can see there's an email from Richard Booth to Oliver White, dated 3 August 2018, into which you're copied?

MR WHYTCROSS: Yes.

35 **MS SHARP SC:** And do you see Richard Booth is a project manager of the EEIS project?

MR WHYTCROSS: Yes, I do.

40 **MS SHARP SC:** And you were the driver of that project, weren't you?

MR WHYTCROSS: Yes. I was a joint project manager or project sponsor of that - this initiative.

45 **MS SHARP SC:** So we may expect you read this email at the time it was sent to you?

MR WHYTCROSS: Yes.

MS SHARP SC: And do you see it attaches - or it says it's attaching a document called Payment Pathways?

MR WHYTCROSS: Yes.

5

MS SHARP SC: Could I take you to that document please, Mr Whytcross. This is exhibit B, tab 1023, which is STA.3401.0005.4468. And what I'm showing you is the first page of a slide presentation called International Rebate Business Payment Pathways Discussion Paper. Were you involved in preparing this document?

10

MR WHYTCROSS: I cannot recall, unfortunately.

MS SHARP SC: Well, once we go through the document, I will ask you again once you've refreshed your mind as to its contents. Could I take you, please, to pinpoint 4472. And do you see this is a heading Payment Paths 1/2?

15

MR WHYTCROSS: Is it possible to have that zoomed in? But yes, I can see the title.

MS SHARP SC: Yes. And once you have had the opportunity to look at this - and you might need to look at the next page too - I will ask you some questions. So take a moment to read through it.

20

MR WHYTCROSS: May I ask for it to be scrolled down slightly - thank you. Thank you.

25

MS SHARP SC: Now, these were the payment pathways that were being considered by people, including you, as at the time of this document?

MR WHYTCROSS: Yes, I believe at the time this was a working document which was considering various payment pathways.

30

MS SHARP SC: And you were involved in the suggestion as to these payment pathways, were you?

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MR WHYTCROSS: I cannot recall whether I was involved in the suggestion of the payment pathways. However, I was definitely involved in the project.

MS SHARP SC: Did you prepare this spreadsheet that I'm just taking you to now?

40

MR WHYTCROSS: No, I did not.

MS SHARP SC: Are you able to indicate, were all the payment pathways set out in pinpoint 4472 to pinpoint 4473 ones that were implemented?

45

MR WHYTCROSS: No, I do not believe they were.

MS SHARP SC: Well, can I take you back to pinpoint 4472. Is it right that if you look at the first column and it says the word "live", that means that this was a payment pathway being pursued - that was, at that time, being pursued?

5 **MR WHYTCROSS:** Apologies. I cannot recall.

MS SHARP SC: Well, I will help you. If we look down that left-hand column, you see it's called Status?

10 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And do you see there are three different descriptions of the status: there's one description which is "live"; and then if we scroll further down, there's one description "WIP", which must mean "work in progress"; and then there's a further statement called Outlier?

15 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: So may we take it that if the status is "live", that means that the payment pathway was being undertaken at that time, that is, the time this document was brought into existence?

MR WHYTCROSS: In terms of the first two, certainly the customer paying from the bank to a Star bank was, from my understanding, live.

25 **MS SHARP SC:** Mr Whytcross, I think we're at cross-purposes here. I will put the question again. Surely you agree that the only reasonable interpretation of this status column is that if it contains the word "live", that is because the payment channel was being pursued at that time?

30 **MR WHYTCROSS:** Yes. I - I believe it was being pursued, but I'm not - I wanted to be certain that it was active, and there were the two in the bottom there that I was unclear whether they were active. But I accept, with the status of "live", that they were being pursued.

35 **MS SHARP SC:** Now, if I direct your attention to about the fourth row down on pinpoint 4472 with the word "live" next to it, that says:

40 "Cash C2B (customer pays cash to partner who sends to Star)."

Now, that described the arrangement with Kuan Koi in its early phase, didn't it?

45 **MR WHYTCROSS:** Yes, I believe it did.

MS SHARP SC: And is it right that in the column headed Rank, which is coloured red, that means it was that it was ranked as being a high-risk payment channel?

MR WHYTCROSS: Having not completed the document, I'm not entirely clear. But the colour-coding, yes, would suggest that - who prepared this suggested it was a high-risk payment model.

5 **MS SHARP SC:** Well, that's the only reasonable explanation for this document, isn't it?

MR WHYTCROSS: Yes, I would agree with that, Ms Sharp.

10 **MS SHARP SC:** All right. And did it also accord with your understanding at the time that, in fact, that payment channel was a high-risk one?

MR WHYTCROSS: Yes, it did.

15 **MS SHARP SC:** And do you see immediately under that, there is another live option which is described as:

"Cash C2E (customer pays cash to partner who sends to EEIS)."

20

Now, that also describes the arrangement with Kuan Koi, doesn't it?

MR WHYTCROSS: Yes, I believe it does.

25 **MS SHARP SC:** Because the situation emerged where, in some cases, Kuan Koi was paying money to The Star and, in some situations, he was paying money to EEIS bank accounts. Do you agree?

MR WHYTCROSS: Yes, I - I agree.

30

MS SHARP SC: And later, the position morphed and what would happen is that Kuan Koi would direct third-party remitters to pay funds either through The Star or EEIS. Do you agree?

35 **MR WHYTCROSS:** Yes, I - I understand that now. However, at the time, I was not aware of that.

MS SHARP SC: So you still maintain your position, do you, that you had absolutely no awareness that third-party remitters were making deposits into The Star or the
40 EEIS accounts?

MR WHYTCROSS: Through the Kuan agreement, yes, that was definitely my understanding at the time. I was not aware that third-party remitters were being used under the Kuan Koi agreement at that point in time.

45

MS SHARP SC: Did you know at that point in time that third-party remitters were making many payments into the EEIS accounts?

MR WHYTCROSS: I was aware that third-party remitters were being used by The Star and - and payments were being accepted. At that point in time, I wasn't aware whether these payments were being made into the EEIS accounts or accounts in the name of The Star.

5

MS SHARP SC: Can I show you another document, please, Mr Whytcross. This one is exhibit B, tab 1090, STA.3417.0004.5006. And if you see the front page of this email chain, it's an email from you to Mr Hawkins of 14 September 2018?

10 **MR WHYTCROSS:** Yes.

MS SHARP SC: And you state there:

15 "Marcus is incorrect regarding Kuan Koi. We can accept front money deposits through this method if the funds are deposited directly to The Star (i.e. not via EEIS)."

20 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And that, of course, means that at the time, you were well aware that money was being deposited into Star accounts involving Kuan Koi?

25 **MR WHYTCROSS:** Yes.

MS SHARP SC: And can I just take you to the email that you were forwarding to Mr Hawkins. This one appears at pinpoint 5007. And you will see an email from Marcus Lim dated 14 September 2018 to Greg Hawkins?

30

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And that refers to one payment channel being that with Kuan Koi?

35 **MR WHYTCROSS:** Yes.

MS SHARP SC: Can I take you to exhibit C at tab 93. And this is STA.3009.0012.0009. And do you see this is an email from Adrian Hornsby to yourself? Do you see that?

40

MR WHYTCROSS: Yes, I do.

MS SHARP SC: It's dated 13 August 2019?

45 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And what Mr Hornsby is advising you is he just:

"Met Mr Kuan at Star who requested to cease business in regards to the fee processing and void his contract."

5 **MR WHYTCROSS:** Yes.

MS SHARP SC:

10 "I was able to gain four weeks timeframe for us to change our current processing system."

MR WHYTCROSS: Yes.

15 **MS SHARP SC:** And it's consistent with your recollection, isn't it, that the arrangement with Kuan Koi came to an end in September of 2019?

MR WHYTCROSS: Yes, I believe it was.

20 **MS SHARP SC:** Can I show you exhibit C at tab 98. This is STA.3009.0012.0004. And you see that's another email from you, Mr Whytcross?

MR WHYTCROSS: Yes, I do.

25 **MS SHARP SC:** And this is an email to Oliver White and Skye Arnott?

MR WHYTCROSS: Yes, I do.

30 **MS SHARP SC:** Dated 9 September 2019 entitled Kuan Koi August Payment Requisition?

MR WHYTCROSS: Yes, I do.

35 **MS SHARP SC:** And do you recall sending that at the time?

MR WHYTCROSS: Yes, I do.

40 **MS SHARP SC:** And it is correct that what you're doing is attaching files by which Kuan Koi's service fees were to be estimated for August 2019?

MR WHYTCROSS: Yes, I believe I was forwarding on the files that were prepared by Aozhi Shen.

45 **MS SHARP SC:** And it's right that every so often you would query files that were forwarded by Aozhi Shen, isn't it?

MR WHYTCROSS: Yes, I believe I did.

MS SHARP SC: So you read the files that Mr Shen provided to you, didn't you?

MR WHYTCROSS: I provided an overview of them at the time, yes.

5 **MS SHARP SC:** So you read the files?

MR WHYTCROSS: Yes, I did.

10 **MS SHARP SC:** And that's because you were interested in the question of Mr Kuan Koi's service fee, right?

MR WHYTCROSS: Yes. I was aware - in my role, I was aware of the costs associated with this.

15 **MS SHARP SC:** And that's because you read the files that Mr Shen sent to you?

MR WHYTCROSS: Yes, that's correct.

20 **MS SHARP SC:** Now, with this series of - I withdraw that. If I direct your attention a little further down the page to the email from Mr Shen that you're forwarding on dated 3 September 2019, do you see there's a reference to a list of transactions?

MR WHYTCROSS: Yes, I do.

25 **MS SHARP SC:** And if we go back up to your email forwarding this email, do you see there are some attachments to that email?

MR WHYTCROSS: Yes, I do.

30 **MS SHARP SC:** All right. And just before I take you to those attachments, if we go down to Mr Shen's email, you are aware by this time, that is, August 2019, that Kuan Koi is causing deposits to be made into the EEIS account, aren't you?

MR WHYTCROSS: Yes, I can see that on the email there.

35

MS SHARP SC: Well, it repeatedly says "telegraphic transfer to EEIS", doesn't it?

MR WHYTCROSS: Yes, it does.

40 **MS SHARP SC:** It says it about 15 times, I think, doesn't it?

MR WHYTCROSS: Yes, it does.

45 **MS SHARP SC:** So if I take you to one of these emails --

MR BELL SC: Just before you do that, Ms Sharp. Some of the transactions seem to involve payments to EEIS by a Chau Cheok Wa. Is that person also known as Alvin Chau?

MR WHYTCROSS: Yes, it is.

5 **MS SHARP SC:** Because what was happening at this time, wasn't it, Mr Whytcross, is that Kuan Koi was collecting payments - cash payments - from patrons and then causing those payments to be moved through junket operator accounts into the accounts of EEIS, isn't it?

10 **MR WHYTCROSS:** I was not aware of that at the time.

MS SHARP SC: Well, how can you say you were not aware of that when you've got an email in front of you that says:

15 "Attached is the file for Kuan Koi's service fee."

And then you have got a list of transactions, many of which refer to telegraphic transfers from Chau Cheok Wa to EEIS?

20 **MR WHYTCROSS:** At the time, I placed reliance on the operations of the agreement with the credit and collections team. I did not investigate fully to ensure that these payments were - were in line with the agreement, and I placed reliance on - on the file.

25 **MS SHARP SC:** Are you really suggesting that a man in your position paid so little attention to the clear words on the face of this email?

MR WHYTCROSS: My understanding was that the payments were being made through a Kuan Koi arrangement and that they were being processed correctly.
30

MS SHARP SC: I suggest the answers you are now giving this review are simply untruthful.

35 **MR WHYTCROSS:** No, I respectfully disagree. At - at the time, I was of the understanding that the agreement was being processed accordingly.

MS SHARP SC: Well, your --

40 **MR BELL SC:** Mr Whytcross, how could anyone read this email, as you've said you did, and fail to understand that, via Kuan Koi, persons, including Alvin Chau, were remitting large sums of money via TT to EEIS?

45 **MR WHYTCROSS:** Yes, Mr Bell. I - I accept that seeing that these transfers have come through EEIS, but I believe at the time I didn't create a distinction between EEIS and The Star.

MS SHARP SC: Well, do you accept it was incredibly incompetent of you not to notice this?

MR WHYTCROSS: I wouldn't characterise it as incompetent. I would characterise it as a significant oversight.

5 **MS SHARP SC:** Well, I characterised it as incredibly incompetent. Isn't that the explanation there?

MR WHYTCROSS: No, I believe this was a - a - a certain oversight from my perspective. My - my focus was of the underlying cost for this arrangement with
10 Kuan Koi, not the individual transactions, which I understood were being processed through the credit and collections team.

MS SHARP SC: Can I take you to one of the attachments, please. Operator, this is a native Excel file. It's exhibit C, tab 144, STA.3427.0037.2310. Now, I will take you
15 through this Excel file. Do you agree that what you are now seeing is the tab of the Excel file called Summary?

MR WHYTCROSS: Yes, I do.

20 **MS SHARP SC:** And it calculates Kuan Koi's fees for August 2019?

MR WHYTCROSS: Yes, I do.

MS SHARP SC: Now, did you prepare this Excel file?
25

MR WHYTCROSS: No, I did not. I believe Aozhi Shen prepared this file.

MS SHARP SC: So you simply reviewed this file at the time?

30 **MR WHYTCROSS:** Yes, I believe I did.

MS SHARP SC: Can I take you to the Usage tab, if the operator can click that one. Do you see it states there "FOD"? Now, that means front money account, doesn't it?

35 **MR WHYTCROSS:** Yes, I believe that's a reference to funds on deposit or front money.

MS SHARP SC: And do you see that each one of those entries says:

40 "Direct to EEIS."

MR WHYTCROSS: Yes, I do.

MS SHARP SC: Surely you knew by this time, once you had reviewed these Excel
45 files for the purpose of looking at Mr Kuan Koi's service fees, that his arrangement resulted in money being deposited directly into the EEIS accounts?

MR WHYTCROSS: Yes.

MS SHARP SC: Now, could I take you to the tab called EEIS. Now, do you see there are repeated references in that tab to Silver Express Investment Limited?

5 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: Now, Silver Express Investment limited is a third-party remitter, isn't it?

10 **MR WHYTCROSS:** Yes, I believe it is.

MS SHARP SC: Well, I suggest you read this file at the time and you were well aware of the fact that Mr Kuan Koi's arrangement involved deposits into Star and EEIS accounts from the third-party remitter, Silver Express Investment Limited.

15 **MR WHYTCROSS:** No, my recollection with this - and it is - I, in hindsight, fully accept an oversight on my behalf. I still - at the time, that - I understood the arrangement was being operated in line with the agreement.

20 **MS SHARP SC:** I suggest that answer is completely untrue. What do you say?

MR WHYTCROSS: Ms Sharp, respectfully - and I accept the - the oversight here. My focus, from a finance and commercial perspective, was largely on the total transfer and the cost associated with that, rather than the individual transactions. And
25 at that point in time, I did place reliance on the credit and collections team operating this agreement in line with - with what had been agreed.

MS SHARP SC: Well, I suggest with your commercial and financial background and all of your years working in the casino industry, in fact, you had laser-like focus
30 on these transactions, didn't you?

MR WHYTCROSS: No, I do not believe I did.

MS SHARP SC: Now, returning to that email that you forwarded, which is exhibit
35 C, tab 142. With all of these receipts that were annexed to this, I will suggest to you that in the period September 2018 to August 2019, a total of AUD\$86 million moved through this Kuan Koi channel. Do you agree?

MR WHYTCROSS: Yes. Based on your request, I had some work completed
40 overnight which is a number different to that.

MS SHARP SC: And what were the results of the work you had completed?

MR WHYTCROSS: It came back at an amount of 150 million between the January
45 2018 to August 2019 period.

MS SHARP SC: Now I wish to ask you some questions about EEI Services (Hong Kong) Pty Ltd, and I will call that EEIS when I'm referring to that company. Do you understand?

5 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: Now, you are aware that that company was incorporated in Hong Kong?

10 **MR WHYTCROSS:** Yes, I was.

MS SHARP SC: And it's right, isn't it, that an original director was Chad Barton, who was a director from 12 May 2015 to 18 October 2019?

15 **MR WHYTCROSS:** I'm not entirely aware of the dates, but I believe Mr Barton was a director of EEIS.

MS SHARP SC: Well, I will take you to a company search so you don't need to guess. Could I go to exhibit B, tab 3118, which is INQ.002.002.0045. And could I take you to pinpoint 0047. Do you see the heading Director?

20 **MR WHYTCROSS:** Yes.

MS SHARP SC: And do you see that Harry Theodore was appointed as a director of EEIS on 28 October 2019?

25 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And do you see the name Matthias Bekier?

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MR WHYTCROSS: Yes, I do.

MS SHARP SC: And do you see the appointment date is 14 November 2013?

35 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And do you see the heading Previous Director?

MR WHYTCROSS: Yes, I do.

40

MS SHARP SC: And do you see the name Chadwick Barton?

MR WHYTCROSS: Yes, I do.

45 **MS SHARP SC:** And do you see the appointment date was 12 May 2015 and the cease date is 18 October 2019?

MR WHYTCROSS: Yes, I do.

MS SHARP SC: So would you agree that during the entirety of 2018 and up until September 2019, the sole directors of EEIS were Chad Barton and Matt Bekier?

5 **MR WHYTCROSS:** Based on this information, yes, I would.

10 **MS SHARP SC:** Could I take you please to exhibit B at tab 3466. This is CORRO.001.001.0364. Now, I will ask you to assume, Mr Whytcross, that this is a document provided to the review by the lawyers acting for Star Entertainment which sets out all of the bank accounts into which patrons of Star Casino could deposit funds. Could I take you, please, to pinpoint 0376.

15 **MS RICHARDSON SC:** Could I raise one matter in the absence of the witness, please?

MR BELL SC: Yes, of course. Can we move into private mode please, operator.

<THE HEARING IN PUBLIC SESSION ADJOURNED AT 10:42 AM

20 <THE HEARING IN PRIVATE SESSION RESUMED AT 10:42 AM

<THE HEARING IN PRIVATE SESSION ADJOURNED AT 10:44 AM

25 <THE HEARING IN PUBLIC SESSION RESUMED AT 10:44 AM

MR BELL SC: Yes, Ms Sharp.

30 **MS SHARP SC:** I need to take you to a different document, Mr Whytcross. Operator, could you please bring up exhibit D, tab 42, which is CORRO.001.001.0574. Now, I will ask you to make the same assumption that I previously asked you to make, that is, that these are patron bank accounts. Now, can you see in the left-hand column there's a heading Bank and it says NAB - National Australia Bank?

35 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And do you see there's a heading above that table that says Existing Accounts?

40 **MR WHYTCROSS:** Yes, I do.

45 **MS SHARP SC:** Okay. I will just ask the operator to scroll down, please, to - bear with me, to pinpoint 0587. And do you see there's an entry for EEI Services (Hong Kong) Limited?

MR WHYTCROSS: Yes, I do.

MS SHARP SC: Now, this is a - these are patron deposit accounts at National Australia Bank - obviously in Australia - for EEI Services (Hong Kong) Limited. Now, you were aware in 2018 and 2019 that EEI Services held these NAB bank accounts?

5

MR WHYTCROSS: Yes, I - I believe I was. My knowledge has increased significantly since then, however.

MS SHARP SC: All right. But given that you were essentially the driving force for the EEIS project, you did know that EEIS held bank accounts with NAB in Australia, didn't you?

10

MR WHYTCROSS: Yes, I did.

MS SHARP SC: All right. And you also knew that EEIS held bank accounts at some stage with the Bank of China in Macau?

15

MR WHYTCROSS: Yes, I - I was aware of that.

MS SHARP SC: But they were closed in December of 2017, weren't they?

20

MR WHYTCROSS: Yes, I believe they were.

MS SHARP SC: Can I take you to pinpoint 0587. Do you see there's an entry - if we could scroll a little further down the page, please. Do you see there's a bank named as Banco Well Link S.A. in Macau?

25

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And do you see there's a reference to a different EEI Services entity?

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MR WHYTCROSS: Yes, I do.

MS SHARP SC: This one is EEI Services (Macau) Limited?

35

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: And do you see that this schedule indicates that four bank accounts were opened by EEI Services (Macau) Limited at Banco Well Link on 17 August 2018?

40

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: And those bank accounts were not closed until June 2021?

45

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: Were you involved in the opening of these bank accounts?

5 **MR WHYTCROSS:** I was involved with the initial discussion around opening the bank accounts with Banco Well Link. However, my understanding was that they were never actually opened. I was not part of the process to open those accounts.

MS SHARP SC: So does that mean you weren't aware at the time that, in fact, the bank accounts had been opened?

10 **MR WHYTCROSS:** No, I - I wasn't aware at the time. I believe we explored opening bank accounts, but I wasn't aware that they were actually opened.

MS SHARP SC: Now, you were a member of the EEIS working group in 2018?

15 **MR WHYTCROSS:** Yes, I was.

MS SHARP SC: And this was a working group established to explore new patron channels in the aftermath of the closure of the Bank of China Macau accounts in December 2017?

20 **MR WHYTCROSS:** Yes, that's correct.

MS SHARP SC: Now, the other members of that working group included Harry Theodore; is that right?

25 **MR WHYTCROSS:** Yes.

MS SHARP SC: David Alois?

30 **MR WHYTCROSS:** Yes.

MS SHARP SC: Adrian Hornsby?

MR WHYTCROSS: Yes.

35 **MS SHARP SC:** Oliver White?

MR WHYTCROSS: Yes.

40 **MS SHARP SC:** And David Procter?

MR WHYTCROSS: Yes.

MS SHARP SC: Have I missed anyone there?

45 **MR WHYTCROSS:** I believe Joanne Moore was also involved.

MS SHARP SC: And what plans were developed by the working group for EEIS in 2018?

5 **MR WHYTCROSS:** The objective for that working group was to activate the money lender's licence which The Star had held and had not - had not been used in Hong Kong.

MS SHARP SC: Is that all?

10 **MR WHYTCROSS:** There was a number of initiatives which were explored around marketing subsidiaries. However, the outcome of that process was to activate the money lender's licence, which would enable the EEI Services to issue loans in Hong Kong.

15 **MS SHARP SC:** What about remittance activities?

MR WHYTCROSS: Yes. There was also a process undertaken to obtain a - a money service operator licence, which would - or was intended to enable the EEI Services to provide remitter services. However, I believe that was not activated.

20 **MS SHARP SC:** And who was it intended that those remittance services would be provided for?

MR WHYTCROSS: Customers of The Star.

25 **MS SHARP SC:** Anyone else?

MR WHYTCROSS: Not to my knowledge.

30 **MS SHARP SC:** And those loans - who were those loans to?

MR WHYTCROSS: Customers of The Star.

MS SHARP SC: Anyone else?

35 **MR WHYTCROSS:** No.

MS SHARP SC: Just in relation to the Macau marketing subsidiary, I understand that proposal did not go ahead. But at one point, it was proposed to employ marketing staff by the Macau marketing subsidiary?

MR WHYTCROSS: Yes, I believe that was considered.

45 **MS SHARP SC:** Were you aware that Star Entertainment had marketing staff operating in mainland China in the period 2015 and 2016?

MR WHYTCROSS: Although that pre-dated my employment with The Star, I - I have a general awareness that there were staff going into mainland China.

MS SHARP SC: And what were they doing when they went into mainland China?

5 **MR WHYTCROSS:** I believe they were speaking to customers around potential trips to The Star.

MS SHARP SC: Do you mean The Star Casino?

10 **MR WHYTCROSS:** Yes.

MS SHARP SC: Were they marketing The Star Casino to people in mainland China?

15 **MR WHYTCROSS:** Although I - I do not know specifically, yes, I believe so.

MS SHARP SC: Do you know how many staff were going in and doing that?

MR WHYTCROSS: No. Unfortunately, I do not.

20 **MS SHARP SC:** How did you gain that understanding you've just spoken of?

MR WHYTCROSS: I cannot recall specifically. However, over my time at The Star, that has been referenced on a number of occasions.

25 **MS SHARP SC:** Did you know - I withdraw that. Did The Star have an office in mainland China?

MR WHYTCROSS: Not that I'm aware of.

30 **MS SHARP SC:** Do you know where the staff - the marketing staff - operated out of when they were in mainland China?

MR WHYTCROSS: No, I do not.

35 **MS SHARP SC:** At what point in time, if at all, did marketing staff cease going into China to market the casino?

MR WHYTCROSS: I'm not sure.

40 **MS SHARP SC:** Do you have any idea?

MR WHYTCROSS: My suspicion would be - or expectation would be that it aligned with the Crown arrests.

45 **MS SHARP SC:** And they were in October 2016, weren't they?

MR WHYTCROSS: Correct.

MS SHARP SC: I'm asking you this, Mr Whytcross, because you were based in Hong Kong and you travelled each quarter to the Macau office. So what's your best understanding of when these marketing staff ceased going into mainland China to market the casino?

5

MR WHYTCROSS: I commenced work in October 2016, which was the - the same time of - of those arrests. So my - my employment - throughout my employment, I'm not aware of any staff going into mainland China for the purposes of - of promoting The Star Casino. And my understanding is that that ceased around that time.

10

MS SHARP SC: Could I take you, please, to exhibit B, tab 540, which is STA.3423.0001.5513. And I will take you to pinpoint 5521. Do you see there that the EEIS/MMS project team is set out?

15

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And you're identified as the project sponsor?

MR WHYTCROSS: Yes, I do.

20

MS SHARP SC: And that was correct, wasn't it?

MR WHYTCROSS: Yes. In - in terms of a project lead/sponsor, but also the - the steering committee was a critical part - component of - of this project.

25

MS SHARP SC: I understand that, but you were the project sponsor, weren't you?

MR WHYTCROSS: Yes.

30

MS SHARP SC: You, together with Oliver White, were also the project leads, weren't you?

MR WHYTCROSS: Yes.

35

MS SHARP SC: And there's a statement as to the members of the steering committee; that's correct, isn't it?

MR WHYTCROSS: Yes, I believe it is.

40

MS SHARP SC: Can I take you to another document, please, part B, tab 1159, which is STA.3401.0005.3805. Now, I'm showing you the first page of a slide pack called EEIS/MMS Project International Marketing Steering Committee, 16 November 2018. I might just show you - scroll down the second and third pages. So I will go back to that first page now. Did you have a role in preparing this slide pack?

45

MR WHYTCROSS: No, I don't believe so. I - I believe that was prepared by Richard Booth.

MS SHARP SC: But you've seen this document before?

MR WHYTCROSS: Without reviewing it completely, however I would expect that I saw it at that time.

5

MS SHARP SC: Are you able to indicate who this slide pack was presented to?

MR WHYTCROSS: My expectation would have been, given the title, that that was shared with the steering committee.

10

MS SHARP SC: Is it right that you were the architect of this EEIS project?

MR WHYTCROSS: No, I - I wouldn't describe myself as the architect. It was more of a project management role.

15

MS SHARP SC: And the project lead?

MR WHYTCROSS: Yes.

20 **MS SHARP SC:** And it's right that this project came into existence because the Bank of China Macau accounts had been closed, right?

25 **MR WHYTCROSS:** Yes. I - I believe, following the closure of the - the Bank of China Macau accounts, that's what led to the direction to refresh and re-explore the pre-existing money lender's licence which The Star had.

MS SHARP SC: Could I take you, please, to pinpoint 3806. And in that first dot point, it said:

30 "EEIS can offer loans to approved customers as an alternative to a cheque cashing facility."

MR WHYTCROSS: Yes.

35

MS SHARP SC: And that was the proposal, wasn't it?

MR WHYTCROSS: Yes. My understanding was that CCF was the default position. However, it would be - EEIS was going to be able to offer loans, subject to approval.

40

MS SHARP SC: And in that second dot point, there's a reference to remittance services to.

45 "International customers who prefer to send funds to the casino via an EEIS bank account instead of directly to a casino account."

Why did that preference exist, to your understanding?

5 **MR WHYTCROSS:** My understanding was that customers preferred - or were having issues in sending funds directly to an account named in The Star, and that was why there was a preference for payments to be made into an EEIS named bank account.

10 **MS SHARP SC:** So was that facility offered so that people viewing the statements of the customers would not be able to discern that the customer was sending funds to a casino?

MR WHYTCROSS: No, I do not believe so.

15 **MS SHARP SC:** Well, there's no other explanation that's consistent with this customer preference, is there?

20 **MR WHYTCROSS:** Without knowing individual customers - but I also understood that customers were having funds stopped by banks when being transferred to The Star bank account, which is why there was a - a preference for funds to be transferred to EEIS.

MS SHARP SC: Mr Whytcross, didn't you know full well that there were some customers who desired that a casino not appear on their bank account statements?

25 **MR WHYTCROSS:** Apologies. Could you repeat the question?

MS SHARP SC: Yes. Didn't you know full well that there were some customers who preferred that a casino did not appear on their bank account statements?

30 **MR WHYTCROSS:** Without knowing individual customers - but, yes, I have a - I do have a general awareness of that.

MS SHARP SC: Of course you do, don't you?

35 **MR WHYTCROSS:** Yes.

MS SHARP SC: Yes. It was one of the drivers of this program, wasn't it - this project?

40 **MR WHYTCROSS:** I wouldn't say it was a - a driver of the project. The - the driver was not around to try and facilitate payments to a non-named Star account.

MS SHARP SC: What do you mean? I don't understand.

45 **MR WHYTCROSS:** The - the driver was to create an alternative to allow customers to repay funds in Hong Kong. The ability to repay into EEIS was also a - an added benefit and looked at to create a - an enhanced customer service.

MS SHARP SC: Now, do you see under the heading key updates, there is a dot point that says:

5 "World Checks completed on Well Link
directors. External advisers stated they
could not provide any information other
than what was available in the public
domain. It was decided not to proceed
10 with a control risk assessment. The next
step is to agree a policy with group
treasury."

Why was it decided not to proceed with a control risk assessment of 'Well Link'?

15 **MR WHYTCROSS:** I cannot recall. However, my understanding was that the
progression with Well Link did - did not occur.

MS SHARP SC: Well, I've just showed you bank accounts opened with the Well
Link Bank. So you would agree, wouldn't you, that it appears that did proceed?

20 **MR WHYTCROSS:** Yes. However, my understanding was that there was certainly
no transactions that ever went through any Well Link account.

MS SHARP SC: Have you personally checked that?

25 **MR WHYTCROSS:** No, I have not.

MS SHARP SC: See there's a heading Decisions? And do you see it states:

30 "The final EEIS loan documentation
and process has been amended from a
strict interpretation of the advice of
Kings & Wood Mallesons. The internal
legal advice is that KWM will not
35 explicitly endorse the final versions and
that we should not seek further inputs
from KWM."

40 It sounds like KWM didn't want to be involved with this; is that correct?

MR WHYTCROSS: Having - I - I wasn't a party to any conversation with - with
KWM in - in regards to this advice.

45 **MS SHARP SC:** Well, what can you tell us about what is stated here, given that you
are the project sponsor and you and lawyer Oliver White are the project leads?

MR WHYTCROSS: With regard to any legal advice with KWM, as Oliver is a
project lead, I would have left that to - to him to engage with external legal.

MS SHARP SC: Well, is it true that King Wood Mallesons didn't want to advise on this matter?

5 **MR WHYTCROSS:** I - I'm not sure.

MS SHARP SC: Did you see the advice from King Wood Mallesons?

MR WHYTCROSS: I don't believe I did.

10

MS SHARP SC: Then could I take you to pinpoint 3807. And if you have a look at this document, it's correct, isn't it, that three different payment channels were being contemplated that would move via EEIS, and they were, firstly, loans; secondly, cheque cashing facility remittances; and thirdly, cash deposits in Macau via the Well Link bank account?

15

MR WHYTCROSS: Yes, I would agree with that. And also, with regard to remittance, my understanding was also looking to explore front money prior to play, in addition to CCF repayments.

20

MS SHARP SC: And did that end up happening?

MR WHYTCROSS: No, I don't believe it did.

25 **MS SHARP SC:** Can I take you, please, to pinpoint 3808. And I just want to work through this document, if I can. Now, this is diagrammatically explaining the different payment pathways available to junket or premium players, isn't it?

MR WHYTCROSS: Yes, I believe so.

30

MS SHARP SC: And the default position, is that what option was available to junkets and premium players at the time this document was brought into existence?

MR WHYTCROSS: Yes.

35

MS SHARP SC: So the position that was available at that time was that a junket or premium player could pay - or make a deposit to a Star account in the NAB, or the UOB in Singapore; correct?

40

MR WHYTCROSS: Yes.

MS SHARP SC: Or they could use their CUP card?

MR WHYTCROSS: Yes, that was my understanding.

45

MS SHARP SC: Now, the next pathway is a remittance agent. And using a remittance agent, they can pay to the EEIS accounts in Hong Kong, or in Australia with the NAB?

MR WHYTCROSS: Yes.

5 **MS SHARP SC:** And that is something that was occurring at the time this document was brought into existence, wasn't it?

MR WHYTCROSS: No, I don't believe it was.

10 **MS SHARP SC:** Well, can I take you - you see there's a little red dot that says "2" on the box?

MR WHYTCROSS: Yes, I can.

15 **MS SHARP SC:** And if we go down to the bottom of the document with the little red dot, do you see it says:

20 "If customers are unable to transfer electronically directly to Australia however are able to transfer to an EEIS bank account in Australia or Hong Kong they will be offered the EEIS remittance service."

25 **MR WHYTCROSS:** Yes.

MS SHARP SC: So this was a proposal, rather than something that was actually happening; is that your evidence?

30 **MR WHYTCROSS:** Yes, I - I believe it was. I understand at the time that it was a - a proposal, and The Star and the - the wider group were still working through the requirements to process remittances through the EEIS bank account in Hong Kong.

35 **MS SHARP SC:** Now, that number 2 dot point speaks of customers who are unable to transfer funds to Australia directly but who could transfer funds to an EEIS bank account in Australia. Why could they transfer to one type of bank account in Australia but not another?

40 **MR WHYTCROSS:** From feedback that we had received from the sales team, was that customers were having difficulty transferring to Australia, which is why the alternative was being sought to provide an option for customers to pay in Hong Kong, which would enable customers to make a payment within the same country and - and not have an international EFT transfer.

45 **MS SHARP SC:** But this dot point says that customers are able to transfer to an EEIS bank account in Australia, and it's contrasting them with customers who can't transfer directly to Australia. So here is my question: why is it that customers could transfer to an EEIS bank account in Australia but not a casino bank account in Australia?

5 **MR WHYTCROSS:** My general understanding with that was customers were facing difficulty transferring to a - a bank account in the name of The Star, and individual banks were restricting or cancelling those transfers, which is why they were unable to transfer.

MR BELL SC: So should I understand that this proposal was to assist customers to disguise the fact that they were making payments to The Star directly?

10 **MR WHYTCROSS:** No, I don't believe it was to - to disguise. EEIS was a - a clear subsidiary of - of the - The Star. So certainly, I don't believe it was from a disguising perspective.

15 **MR BELL SC:** So why was the name EEIS chosen, rather than a name which directly identified The Star?

20 **MR WHYTCROSS:** My understanding is EEIS is a - a reference to Echo Entertainment, which was the previous name of - of The Star, and that is carried on from the corporate change when The Star was rebranded.

MS SHARP SC: Well, that's not going to be apparent on the face of the bank account, it is?

25 **MR WHYTCROSS:** No, it would not. I - I agree with that.

MS SHARP SC: And it's not going to be apparent on the face of a bank account that Echo Entertainment Group owns EEIS, is it?

30 **MR WHYTCROSS:** No, it would not.

MS SHARP SC: Are you seriously suggesting that you had no idea that one of the reasons The Star was offering patrons the opportunity to deposit funds into EEIS in Australia was to provide those customers with the opportunity to disguise the fact that they were making deposits to a casino?

35 **MR WHYTCROSS:** The - the reference to the "disguise", I --

40 **MS SHARP SC:** Could you just answer my question? I will read it again. Are you seriously suggesting that you had no idea that one of the reasons The Star was offering patrons the opportunity to deposit funds into EEIS in Australia was to provide those customers with the opportunity to disguise the fact they were, in fact, making deposits to a casino?

45 **MR WHYTCROSS:** I - I would agree it's a lack of transparency, yes.

MS SHARP SC: And you were well aware of that in 2018 as you worked on this project?

MR WHYTCROSS: Yes, I was.

MS SHARP SC: Now, the third pathway on this document is the loan alternative, which is:

5

"Customer cannot provide a personal cheque."

10 Now, isn't it correct that when the loan alternative was executed that customers did provide a personal cheque as collateral for that loan?

15 **MR WHYTCROSS:** Yes. As the project progressed beyond this point, the default position was to always request a personal cheque for loans. However, there was a process put in place that if a cheque was not available, then the CFO was able to approve that.

20 **MS SHARP SC:** Now, a customer who provided a personal cheque for this EEIS loan would make that personal cheque out to EEIS, wouldn't they?

MR WHYTCROSS: Yes, I believe so.

25 **MS SHARP SC:** And ordinarily, with a cheque cashing facility at The Star, the customer would make their personal cheque out to The Star Pty Ltd?

MR WHYTCROSS: Although I don't have a detailed understanding of the - the personal cheque process, yes, I believe that's correct.

30 **MS SHARP SC:** Well, to put it in more simple terms, they would make their personal cheque out to the casino?

MR WHYTCROSS: Yes, I believe that's correct.

35 **MS SHARP SC:** So it is right, isn't it, that when reference is being made to the loan alternative on this document and customers who cannot provide a personal cheque, you understood that this is customers who cannot provide a personal cheque made out to the casino?

40 **MR WHYTCROSS:** Yes.

MS SHARP SC: And this was really the reason why the loan alternative was developed, wasn't it?

45 **MR WHYTCROSS:** The - there was a number of reasons why the - the loan alternative was developed. The --

MS SHARP SC: Well, I'll let you answer that in a minute. But one of those reasons was because customers could not provide a personal cheque made out to the casino, correct?

5 **MR WHYTCROSS:** No. My - my recollection or understanding is that it was a customer cannot provide a personal cheque at all, not specifically related to a casino or not. My understanding with that also is that certain patrons from certain countries had difficulty accessing a personal cheque at all. So it was less about whether that was made out to The Star or EEIS.

10

MS SHARP SC: Well, isn't it the case, Mr Whytcross, that whenever a loan was advanced, the patron did provide a cheque and it was a cheque made out to EEIS?

MR WHYTCROSS: Yes, I understand that's correct.

15

MS SHARP SC: All right. Now, I will go back to my original question. Wasn't one of the reasons for creating this loan alternative to accommodate the fact that some customers could not set up a cheque cashing facility with The Star was because they could not provide a personal cheque that was made out to The Star?

20

MR WHYTCROSS: My understanding at - at the time was that it was an inability to provide a personal cheque at all. I wasn't aware that there was any issue with making - or distinction between making out a personal cheque to The Star compared to EEIS.

25

MS SHARP SC: Well, did you reach the understanding at some point in 2018 that, in fact, for every loan, the patron was required to hand over a personal cheque?

MR WHYTCROSS: Yes.

30

MS SHARP SC: Right. Well, how do you account for the - well, I withdraw that. I will come back to it. Could I take you, please, to pinpoint 3809. And do you see this is another document, Pathway to Direct Credit?

35

MR WHYTCROSS: Yes, I do.

MS SHARP SC: Could I just take your attention to the EEIS column. And what does "CX" mean in that first row?

40

MR WHYTCROSS: I'm not sure.

MS SHARP SC: Can you give us your best guess?

45

MR WHYTCROSS: No, I do not - apologies. I'm - I'm not sure what "CX" refers to.

MS SHARP SC: Does it mean transaction?

MR WHYTCROSS: Not to my knowledge.

MS SHARP SC: Do you see in that CX row for EEIS, it says:

5 "No cheque legally required."

MR WHYTCROSS: Yes, I do.

10 **MS SHARP SC:** And then if I take you through to the 'Risk' row for EEIS, do you see it says:

"Enforceability in Hong Kong.
Management requires a cheque."

15 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: Well, didn't you understand, at least by the time that you saw this document, that part of the EEIS loan process involved the customer providing a cheque made out to EEIS?

20

MR WHYTCROSS: Yes. I - I was aware that there was a requirement for the customer to provide a cheque. However, I wasn't aware whether that was to be made out to EEIS or The Star.

25 **MS SHARP SC:** Right. So you did understand at all times while you were conceiving the EEIS loan pathway that the customer would be providing a cheque?

MR WHYTCROSS: Yes. That was always the default position.

30 **MS SHARP SC:** Right. But your evidence is that you did not understand that, given the loan would be made by EEIS, that the cheque would be made out to EEIS?

MR WHYTCROSS: In hindsight and - and looking at this now, I understand it. However, at the time, I do not believe I - I considered that.

35

MS SHARP SC: Well, it's obvious, isn't it?

MR WHYTCROSS: Yes, it is.

40 **MS SHARP SC:** Blindingly obvious?

MR WHYTCROSS: Yes. I - I agree with that, Ms Sharp.

45 **MS SHARP SC:** How could it form any type of collateral if it was not made out to the legal entity advancing the loan?

MR WHYTCROSS: Yes, I agree.

MS SHARP SC: All right. Was the evidence you were providing previously truthful?

MR WHYTCROSS: Yes, it was.

5

MS SHARP SC: Now, could I take you to pinpoint 3810. And what this page is doing is setting out the cash payment channels available to The Star; correct?

MR WHYTCROSS: Yes.

10

MS SHARP SC: And Kuan Koi is listed as one of those cash payment channels?

MR WHYTCROSS: Yes.

15

MS SHARP SC: And Regal Crown is listed as one of those payment channels; yes?

MR WHYTCROSS: Yes.

20

MS SHARP SC: Now, you were aware upon reading this document, weren't you, that one of the payment channels was the third-party remitter, Regal Crown?

MR WHYTCROSS: Yes. I recall at the time, which I was involved with, there were discussions with Regal Crown around a potential agreement between Regal Crown and The Star.

25

MS SHARP SC: Now, the fourth column here says "Well Link Bank". This was also one of the cash payment channels, wasn't it?

MR WHYTCROSS: I believe that was being proposed. However, I - I don't believe it eventuated.

30

MS SHARP SC: Well, do you see in the Comment column, the third dot point says:

35

"Well Link are asking when Star will use the accounts."

MR WHYTCROSS: Yes, I do.

40

MS SHARP SC: Well, isn't the only fair reading of that point that those accounts had been opened?

MR WHYTCROSS: Yes. However, my recollection at the time was that it was still going through a process for approval, and I wasn't sure whether the accounts were actually formally opened or not. But I - I believe that the decision was made to - to not proceed through Well Link.

45

MS SHARP SC: Can I show you another document, please. I will have to get the exhibit number. It's STA.5002.0004.1056. In fact, I've just taken you to the wrong

document. Mr Bell, given the time, is it possible I could seek an adjournment five minutes early so I can locate the correct document?

5 **MR BELL SC:** Yes. I will take the morning adjournment now, and I will adjourn for 15 minutes.

MS SHARP SC: Thank you, Mr Bell.

10 **<THE HEARING ADJOURNED AT 11:24 AM**

<THE HEARING RESUMED AT 11:38 AM

MR BELL SC: Yes, Ms Sharp.

15 **MS SHARP SC:** Yes. Could I take you to exhibit D, tab 21, which is STA.5002.0004.1056. And if you will have a look - you see these are the minutes of meetings of directors dated 26 September 2018?

20 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And could I ask the operator to scroll down a little bit, please. And do you see - stop there. Do you see you're recorded as being in attendance for part of that meeting?

25 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: Could I take you to the bottom of this first page, please. Do you see there's a row right at the bottom:

30 "International rebate business
strategy/business unit 'deep dive'."

MR WHYTCROSS: Yes, I do.

35 **MS SHARP SC:** And it says that:

40 "Mr Marcus Lim (President,
International Marking) and Mr Michael
Whytcross (General Manager, Finance
and Commercial) joined the meeting for
this item."

And it says:

45 "The paper titled IRB Strategy Update
was taken as read."

MR WHYTCROSS: Yes, I do.

MS SHARP SC: Do you remember that you did attend the board meeting on 26 September 2018 to present a paper?

5 **MR WHYTCROSS:** Yes, I - I recall I was a part of that meeting.

MS SHARP SC: Yes. And you spoke at that meeting in relation to aspects of this paper, didn't you?

10 **MR WHYTCROSS:** Yes, I believe I did.

MS SHARP SC: All right. Let me take you to the paper now, please, which is exhibit B, tab 1093. And I should indicate that's pinpoint STA.5002.0004.2733. Now, your name appears on the front page of this document, IRB Strategy Update. It
15 is right that this was the paper that was presented to the board at the meeting on 26 September 2018?

MR WHYTCROSS: Yes, I believe it was.

20 **MS SHARP SC:** And I think you told us yesterday that you were involved in the preparation of this document?

MR WHYTCROSS: Yes, I believe I was.

25 **MS SHARP SC:** And indeed, you drafted some parts of this document?

MR WHYTCROSS: I believe I did.

MS SHARP SC: So if I could take you to pinpoint 2753, please. Do you see there's
30 a heading Current Issues, Collection of Funds/Money Transfer?

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And did you draft this page of the paper?
35

MR WHYTCROSS: I can't recall specifically, but I may have.

MS SHARP SC: Could I take you to pinpoint 2754. This is headed Current Issues,
40 Collection of Funds/Money Transfer?

MR WHYTCROSS: Yes, I can see that.

MS SHARP SC: Did you draft this section of the paper?

45 **MR WHYTCROSS:** I can't recall specifically, but I believe I contributed to this slide, yes.

MS SHARP SC: And did you speak to this aspect of the paper in the meeting?

MR WHYTCROSS: I can't recall specifically whether I spoke to this slide or not, unfortunately.

5 **MS SHARP SC:** And if I could take you to pinpoint 2756. You see the heading Continued Focus on Compliance Culture?

MR WHYTCROSS: Yes.

10 **MS SHARP SC:** Did you draft this page?

MR WHYTCROSS: I can't recall specifically, but I may have.

MS SHARP SC: It says:

15

"Supporting the maintenance of a compliance culture in international business by -"

20 Dot point:

"Appointment of Michael Whytcross as AML/CTF compliance officer."

25 **MR WHYTCROSS:** Yes.

MS SHARP SC: And that was because you were appointed the compliance officer of EEIS?

30 **MR WHYTCROSS:** Yes, I was.

MS SHARP SC: But you, at this point, had little understanding of Australia's anti-money laundering framework?

35 **MR WHYTCROSS:** Yes. The - the reason --

MS SHARP SC: If you could just answer yes or no?

MR WHYTCROSS: My apologies. Yes.

40

MS SHARP SC: So is it right that in putting this part of the paper to the board, what you and your colleagues responsible for the EEIS project were trying to do was assure the business that this project would be in accordance with Australian anti-money laundering and counter-terrorism financing requirements?

45

MR WHYTCROSS: Yes. My understanding was that we were seeking to communicate to the board that there was a focus on improving compliance in this area.

MS SHARP SC: And this document states:

5 "Future program including ongoing
engagement by senior staff from
governance and risk."

Tell us, Mr Whytcross, who from senior staff from governance and risk discussed
with you the EEIS project?

10

MR WHYTCROSS: So this was around - I recall Skye Arnott was involved to be
able to develop further compliance training, which was to include regular trips
internationally to improve the knowledge of international staff.

15 **MS SHARP SC:** And did you engage with Paula Martin about the EEIS project?

MR WHYTCROSS: I can't recall engaging with Paula Martin specifically.
However, I may have. A lot of my discussions were with Oliver White with regard to
governance and risk.

20

MS SHARP SC: Is that what is meant when we see the expression "ongoing
engagement by senior staff from governance and risk"?

25 **MR WHYTCROSS:** I can't recall specifically what - what was meant by that at - at
this point.

MS SHARP SC: Well, let me ask you this question: which senior staff from
governance and risk, in addition to Skye Arnott, did you engage with in the course of
developing and implementing the EEIS project?

30

MR WHYTCROSS: I - I believe Oliver White, from a legal perspective, and I
recall Micheil Brodie was also engaged in this process.

35 **MS SHARP SC:** Now, for what period of time did you hold the position of
AML/CTF compliance officer for EEIS?

MR WHYTCROSS: I believe until the money service operator licence has lapsed
which occurred recently.

40 **MS SHARP SC:** And - operator, you can take this slide down - when did that occur?

MR WHYTCROSS: I'm not aware specifically, but in - in the last six months.

MS SHARP SC: So until that time, you were the compliance officer?

45

MR WHYTCROSS: Yes, I believe so.

MS SHARP SC: Do you accept that one of the duties of an AML/CTF compliance officer is to report regularly to the board and senior management about how the business is meeting its obligations under the AML/CTF Act and alerting them if it is not meeting those obligations?

5

MR WHYTCROSS: One of the reasons for my appointment was my location in Hong Kong.

MS SHARP SC: Just answer my question please, Mr Whytcross, and we will get through this far more quickly. I will ask the question again. Do you accept that one of the duties of the compliance officer is to report regularly to the board and senior management about how the business is meeting its obligations under the AML/CTF Act and alerting them if it is not?

15 **MR WHYTCROSS:** Yes.

MS SHARP SC: Did you know that at all times while you were the compliance officer for EEIS?

20 **MR WHYTCROSS:** Yes, I was.

MS SHARP SC: Did you discharge that duty?

25 **MR WHYTCROSS:** I feel that I discharged my duty through engagement with other members of the organisation.

MS SHARP SC: You did never report to the board about compliance of EEIS with the AML/CTF framework, did you?

30 **MR WHYTCROSS:** No, I did not.

MS SHARP SC: In fact, you had no idea whether EEIS was compliant with the AML/CTF framework, did you?

35 **MR WHYTCROSS:** No, I did not.

MS SHARP SC: Well, you couldn't have discharged that duty, could you?

40 **MR WHYTCROSS:** That's correct.

MS SHARP SC: And you did not discharge that duty?

45 **MR WHYTCROSS:** Independently, no, I did not. However, engaging with other members of the organisation, I feel those duties were discharged.

MS SHARP SC: Do you accept that one of the duties of a compliance officer is helping to create, implement and maintain internal policy and procedures and systems for AML and CTF compliance?

MR WHYTCROSS: Yes, I do.

5 **MS SHARP SC:** Did you understand that at all times while you were the compliance officer?

MR WHYTCROSS: Yes, I did.

10 **MS SHARP SC:** You did not discharge that duty, did you?

MR WHYTCROSS: No, I did not. However, I still maintain that my engagement with other members of the organisation allowed that to be discharged effectively.

15 **MS SHARP SC:** In fact, you have no idea, do you, as to whether appropriate AML/CTF policies were put in place in respect of EEIS, do you?

MR WHYTCROSS: I have a limited understanding, yes, Ms Sharp.

20 **MS SHARP SC:** Well, you have no idea, do you?

MR WHYTCROSS: I wouldn't say I have no idea. I would say and characterise my understanding as limited.

25 **MS SHARP SC:** Do you accept that one of the duties of the compliance officer is taking day-to-day responsibility for the AML/CTF program?

MR WHYTCROSS: My understanding was the day-to-day responsibility of the AML/CTF program fell with The Star AML compliance officer.

30 **MR BELL SC:** Would you please answer Ms Sharp's question, Mr Whytcross?

MR WHYTCROSS: My - my apologies. May I ask for the question to be repeated?

35 **MS SHARP SC:** Certainly. Do you accept that one of the duties of the compliance officer is taking day-to-day responsibility for the AML/CTF program?

MR WHYTCROSS: Yes, I do.

40 **MS SHARP SC:** And did you realise that EEIS had its own AML/CTF program?

MR WHYTCROSS: Yes, I was aware EEIS had its own AML/CTF program.

45 **MS SHARP SC:** And did you realise that Skye Arnott was the other compliance officer for EEIS?

MR WHYTCROSS: Yes. I was aware Skye Arnott was the compliance officer.

MS SHARP SC: But did - well, she was a compliance officer, wasn't she?

MR WHYTCROSS: Yes. We - we served the role jointly.

5 **MS SHARP SC:** And you did not think, did you, that you could delegate your responsibilities as a compliance officer to your co-compliance officer, did you?

10 **MR WHYTCROSS:** My understanding was that through serving that role jointly with Ms Arnott, my knowledge of the business was complemented with her knowledge of the AML/CTF Act and requirements. And through that, we were able to discharge the obligations correctly.

MS SHARP SC: Well, you didn't think that the fact that you had a co-compliance officer meant that you did not have the duties of a compliance officer, did you?

15 **MR WHYTCROSS:** No, I did not.

20 **MS SHARP SC:** Now, isn't it the case that as the AML/CTF compliance officer - or co-compliance officer for EEIS, you were responsible for overseeing the ongoing operation and effectiveness of the EEIS transaction monitoring program?

MR WHYTCROSS: No. My understanding was that that was the responsibility of Ms Arnott.

25 **MS SHARP SC:** So you didn't think you, as a compliance officer, had any duty in that regard?

30 **MR WHYTCROSS:** No. My understanding in - if I may explain a little bit more in context, my understanding for my role as a compliance officer was, under the Hong Kong legislation, there was a requirement to have someone who was based in Hong Kong, and that was the only reason why I was appointed.

MS SHARP SC: So you were a token appointment, were you?

35 **MR WHYTCROSS:** I wouldn't characterise it as a token appointment. My understanding was that there was a requirement to appoint someone who was based in Hong Kong, and that was the reason why.

40 **MS SHARP SC:** Well, did you accept that you, as a compliance officer, bore all the duties I've previously asked you about, or not?

MR WHYTCROSS: I understood that there were obligations associated with that. However, I was given comfort by other members of the organisation that the requirements would be discharged effectively.

45 **MS SHARP SC:** Do you actually know what the role of an AML/CTF compliance officer is?

MR WHYTCROSS: At the time where I was appointed, I did undertake some review. However, the direction that I had from members of The Star's legal and compliance team was that I was the most appropriate person to be appointed and that support would be provided by the wider AML team of The Star.

5

MR BELL SC: And now, Mr Whytcross, would you be good enough to answer Ms Sharp's question, please.

MS SHARP SC: And I will put it again. Do you actually know what the role of an AML/CTF compliance officer is?

10

MR WHYTCROSS: Specifically in Hong Kong, Ms Sharp, no, I do not.

MS SHARP SC: What about in Australia?

15

MR WHYTCROSS: No, I do not.

MS SHARP SC: Did you have any understanding as to what EEIS's transaction monitoring program involved?

20

MR WHYTCROSS: Not in specific detail, no.

MS SHARP SC: Well, did you have any idea what it involved at all?

MR WHYTCROSS: My understanding was that, after recruiting a dedicated compliance officer in the Hong Kong office, that reviews were undertaken on all transactions through EEIS.

25

MS SHARP SC: And, sorry, when was that person employed?

30

MR WHYTCROSS: That person was employed at the time of the EEIS initiative being developed, and is still employed.

MS SHARP SC: And who is that person?

35

MR WHYTCROSS: Her name is Michelle Chui.

MS SHARP SC: And what - I withdraw that. Did you personally undertake any transaction monitoring of the EEIS bank accounts?

40

MR WHYTCROSS: No, I did not.

MS SHARP SC: And is it the case that you do not know whether Ms Chui personally undertook any transaction monitoring of the EEIS bank accounts?

45

MR WHYTCROSS: I believe Ms Chui worked with Ms Arnott and other members of the AML team to complete the transaction monitoring.

MS SHARP SC: So I will ask my question again and could you please answer it this time. Is it the case that you do not know whether Ms Chui personally undertook any transaction monitoring of the EEIS bank accounts?

5 **MR WHYTCROSS:** No, I do not know that specifically.

MS SHARP SC: Were you aware that EEIS has at all times been a close associate of Star Entertainment Group since 2014?

10 **MR WHYTCROSS:** Yes, I was aware of that.

MS SHARP SC: Is it correct that the cage at The Star was permitted to execute documents for or on behalf of EEIS?

15 **MR WHYTCROSS:** I'm not aware.

MS SHARP SC: Is it correct that treasury at The Star could give instructions for the movement of money within the EEIS bank accounts?

20 **MR WHYTCROSS:** Yes. I had a general understanding that that was the process.

MS SHARP SC: And is it correct that what would happen is that, periodically, treasury would sweep those bank accounts and move the money into the casino operator's bank accounts?

25 **MR WHYTCROSS:** Yes, I believe that was the process.

MS SHARP SC: And there was no officer of EEIS who did that?

30 **MR WHYTCROSS:** No, I do not believe so.

MS SHARP SC: And to your knowledge, did the board of directors of EEIS ever meet?

35 **MR WHYTCROSS:** I have a general recollection through a discussion with Mr White that there was a board meeting of EEIS, although I did not attend that in person.

MS SHARP SC: Is it right that Star did all the accounting for EEIS?

40 **MR WHYTCROSS:** Yes, that's correct.

MS SHARP SC: And at all times, EEIS acted to assist the patrons of Star Casino move their money into a front money account or repay cheque cashing facilities or loans to The Star?

45 **MR WHYTCROSS:** Yes, I believe so.

MS SHARP SC: And EEIS was, in all of its day-to-day operational activities, controlled by officers of Star Entertainment or The Star?

5 **MR WHYTCROSS:** Yes, I would agree with that.

MS SHARP SC: Are you able to tell us whether EEIS ever registered as a money remitter with AUSTRAC?

10 **MR WHYTCROSS:** I believe it did, yes.

MS SHARP SC: How did you form that belief?

15 **MR WHYTCROSS:** Through discussions with Ms Arnott and Mr White, I believe that it was registered.

MS SHARP SC: Would you pardon me for one moment, Mr Bell?

MR BELL SC: Yes.

20 **MS SHARP SC:** Now, I want to ask you some more questions about the loans that EEIS provided to patrons. Is it your understanding that EEIS did provide loans to patrons from time to time?

25 **MR WHYTCROSS:** Yes. I believe that there has been a small number of loans that were made to customers.

MS SHARP SC: Do you know how many?

30 **MR WHYTCROSS:** I believe there were five.

MS SHARP SC: And it's right, isn't it, that - well, I withdraw that. All of the paperwork for those loans was prepared either by Star Entertainment or The Star, was it?

35 **MR WHYTCROSS:** I - I'm not sure specifically. I - I understand that some documentation was prepared in the Hong Kong office as well.

MR BELL SC: And who made the decision to provide those loans, Mr Whytcross?

40 **MR WHYTCROSS:** The decision at the time, I believe, needed the approval of the CFO.

MS SHARP SC: And that was the CFO of Star Entertainment?

45 **MR WHYTCROSS:** Yes.

MS SHARP SC: And that was Chad Barton, or was that Harry Theodore by that time?

MR WHYTCROSS: I believe that was Chad Barton at the time.

5 **MS SHARP SC:** Now, is it your evidence that an EEIS loan was different from the ordinary cheque cashing facility that The Star made available to patrons?

MR WHYTCROSS: Yes.

10 **MS SHARP SC:** So let me understand: when there was an EEIS loan, the patron was not charged any fees for the loans?

MR WHYTCROSS: No. I do not believe they were.

15 **MS SHARP SC:** And the patron was not charged any interest on the loans?

MR WHYTCROSS: No, I do not believe so.

20 **MS SHARP SC:** And the patron provided no collateral for the loan other than a personal cheque made out to EEIS?

MR WHYTCROSS: Yes, that is my understanding.

25 **MS SHARP SC:** Is it right, Mr Whytcross, that, in fact, the EEIS loans were shams designed to disguise the repayment of gambling debts from Macau and to obscure the fact that patrons were making payments into casino front money accounts?

MS RICHARDSON SC: I object to that question. It has about three sub-dependent clauses. In my submission, it should be broken up, in fairness to the witness.

30 **MR BELL SC:** Yes, I reject that question in that form.

MS SHARP SC: Is it correct that EEIS loans were used to disguise the repayment of gambling debts by casino patrons?

35 **MR WHYTCROSS:** No, I do not believe so.

MS SHARP SC: Is it the case that EEIS loans were used to obscure the fact that patrons were making payments into casino front money accounts?

40 **MR WHYTCROSS:** No, I do not believe so.

45 **MR BELL SC:** Can I ask you this, Mr Whytcross: you told Ms Sharp a moment ago that you understood that the collateral, as you put it - or as Ms Sharp put it - for a loan from EEIS was a cheque made out to EEIS. Is that what you said?

MR WHYTCROSS: Yes, Mr Bell. I understood there was a - a - a cheque made out as - as collateral for the loan to be processed. However, I wasn't aware that was made out to EEIS and - or The Star until today.

MR BELL SC: Yes. Well, that's what I was going to ask you because my recollection is you told me a little earlier that you didn't know if the check was made out to EEIS or The Star.

5

MR WHYTCROSS: Yes, that - my apologies. That's correct. I'm working on the assumption that - through the conversation today that it was made out to EEIS.

MR BELL SC: But that's just an assumption on your part, is it?

10

MR WHYTCROSS: Yes, it is.

MR BELL SC: Yes. Thank you.

15 **MS SHARP SC:** You do appreciate, do you, that at all times a patron obtaining an EEIS loan was required to provide a personal cheque?

20 **MR WHYTCROSS:** Yes. My understanding was that the process in place was the default position to provide a personal cheque, and any deviation from that was requiring approval by the CFO. However, my understanding for all loans that were issued - all of them - The Star received a personal cheque.

MS SHARP SC: And --

25 **MR BELL SC:** So what did you understand were the terms of these five loans, Mr Whytcross?

MR WHYTCROSS: In terms of - may I clarify? In - in terms of the - the terms of repayment?

30

MR BELL SC: Yes.

35 **MR WHYTCROSS:** The - my understanding was the default position was that any outstanding following the drawdown of chips in The Star was to be repaid within 30 days. However, I believe that there was one or two loans where the terms were extended beyond 30 days.

MR BELL SC: And who, to your understanding, made the decision to extend the loan?

40

MR WHYTCROSS: I believe that was the decision of the CFO at the time.

MR BELL SC: Yes. And were these loans made by EEIS documented?

45 **MR WHYTCROSS:** Yes, they were.

MR BELL SC: In what form was that documentation?

MR WHYTCROSS: It was loan agreements to support those loans.

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** Given - well, I withdraw that. It's your understanding that in order for a patron to obtain a cheque cashing facility, they need to provide a personal cheque?

MR WHYTCROSS: Yes, I understand that.

10

MS SHARP SC: And it was your understanding that in order to obtain an EEIS loan, the patron needed to provide a personal cheque?

MR WHYTCROSS: Yes.

15

MS SHARP SC: Right. But there was a lot more paperwork involved with obtaining an EEIS loan than there was with obtaining a cheque cashing facility. Do you agree?

20 **MR WHYTCROSS:** My understanding and - and recollection is it wasn't extensively different. The amount of paperwork was reasonably similar, with the exclusion of a loan script.

MS SHARP SC: Why - what could be the possible explanation for requiring an EEIS loan when a patron could obtain a cheque cashing facility?

25

MR WHYTCROSS: The - the two specific reasons for me is the ability to not have a personal cheque - although the default position was to ask for a personal cheque, my understanding was that there was no legal requirement for that to occur - and also the ability to extend the repayment terms as well.

30

MS SHARP SC: Well, your first reason does not seem to accord with the reality of what this arrangement was, being that in all cases a personal cheque was required to be provided.

35 **MR WHYTCROSS:** Yes. For the small number of loans that were processed, I agree that a personal cheque was provided. However, my understanding at the time was that if this was to be rolled out wider, it would be used, subject to approval, without the provision of a personal cheque.

40 **MR BELL SC:** Mr Whytcross, can you help me to understand what the amount of these five loans was?

MR WHYTCROSS: My apologies, Mr Bell. I can't recall.

45 **MR BELL SC:** Yes, Ms Sharp.

MS SHARP SC: Tell me, when a personal loan was being provided by EEIS, it's right that it was Star Entertainment or Star - well, I withdraw that. When a personal

loan was being provided, it's correct that the casino operator undertook the credit check?

5 **MR WHYTCROSS:** Yes, that's my understanding.

MS SHARP SC: And exactly the same credit check was undertaken as - was done when a patron wished to take out a cheque cashing facility?

10 **MR WHYTCROSS:** Yes, I believe the loan applications went through an identical process.

MS SHARP SC: See, wasn't one of the reasons why this EEIS loan idea was conceived to assist the patron disguise the fact that the patron was obtaining credit from the casino?

15 **MR WHYTCROSS:** No, I do not believe so.

MS SHARP SC: Can I take you to document exhibit B, tab 699, which is STA.5002.0004.0764. Now, do you see this is expressed to be a board paper?

20 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And this is dated 22 March 2018 from Mr John Chong, the president of international marketing?

25 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And do you see the subject of this is International Rebate Business EEIS/MMS Project Status Report?

30 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And do you see the purpose is stated as being:

35 "To provide a status update to the board of steps taken since the international rebate strategy presentation at the September 2017 board meeting."

40 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: Given the nature of this board paper, is it right that you assisted in compiling this board paper?

45 **MR WHYTCROSS:** I can't recall specifically. However, I believe I may have.

MS SHARP SC: Well, it's most likely that you did assist with the preparation of this document given you were the project sponsor and project lead, isn't it?

MR WHYTCROSS: I believe it's highly likely, yes.

5 **MS SHARP SC:** Could I take you, please, to pinpoint 0764. I beg your pardon. I might need to scroll down. I'm sorry to do this. If we could have a look at the attachments. They're in the same document. If the operator can scroll down. Keep scrolling down. Keep scrolling down please, operator. Stop there - operator, if you could just allow me to read the page. Back to the previous page, please, operator. If you will just pardon me, Mr Bell, I will just find - and take the opportunity to - we're
10 just coming up with the correct page, Mr Bell. Yes. If I could return to the front page of the slide - I'm sorry, of the cover - I think it's the cover page. Now, if you look at the heading Background. Could I take you to the heading midway down or the paragraph that starts:

15 "The new structure will respond to these issues by."

MR WHYTCROSS: Yes. Thank you.

20 **MS SHARP SC:** And do you see the second dot point is:

25 "Establishing EEI Services as a licensed money lender and a licensed remittance agent thus changing the nature of the payments from customers to being repayments of loans in Hong Kong from repayment of gambling debts in Australia."

30 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: Now, wasn't it your understanding that that was one of the purposes of setting up these EEIS loan arrangements?

35 **MR WHYTCROSS:** It - it wasn't my understanding of the specific purpose, no.

MS SHARP SC: But that's what is written on this document, that you, in all likelihood, contributed to?

40 **MR WHYTCROSS:** Yes. And I accept that.

MS SHARP SC: And this is the information being conveyed to the board?

45 **MR WHYTCROSS:** Yes, I accept that.

MS SHARP SC: Surely, Mr Whytcross, you understand, and you understood at the time, that this was one of the purposes of the EEIS loan?

MR WHYTCROSS: In hindsight and - and seeing this - although my understanding was that it wasn't the specific purpose, I accept that this is being conveyed.

5 **MS SHARP SC:** A purpose of the EEIS loan was to disguise the fact that, in substance, the patrons were providing money to the casino, wasn't it?

MR WHYTCROSS: I do not believe it was ever intended to disguise payments to the casino.

10 **MS SHARP SC:** Mr Whytcross, the answer you're giving now is completely untrue, isn't it?

15 **MR WHYTCROSS:** Ms Sharp, I - I do not believe so. I understand that repayments of loans in Hong Kong lacks transparency compared to repayments of gambling debts in Australia.

20 **MR BELL SC:** Why would it be important, as you understood it, Mr Whytcross, for a customer to be seen to be repaying a loan in Hong Kong rather than repaying a gambling debt in Australia?

MR WHYTCROSS: My understanding, Mr Bell, was at the time that customers were facing difficulties transferring to The Star, and - and payments to The Star were being held and not processed by banks as a result.

25 **MR BELL SC:** So it was to disguise the fact that these customers were, in fact, repaying gambling debts, wasn't it?

MR WHYTCROSS: I don't believe it was a disguising; I think it was an alternative option for customers.

30 **MR BELL SC:** Yes, Ms Sharp.

35 **MS SHARP SC:** Now, are you aware of the amount of money that flowed through the EEIS NAB bank accounts?

MR WHYTCROSS: For the purposes of loans, Ms Sharp?

40 **MS SHARP SC:** No. Sorry, I will make that more clear. In the period 10 May 2018 to 5 November 2021, are you aware of the amount of money that flowed through the EEIS NAB accounts?

MR WHYTCROSS: No, I am not.

45 **MS SHARP SC:** You've never conducted any investigations into that?

MR WHYTCROSS: No, I have not.

MS SHARP SC: Has Mr Anthony Seyfort ever spoken to you about the EEIS bank accounts?

5 **MR WHYTCROSS:** I've had conversations with Mr Seyfort before. I can't recall specifically whether it was in relation to the EEIS bank accounts.

10 **MS SHARP SC:** Would it surprise you to learn that in the period 10 May 2018 to 5 November 2021, there were 752 transactions into those accounts, involving about \$227 million in credits and about \$227 million in debits?

MR WHYTCROSS: Yes, it would.

15 **MS SHARP SC:** And this is despite the fact that you were the project sponsor and the project lead in relation to the EEIS payment channel?

MR WHYTCROSS: My understanding of my role was around the EEIS loan process, which I understand eventuated in five loans, not specifically around all payments through the EEIS bank account.

20 **MS SHARP SC:** And you certainly weren't supervising the transactions occurring in these accounts; is that right?

MR WHYTCROSS: No, I was not.

25 **MS SHARP SC:** And is it right that you cannot point to the person who was supervising those transactions?

MR WHYTCROSS: No, I cannot.

30 **MS SHARP SC:** Could I ask you to - I'm going to move now to ask you some questions about the EEIS Bank of China accounts. You were aware that EEIS held some Bank of China accounts, or do I need to take you back to the patron account letter?

35 **MR WHYTCROSS:** I had an understanding that The Star - or bank - held bank accounts with Bank of China, yes.

40 **MS SHARP SC:** Now, can I take you, please, to - I'm not sure what the exhibit number here is, I'm afraid, Mr Bell. It's STA.3421.0028.8013. It's exhibit B1168. Now, could I take you to the bottom of this document, please. Actually, to pinpoint 8020. And I will take you to the email at the bottom half of this document. And do you see right at the bottom there's an email from Richard Booth, dated 2 August 2018, to David Kenworthy and Danijela Perkovic, and you are one of the people copied?

45 **MR WHYTCROSS:** Yes, I see that. Thank you.

MS SHARP SC: And do you see that the subject of the email is EEIS Bank Account at BOC?

MR WHYTCROSS: Yes, I do.

5

MS SHARP SC: Now, in the first paragraph of the email, there is a reference to:

"Discussions yesterday with Oliver regarding signing the EEIS cheques."

10

And it's stated:

"We need to clarify the signatory situation at BOC."

15

Now, did you read this email at the time, given that it related to the EEIS?

MR WHYTCROSS: I cannot recall.

20

MS SHARP SC: Is it most likely you did, given that it related to EEIS?

MR WHYTCROSS: I may have, Ms Sharp. I'm not sure.

MS SHARP SC: Now, you will see there's a sentence that says:

25

"Consequently please confirm for Bank of China."

And do you see there's a dot point number 3 which says:

30

"What electronic access do we have to EEIS bank account?"

MR WHYTCROSS: Yes, I see that.

35

MS SHARP SC: And do you see it says, "Balance only"?

MR WHYTCROSS: Yes, I do.

40

MS SHARP SC: And there's blue writing that says, "Yes"?

MR WHYTCROSS: Yes, I can see that.

MS SHARP SC: Now, was it correct, to your understanding, that the only access The Star had to these bank accounts was to view the balance of these bank accounts?

45

MR WHYTCROSS: At the time, Ms Sharp, I'm - I'm not sure. I can only go by this email in front of me, which suggests that, yes, that's the - the case.

MS SHARP SC: What I want to understand is whether it was simply not possible for anybody from Star to monitor transactions occurring in these bank accounts because all The Star could look at electronically were the balances in these accounts?

5

MR WHYTCROSS: I'm not aware, Ms Sharp.

MS SHARP SC: Now, it's right, isn't it, that some concerning transactions have come to light in the Bank of China Macau accounts?

10

MR WHYTCROSS: I'm not sure what you're referring to, Ms Sharp.

MS SHARP SC: I'm referring to documents which have been provided to the Bank of China in Macau that provide a false explanation of the source of funds being deposited into those accounts.

15

MR WHYTCROSS: Yes, I am - I've been made aware of that, yes.

MS SHARP SC: All right. When did you first become aware of that?

20

MR WHYTCROSS: Within the last month.

MS SHARP SC: Operator, we can take this down. Could you tell us exactly what you know, please, Mr Whytcross?

25

MR WHYTCROSS: My understanding, through a conversation which started with Oliver White and Skye Arnott, that documentations were - documentation was identified from Gabriela Soares that there was a process undertaken historically with Bank of China that - that The Star had provided incorrect documentation.

30

MS SHARP SC: And what was that incorrect documentation?

MR WHYTCROSS: Although I don't know in detail, my understanding was that there was a misrepresentation of documentation.

35

MS SHARP SC: What misrepresentation?

MR WHYTCROSS: I believe documentation was provided to the Bank of China to indicate that funds had come from a Star cage when they had not.

40

MS SHARP SC: Because The Star doesn't have a cage in Macau, does it?

MR WHYTCROSS: No, it does not.

MS SHARP SC: That is because The Star doesn't operate a casino in Macau?

45

MR WHYTCROSS: No, it does not.

MS SHARP SC: So any document given the Bank of China which said that money being deposited was - had been provided by The Star cage in Macau is utterly false?

MR WHYTCROSS: Yes, it is.

5

MS SHARP SC: And it was your understanding that, in fact, it was staff members who were providing these letters to - staff members of The Star who were providing these letters to Bank of China representatives in Macau?

10 **MR WHYTCROSS:** Yes, it is.

MS SHARP SC: And when do you say you first became aware of this matter?

15 **MR WHYTCROSS:** Within the last month, in ongoing discussions responding to various notices.

MS SHARP SC: Are you sure you haven't been aware of this for about five months?

20 **MR WHYTCROSS:** No, I don't believe so. I - I may have my timing misunderstood, but it was a - it's a very recent development.

MS SHARP SC: Could I take you, please, to - and I think this is a new document I will have to have marked, Mr Bell. It's STA.3004.0014.0008.

25 **MR BELL SC:** Yes. That document will be marked MFI26.

MS SHARP SC: Could I just have you look at an email from you dated 16 October 2021?

30 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And I will just have the second half of the first page scrolled down to you so you can read it.

35 **MR WHYTCROSS:** Yes. Thank you. I recall this email.

MS SHARP SC: And I'm instructed that this is exhibit B3216. Well, Mr Whytcross, isn't it the case that you've been aware of these fabricated documents since October 2021?

40

MR WHYTCROSS: Yes, it is. My apologies. I - it's - it was definitely in October where I became aware of this.

45 **MS SHARP SC:** Did you become aware of this because you were assisting The Star - I withdraw that. Can I take you, please, to the bottom of this chain to pinpoint 0012. Now, this is an email from you - if we can attend to the bottom half of this. An email from you to Gabriela Soares dated 3 October 2021?

MR WHYTCROSS: Yes.

MS SHARP SC: And she was one of your colleagues based in the Macau office, that being the office you would visit on about a quarterly basis?

5

MR WHYTCROSS: Yes, it was. At this point in time, Gabriela reported to me as part of the credit and collections team.

MS SHARP SC: All right. And you are chasing some information about customer deposits made into Bank of China accounts in Macau?

10

MR WHYTCROSS: Yes. This email originated after a discussion with Skye Arnott who asked me to reach out to Gabriela, given that she was a part of my team, to seek to respond to a query on one of the regulatory questions.

15

MS SHARP SC: All right. Now, if I take you to her response - I will need to go to pinpoint 0011. And what she does here is answer your question and say:

20

"Since 2015, the various ways customers could deposit funds overseas for the purposes of redeeming a cheque cashing facility."

25

And then she sets out some dot points. And if I take you to the next page, pinpoint 0012, she says the first dot point was simply depositing funds in the Macau Bank of China account and she says:

30

"Bank of China is willing to accept large amounts of Hong Kong dollar cash."

MR WHYTCROSS: Yes.

35

MS SHARP SC: And that was consistent with your understanding when you worked in Hong Kong, was it?

MR WHYTCROSS: No, it was not.

40

MS SHARP SC: Well, isn't that the very reason why The Star was so upset when the Bank of China accounts in Macau were closed?

MR WHYTCROSS: Yes. My apologies.

45

MS SHARP SC: So you were aware of that?

MR WHYTCROSS: My - my understanding was that, yes, Bank of China could accept cash deposits.

MS SHARP SC: Are you telling the truth in any of your answers you are giving today, Mr Whytcross?

MR WHYTCROSS: Yes, I am, Ms Sharp.

5

MS SHARP SC: You are not just making it up as you go long?

MR WHYTCROSS: No, Ms Sharp, I am not.

10 **MS SHARP SC:** Now, the second dot point says this:

15 "After the closures of all our Macau bank accounts, customers deposit funds with a licensed remitter who then transfers those funds to The Star. Yes, the process was customer deposits to designated Macau junket accounts of a licensed remitter."

20 And then:

"Licensed remitter uses bank account to transfer funds to EEIS/The Star Pty account."

25

Now, is that a reference to the Kuan Koi process, to your understanding?

MR WHYTCROSS: I'm not sure.

30 **MS SHARP SC:** Well, what do you think when you read that?

MR WHYTCROSS: It - it may be related to Kuan Koi. But my understanding with that was customers would use licensed remitters, and the licensed remitter would transfer directly to The Star.

35

MS SHARP SC: Well, isn't this a reference to the situation once Kuan Koi's Macau bank account was shut and he collected the cash from the junket operators and then caused third-party remitters to make deposits into accounts which found their way to the NAB accounts?

40

MR WHYTCROSS: Although I wasn't aware of it at the time, it may be, Ms Sharp.

MS SHARP SC: Now, if I can take you up the email chain. We will go to 0011, please. And I want to show you an email from you, dated 4 October 2021, to Gabriela Soares where you say:

45

"Thanks Gabs, can I confirm what was the checks/processes we undertook

when the patron deposited funds into the Bank of China Macau funds (i.e. identify, source of funds)."

5 Now, do you remember sending that?

MR WHYTCROSS: Yes. I remember sending that following a discussion with Skye Arnott.

10 **MS SHARP SC:** All right. Could I take you to her response, please. It starts at the bottom of pinpoint 0010. And then I will scroll you down - that's her response of the same date. And do you see she says:

15 "Good day. No checks were done to any of our customer."

MR WHYTCROSS: Yes, I see that.

20 **MS SHARP SC:**

"Therefore, we as credit and collections staff must be present at all times when the deposits were made."

25 **MR WHYTCROSS:** Yes.

MS SHARP SC: Now, did you know, back in 2016 and 2017, that, in fact, The Star was not undertaking any checks on its customers for source of fund purposes before patrons were depositing funds into the Bank of China Macau account?

30 **MR WHYTCROSS:** No. I was definitely not aware of that at the time, and - and when this email was sent was the first I was made aware of this.

35 **MS SHARP SC:** And what Ms Soares advises you in this email is that:

40 "Bank of China considers the funds deposited by the staffs of The Star instead of the customer themselves. In the bank's mindset, cash was passed to the staff by the customer and staff to deposit the funds to our own company account."

45 Now, you understood from this, didn't you, that Ms Soares was telling you that the Bank of China treated these deposits as being deposits of The Star?

MR WHYTCROSS: Yes. It was very concerning to receive this email at that time.

MS SHARP SC: Because it doesn't sound like Bank of China were conducting any source of funds checks, does it?

MR WHYTCROSS: No, it does not.

5

MS SHARP SC: But is your evidence that this is the very first time you became aware of this matter, despite the fact that you were based in the Hong Kong office, you worked with the Hong Kong staff and you attended the Macau office on a quarterly basis?

10

MR WHYTCROSS: Yes, it is. This is the - the very first time I was made aware of this.

MS SHARP SC: This is extremely concerning information, isn't it?

15

MR WHYTCROSS: Yes, it was.

MS SHARP SC: It suggests there has been a very large management fail if this has only just come to light in October 2021, doesn't it?

20

MR WHYTCROSS: Yes. It was very concerning.

MS SHARP SC: And it's extremely concerning from an anti-money laundering counter-terrorism financing perspective, isn't it?

25

MR WHYTCROSS: Yes, it is.

MS SHARP SC: And what happened is that Ms Soares told you in this email chain that, in fact, Star representatives handed over certain documentation to the Bank of China Macau when these large cash deposits were made, didn't she?

30

MR WHYTCROSS: Yes, she did.

MS SHARP SC: And she provided you with some draft documents which represented the documents that Star would provide at the time these cash deposits were made?

35

MR WHYTCROSS: Yes, she did.

MS SHARP SC: And in fact, there were what I might describe as three different kinds of utterly false documents handed over, weren't there?

40

MR WHYTCROSS: Yes, there was various documents provided.

MS SHARP SC: And they're referred to, at pinpoint 0008, in the email from Ms Soares to yourself, Ms Arnott and Mr Procter dated 5 October 2021?

45

MR WHYTCROSS: Yes.

MS SHARP SC: So the first of these completely false letters is described as the "payment for clearance letter (Suncity)"?

5 **MR WHYTCROSS:** Yes.

MS SHARP SC: And the second of these completely false letters is the "winning letter (Leong)"?

10 **MR WHYTCROSS:** Yes.

MS SHARP SC: And the third of these completely false letters is the "letter of demand (Wong)"?

15 **MR WHYTCROSS:** Yes.

MS SHARP SC: And she provided you with copies of these draft false letters?

20 **MR WHYTCROSS:** Yes, I believe she did.

MS SHARP SC: Can I show you some of these documents, please, that were attached to this email. Again, I don't think these have been marked as exhibits yet, Mr Bell. The first of these - if you will pardon me for one moment - is STA.3004.0014.0014.

25 **MR BELL SC:** Can you say that number again, please, Ms Sharp.

30 **MS SHARP SC:** I'm sorry. It is already in evidence. I will say the number and then give the exhibit. It's STA.3004.0014.0014. And this is exhibit B3217. And you will see this particular document is said to be on a Suncity letterhead, dated 9 July 2019, and says:

35 "Dear Finance Officer, the purpose of this letter is to provide proof for payment deposit remit into The Star NAB Bank below."

MR WHYTCROSS: Yes.

40 **MS SHARP SC:** And do you see that the signature panel - it doesn't have a signature in it, but it's Gabriela Soares, assistant vice president of VIP credit and collections, finance?

45 **MR WHYTCROSS:** Yes.

MS SHARP SC: All right. So until two months ago, she still worked with The Star?

MR WHYTCROSS: Yes, she did.

MS SHARP SC: And certainly, after your October email exchange, she was still working at The Star for some months?

5 **MR WHYTCROSS:** I - yes. Her position at The Star has only recently been made redundant.

MS SHARP SC: And you understand this letter I'm just showing you to be a completely false document, in the sense that it makes a representation that is just not true?
10

MR WHYTCROSS: Yes, that is my understanding.

MS SHARP SC: And this was a document that you understand was provided by a Star representative to the Bank of China in Macau?
15

MR WHYTCROSS: Yes. I - that is my understanding.

MS SHARP SC: I will take you to another one of these attachments. This is STA.3004.0014.0020, which is exhibit B, tab 3220. And do you see that it - this is a letter of 27 December 2017 addressed to Bank of China Macau. It's called Re Source of Funds for Deposit. And it says:
20

25 "Dear Bank Officer, the purpose of this letter is to provide proof of source of funds. As per Finance Department of The Star Entertainment Group, our VP of credit and collection, Jacker Chou, will withdraw HKD\$60 million from the Macau branch and deposit into our company Bank of China Macau bank account."
30

Now, you've seen - this is one of the attachments that you have seen before?
35

MR WHYTCROSS: Yes, it is.

MS SHARP SC: Your understanding is the statements there are completely false?

40 **MR WHYTCROSS:** Yes, it is.

MS SHARP SC: And that was not a true statement insofar as the source of funds were concerned?

45 **MR WHYTCROSS:** Yes, that's my understanding.

MS SHARP SC: And I will take you to - I won't take to all of the - well, I won't spend time taking you to all of the attachments, but the point is you understood they made completely false representations?

5 **MR WHYTCROSS:** Yes. That was my understanding when - when that email was received.

MR BELL SC: So, Mr Whytcross, should I conclude that The Star Entertainment Group was making serious and deliberate misrepresentations to the Bank of China in
10 Macau?

MR WHYTCROSS: My understanding with this was that the individuals involved were making deliberate representations. At that point in time, I - certainly myself and others that received this - it was the very first time that we were made aware of this.
15

MR BELL SC: Now would you be good enough to answer my question. Should I conclude that The Star Entertainment Group was making serious and deliberate misrepresentations to the Bank of China in Macau?

20 **MR WHYTCROSS:** Yes, I believe so.

MR BELL SC: And should I also understand that these serious and deliberate misrepresentations were occurring regularly and systematically?

25 **MR WHYTCROSS:** I'm not aware if they were being done systematically. But in conversations I - I understand post this that I - I am aware that they were done repeatedly.

MR BELL SC: Yes, Ms Sharp.
30

MS SHARP SC: Did you conduct any investigations into this matter upon receiving these emails from Ms Soares?

MR WHYTCROSS: No, I did not. At that point, the investigation continued with
35 Oliver White and Skye Arnott.

MS SHARP SC: But don't credit and collection report to you by this time?

MR WHYTCROSS: Yes, they do.
40

MS SHARP SC: I'm just trying to understand why you weren't involved in the investigation, given that credit and collection reported to you at this time?

MR WHYTCROSS: I'm not aware - I wasn't - I wasn't a part of the investigation.
45

MS SHARP SC: But why not?

MR WHYTCROSS: I don't know.

MS SHARP SC: So who has investigated this matter?

5 **MR WHYTCROSS:** I believe this was investigated by Oliver White, and I believe Kevin Houlihan has also been involved to investigate this matter.

MS SHARP SC: And given that you are responsible for credit and collection, have they reported back to you regarding the results of these investigations?

10 **MR WHYTCROSS:** No, they have not.

MS SHARP SC: That's a bit odd, isn't it?

15 **MR WHYTCROSS:** Yes, I believe - yes.

MS SHARP SC: Well, why haven't they reported back to you about an investigation of the department for which you are responsible?

20 **MR WHYTCROSS:** I'm not aware. My only assumption with that is that the investigation is still ongoing.

MS SHARP SC: Well, have you asked for an update about the course the investigation has taken?

25 **MR WHYTCROSS:** No, I have not.

MS SHARP SC: Are you aware as to whether Mr White has interviewed Ms Soares?

30 **MR WHYTCROSS:** I'm - I believe he - there has been further discussions with Ms Soares, yes.

35 **MS SHARP SC:** Soares, I apologise. Well, has he interviewed her yet, to your understanding?

MR WHYTCROSS: I'm not aware if Mr White has. I - I'm aware of Mr Houlihan seeking Ms Soares's contact details from myself, which I have provided, which gave me an understanding that the investigation was still ongoing.

40 **MS SHARP SC:** But you don't know whether Mr Houlihan has interviewed her?

MR WHYTCROSS: I'm not aware, no.

45 **MS SHARP SC:** Do you know whether Mr Houlihan may have travelled overseas to interview her?

MR WHYTCROSS: I am not aware of that, no.

MS SHARP SC: Weren't you a bit curious about that?

MR WHYTCROSS: Yes. I - in considering that, I - I am curious as to where the investigation is currently at.

5

MS SHARP SC: Well, why haven't you asked?

MR WHYTCROSS: I'm not sure, Ms Sharp.

10 **MS SHARP SC:** Well, have you made a deliberate decision not to ask?

MR WHYTCROSS: No. This was certainly not a - a deliberate decision not to - to ask.

15 **MS SHARP SC:** Well, it seems extraordinary, given that you supervise the credit and collections team, that you haven't kept yourself intimately acquainted with developments in this investigation; don't you agree?

20 **MR WHYTCROSS:** Not specifically, no. Given my previous involvement with the investigations, is that the investigation will continue and then engage those stakeholders as required. I didn't feel this was abnormal to any other investigation.

MS SHARP SC: It's extraordinary, isn't it, that The Star is providing false letters to a bank?

25

MR WHYTCROSS: Yes. It's - it's concerning, yes.

MS SHARP SC: But not so concerning that you've made an effort to update yourself as to where this investigation has reached?

30

MR WHYTCROSS: I felt that if my involvement was needed from the investigation that I would be engaged.

35 **MS SHARP SC:** Have there been any disciplinary consequences arising from this investigation?

MR WHYTCROSS: Not that I'm aware of, no.

MS SHARP SC: None?

40

MR WHYTCROSS: I believe Ms Soares is no longer with the business, and there is - there has been no other disciplinary actions.

MS SHARP SC: Well, her supervisor was Jacker Chou, wasn't he?

45

MR WHYTCROSS: Yes, I believe so.

MS SHARP SC: And are you aware as to whether he has been interviewed for the purpose of this investigation?

MR WHYTCROSS: I'm not aware.

5

MS SHARP SC: Well, you are in ongoing contact with him, aren't you?

MR WHYTCROSS: No. I would have semi-regular contact throughout the year. I wouldn't call it regular contact.

10

MS SHARP SC: All right. You have had some contact with Jacker Chou since he has left the employment of Star?

MR WHYTCROSS: Yes, I have.

15

MS SHARP SC: But you're saying nobody has asked you to ask any questions of Jacker Chou?

MR WHYTCROSS: Not specifically, no. I recall Mr Houlihan has asked for Mr Chou's contact details and - and what I had available, which I've provided. But, no, I've not been asked specifically to reach out to Mr Chou.

20

MS SHARP SC: Given that you are the supervisor of the credit and collections team reporting up to - who is your direct report now?

25

MR WHYTCROSS: My apologies. Who do I report to?

MS SHARP SC: Yes.

30

MR WHYTCROSS: I report to Harry Theodore.

MS SHARP SC: Well, given that you are the supervisor of credit and collections, and given this would appear to involve extremely serious misconduct, isn't it imperative that you are kept abreast of the developments in this investigation?

35

MR WHYTCROSS: No, I do - do not believe that it's imperative that I was kept abreast of developments. I would have expected that when the investigation was concluded, I would be updated, but not throughout.

40

MS SHARP SC: Well, this investigation appears to have been occurring since at least October of last year?

MR WHYTCROSS: Yes, I acknowledge that.

45

MS SHARP SC: Well, how can the senior echelons of the business understand what is going on with the investigation of this very serious misconduct if you haven't even been told?

MR WHYTCROSS: My understanding is that that investigation would be led by others within the organisation.

5 **MS SHARP SC:** And is it your expectation that somebody other than you will be keeping the senior echelons of management apprised of where this investigation is up to?

MR WHYTCROSS: Yes.

10 **MS SHARP SC:** Tell me, do you agree with this, that providing a bank with an untrue statement of where money has come from is straight-out laundering of funds?

15 **MR WHYTCROSS:** I - I'm not aware of a characterisation of laundering. I would consider it a - a very significant misrepresentation.

MS SHARP SC: Well, you're providing an explanation of where those funds have come from that is not true?

20 **MR WHYTCROSS:** Yes, I would agree with that. I would agree that the letters provided do do that.

MS SHARP SC: Well, isn't that money laundering?

25 **MR WHYTCROSS:** It would be certainly a high risk of money laundering, yes.

MS SHARP SC: Well, isn't that money laundering that The Star itself has engaged in?

30 **MR WHYTCROSS:** I - I don't believe so, no.

MS SHARP SC: Really?

35 **MR WHYTCROSS:** The - I don't understand how the representation of false documents connects directly with money laundering by The Star.

MS SHARP SC: Are you aware that Gabriela Soares has said that Jacker Chou authorised these fake letters to be provided to the Bank of China in Macau?

40 **MR WHYTCROSS:** No, I was not aware of that.

MS SHARP SC: Is it a concern to you that you haven't been made aware of that piece of information?

45 **MR WHYTCROSS:** Not specifically, no. My understanding was that the investigation was still ongoing.

MS SHARP SC: Are you aware that she has also told Mr Oliver White that Adrian Hornsby authorised these letters to be given to the Bank of China in Macau?

MR WHYTCROSS: No, I was not aware of that.

5 **MS SHARP SC:** Do you agree with the proposition that if the casino cannot satisfy itself of the patrons' source of funds, it should not take those funds from the patron?

MR WHYTCROSS: Most definitely, yes.

10 **MS SHARP SC:** Do you agree that there is a point at which it becomes too risky, from a money laundering perspective, to accept the funds of a patron?

MR WHYTCROSS: Yes.

15 **MS SHARP SC:** I will go now to what I hope is a short topic before the lunch break. I now want to ask you some questions about the set-up of the Suncity room in The Star in Sydney. You are familiar with the Suncity room, are you?

MR WHYTCROSS: Yes, I am.

20 **MS SHARP SC:** And that was set up in - arrangements for that took place in late 2017, early 2018?

MR WHYTCROSS: Yes, I believe so.

25 **MS SHARP SC:** And you negotiated with Suncity representatives in order to set up that salon, did you?

30 **MR WHYTCROSS:** No, I wouldn't suggest I negotiated with representatives. I worked as a project manager, I would say, to help facilitate the - the initial set-up.

MS SHARP SC: So you liaised with Suncity representatives to help facilitate the original set-up, did you?

35 **MR WHYTCROSS:** Yes, I did.

MS SHARP SC: And when you engaged in that liaison, was it your understanding that The Star would operate a cage within Salon 95?

40 **MR WHYTCROSS:** Yes. My understanding was that the operations of Salon 95 would always be under The Star's direction.

MS SHARP SC: Well, that was not the answer to the question I asked you. Was it your understanding that a cage would be set up in Salon 95?

45 **MR WHYTCROSS:** No. My understanding was that a service desk would be set up in Salon 95.

MS SHARP SC: Well, that's not true, is it?

MR WHYTCROSS: Yes. My understanding was that it was a service desk.

5 **MS SHARP SC:** And your understanding, wasn't it, that Suncity would operate a cage in Salon 95; correct?

MR WHYTCROSS: May I ask - or - or seek clarification around the definition of "a cage"?

10 **MS SHARP SC:** No. I'm going to ask you the question again. It was your understanding, and you negotiated with Suncity - or liaised with Suncity representatives, that it would operate a cage in Salon 95; correct?

15 **MR WHYTCROSS:** No. Throughout all of my discussions with Suncity - or - or direction from others within The Star, my expectation was always that it was a service desk and cage operations continued as The Star.

20 **MS SHARP SC:** And just to be perfectly clear, you well understand what a cage in a casino is, don't you?

MR WHYTCROSS: Yes, I do.

MS SHARP SC: That's where cash is changed for chips?

25 **MR WHYTCROSS:** Yes, I understand. Thank you.

MS SHARP SC: Now - sorry, Mr Bell. I just have to locate some documents. Would now be a convenient time for the lunch adjournment?

30 **MR BELL SC:** Yes. I will now adjourn until 2 pm.

<THE HEARING ADJOURNED AT 12:57 PM

<THE HEARING RESUMED AT 2:01 PM

35 **MR BELL SC:** Yes, Ms Sharp.

40 **MS SHARP SC:** Mr Whytcross, could I show you exhibit B, tab 412, which is STA.3008.0004.0697. And, operator, could we go to pinpoint 0709. And I will just draw your attention to the second half of that page and have it enlarged for you, Mr Whytcross. Do you see that's an email from you dated 15 August 2017 to Marcus Lim, John Chong and Saro Mugnaini?

45 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And what you say in that email is that:

"Salon 95 in the Rivers has been identified by YM and Suncity international team as the preferred location."

5

MR WHYTCROSS: Yes.

MS SHARP SC: Right. Now, were you liaising with Suncity representatives as at this time about the dedicated Suncity VIP gaming room?

10

MR WHYTCROSS: Yes. I - I believe, on direction from John Chong, I was engaging with YM Choong, who is referred to in that email.

MS SHARP SC: All right. Do you see in the second paragraph, you say:

15

"Through Damian Quayle/David Croft I am waiting for some layouts/designs for the Suncity request which was 'setup a cage with two windows and a service counter with two seats!'"

20

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And you, of course, knew what a cage meant at the time you wrote the word "cage" in this email?

25

MR WHYTCROSS: Yes, I do.

MS SHARP SC: You understand that cage was being distinguished from service counter?

30

MR WHYTCROSS: Yes. I understood at the time the request for - from Suncity was for that.

35

MS SHARP SC: Yes. It was for both a cage and a service counter at that time, wasn't it?

MR WHYTCROSS: Yes, I - I believe so.

40

MS SHARP SC: Now, you were liaising with the design team back on the ground back in Sydney to conduct the renovation for that salon, weren't you?

MR WHYTCROSS: Yes, I believe I was.

45

MS SHARP SC: All right. Can I take you to pinpoint 0705. Now, you see there's an email from you, dated 9 August, to Damian Quayle and John Chong?

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And you see you're saying to Damian Quayle:

"Please see below from Suncity."

5

You're forwarding an email, aren't you?

MR WHYTCROSS: Yes, I - I believe I was.

10 **MS SHARP SC:** All right. And I will take you to that email. If we scroll down, please. Just answer my questions and we will get through this a bit more quickly, Mr Whytcross. Operator, could you screen back up a bit, please. You see the email you are forwarding - scroll back down, operator. The email you are forwarding was from Jeffrey Si Tou at Suncity?

15

MR WHYTCROSS: Yes.

MS SHARP SC: What he had stated to you was:

20

"Confirmed Salon 95 is the proposed location. Please kindly continue progressing to setup a cage with two windows and a service counter with two seaters."

25

MR WHYTCROSS: Yes.

MS SHARP SC: And it's correct that at that time, that is what you understood Suncity wanted?

30

MR WHYTCROSS: Yes. I believe at that stage - yes.

MS SHARP SC: Yes. And you were passing on those instructions to Damian Quayle in Sydney so that Sydney could do what Suncity wanted; correct?

35

MR WHYTCROSS: Yes.

MS SHARP SC: Now, can I take you to pinpoint 0703. You will see there's an email from Beata Ofierzynski to people, including yourself, dated 10 August 2017. And Beata says:

40

"Hi Michael, from what I gather in the email trail below, you are looking to add a cage with two windows and a service counter with two seaters in Salon 95? Will this just be a buy-in desk or a fully enclosed cage?"

45

And let me take you to your reply, which is at pinpoint 0702. Do you see there's an email from you back to Beata dated 10 August 2017?

MR WHYTCROSS: Yes, I do.

5

MS SHARP SC: And do you see you say:

10 "My preference would be for a buy-in desk to minimise cost and disruption rather than a fully enclosed cage."

Now, it's right you were instructing Sydney at that time to put a cage in, weren't you?

15 **MR WHYTCROSS:** At that stage, I believe I was trying to respond to Suncity's request, yes.

MS SHARP SC: Yes. And you were directing Sydney to put in a cage?

20 **MR WHYTCROSS:** Yes. I was following the request from Suncity.

MS SHARP SC: Okay. Can we go to pinpoint 0701. This is another email at the bottom half from Beata to you dated 15 August 2017:

25 "Hi Michael, attached is a drawing for Salon 95 inclusive of a new cage/buy-in desk in addition to a - desk with two seats."

30 And then let me show you your reply at pinpoint 0700, bottom of the page. See there's an email from you at the bottom of that page dated 15 August 2017?

MR WHYTCROSS: Yes, I do.

35 **MS SHARP SC:** All right. And what you say is:

40 "Thanks Beata, from previous experience I would expect Suncity to request further details of the cage/buy-in and separate service desk."

Was that previous experience your previous experience at Crown?

MR WHYTCROSS: Yes, I believe it was.

45 **MS SHARP SC:** That's when they had an exclusive Suncity room, was it?

MR WHYTCROSS: Yes, it was.

MS SHARP SC: And they operated, that is, Suncity operated, a cage in that exclusive gaming salon, didn't it?

5 **MR WHYTCROSS:** I - I can't recall if it was a cage. But, yes, I - I - that's what I was referring to there.

MS SHARP SC: Yes. Well, you knew that they operated a desk where cash was exchanged for chips and people could bring in cash to buy in?

10 **MR WHYTCROSS:** Yes.

MS SHARP SC: And Suncity was performing those transactions?

15 **MR WHYTCROSS:** Yes.

MS SHARP SC: All right. So when you say:

20 "From previous experience I would expect Suncity to request further details of the cage/buy-in and separate service desk."

25 You knew perfectly well, as at 15 August 2017, that you were directing Star in Sydney to include a buy-in desk/cage in Salon 95?

MR WHYTCROSS: I - I believe I was directing to come up with designs for that, yes.

30 **MS SHARP SC:** Now, could I take you to tab - I beg your pardon, document number STA.3008.0004.0677. This is exhibit B127. I'm sorry, 2127. Do you see there's an email from you to Beata dated 7 November 2017?

35 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And you're continuing to pass on requirements from Suncity in relation to the fit-out of Salon 95, aren't you?

40 **MR WHYTCROSS:** Yes, I am.

MS SHARP SC: And these are - what you're identifying here is the tech requirements that Suncity have made known to you for inclusion in Salon 95?

45 **MR WHYTCROSS:** Yes, that's correct.

MS SHARP SC: Now, could I take you to exhibit - I beg your pardon, document number STA.3008.0004.0501. And this is exhibit B at tab 503. Now, can I take your

attention, please, to the email in the middle of the page from you, dated 11 December 2013?

MR WHYTCROSS: Yes.

5

MS SHARP SC: Yes. And, sorry, just before I do that, there's another email I need to take you to. If I can take that one down, please. Could we go to the email - it's part B, tab 446, STA.3008.0004.0511. And do you see this is an email into which you are copied, dated 12 October 2017?

10

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And that's an email that Mr Graeme Stevens, the New South Wales regulatory affairs officer, is sending to Mary Butterfield at the regulator?

15

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: Now, do you expect you would have read that at the time since it was a communication to the regulator about the building works for Salon 95?

20

MR WHYTCROSS: Yes, I would have.

MS SHARP SC: All right. Because you were giving instructions for the building works, weren't you?

25

MR WHYTCROSS: Yes. I - I was playing a conduit to ensure those works progressed.

MS SHARP SC: Now, at that time, you understood, didn't you, that Suncity wanted a cage/buy-in desk and a service desk in Salon 95, didn't you?

30

MR WHYTCROSS: Yes, I believe I did.

MS SHARP SC: All right. But do you see what Mr Stevens said is that he wants to make some - or:

35

"The Star is proposing to make some minor changes to the junket operator's office. The purpose of these changes is to create a more customer friendly environment by installing a service desk in the salon and a service window in the wall of the junket operator's office."

40

MR WHYTCROSS: Yes, I see that.

45

MS SHARP SC: Do you see there's absolutely no reference to a buy-in desk or a cage?

MR WHYTCROSS: Yes, I see that.

5 **MS SHARP SC:** And did you understand at the time that Mr Stevens was only telling part of the story about what Suncity wanted in Salon 95?

MR WHYTCROSS: At - at the time, I don't believe I did.

10 **MS SHARP SC:** Really?

MR WHYTCROSS: No. My - no, I don't believe I did.

15 **MS SHARP SC:** What, you didn't notice that Mr Stevens seemed to miss a major detail about what it was that Suncity wanted, which was a cage and buy-in desk, the very thing you had instructed Beata to ensure was designed in that room?

MR WHYTCROSS: No. At the time, I - I don't believe I did.

20 **MS SHARP SC:** So it didn't strike you at the time that Mr Stevens' email to the regulator missed an important detail about what was to be included in the renovation at Salon 95?

MR WHYTCROSS: No, I don't believe I considered that at the time.

25 **MS SHARP SC:** Can I take you now to STA dot - well, this is exhibit B at tab 705, STA.3412.0019.5757. Pardon me, I'm not sure that you're a party to this email. I will withdraw that and take that down. Thank you. When did you - or did you become aware that, in fact, Suncity was not permitted to operate a buy-in desk or a cage in Salon 95?

30 **MR WHYTCROSS:** Yes. I - I believe, throughout the process - and I can't recall specifically whether it was before or after it - it went live - I understood that there were transactions that could not occur in Salon 95.

35 **MS SHARP SC:** And, sorry, when did you reach that understanding?

MR WHYTCROSS: My apologies. I'm not - not sure whether that was prior to Salon 95 opening or after.

40 **MS SHARP SC:** All right. But just to be clear, at least in the original instructions you were passing on from Suncity, you were aware that Suncity wanted a cage or a buy-in desk?

45 **MR WHYTCROSS:** Yes. My understanding was that that was the request from Suncity from - from the original request.

MS SHARP SC: Could I move to a different topic now, Mr Whytcross. Is it correct that in around October last year, you assisted Mr Greg Hawkins in a review of

certain players for the purpose of ascertaining whether rebate duty ought to have been paid in respect of them?

5 **MR WHYTCROSS:** Yes. I recall a piece of work which involved myself, the - other members of the finance team and the VIP services team.

MS SHARP SC: So who were the other members who were involved in that piece of work?

10 **MR WHYTCROSS:** The finance manager, who reports to myself, who's name is William Ho, a - and two members of the VIP services team, being Chum Mo and Wallace Liu.

15 **MS SHARP SC:** Sorry, Chum who?

MR WHYTCROSS: Mo, M-o.

MS SHARP SC: And Wallace who?

20 **MR WHYTCROSS:** Liu, L-i-u.

MS SHARP SC: And they were both members of the VIP sales team, were they?

25 **MR WHYTCROSS:** No. Apologies. They were part of the VIP services team based in Sydney.

MS SHARP SC: Now, was it in October you were requested to conduct this review?

30 **MR WHYTCROSS:** I believe it was, yes.

MS SHARP SC: And did you speak directly to Mr Hawkins about this review?

35 **MR WHYTCROSS:** Yes. Mr Hawkins forwarded me an email and then asked for me to work with those mentioned to perform a detailed assessment.

MS SHARP SC: Was that an email from Mr Hawkins - I beg your pardon. I withdraw that. Was that an email from Andrew Power?

40 **MR WHYTCROSS:** Yes. My recollection was that the piece of work started with an email that was forwarded from Mr Power.

45 **MS SHARP SC:** I will just see if I can have this email shown to you to confirm whether it is the email in question. Could you show the witness STA.3412.0067.1375. This is exhibit B2571. Do you need that enlarged for you somewhat, Mr Whytcross?

MR WHYTCROSS: Thank you. No, I - I do not believe this was the email that commenced the work. I believe it was an earlier email.

MS SHARP SC: Are you able to tell us what date that email was, or at least what month it was?

5 **MR WHYTCROSS:** Apologies. No, I do not. However, the - the email was forwarded from Mr Hawkins which highlighted 14 individuals which I understand were of interest to the New South Wales regulator, and that was the first start of the piece of work which Mr Hawkins requested.

10 **MS SHARP SC:** Okay. So we can take that document down, please, operator. Were you, in fact, involved in two pieces of work: one which looked at 14 individuals; and a piece of work at a later time relating to around 25 individuals?

15 **MR WHYTCROSS:** Yes. My recollection is that they were effectively the same piece of work, and the original identified individuals rolled into the - the wider group.

20 **MS SHARP SC:** All right. I will ask about these two tasks separately. I will start with the task involving the 14 individuals.

MR WHYTCROSS: Yes.

MS SHARP SC: When, in time, were you asked to work on that project?

25 **MR WHYTCROSS:** When Mr Hawkins forwarded the email to me from Andrew Power to himself.

MS SHARP SC: And what were you asked to do?

30 **MR WHYTCROSS:** I was asked to liaise back with members of the VIP services team to understand what information we had available for those individuals and help collate that information.

35 **MS SHARP SC:** And what form did your liaison with the VIP people take?

MR WHYTCROSS: There was a number of conversations and there's - if I recall the email correctly, there were questions raised in Mr Power's email, which we sought to respond to. And working back with members of the VIP services team, we collated that information.

40 **MS SHARP SC:** And the conversations you had with the VIP services team, were they conducted by way of email or in person or over the phone?

45 **MR WHYTCROSS:** I believe it was a combination of all of those.

MS SHARP SC: And what role did you have in relation to collating information?

MR WHYTCROSS: I didn't collate the information specifically, given I - I don't have access to those systems. But I worked back with both Chum and Wallace to understand what was available and - and assisted them in pulling together any gaps in information.

5

MS SHARP SC: So I'm just trying to understand what assistance you actually provided.

MR WHYTCROSS: I would consider my role in that as a first - first role of review. So Chum and Wallace prepared the information, and then I considered my role to be an initial review prior to it going to Mr Hawkins.

10

MS SHARP SC: So documents were provided to you?

MR WHYTCROSS: Yes, they were.

15

MS SHARP SC: And were these documents which assisted you in assessing whether the particular patron had spent less or more than 183 days resident in the country?

20

MR WHYTCROSS: At that stage, for those 14 individuals, I believe it was more around understanding what identification was available. I believe the assessment of the 183 days came for the second piece of work.

MS SHARP SC: And with this first task about looking at what identification was available, what conclusions did you form upon conducting your first review of the documents?

25

MR WHYTCROSS: I recall that a number of folders were - were accumulated and left for Mr Hawkins, and I recall providing an overview of my view of the information that we had available.

30

MS SHARP SC: And what was the overview of your view?

MR WHYTCROSS: It was to highlight where information was available and also to highlight where I thought there were shortfalls.

35

MS SHARP SC: And what shortfalls did you consider there to be?

MR WHYTCROSS: I can't recall specifically the - the note. However, I believe that there was a - a number of control breakdowns in lack of documents.

40

MS SHARP SC: Could you be a little bit more specific, please, Mr Whytcross?

MR WHYTCROSS: My - my apologies. I'm - I'm trying to recall. I believe that there was a small number of residency checklist that weren't completed for some of the customers. That would be my key takeaway.

45

MS SHARP SC: What about documents in support of entries in the residency checklist? What was your view about that?

5 **MR WHYTCROSS:** Sorry. Could you repeat the question?

MS SHARP SC: Yes. What view, if any, did you form about documents which sat behind the residency checklists?

10 **MR WHYTCROSS:** I - I believe I had different views dependent on the 14 individuals. There was a - a file note which I shared with Mr Hawkins which explained my views on that.

MS SHARP SC: I gather you still have a copy of that file note?

15 **MR WHYTCROSS:** Yes, I believe I do.

MS SHARP SC: I call for production of that file note.

20 **MS RICHARDSON SC:** I will make inquiries.

MS SHARP SC: And did you form any view that the documents sitting behind the residency checklist were deficient in any way?

25 **MR WHYTCROSS:** My assessment was that there were some control breakdowns for a small number of the individuals referenced.

MS SHARP SC: And what were those control breakdowns?

30 **MR WHYTCROSS:** Without the file note in front of me - however, I believe that there were residency checklist that were not completed, and I recall highlighting that to Mr Hawkins.

MS SHARP SC: And what about the documents sitting behind those residency checklists? Were they complete or incomplete?

35 **MR WHYTCROSS:** My apologies, Ms Sharp. Without the file note in front of me, I - I can't recall.

40 **MS SHARP SC:** Did you find that, in some cases, there was not adequate documentary material supporting a conclusion that a patron was a non-resident?

MR WHYTCROSS: For those 14 individuals, I don't believe so.

45 **MS SHARP SC:** And did you record your conclusions in one file note or more than one document?

MR WHYTCROSS: I recall it was one file note.

MS SHARP SC: Can we move on now to your second engagement. You recall that you were asked to review 25 individuals in October?

5 **MR WHYTCROSS:** Yes. I was - to clarify, I was asked to review, through the same group of people, anyone that was on a program at that point in time, which was the 25 individuals.

MS SHARP SC: And these were people on programs on or from July 2020?

10 **MR WHYTCROSS:** Yes, I believe it was. My recollection was it was any individual that was on a program at that point in time.

MS SHARP SC: And what were you asked to do in respect of those individuals?

15 **MR WHYTCROSS:** Following Mr Power's email, Mr Hawkins instructed me to work back with the VIP services team and, as a first point of call, ensure that anyone that was beyond 183 days was - in the country was transitioned off a program immediately.

20 **MS SHARP SC:** And when you say "anyone who was in" - what, Australia, beyond - what are you trying to say? I think you said "anyone who was beyond 183 days". Beyond what?

25 **MR WHYTCROSS:** Yes. My understanding with that was that anyone - any individual that had been in Australia for longer than 183 days and was still on a VIP program was to be transitioned off that program.

MS SHARP SC: And who gave you that instruction?

30 **MR WHYTCROSS:** Mr Hawkins.

MS SHARP SC: Did he tell you that there were patrons who were in Australia beyond 183 days?

35 **MR WHYTCROSS:** At that time, no, he did not.

MS SHARP SC: How did he tell you to transition them off the programs?

40 **MR WHYTCROSS:** It was a request to undertake an assessment initially, first, to see if there was anybody on a program beyond 183 days and, if there was, then to transition them off.

45 **MS SHARP SC:** And did he give you that instruction to transition them off at the time he originally gave you instructions, or after you had undertaken some work?

MR WHYTCROSS: I - I can't recall specifically, but it was a short timeframe.

MS SHARP SC: Well, what work did he ask you to undertake?

MR WHYTCROSS: So he initially asked me to undertake an assessment to identify who was on a program at that point in time and calculate the days in which those individuals had been in Australia.

5

MS SHARP SC: And how --

MR BELL SC: Were those instructions in writing - those instructions from Mr Hawkins in writing?

10

MR WHYTCROSS: No, they were not.

MR BELL SC: How did he convey them to you?

15 **MR WHYTCROSS:** Verbally.

MS SHARP SC: How did you go about undertaking that task?

MR WHYTCROSS: So this was a piece of work which involved the same individuals referred to for the 14 identified. So initially, I engaged the finance manager to undertake an - an - an assessment of all individuals on - on a program at that point in time. That was complemented by information from the VIP services team for information that they had collated to identify the day in which the individual had entered Australia.

25

MS SHARP SC: And did you compile that information to determine how many people were on a program?

MR WHYTCROSS: Yes, we did.

30

MS SHARP SC: And how did you go about compiling that information? For example, did you use spreadsheets?

MR WHYTCROSS: Yes, it was a spreadsheet analysis based on information extracted from our financial systems.

35

MS SHARP SC: And did you prepare the spreadsheet?

MR WHYTCROSS: I contributed to the spreadsheet. However, it was a working document that both myself, William Ho and the members of the VIP services team also contributed to.

40

MS SHARP SC: Can I show you a spreadsheet, and I will see if this is the one. Pardon me a moment. Could we go to STA.4001.0001.0003. This is exhibit A tab 623. Is this the spreadsheet that was compiled?

45

MR WHYTCROSS: Yes, it was.

MS SHARP SC: All right. And these - do I understand from the heading, International Program Patrons as at 10 September 2020, what you had recorded in this spreadsheet were all patrons who were on rebate programs from July 2020 until 10 September 2020?

5

MR WHYTCROSS: Yes, I believe so.

MS SHARP SC: And it only went up to 10 September 2020, even though you were doing this in October 2020?

10

MR WHYTCROSS: Yes, I believe so.

MS SHARP SC: So, did you inquire as to whether there were any patrons who had engaged in rebate play in the period 11 September to the point in October when you were asked to conduct this exercise?

15

MR WHYTCROSS: No, I do not believe we did.

MS SHARP SC: Is there any reason for that?

20

MR WHYTCROSS: No. My understanding was that we were assessing all individuals on a program at that point in time. I - I wasn't aware that there was a time delay.

MS SHARP SC: But you received your instructions from Mr Hawkins in October, didn't you?

25

MR WHYTCROSS: Without reference to the emails, I'm - I'm not entirely sure, unfortunately.

30

MS SHARP SC: Well, I might just take you to the emails to make sure that we're on the same page. I withdraw that. I will return to this document ending pinpoint 0003. Now, you agree that 25 patrons are named here?

MR WHYTCROSS: Yes. And - and may I seek to clarify something, Ms Sharp? I believe the email you showed previously came after this piece of work. I believe that the initial piece of work of the 14 individuals rolled directly into this.

35

MS SHARP SC: But in any event, you haven't conducted any analysis in respect of patrons who may have been on a rebate program after 10 September 2020?

40

MR WHYTCROSS: No, I have not.

MS SHARP SC: So I just want to understand what some of this information means. There is a column which says Last Play Date. Does that mean the last time these patrons played in Star Casino on a rebate program?

45

MR WHYTCROSS: Yes. That's my understanding, based on the analysis that was completed by William Ho.

5 **MS SHARP SC:** And to the left of that, there's a column that says Australia Entry Date. Is that the date upon which records indicated to you that the patron had last entered Australia?

10 **MR WHYTCROSS:** Yes, it is. That was the information that was provided by the VIP services team and inputted there.

MS SHARP SC: And the 183 Day Mark, does that column indicate when 183 days had elapsed from the time the patron last entered Australia?

15 **MR WHYTCROSS:** Yes, I believe it does.

MS SHARP SC: And just to be clear, the reason we're referring to 183 days is because that is the proxy measurement that The Star uses to determine whether somebody is a New South Wales resident or a non-New South Wales resident?

20 **MR WHYTCROSS:** Yes. My - that is my understanding.

MS SHARP SC: All right. And 183 days is about half a year?

25 **MR WHYTCROSS:** Yes.

MS SHARP SC: And the proxy measurement suggests that if you've been in New South Wales for more than 183 days in any one year, you're a resident in New South Wales?

30 **MR WHYTCROSS:** Yes. I - I believe that is the - the generally accepted approach.

35 **MS SHARP SC:** Well, that's the approach at Star, and it means that if you have been a resident for more than - I beg your pardon. If you have been in New South Wales for more than 183 days in any one year, you're not eligible, according to Star rules, to play on a domestic rebate program, which is for interstate players, or an international rebate program?

40 **MR WHYTCROSS:** Yes, I - I - yes, I understand that as being the historical view. I - I also have a general awareness that the 183-day mark had been recently removed from our - The Star's SOPs.

MS SHARP SC: All right. But at the time you were conducting this analysis, they were the rules in the SOP?

45 **MR WHYTCROSS:** I'm not sure specifically. However, yes, I - I accept that.

MS SHARP SC: All right. Well, the 183-day requirement was still a thing when you were conducting your analysis back in September of last year?

MR WHYTCROSS: Yes.

5 **MS SHARP SC:** And that's why you referred to it in this spreadsheet?

MR WHYTCROSS: Yes.

10 **MS SHARP SC:** When do you say that 183-day requirement was removed from the SOPs?

MR WHYTCROSS: I'm not aware specifically. However, I have a general understanding that - that the SOPs have been updated.

15 **MS SHARP SC:** And when was that?

MR WHYTCROSS: Apologies. I'm - I'm not aware specifically.

MS SHARP SC: Was it last week, last month, last year? When?

20 **MR WHYTCROSS:** Apologies, Ms Sharp. I - I'm not aware specifically.

MS SHARP SC: In any event, is it right that the 'Days In Australia' column calculates how long the patron had been in Australia as at 10 September as measured from the date they last entered Australia?

25 **MR WHYTCROSS:** Yes, I believe it does.

MS SHARP SC: All right. And if we look at that column, we see that most of these 25 players had indeed been recorded as being in Australia for more than 183 days?

30 **MR WHYTCROSS:** Yes.

MS SHARP SC: In fact, only five of them have been recorded as being in Australia for less than 183 days as at the time you conducted your analysis?

35 **MR WHYTCROSS:** Yes.

MS SHARP SC: But then if we move over to the next column, 'Date Casino Closed', that's 23 March 2020. Does that mean the date the casino ceased permitting patrons in because of COVID?

MR WHYTCROSS: Yes. I - that is the - the date that either the Sydney or Gold Coast properties were closed.

45 **MS SHARP SC:** And when it says Date Casino Opened, 1 June, that's the date the casinos reopened because of COVID?

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: And then 'Casino Days Closed' column is 69 days for most of these entries and 101 for others. Is that the time that the casinos were shut to patrons because of COVID?

5

MR WHYTCROSS: Yes. My understanding - the Sydney casino was closed for 69 days, and the Gold Coast casino was closed for 101 days.

MS SHARP SC: And then we have an entry called 'Adjusted Days'. Would I be correct in thinking that Adjusted Days means the number of days each patron was actually in Australia minus the days the casino was shut?

10

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: Okay. Well, I'm just wondering why it is that you're deducting from the amount of days the patron has been in Australia, the days the casino was shut to calculate your residency assessment?

15

MR WHYTCROSS: There's - there were two scenarios that were completed at the direction of Mr Hawkins. My understanding and - and recollection with that is The Star had received advice from the Queensland regulator that it was able to deduct the days that the casino was closed. And accordingly, Mr Hawkins asked for both pieces of analysis to be completed.

20

MS SHARP SC: Did you see this advice from the casino regulator in Queensland?

25

MR WHYTCROSS: Yes, I did.

MS SHARP SC: Have you got a copy of that advice?

30

MR WHYTCROSS: I have - yes, I will.

MS SHARP SC: Can I call for the production of that advice, please. In any event --

MS RICHARDSON SC: I will make inquiries.

35

MS SHARP SC: I'm sorry. I think you said there were two reasons why you were deducting casino closing days; is that right?

MR WHYTCROSS: No, I don't believe so. That was the main reason.

40

MS SHARP SC: In any event, in fact, 20 of the 25 patrons had, in fact, been in Australia for more than 183 days?

MR WHYTCROSS: Yes.

45

MS SHARP SC: But is it right that you told Mr Hawkins that there were only 12 players where analysis needed to be conducted of underlying documents to determine

whether they supported the claim that they had been in Australia for less than 183 days?

MR WHYTCROSS: No, that's incorrect.

5

MS SHARP SC: Okay. What's the correct position, please?

MR WHYTCROSS: Mr Hawkins asked for any customer who was over 200 days to be highlighted and further analysis done.

10

MS SHARP SC: Did he explain why he said 200 days?

MR WHYTCROSS: No, I don't believe he did.

15 **MS SHARP SC:** So, it would be quite wrong to say that he instructed you to advise him of the patrons who appeared to be in Australia for in excess of 183 days?

MR WHYTCROSS: No. He asked for further detail to be investigated for those which were over 200 days.

20

MS SHARP SC: And that's 14 patrons, according to this document?

MR WHYTCROSS: Yes, I believe that's correct.

25 **MS SHARP SC:** But isn't it the case that you only investigated 12 patrons?

MR WHYTCROSS: Yes. And if my recollection is correct, it was due to the fact that two individuals had no rated win beyond 183 days and, therefore, those were excluded.

30

MS SHARP SC: Sorry. I don't understand what you mean by "no rated win".

MR WHYTCROSS: So my understanding or recollection is that if you look to the right of the spreadsheet in the scenario which has Rated Win Post-183 days, I believe there were two customers there who had no rated win beyond 183 days and, therefore, that was excluded.

35

MR BELL SC: But why would that have anything to do with whether they are residents or not, whether they had won or not?

40

MR WHYTCROSS: My understanding was they had stopped playing and, therefore, could be transitioned on - off of a program immediately.

MR BELL SC: And how did you get that understanding?

45

MR WHYTCROSS: Through the direction from Mr Hawkins to communicate to the VIP services team to ensure that anyone that was over 183 days was taken off a program.

MR BELL SC: And was that direction in writing?

MR WHYTCROSS: No, it was not.

5

MR BELL SC: Sorry. You were excluding people who had won after 183 days, were you?

MR WHYTCROSS: No. Apologies, Mr Bell. It was excluding those that hadn't played at all after 183 days.

10

MR BELL SC: But why does it say Rated Win Post-183 Day, then?

MR WHYTCROSS: It's a rated win/loss. I - I believe the - that that considers both customers that were winning or losing.

15

MR BELL SC: And what is the difference between a rated win and a win?

MR WHYTCROSS: There is no - no difference.

20

MS SHARP SC: In any event, Mr Whytcross, it is the case that of the 25 patrons we see in this spreadsheet, you only conducted further investigations in respect of 12 of them?

MR WHYTCROSS: Yes, I believe that's - that's correct.

25

MS SHARP SC: And what investigations did you conduct of these 12 patrons? We can put that down now, operator.

MR WHYTCROSS: At the direction of Mr Hawkins, he asked for me to work back with the VIP services team, similar to what was undertaken for the initial 14 individuals, to ascertain what information was available in our systems for those customers.

30

MS SHARP SC: So you were restricting your investigations to information that The Star held as at that point in time?

35

MR WHYTCROSS: I recall speaking with the VIP services team to understand - or - or asking what information we had available. I'm not aware whether that was restricted to information The Star had at the time or whether it sought to obtain that information retrospectively.

40

MS SHARP SC: Well, wouldn't it be important to understand that if The Star held that information at the time or was scurrying around to get further information?

45

MR WHYTCROSS: My understanding was to understand what information we had or could find at that point in time.

MS SHARP SC: But are you in a position to confirm, in reporting your results to Mr Hawkins, that you presented him solely with information that was already in the possession of The Star at the time he had asked you to conduct the investigation?

5 **MR WHYTCROSS:** No, I don't believe so. I - I can't confirm that without speaking to the VIP services team. There may have been efforts made to obtain information that was not already available by The Star.

MS SHARP SC: Well, did you know whether that had happened?

10

MR WHYTCROSS: Not specifically, Ms Sharp, no, I don't.

MS SHARP SC: Well, I just don't understand what the word "specifically" is adding to your answer.

15

MR WHYTCROSS: I wouldn't want to say categorically that all the information collated was available prior to this work being done.

MS SHARP SC: Can I show you exhibit A, tab 624. This is STA.4001.0001.0002.

20

Is it correct that these were the 12 patrons who you investigated, Mr Whytcross?

MR WHYTCROSS: Yes, I believe these were the patrons that - that the group of us investigated.

25 **MS SHARP SC:** Now, I will put that down now, please, operator. What was the outcome of your investigation, Mr Whytcross?

MR WHYTCROSS: There was - similar to the 14 individuals, there was folders collated for each of those with the information that we had available, and that was summarised and provided back to Mr Hawkins.

30

MS SHARP SC: Was that recorded in some sort of document by you?

MR WHYTCROSS: I recall a summary document which highlighted the information that the - The Star had available for those 12, in a - in a matrix form.

35

MS SHARP SC: And do you have access to that document?

MR WHYTCROSS: I believe I do, yes.

40

MS SHARP SC: I call for the production of that document.

MS RICHARDSON SC: I will make inquiries.

45 **MS SHARP SC:** And, Mr Whytcross, what was the inquiry you were making when you reviewed these documents in these folders?

MR WHYTCROSS: Mr Hawkins had asked me to work back with the VIP services team to understand what information was available to help validate the residency status of the individuals.

5 **MS SHARP SC:** So does that mean you were looking to see if there were documents which supported a conclusion that the patrons had ordinarily been resident in New South Wales for less than 183 days?

10 **MR WHYTCROSS:** The piece of work was more around understanding what documents were available to support The Star's position or knowledge that the individuals were not normally residents of New South Wales. The 183 days assessment was already completed based on the information provided by the VIP services team.

15 **MR BELL SC:** Can I just interrupt for a minute, Mr Whytcross. The documents that counsel assisting has taken to you identified these individuals as members of an international rebate program; is that correct?

20 **MR WHYTCROSS:** Mr Bell, I think they were a combination of international and domestic.

MR BELL SC: I see. So the investigation you were undertaking was directed to whether they were residents of New South Wales or residents of Australia? What were you investigating?

25 **MR WHYTCROSS:** It was a - a combination of, from a domestic standpoint, whether the individuals were not normally residents of New South Wales or, from an international standpoint, not normally residents of Australia.

30 **MR BELL SC:** And, look, I wonder if the operator could - Ms Sharp, can you identify the last spreadsheet. I just wanted to understand from that spreadsheet which of those individuals were on the international program and which were on the domestic program. Is that possible to be done?

35 **MS SHARP SC:** Yes. It's exhibit A, tab 264.

MR BELL SC: See, it does say International Program Patrons in the heading, doesn't it, Mr Whytcross?

40 **MR WHYTCROSS:** Yes, it does.

MR BELL SC: And is that a mistake? Are some those patrons on the domestic rebate program?

45 **MR WHYTCROSS:** I would need to clarify, but my recollection was that there were some patrons on a domestic program, yes.

MR BELL SC: And how would we know that from this document?

MR WHYTCROSS: Looking at this document, I cannot recall specifically. I - I would need to clarify that, unfortunately.

5 **MR BELL SC:** Yes, Ms Sharp.

MS SHARP SC: Perhaps I could ask you some questions to assist. Do you see that there's a column about midway through this spreadsheet that says "Type"?

10 **MR WHYTCROSS:** Yes.

MS SHARP SC: And it says "IRB". That means international rebate?

MR WHYTCROSS: Yes, it does.

15

MS SHARP SC: And "PM" means premium mass?

MR WHYTCROSS: Yes, it does.

20 **MS SHARP SC:** And "slots" means slot machines?

MR WHYTCROSS: Yes, it does.

25 **MS SHARP SC:** Now, premium mass is a designation that appertains to the international business, doesn't it?

MR WHYTCROSS: Yes, it does.

30 **MS SHARP SC:** All right. So looking at that 'Type', that we've only got international rebate business, premium mass or slots, does that help you to understand whether or not this spreadsheet just refers to patrons who are on international programs?

35 **MR WHYTCROSS:** Yes, it does, somewhat. However, the - the reference to "slots" makes me query whether or not that was a domestic program. I may be incorrect, but my recollection was that there was domestic programs in this group.

40 **MS SHARP SC:** Can I just clarify some terminology. There are three different kinds of patrons, so far as Star is concerned, and they are international, domestic and local; correct?

MR WHYTCROSS: Yes. The --

45 **MS SHARP SC:** That's a sufficient answer. Thank you. The local patrons are those who are ordinarily resident in New South Wales?

MR WHYTCROSS: Yes.

MS SHARP SC: And the domestic patrons are those patrons who are ordinarily resident in Australia but not ordinarily resident in New South Wales?

5 **MR WHYTCROSS:** Yes, that's my understanding.

MS SHARP SC: And international players are those who are not ordinarily resident in Australia?

10 **MR WHYTCROSS:** Yes.

MS SHARP SC: And when players play on international rebate programs or domestic rebate programs, The Star pays less duty than it does for local players?

15 **MR WHYTCROSS:** Yes, it does.

MS SHARP SC: Okay. Now, is it right that you were asked to review what documentation supported the conclusion that these patrons had not been resident in New South Wales for over 183 days?

20 **MR WHYTCROSS:** I was asked to collate the information and provide a summary of that information to Mr Hawkins.

MS SHARP SC: So when you provided a summary of that information, is one of the things you summarised whether the documentation indicated that they had been
25 resident in New South Wales for less than 183 days?

MR WHYTCROSS: Yes, it was.

MS SHARP SC: And what conclusion did you reach?
30

MR WHYTCROSS: I don't believe I reached a conclusion. I believe I gave the information to Mr Hawkins, who reached a conclusion himself.

MS SHARP SC: And what --
35

MR BELL SC: I thought you were the first line of review. Did you tell me that?

MR WHYTCROSS: Yes. I was the first line of review. But through this process, I gave Mr Hawkins the information.
40

MR BELL SC: And what conclusions did you reach in conducting the first line of review?

MR WHYTCROSS: My conclusion was that the - there - there was a number of patrons who were not normally residents of - apologies. My - my conclusion that there were a number of patrons who, based on the days, I considered residents of New South Wales.
45

MS SHARP SC: And how many of those patrons were there?

MR WHYTCROSS: My assessment was that all of them beyond 183 days.

5 **MS SHARP SC:** How many was that?

MR WHYTCROSS: The 12 listed there.

MR BELL SC: All of them?

10

MR WHYTCROSS: Yes.

MS SHARP SC: So I wish to be very clear in understanding your answer. Did you consider that the paperwork you reviewed indicated that each of these patrons had been resident in New South Wales for over 183 days?

15

MR WHYTCROSS: Yes. The paperwork that I reviewed suggested that they had been in Australia for longer than 183 days.

20 **MS SHARP SC:** And did you convey that opinion to Mr Hawkins?

MR WHYTCROSS: I recall conveying concern at the status to Mr Hawkins.

MR BELL SC: Would you please answer Ms Sharp's question directly, Mr Whytcross.

25

MR WHYTCROSS: Yes, I did.

MS SHARP SC: And what words did you say?

30

MR WHYTCROSS: I cannot recall the specific words.

MS SHARP SC: Could you tell us, to the best of your recollection, what you said.

MR WHYTCROSS: My recollection - and it would have been over a number of conversations - was that I had concerns with the individuals and the fact that they had been in Australia for longer than 183 days.

35

MS SHARP SC: And was it after you conveyed these sentiments that Mr Hawkins asked you to transfer these patrons off international rebate programs?

40

MR WHYTCROSS: No. The transfer of patrons off rebate programs happened immediately and the work followed.

45 **MS SHARP SC:** Pardon me for a moment, Mr Bell.

MS RICHARDSON SC: Could I just indicate one matter. The matrix that was called for has been produced to the inquiry. I don't know whether it has an exhibit, but I can give the doc ID if that assists.

5 **MR BELL SC:** Yes. Thank you. What is the doc ID, Ms Richardson?

MS RICHARDSON SC: STA.4001.0001.0001.

10 **MR BELL SC:** And just so I'm clear, Mr Whytcross, the concerns that you conveyed to Mr Hawkins, did you convey them in writing?

MR WHYTCROSS: I don't believe I did, Mr Bell.

15 **MS SHARP SC:** Was there any reason why you didn't?

MR WHYTCROSS: I don't believe so. Mr Hawkins and I work very closely to each other and communicate verbally quite often.

20 **MS SHARP SC:** You do understand that your finding - or the view you reached had an important implications for the amount of duty that The Star was paying to the New South Wales Government in respect of these patrons?

MR WHYTCROSS: Yes, I did.

25 **MS SHARP SC:** I have no further questions, Mr Bell.

MR BELL SC: Mr Whytcross, were steps taken to amend the duty paid by The Star to the New South Wales Government in light of the concerns which you raised with Mr Hawkins?

30 **MR WHYTCROSS:** There were a number of conversations with the wider finance team around a potential adjustment. However, following Mr Hawkins's assessment that the individuals were to be considered as non-New South Wales residents, then my understanding is that no adjustment was made.

35 **MR BELL SC:** Yes, Ms Richardson.

MS RICHARDSON SC: Sorry, if I could just have one moment. No questions. Thank you.

40 **MR BELL SC:** Yes. Thank you, Mr Whytcross. The direction I will make is that your examination is adjourned. You won't be required again unless you receive a communication from those assisting this review.

45 **<THE WITNESS WAS RELEASED**

MR BELL SC: Yes, Ms Sharp. Who is the next witness?

MS SHARP SC: The next witness is Mr Houlihan. I wonder whether it might be convenient to have the mid-afternoon adjournment now so we can rearrange our places?

5 **MR BELL SC:** Yes. I will adjourn for 15 minutes. Thank you.

MS SHARP SC: Thank you, Mr Bell.

10 **<THE HEARING ADJOURNED AT 3:03 PM**

<THE HEARING RESUMED AT 3:18 PM

MR BELL SC: Mr Houlihan, would you prefer to take an oath or an affirmation?

15 **MR HOULIHAN:** I would like to take an oath, sir, but I don't have a Bible with me, if that's okay.

MR BELL SC: That's all right.

20 **<KEVIN JOHN HOULIHAN, SWORN**

MR BELL SC: Yes. Thanks. Please be seated. Yes, Ms Sharp.

<EXAMINATION BY MS SHARP SC:

25

MS SHARP SC: Mr Houlihan, could you please tell us your full name?

MR HOULIHAN: Kevin John Houlihan.

30 **MS SHARP SC:** And your address is known to those assisting this review?

MR HOULIHAN: Yes. Thank you.

MS SHARP SC: You have prepared two statements for the purpose of this review?

35

MR HOULIHAN: I have.

MS SHARP SC: And the first of those statements is dated 8 February 2022?

40 **MR HOULIHAN:** That's correct.

MS SHARP SC: Are the contents of that statement true and correct?

MR HOULIHAN: Yes, they are.

45

MS SHARP SC: You prepared a second statement dated 23 March 2022?

MR HOULIHAN: That's correct.

MS SHARP SC: Are the contents of that statement true and correct?

MR HOULIHAN: Yes.

5

MS SHARP SC: You are presently the general manager for financial crime and investigations for The Star Entertainment Group?

MR HOULIHAN: That's correct.

10

MS SHARP SC: And this is a position you have held since 1 November 2021?

MR HOULIHAN: Correct.

15

MS SHARP SC: Prior to that, you were the group investigations manager from January 2016 to November 2021?

MR HOULIHAN: Correct.

20

MS SHARP SC: What is the difference between that position and your present position?

25

MR HOULIHAN: My current position now has the delegated authority over a number of other teams as well. Historically, all I was in charge of was the investigations functions, that of The Star. Now I have incorporated in the financial crime team. We have the due diligence sector, we have the AML operations, we have the investigations team for both states and we also have a project leader, and I also have the chief financial crime officer who also reports in to me as well.

30

MS SHARP SC: And is the chief financial crime officer Skye Arnott?

MR HOULIHAN: Yes.

35

MS SHARP SC: And who is the AML officer who reports to you?

MR HOULIHAN: The AML compliance officer?

MS SHARP SC: Yes.

40

MR HOULIHAN: That is Skye Arnott.

MS SHARP SC: And who is the due diligence manager who reports to you?

45

MR HOULIHAN: Mr Angus Buchanan.

MS SHARP SC: So is it fair to say that your responsibilities broadened considerably in November 2021?

MR HOULIHAN: Yes, they did.

MS SHARP SC: Now, prior to the time you were the group investigations manager, you were the investigations manager in New South Wales?

5

MR HOULIHAN: Correct.

MS SHARP SC: And that was in February 2009 to January 2016?

10 **MR HOULIHAN:** Correct.

MS SHARP SC: Was that a role that was restricted to investigations in The Star in Sydney?

15 **MR HOULIHAN:** That is correct.

MS SHARP SC: So what happened when you became the group investigations manager in 2016 was you became responsible for investigations at The Star's casinos in Queensland, did you?

20

MR HOULIHAN: Both Sydney and Queensland, yes.

MS SHARP SC: Now, prior to joining The Star Entertainment Group, you were a member of the New South Wales Police Force for around 15 years?

25

MR HOULIHAN: Correct.

MS SHARP SC: And when you left the New South Wales Police, you were a team leader and senior investigator in charge of a team within the Covert Investigation Unit?

30

MR HOULIHAN: That is correct.

MS SHARP SC: Could you please tell us what your major duties and responsibilities are in your present position, that being the position of general manager for financial crime and investigations?

35

MR HOULIHAN: Thank you. My current obligations and my current role is for being responsible for, and having operational control over, The Star Entertainment Group's AML program; ensuring that we are liaising with law enforcement agency across all jurisdictions in which The Star Entertainment Group operates; identifying and addressing any potential or alleged illegal or undesirable activities occurring at the Star Entertainment Group; and conducting and overseeing investigations into any alleged criminal or serious misconduct carried out by employees of the Star Entertainment Group.

40

45

MS SHARP SC: And do you presently report to Paula Martin, the chief legal and risk officer at Star Entertainment?

MR HOULIHAN: I do.

5 **MS SHARP SC:** When you were the group investigations manager, who did you report to?

MR HOULIHAN: Ms Martin as well.

10 **MS SHARP SC:** So your reporting line hasn't changed?

MR HOULIHAN: That's correct.

15 **MS SHARP SC:** Now, at paragraph 11 of your February 2022 statement, you refer to a number of electronic databases maintained by Star Entertainment?

MR HOULIHAN: That's correct.

20 **MS SHARP SC:** Is it correct that material on the Protecht database is being migrated over to TrackVia?

MR HOULIHAN: The data within Protecht that was the AML risk register, yes, that is correct.

25 **MS SHARP SC:** And will the Protecht database stay online, or will it go offline and cease to be used by Star Entertainment?

MR HOULIHAN: Protecht will stay online, but the AML risk register contained within Protecht will become redundant.

30 **MS SHARP SC:** And TrackVia is an anti-money laundering case management system?

MR HOULIHAN: Correct.

35 **MS SHARP SC:** And that was brought into operation in April of 2021?

MR HOULIHAN: Correct.

40 **MS SHARP SC:** And are you able to describe what information that database holds?

45 **MR HOULIHAN:** I can. Thank you. TrackVia is our all-inclusive AML risk management framework. It will have all of the information relevant to any customer that has been identified to be stored within the TrackVia system, and they are people who are of an AML risk management framework. It will include all of their KYC; it will include any activities or case monitoring that we may do with that person; it will identify any due diligence that may have been carried out or conducted on that person; and it will also be our day-to-day management of transaction monitoring and our reporting obligations to regulators as well.

MS SHARP SC: And who at Star Entertainment has access to that database?

5 **MR HOULIHAN:** People within the financial crime team, as well as the chief legal and risk officer as well.

MS SHARP SC: Now, at paragraph 13 of your statement, you say:

10 "There is a technological limitation in the reporting function of TrackVia that prevents certain information relating to the period before April 2021 from being included in certain types of reports."

15 Now, does that mean that people who access TrackVia cannot see that information relating to the period before April 2021?

MR HOULIHAN: No, it does not.

20 **MS SHARP SC:** So what does it mean?

MR HOULIHAN: The technological limitation is the actual exporting and reporting of the data. As previously described, the Protecht data, which was pre-April 2021, was our AML - that data has migrated across to TrackVia, but it will not be
25 presentable in a reporting format that TrackVia now offers. But the data is there.

MS SHARP SC: So are you able to interrogate that data using TrackVia?

30 **MR HOULIHAN:** Correct.

MS SHARP SC: So you can pull it up on the computer screen and look at it?

MR HOULIHAN: Yes.

35 **MS SHARP SC:** It just won't be presented in the kinds of reports that you can generate in TrackVia?

MR HOULIHAN: That's correct.

40 **MS SHARP SC:** Does that mean that to get to that data, you need to know what you're looking for?

MR HOULIHAN: No.

45 **MS SHARP SC:** So if that data cannot be generated in a TrackVia reporting function, how can people find it?

MR HOULIHAN: Those who have access to TrackVia are fully aware of how to navigate to that, and it has its own actual banner and import data - it has historical data to that tab.

5 **MS SHARP SC:** Are you familiar with the suitability review that Dr Jonathan Horton QC conducted in 2016?

MR HOULIHAN: I am.

10 **MS SHARP SC:** Did you read the report that Dr Horton QC produced?

MR HOULIHAN: Back then, yes.

MS SHARP SC: Did you read it quite carefully?

15

MR HOULIHAN: I did.

MS SHARP SC: Could I just take you to one aspect of it, please, Mr Houlihan. Could I please call up part B at tab 146. This is INQ.016.001.0050. And, operator, could you please go to pinpoint 0132. Could I direct your attention please, Mr Houlihan, to paragraph 254. Do you see it says:

25 "Junkets present a risk to the integrity of the casino, by virtue of the very large amounts of money involved, the potential illicit sources of those funds, and issues relating to junket promoters and the nature of their business."

30 Do you agree with that observation?

MR HOULIHAN: Could I just be - ask for that to be increased a little bit, please. Sorry, I can't see that on the screen.

35 **MS SHARP SC:** Yes, of course.

MR HOULIHAN: Sorry.

MS SHARP SC: Read the first sentence of paragraph 254 to yourself, please.

40

MR HOULIHAN: Thank you. And, sorry, could you ask the question again, please?

MS SHARP SC: Yes. Do you agree with the observation made there?

45 **MR HOULIHAN:** That junkets present a risk? Correct.

MS SHARP SC: And - well, I mean the whole of that sentence. Do you agree with the whole of that sentence?

MR HOULIHAN: Correct.

5 **MS SHARP SC:** And was that your understanding as at the time of this report, which was November 2016?

MR HOULIHAN: Yes.

10 **MS SHARP SC:** Can I ask you now some questions in relation to money laundering. Have you ever undertaken any sort of training in anti-money laundering and counter-terrorism financing?

15 **MR HOULIHAN:** I am currently enrolled in the ACAMS course and just yet to sit the final exam.

MS SHARP SC: And could you just tell us what that ACAMS course - what does ACAMS stand for?

20 **MR HOULIHAN:** The actual acronym? ACAMS is the sought-after or industry-approved industry body that will identify anti-money laundering training, which is being globally recognised. And The Star Entertainment Group has enrolled in and undertaken a number of memberships to be part of the ACAMS program.

25 **MS SHARP SC:** And the program that you have undertaken, what has that involved so far?

30 **MR HOULIHAN:** It's a six week online course where you attend a number of virtual classrooms with people from around the world. You have a large, I believe, 600 page study material you need to review. And then you need to undertake, at the completion of the course, your ACAMS examination, which consists of 120 questions, and you need to meet a certain criteria to be then deemed accredited as an ACAMS officer.

35 **MS SHARP SC:** And how far through that course are you, Mr Houlihan?

MR HOULIHAN: I've completed the course. I just have to undertake the exam.

40 **MS SHARP SC:** And prior to your ACAMS course, have you undertaken any kind of training in anti-money laundering and counter-terrorism financing?

MR WHYTCROSS: Internally at The Star with their own internal training, yes.

MS SHARP SC: And any externally?

45 **MR HOULIHAN:** No.

MS SHARP SC: With that internal training at The Star, when did you undertake that?

MR HOULIHAN: Most recently, I did AML awareness training December last year, I believe, if my memory is correct, and then my biannual was done about June last year.

5

MS SHARP SC: So is it fair to say that you have undertaken periodic online training in anti-money laundering and counter-terrorism financing while you have been working with Star Entertainment?

10 **MR HOULIHAN:** Yes.

MS SHARP SC: Could you just describe to us the level of your understanding of the Australian anti-money laundering and counter-terrorism financing framework? Is it a low level or reasonable or expert, or what? How would you describe it?

15

MR HOULIHAN: I would say it's reasonable. Certainly not an expert, but certainly reasonable.

20 **MS SHARP SC:** Do you think you're familiar with the basic concepts in the Australian anti-money laundering framework?

MR HOULIHAN: Yes.

25 **MS SHARP SC:** Are you familiar with the notion of reporting entities?

MR HOULIHAN: Yes.

MS SHARP SC: Are you familiar with the concept of designated services?

30 **MR HOULIHAN:** Yes.

MS SHARP SC: Do you know what "know your customer" means?

35 **MR HOULIHAN:** Yes.

MS SHARP SC: And what it requires?

MR HOULIHAN: Yes.

40 **MS SHARP SC:** Are you familiar with the concept of enhanced customer due diligence?

MR HOULIHAN: Yes.

45 **MS SHARP SC:** And with the concept of ongoing customer due diligence?

MR HOULIHAN: Yes.

MS SHARP SC: Do you understand there's a need for transaction monitoring of designated services?

MR HOULIHAN: Yes.

5

MS SHARP SC: And do you understand that Australia's anti-money laundering and counter-terrorism financing framework is a risk-based system?

MR HOULIHAN: Yes.

10

MS SHARP SC: And what does that mean?

MR HOULIHAN: Risk base means it - that we will - as in The Star will undertake a risk base of what our customers are, who they are and what is the risk associated to that relationship to the operations of The Star Entertainment Group.

15

MS SHARP SC: And do you understand that a central organising principle of Australia's AML framework is that risk management strategies must be developed that are commensurate with the level of the risk presented?

20

MR HOULIHAN: Yes.

MS SHARP SC: And do you agree that for the controls to be effective, it is necessary that risks are identified in the first place?

25

MR HOULIHAN: Yes.

MS SHARP SC: And that those risks, so identified, are correctly evaluated?

30

MR HOULIHAN: Yes.

MS SHARP SC: Are you aware that one of The Star's core values is "do the right thing"?

35

MR HOULIHAN: I am.

MS SHARP SC: And when was that value introduced?

MR HOULIHAN: I want to say in 2021.

40

MS SHARP SC: And what does that value mean to you?

MR HOULIHAN: So the value of do the right thing, to me, is, in its most simple terms, exactly what it says. It is about doing the right thing, making sure that we hold ourselves accountable as individuals to do the right thing, but also having the courage to call out others that we feel may not be doing the right thing as well.

45

MS SHARP SC: Are you familiar with the code of conduct at Star Entertainment Group?

MR HOULIHAN: I am.

5

MS SHARP SC: Have you read the code of conduct?

MR HOULIHAN: I have.

10 **MS SHARP SC:** Have you tried at all times to comply with the various requirements of the code of conduct?

MR HOULIHAN: I have.

15 **MS SHARP SC:** Do you agree that holding a casino licence is a privilege?

MR HOULIHAN: Yes.

20 **MS SHARP SC:** And do you agree that with that privilege comes commensurate responsibilities?

MR HOULIHAN: Yes.

25 **MS SHARP SC:** May we take it that in your position, and with your longstanding experience at Star, you have a general familiarity with the objects of the Casino Control Act?

MR HOULIHAN: I do.

30 **MS SHARP SC:** And are you aware that one of the primary objects of that Act is to ensure that the management and operation of the casino remain free from criminal influence or exploitation?

MR HOULIHAN: I am.

35

MS SHARP SC: Do you agree that the reason this is one of the primary objects of the Act is because there is a real risk that the management and the operation of the casino may be exposed to criminal influence or exploitation?

40 **MR HOULIHAN:** Could be, yes.

MS SHARP SC: And the fact that this is a risk means that at all times the licensee must be vigilant to ensure that risk is not realised?

45 **MR HOULIHAN:** Correct.

MS SHARP SC: And has it at all times been your understanding that for the licensee to continue holding its licence, it must remain a suitable person?

MR HOULIHAN: Yes.

5 **MS SHARP SC:** And in order to remain a suitable person, it must be a person of good repute having regard to character, honesty and integrity?

MR HOULIHAN: Yes.

10 **MS SHARP SC:** And do you understand, and have you always understood, that this is a requirement both at the time the licence is granted and for the duration of the period for which the licensee holds the licence?

MR HOULIHAN: Yes.

15 **MS SHARP SC:** Mr Houlihan, do you agree that for the casino licensee to remain a suitable person, it must take care to ensure that it only has business associations with people or corporations of good repute?

20 **MR HOULIHAN:** Yes.

MS SHARP SC: Has that always been your understanding?

MR HOULIHAN: Yes.

25 **MS SHARP SC:** Has it been your understanding that it is necessary for the casino operator to positively satisfy itself that a person or corporation with which it wishes to deal is of good repute?

30 **MR HOULIHAN:** Correct.

MS SHARP SC: Now, it's correct that, subject to certain narrow exceptions, the casino operator and its agents are not permitted to provide credit to patrons for the purpose of gaming in the casino?

35 **MR HOULIHAN:** Sorry. Could you ask that again, sorry?

MS SHARP SC: Yes. Subject to carefully delineated exceptions, the casino operator and its agents are not permitted to provide credit to patrons?

40 **MR HOULIHAN:** That is my understanding, yes.

MS SHARP SC: But one of the things the casino operator is permitted to do is establish cheque cashing facilities?

45 **MR HOULIHAN:** Correct.

MS SHARP SC: And has it always been your understanding that these cheque cashing facilities are a practical way in which credit to be provided to patrons?

MR HOULIHAN: It's a service that we offer to the patrons, yes.

5 **MS SHARP SC:** And it's a perfectly legitimate way under the Act by which patrons can, in substance, be provided with credit, isn't it?

MR HOULIHAN: That is my understanding, yes.

10 **MS SHARP SC:** And in order for a casino operator to grant credit to a patron, it's right that the casino operator conducts a check of the creditworthiness of the patron?

MR HOULIHAN: That is my understanding, yes.

15 **MS SHARP SC:** And in which business unit has that function of ascertaining creditworthiness been reposed?

MR HOULIHAN: My understanding, that is the credit and collections department.

20 **MS SHARP SC:** So at all times it has been the job of credit and collections to ascertain the creditworthiness of a patron?

MR HOULIHAN: From a CCF perspective, yes, that's my understanding.

25 **MS SHARP SC:** And do you agree that in ascertaining the creditworthiness of a patron, the key question is whether the patron has the ability to pay back any debt it incurs?

MR HOULIHAN: I would assume that to be correct, yes.

30 **MS SHARP SC:** The casino operator is also required to identify anti-money laundering and counter-terrorism financing risks that patrons or other persons with whom it deals presents; correct?

35 **MR HOULIHAN:** Correct.

MS SHARP SC: And the casino operator is required to identify those risks so it can determine what controls might be introduced to manage those risks?

40 **MR HOULIHAN:** Yes.

MS SHARP SC: And one of the things that the casino operator is required to do for this purpose is what's called "know your customer"?

45 **MR HOULIHAN:** Correct.

MS SHARP SC: And is another of those requirements a requirement to establish the source of funds of that customer?

MR HOULIHAN: Correct.

5 **MS SHARP SC:** And do you agree that where patrons are assessed as having particular levels of risk, this can trigger a requirement to do extended customer due diligence?

MR HOULIHAN: Yes.

10 **MS SHARP SC:** And risks can also trigger a need for ongoing customer due diligence?

MR HOULIHAN: Correct.

15 **MS SHARP SC:** Now, we've so far discussed a number of different requirements that a casino operator must satisfy, and I will just summarise those and see if you agree. One of those requirements is that the casino operator only deal with persons or corporations it is satisfied are of good repute?

20 **MR HOULIHAN:** Yes.

MS SHARP SC: Another requirement is to only deal with patrons who have debts, or may incur debts to the casino operator, where they are creditworthy?

25 **MR HOULIHAN:** Yes.

MS SHARP SC: And another requirement is the requirement to accurately identify any money laundering or counter-terrorism financing risks that a patron presents?

30 **MR HOULIHAN:** Yes.

MS SHARP SC: Now, it's right, isn't it, that in practice those three requirements overlap to at least some extent?

35 **MR HOULIHAN:** To some extent, yes.

MS SHARP SC: But they are each separate requirements of which the casino operator must satisfy itself. Do you agree?

40 **MR HOULIHAN:** Yes.

MS SHARP SC: And is that a matter that you have understood at all times that you have worked at Star Entertainment?

45 **MR HOULIHAN:** Yes.

MS SHARP SC: Now, is it correct that in early 2018, you had knowledge that the Suncity junket was operating an exclusive VIP gaming salon in Salon 95?

MR HOULIHAN: What date was that, sorry?

MS SHARP SC: From early 2018.

5 **MR HOULIHAN:** Yes.

MS SHARP SC: And how did you first become aware of that?

10 **MR HOULIHAN:** I first became aware of Salon 95 - it would have been as part of the internal marketing.

MS SHARP SC: And what is the internal marketing?

15 **MR HOULIHAN:** That we were going to commence a relationship with Suncity.

MS SHARP SC: Is it right that Star - and I will use the word "Star" here to refer to both Star Entertainment and the casino operator at this point. Star had a relationship with Suncity that pre-dated the Suncity room, didn't it?

20 **MR HOULIHAN:** I believe so, yes.

MS SHARP SC: All right. And you were familiar with Suncity before the Suncity room opened in 2018?

25 **MR HOULIHAN:** Yes.

MS SHARP SC: Had you conducted or been involved in any due diligence investigations of Suncity before that time?

30 **MR HOULIHAN:** No.

MS SHARP SC: Did you understand, as at early 2018, that Alvin Chau was associated with Suncity?

35 **MR HOULIHAN:** Prior to 2018?

MS SHARP SC: Yes.

40 **MR HOULIHAN:** Was I aware prior to 2018? I don't recall if it was aware prior to 2018.

MS SHARP SC: You are aware now that Alvin Chau has a relationship with Suncity?

45 **MR HOULIHAN:** Yes.

MS SHARP SC: Do you think you were aware of that by the time that Suncity opened its exclusive room in Salon 95?

MR HOULIHAN: Yes.

5 **MS SHARP SC:** And at that time, did you understand that Alvin Chau was the financial backer of the Suncity junket?

MR HOULIHAN: Yes.

10 **MS SHARP SC:** And at that time, did you understand that it was Alvin Chau who had the cheque cashing facility with The Star in respect of the Suncity junket?

MR HOULIHAN: Yes.

15 **MS SHARP SC:** Now, how was it that you first became aware of the operation of the Suncity salon which was in Salon 95?

20 **MR HOULIHAN:** How did I first become aware? As I've said previously, the internal marketing and understanding that we were doing a relationship with Suncity was commencing, and that there was the development and ownership of The Star's ability to convert Salon 95 into - well, it wasn't Salon 95 then. It was an empty space, and we converted it to private gaming areas which was then made available to international customers, and Suncity had access to and an ability to have exclusivity over some of those rooms.

25 **MS SHARP SC:** And at that time that you learnt of the proposal for Suncity to have an exclusive VIP gaming room, were you familiar with the fact that Suncity was one of the largest junkets with which Star Entertainment dealt, in terms of the turnover brought into the casinos?

30 **MR HOULIHAN:** Was I aware they were one of our largest? Is that what you said, sorry?

MS SHARP SC: Yes.

35 **MR HOULIHAN:** No. I wasn't aware at that time they were one of their largest, no.

MS SHARP SC: When did you first become aware that Suncity was one of the largest junkets, in terms of turnover?

40 **MR HOULIHAN:** It would have been as our relationship grew with them, and then I saw that there was more settlement paperwork coming through for Mr Iek who I knew was related to the Suncity programs.

45 **MS SHARP SC:** And was that before the Suncity room opened?

MR HOULIHAN: No.

MS SHARP SC: So is it only after the Suncity room opened that you became aware that Suncity was one of The Star's largest junkets?

MR HOULIHAN: Correct.

5

MS SHARP SC: And did you become aware of just how much revenue Suncity brought to Star?

MR HOULIHAN: Not to the dollar value, no.

10

MS SHARP SC: Well, what about as a comparator with other junkets?

MR HOULIHAN: Yes.

15

MS SHARP SC: Yes. And when did you become aware of that?

MR HOULIHAN: I would have to recall around the 2018 mark.

20

MS SHARP SC: Now, did you have any involvement at all in the establishment of the Suncity room?

MR HOULIHAN: No.

25

MS SHARP SC: So you did have some involvement in the Suncity room, didn't you, while it was operating as the Suncity room?

MR HOULIHAN: The investigation department did, yes.

30

MS SHARP SC: And when was your first involvement?

MR HOULIHAN: Around May of 2018, if my memory is correct.

35

MS SHARP SC: And in May of 2018, were you made aware of concerns that Suncity was operating a buy-in desk or a cage in Salon 95?

MR HOULIHAN: Correct.

40

MS SHARP SC: Were you aware that there was a requirement at about that time that Suncity not operate a cage in Salon 95?

MR HOULIHAN: At that time, I was not aware, but became aware very quickly.

MS SHARP SC: And when did you become aware of that?

45

MR HOULIHAN: In the preceding weeks, from mid-May onwards.

MS SHARP SC: And could you just describe how you became aware of that?

MR HOULIHAN: We have a process internally where a number of staff can report anything that they wish to disclose, either confidentially or formally, called the gaming integrity hotline. We received some information through that program that staff had raised some concerns about some activity that was occurring in Salon 95,
5 which made its way to the investigations department. And at that time, we commenced some internal inquiries where it was brought to my attention that what was the appearance of Suncity running a service desk.

MS SHARP SC: And who were the people involved from your investigations team
10 at that time?

MR HOULIHAN: Who carried out the investigation?

MS SHARP SC: Yes.
15

MR HOULIHAN: There was Andrew McGregor and Amanda Judd.

MS SHARP SC: Anyone else?

MR HOULIHAN: I believe maybe Shannon Hewitt was assisting as well.
20

MS SHARP SC: Did you personally conduct any investigations, or did you leave it to those three to conduct the investigations?

MR HOULIHAN: I left my team to conduct that investigation.
25

MS SHARP SC: And did they report back to you as to the results of their investigations?

MR HOULIHAN: Yes.
30

MS SHARP SC: And what did they report back to you?

MR HOULIHAN: They reported back to me that what they had observed and the
35 movement of the cash that was being observed there, which was then shared with law enforcement. And they undertook a look-back review to identify where this activity was occurring and when, and they've reported those findings back to myself and others.

MS SHARP SC: Were you concerned when you learnt of these reports?
40

MR HOULIHAN: Yes.

MS SHARP SC: And what steps did you take when you learnt of these reports?
45

MR HOULIHAN: I ensured that the investigations team had full access and visibility over anything that they needed to within Salon 95, or any team members or any people who were involved in the operations of the Suncity room in Salon 95, and

to ensure they had the time and the resources available to them to conduct their inquiries unhindered.

5 **MS SHARP SC:** And did you report your concerns to anybody higher in the hierarchy?

MR HOULIHAN: Yes.

10 **MS SHARP SC:** And who was that that you reported to?

MR HOULIHAN: There was a number of briefings where myself and other senior managers were involved, including Mr Power, Oliver White, Mr Brodie and, at a later stage, Mr Hawkins, and the gentleman in charge of - at the time, Saro - and apologies, I can't pronounce his name correctly, but it starts with an M. So apologies.

15 **MS SHARP SC:** And did you report to Paula Martin, given that she is your direct report?

20 **MR HOULIHAN:** She would have been briefed, yes.

MS SHARP SC: And are you aware of whether those persons to whom you reported, reported the concerns any higher up the hierarchy?

25 **MR HOULIHAN:** I'm not personally aware, no. But I believe, yes, they would have.

MS SHARP SC: So you know that, or you're just speculating about that?

30 **MR HOULIHAN:** I am speculating.

MS SHARP SC: Could I show you a document, please. I will just have the exhibit number brought up. It's STA.3427.0018.3096. And this is exhibit C49. Now, what I'm showing you, Mr Houlihan, is an email from you - I beg your pardon, from Mr McGregor to Andrew Power, yourself and Amanda Judd, dated 14 May 2018?

35 **MR HOULIHAN:** Yes, I see that.

MS SHARP SC: And do you agree that Mr McGregor is reporting back some of his investigations in the Suncity room?

40 **MR HOULIHAN:** Correct.

MS SHARP SC: And if I could scroll down that email, please, to pinpoint 3097. This is a different email. I just need to show you the top of it to show you that, Mr Houlihan. Do you see another email from Mr McGregor to people, including you, 14 May 2018?

45 **MR HOULIHAN:** Correct.

MS SHARP SC: And it is right that you saw this email at about the time it was sent, was it?

5 **MR HOULIHAN:** Yes.

MS SHARP SC: All right. We will just go to that email now. Do you see that Mr McGregor states in the second-last paragraph:

10 "Today's activities with Suncity have
been very strange, we have an entity
within our four walls which is totally
non-compliant to reasonable requests
for basic information. I'm going to call
15 it out early, Suncity is operating a
business model under our noses which
is problematic for SEG with regards to
AML/CTF laws."

20 Now, did you believe Mr McGregor's concerns when he expressed them to you?

MR HOULIHAN: I did.

25 **MS SHARP SC:** Did you have any reason to doubt the concerns he expressed to you?

MR HOULIHAN: No.

30 **MS SHARP SC:** Were those concerns consistent with your own concerns?

MR HOULIHAN: In light of what Mr McGregor reported to myself, yes.

35 **MS SHARP SC:** So is it fair to say you thought there was a very significant money laundering risk being presented in Salon 95 as at May 1998?

40 **MR HOULIHAN:** It was a risk that was problematic as to the words that Mr McGregor has used, and Mr McGregor was then given the ultimate power to go in and deploy whatever he needed to do, to investigate what he - what he needed to identify during those operations.

45 **MS SHARP SC:** Is it correct that during the first half of 2018, you were made aware on a number of occasions that cash transactions had occurred in the Suncity Room?

MR HOULIHAN: Not that I'm aware of, no.

MS SHARP SC: Were you made aware that on a number of occasions chips were exchanged for cash in the Suncity room?

MR HOULIHAN: No, that's not my recollection.

5 **MS SHARP SC:** Were you made aware in 2018 that on a number of occasions it had been observed that bags full of cash had been presented to the enclosed room within Salon 95?

MR HOULIHAN: As a result of Mr McGregor's look-back, we became aware of that, yes.

10 **MS SHARP SC:** And that occurred on a number of occasions?

MR HOULIHAN: During his review, yes.

15 **MS SHARP SC:** Tell me, did you review any of the CCTV footage of Salon 95 at around this time?

MR HOULIHAN: I have seen some, yes.

20 **MS SHARP SC:** Did you review it at around that time?

MR HOULIHAN: I believe so, yes.

MS SHARP SC: And just in general terms, what did that CCTV footage depict?

25 **MR HOULIHAN:** In general terms, there was a number of what appeared to be Suncity staff team members working in Salon 95. They were in the service desk area. And during this look-back that Mr McGregor did, I could see a number of cash transactions being counted using a money machine on the counter, including, then, put into their drawers with inside that service area.

30

MS SHARP SC: Did you see instances where bags of cash were being brought into that enclosed office in the Suncity room?

35 **MR HOULIHAN:** Yes.

MS SHARP SC: Did that cause any concern to you?

MR HOULIHAN: Yes.

40 **MS SHARP SC:** What was that concern?

MR HOULIHAN: That we were not having full visibility over those activities at that time.

45 **MS SHARP SC:** And were you made aware that when your investigators asked questions of the Suncity representatives, they refused to answer those questions?

MR HOULIHAN: Yes, I was aware.

MS SHARP SC: And were you made aware of that on multiple occasions?

MR HOULIHAN: Correct.

5

MS SHARP SC: And did that concern you?

MR HOULIHAN: Yes, it did.

10 **MS SHARP SC:** So tell us, what - how significant was your concern about money laundering taking place in the Suncity room as at May of 2018?

15 **MR HOULIHAN:** Concerned enough where I expressed to my investigations team that they are to go in and do anything they need to do to ensure that these activities are not occurring in that room, and that "no" is not an acceptable answer. If somebody from a Suncity team was to deny my team access to information or records, it was to be escalated to us immediately and we will deal with it appropriately.

20 **MS SHARP SC:** And did you form any view about whether it was appropriate that Suncity was operating this room?

MR HOULIHAN: Sorry, could you ask that again?

25 **MS SHARP SC:** Yes. Did you form any conclusion as to the appropriateness of Suncity operating this room in the first place?

MR HOULIHAN: I hadn't received any - I hadn't decided a conclusion at that time, no.

30

MS SHARP SC: Did you ever reach a conclusion about whether it was appropriate for Suncity to be operating that room?

MR HOULIHAN: I did.

35

MS SHARP SC: When did you form that conclusion?

40 **MR HOULIHAN:** At the end of our discussions with law enforcement and at the end of Mr McGregor's - or the investigations team's review of Salon 95 and with the appropriate and correct measures put in place, I was then satisfied that this was a relationship that we could manage.

45 **MS SHARP SC:** And it's right, isn't it, that Mr Hawkins wrote, effectively, a warning letter to Suncity about the operations conducted in that room?

MR HOULIHAN: I believe so, yes.

MS SHARP SC: And that occurred in 2018?

MR HOULIHAN: Yes.

5 **MS SHARP SC:** And it's right that there continued to be incidents of concern after Mr Hawkins wrote that letter, isn't it?

MR HOULIHAN: Which letter are you referring to, sorry?

10 **MS SHARP SC:** I'm sorry. I will give you an exact date, if you bear with me a moment. 10 May 2018.

15 **MR HOULIHAN:** My understanding of the letter on 10 May was a letter to Suncity seeking clarification as to how they could operate their service desk, similar to activities that they did at other casinos.

MS SHARP SC: All right. But you were aware that a warning letter was sent in - on about 10 May 2018?

20 **MR HOULIHAN:** I don't believe that that was a warning letter on that date, no.

MS SHARP SC: I see. We may be at cross-purposes. Could I just take you to the document. Did you see the document, by the way, at the time?

25 **MR HOULIHAN:** I don't believe so, no.

MS SHARP SC: Well, I will just show it to you. STA.3008.0003.0049. I will just get the exhibit number. B773.

30 **MR HOULIHAN:** Sorry, could I - sorry to be a pain, but could I get that a little bit bigger, please.

MS SHARP SC: Yes, of course.

35 **MR HOULIHAN:** Thank you. Sorry. Thank you. And, sorry, could you just go to the top so I can see the date. Sorry. Thank you.

MS SHARP SC: I will just have this scrolled for you slowly to read, Mr Houlihan.

40 **MR HOULIHAN:** Thank you. I have read that.

MS SHARP SC: Now, do you see it states:

45 "Compliance with the points above is extremely important and non-compliance will result in The Star, Sydney terminating your use of the service desk."

MR HOULIHAN: Yes.

MS SHARP SC: So is it fair, do you think, for me to characterise it as a warning letter?

5

MR HOULIHAN: Yes.

MS SHARP SC: Could I just go back up above to what those restrictions are. Do you see it is stated that:

10

"The service desk must not operate a cash float."

And:

15

"Any cash received at the service desk must be deposited with the cage."

That is, The Star cage?

20

MR HOULIHAN: Correct.

MS SHARP SC: And do you see it also says:

25

"Likewise, any payments you make to your customers in relation to programs must be drawn from The Star, Sydney's cage."

30

MR HOULIHAN: Correct.

MS SHARP SC: And do you see it says:

35

"In addition, the following transactions must not take place at the service desk."

And firstly:

40

"Exchange of cash for chips."

And secondly:

"Exchange chips for cash."

45

MR HOULIHAN: Correct.

MS SHARP SC: Now, I know you haven't seen that letter at the time, but were you - did you, in May 2018, understand that they were the controls that were imposed upon Suncity in May 2018?

5 **MR HOULIHAN:** I learnt of that, yes.

MS SHARP SC: But you were aware of that in May 2018, were you?

MR HOULIHAN: As a result of our look-back, yes.

10

MS SHARP SC: And your look-back - is that the one you refer to as being the - well, what is the look-back you refer to?

15 **MR HOULIHAN:** Mr McGregor completed a information note for myself and others. And as a result of that information note, in May - I would like to say it was 15 May. And as a result of that, he was then charged with the duties to look back as far as he could with the available CCTV footage to identify activities that were of the similar nature that had been reported to us through the gaming integrity email.

20 **MS SHARP SC:** Okay. I will just show you a document to see whether this is the information note you're referring to. Could I call up STA.3412.0018.7211. It's B805, Mr Bell.

25 **MR HOULIHAN:** And I'm so sorry, but could I please have that a little bit --

MS SHARP SC: Can I have that --

MR HOULIHAN: Sorry, I've only got the one screen. Apologies.

30 **MS SHARP SC:** Do you see this is headed Information Note and it's dated 15 May 2018?

MR HOULIHAN: Thank you. Yes.

35 **MS SHARP SC:** And do you see it's authored by Andrew McGregor?

MR HOULIHAN: Yes.

40 **MS SHARP SC:** And it's called Operation Money Bags Legal Summary?

MR HOULIHAN: Thank you.

MS SHARP SC: Is this the document you were referring to?

45 **MR HOULIHAN:** That looks familiar, yes.

MS SHARP SC: I will just have it scrolled to the next page for you.

MR HOULIHAN: Thank you.

5 **MS SHARP SC:** I would just like to take you through this document, if I could. If we go back to the first page, please. Do you see that the incident referred to is one that takes place on 12 May 2018?

MR HOULIHAN: Yes. Thank you.

10 **MS SHARP SC:** Now, that's obviously two days after Mr Hawkins' warning letter that I've taken you to?

MR HOULIHAN: Correct.

15 **MS SHARP SC:** Can I take you to the second page, please. Do you see there's a date up there, 14 May 2018?

MR HOULIHAN: Yes.

20 **MS SHARP SC:** Right. And then, to be fair, that's in relation to the incident that occurred on 12 May. Can I scroll further up, please, operator. I will stop there. Do you see a paragraph 5 there's a reference to Suncity being:

25 "Unwilling to answer my questions due to privacy concerns."

MR HOULIHAN: I do.

30 **MS SHARP SC:** And could we scroll up please, operator. If we could go to the next date please, operator. Do you see there's a date there, 15 May 2018?

MR HOULIHAN: Yes.

35 **MS SHARP SC:** Do you agree that this information report is now referring to a separate incident that occurred on 15 May 2018?

MR HOULIHAN: Yes.

40 **MS SHARP SC:** Okay. Now can I scroll up to the next date, please, operator. Stop there, operator. Can you see - operator - there's then a reference to 16 May 2018, but it refers to footage from an event of 17 April?

MR HOULIHAN: Correct.

45 **MS SHARP SC:** And then in the next paragraph, it refers to an event on 18 April?

MR HOULIHAN: Correct.

MS SHARP SC: Is that the look-back that you're referring to?

MR HOULIHAN: Yes. Thank you.

5 **MS SHARP SC:** And could I just scroll to the next date, please, operator. I'm sorry. The one after that, please, operator. And I will keep scrolling. You see there are dates pre-dating 10 May?

MR HOULIHAN: Yes. Thank you.

10 **MS SHARP SC:** And is this part of the look-back you were referring to?

MR HOULIHAN: Yes.

15 **MS SHARP SC:** And could we keep scrolling, please, operator. So part of this information report relates to the look-back, but do you agree it also referred to incidents that came after the first warning letter?

20 **MR HOULIHAN:** Could I go to the top of the document? Sorry, I've got - there wasn't (indistinct).

MS SHARP SC: Take your time.

25 **MR HOULIHAN:** If I could go back to the top, sorry. Thank you. 14 May - and, sorry, could I ask the operator to scroll. Sorry.

MS SHARP SC: Yes.

30 **MR HOULIHAN:** 12 May. Sorry. And a bit more. Thank you. 12 May, 14 May. Thank you. And keep scrolling. 15 May. And - yes. Thank you. Yes.

MS SHARP SC: And could I now - so you do agree that after this 10 May warning letter, two further incidents occur that Mr McGregor has investigated and reported upon in his information report?

35 **MR HOULIHAN:** Correct.

MS SHARP SC: And you were, of course, made aware of that at the time?

40 **MR HOULIHAN:** At the time, I was not aware of the first letter. But I was made aware of Mr McGregor's information note, yes.

MS SHARP SC: Now, could I take you to an email, please, which is STA.3009.0004.0070. This is exhibit B831.

45 **MR HOULIHAN:** So sorry, but could I please have that larger? Sorry.

MS SHARP SC: Yes. And we'll --

MR HOULIHAN: Thank you. I do see that. Thank you.

5 **MS SHARP SC:** All right. And could you just go to the bottom email in that chain, please. Do you see there's an email from Suzanne Mawer dated 31 May 2018, and you are one of the people to whom it is sent?

MR HOULIHAN: Correct.

10 **MS SHARP SC:** And do you see it relates to an action plan for Salon 95?

MR HOULIHAN: Yes.

15 **MS SHARP SC:** And are you aware as to why an action plan was being developed at this time?

MR HOULIHAN: I don't recall exactly why, no.

20 **MS SHARP SC:** Are you aware that a further letter was signed and sent by Mr Greg Hawkins to Suncity in June of 2018 about activity in Salon 95?

MR HOULIHAN: I am aware of that one, yes.

MS SHARP SC: Did you see that letter at the time?

25 **MR HOULIHAN:** I don't recall seeing that letter, no.

MS SHARP SC: I will just show it to you, and you can see it and let me know. It's STA.3008.0004.0199. And I will just have that - that's exhibit B863. Do you see Mr Hawkins says:

30 "I am writing as a result of a further non-compliance in Salon 95."

35 **MR HOULIHAN:** Yes. Thank you. I'm sorry. Could I confirm, did you say 8 June? This one says 5 June, sorry.

MS SHARP SC: 5 June.

40 **MR HOULIHAN:** Okay. Sorry. Thank you. Yes, I can see that. Thank you.

MS SHARP SC: And I will just scroll up.

MR HOULIHAN: That's Saro.

45 **MS SHARP SC:** Do you see that Mr Hawkins is referring to the fact that processes in place at Salon 95 were not followed on 29 May 2018?

MR HOULIHAN: Yes, I see that.

MS SHARP SC: And is it a fair characterisation of that letter to say that Mr Hawkins gave a warning to Salon 95 that if it didn't conform with the processes, its arrangement with Salon 95 might be terminated?

5

MR HOULIHAN: I know that it says here "the use of the service desk will be terminated" and "the review of your exclusivity to Salon 95". Yes.

MS SHARP SC: So were you aware that there had been a further non-compliance on 29 May 2018?

10

MR HOULIHAN: I would have to review some material, but I would - I would assume that these come out of Mr McGregor's inquiry.

MS SHARP SC: Well, Mr McGregor's information note was dated --

15

MR HOULIHAN: 15 May?

MS SHARP SC: Yes, which is obviously earlier than 29 May?

20

MR HOULIHAN: Correct.

MS SHARP SC: So isn't it the right that at least three further incidents have been detected since the first warning letter on 10 May 2018?

25

MR HOULIHAN: Yes, I accept that.

MS SHARP SC: Isn't it looking like there is persistent non-compliance by Suncity of controls imposed upon it?

30

MR HOULIHAN: Sorry, Ms Sharp. You just cut out a bit there, I'm sorry. Could you repeat that?

MS SHARP SC: Yes. By this time, isn't it looking like there has been consistent non-compliance with controls imposed upon Suncity in respect of Salon 95?

35

MR HOULIHAN: There are ongoing concerns, yes.

MS SHARP SC: And you were aware of that at the time, were you?

40

MR HOULIHAN: Yes.

MS SHARP SC: Because your investigation team continued investigating the various non-compliances, didn't it?

45

MR HOULIHAN: Correct.

MS SHARP SC: Can I take you, please, to an email, which is STA.3412.0001.3771. This is exhibit B890. And you can see that this is an email that your investigator Andrew McGregor has sent to people, including you, on 18 June 2018?

5 **MR HOULIHAN:** Correct.

MS SHARP SC: Can I please let you know that the information you see in blue shade is confidential, so please don't repeat it. But can I ask you to read it.

10 **MR HOULIHAN:** Thank you.

MS SHARP SC: Now, would you have read this email at the time it was sent to you, given it's about Salon 95 and your investigator is sending it to you?

15 **MR HOULIHAN:** Yes.

MS SHARP SC: Can I just scroll up, please - or scroll down. Can I just have you read - I won't read these emails out. I will just have you read this to yourself. It's one from Andrew McGregor dated 18 June 2018, and you're copied into it?

20

MR HOULIHAN: I've read that.

MS SHARP SC: Yes. Well, do you agree that a further concerning incident taking place on 15 June 2018 is reported to you?

25

MR HOULIHAN: Yes.

MS SHARP SC: And it's also reported to you that there's a camera black spot, isn't it?

30

MR HOULIHAN: Correct.

MS SHARP SC: Was that a matter of concern to you at that time, that there was a surveillance black spot?

35

MR HOULIHAN: Yes, it was.

MS SHARP SC: Did you do anything about that?

40 **MR HOULIHAN:** Yes. We spoke with asset protection and asked them to do a review if there was the ability to add more cameras.

MS SHARP SC: And did they?

45 **MR HOULIHAN:** I believe so, yes.

MS SHARP SC: Do you know when they did?

MR HOULIHAN: No, I don't. Sorry.

5 **MS SHARP SC:** Could I just have the rest of this email shown to you, and then the one underneath it. Now, I will just stop there so you can read this one. And may we take it you read that at the time?

MR HOULIHAN: Yes.

10 **MS SHARP SC:** And we'll just scroll to the last document in that chain. And I would like you to read this one too. This is another email from Mr McGregor dated 18 June 2018, and you will see you are one of the recipients?

MR HOULIHAN: I am. Could I ask for that to be scrolled a bit, please?

15 **MS SHARP SC:** Yes.

MR HOULIHAN: Thank you.

20 **MS SHARP SC:** And do you see that Mr McGregor states:

25 "Concerning for me is that Suncity staff are still making serious efforts to avoid supervision and detection as they are outside our reach pursuant to the misconduct and discipline policy."

MR HOULIHAN: Yes, I see that.

30 **MS SHARP SC:** So at this time, multiple instances have been reported to you about non-compliances in the Suncity room, haven't they?

MR HOULIHAN: They have.

35 **MS SHARP SC:** And you're aware that Mr Hawkins has issued, what, one letter or two letters to Suncity by this time?

MR HOULIHAN: At this time and now with what you've shown me, I'm aware now that he has issued two letters. Correct.

40 **MS SHARP SC:** But did you think at the time he had only issued one?

MR HOULIHAN: Yes.

45 **MS SHARP SC:** All right. Well, bearing in mind your understanding at that time that he had issued one letter, and all of these non-compliances were being reported to you, what view did you form at this time?

MR HOULIHAN: With respect to that part of the original document you asked to be mindful of, we spoke with law enforcement, carried out some inquiries with them. And I agreed with Mr McGregor, should he feel the need to, to certainly execute his power to issue WOLs and certainly take this to the ability of where he could get full visibility over what you needed to see. As I said earlier, we spoke with asset protection to ensure that more cameras, if possible, could be put in place so that we could have more visibility over what was actually occurring in that area.

10 **MS SHARP SC:** Was Mr McGregor telling you his thoughts at this time about Salon 95?

MR HOULIHAN: Verbally or in this document, sorry?

15 **MS SHARP SC:** No, verbally?

MR HOULIHAN: Yes.

MS SHARP SC: Was he concerned?

20 **MR HOULIHAN:** He was.

MS SHARP SC: Did he express any views to you about what should happen in the Suncity room?

25 **MR HOULIHAN:** His concerns were that he would be able to get the full visibility to do what he needed to do, to ensure he could exercise his power to protect the casino.

30 **MS SHARP SC:** Was there evidence available to you at that time that was suggesting to you that money laundering might be taking place in this room?

MR HOULIHAN: There was certainly suspicion, yes.

35 **MS SHARP SC:** Did you have that suspicion?

MR HOULIHAN: The activities were suspicious, yes.

40 **MS SHARP SC:** So how were you thinking - what were you thinking the level of risk Suncity was presenting in this room at that time?

45 **MR HOULIHAN:** Again, if I go back to review Mr McGregor's comments and the words here, there was a number of key individuals that Mr McGregor had identified, and those key individuals were identified and dealt with accordingly as employees of Suncity. But as individuals - and there was no evidence for us to be aware that they were receiving direct direction from Suncity themselves.

MS SHARP SC: So you thought these were one-off instances unrelated to Suncity?

MR HOULIHAN: Potential rogue employees, yes.

5 **MS SHARP SC:** But weren't these instances of people in the enclosed room passing chips over to players in return for cash? Weren't you aware of those instances at this time? You don't need to look at the document. I'm asking you for your memory.

MS MARTIN: My memory was cash, but was there chip exchange? I would have to refer - refer back to the document, but I - I do recall cash.

10 **MS SHARP SC:** Did you review any CCTV footage at about this time? This is in around June of 2018?

15 **MR HOULIHAN:** I don't recall if I would have reviewed it then, but I have seen the footage, yes.

MS SHARP SC: So when did you see the footage?

MR HOULIHAN: Potentially not long after Mr McGregor raised these concerns.

20 **MS SHARP SC:** And was there anything that - well, tell us what you saw in the footage that you viewed at that time.

25 **MR HOULIHAN:** There was a number of other operational things happening at that time as, again, referencing back to that part of the document you asked me to put my mind to. So I was responding to those activities as well. And then with respect to what was occurring in Salon 95, we were working with our external relationships to give them the ability to have full visibility over what was going through there for the need to exercise their power.

30 **MS SHARP SC:** Okay. I just want to check in on something we discussed earlier, Mr Houlihan. You understand, don't you, that there's a requirement on the casino to ensure that the people and corporations it deals with are of good repute?

35 **MR HOULIHAN:** Correct.

MS SHARP SC: And you understood at the time, didn't you, that it was necessary to appropriately assess the level of risk that people presented from a money laundering perspective, didn't you?

40 **MR HOULIHAN:** Correct.

MS SHARP SC: Were you turning your mind to those considerations as at May and June of 2018?

45 **MR HOULIHAN:** I was.

MS SHARP SC: Were you forming any concerns with respect to those considerations at that time?

MR HOULIHAN: I did.

MS SHARP SC: And what were those concerns?

5

MR HOULIHAN: To ensure that the decision makers within the business who had the ability to make the decisions around these sort of activities were well informed of what we were seeing and observing, and to ensure that we gave every available assistance to our external relationship people to have the ability to get what they needed to execute their power.

10

MS SHARP SC: Okay. I appreciate you're talking about external relationships, but --

15 **MR HOULIHAN:** Thank you.

MS SHARP SC: But in addition to managing external relationships, you understand there were requirements that the casino operator had to satisfy, don't you?

20 **MR HOULIHAN:** I am.

MS SHARP SC: And one of those considerations is that - or one of those requirements is that the casino only deal with people of good repute?

25 **MR HOULIHAN:** Correct.

MS SHARP SC: And that's a requirement that continues to apply to the casino operator whether or not it is engaging in what we will describe as external relationships?

30

MR HOULIHAN: Yes.

MS SHARP SC: And external relationships in no way abrogated the responsibility of the casino operator to ensure it only had relationships with people of good repute, did it?

35

MR HOULIHAN: Correct.

MS SHARP SC: And those external relationships in no way abrogated the responsibility of the casino operator to accurately assess any money laundering risk --

40

MR HOULIHAN: Correct.

45 **MS SHARP SC:** -- being presented?

MR HOULIHAN: Correct.

MS SHARP SC: All right. What risk did you assess applied at this time to Suncity and its operations in Salon 95 in relation to money laundering risk?

5 **MR HOULIHAN:** And I might have over - explained it twice too quickly, so apologies. But when I talked about ensuring that - the decision-makers were also inclusive of those within The Star. So at that time, my duties was not as a person who was charged with the duties of identifying somebody of good repute or the AML program. So we ensured that our information and our inquiry was disseminated to those people within our business who were in charge to make those decisions.

10 **MS SHARP SC:** And are you saying it was not for you to form an assessment of risk?

15 **MR HOULIHAN:** Correct. I was not the person charged with the duty of identifying the AML risk.

MS SHARP SC: And are you saying you were not the person at that time who was supposed to assess whether the persons with whom the casino were dealing were of good repute?

20 **MR HOULIHAN:** Correct.

MS SHARP SC: I accept that. But surely you had your own opinions, didn't you?

25 **MR HOULIHAN:** I did.

MS SHARP SC: And what were your own opinions at that time?

30 **MR HOULIHAN:** That the controls of Salon 95 needed to be put some rigour around that, and the people in charge of those relationships needed to take control of that.

MS SHARP SC: And so is it right that as at May/June 2018, your view was that the controls that had been imposed in Salon 95 were inadequate to manage the risks of money laundering that were presenting in that room?

35 **MR HOULIHAN:** I wouldn't say inadequate; I would say that they were not being adhered to by members of the Suncity staff.

40 **MS SHARP SC:** Well, if they were not being adhered to, doesn't that mean they are inadequate to manage the risk?

MR HOULIHAN: No.

45 **MS SHARP SC:** Well, I might just ask you to reflect on that a minute and then tell me what your view is.

MR HOULIHAN: Thank you. So if - to understand your question, was - were the risks that we put in place - were their mitigations in place - sorry. Could you just ask the question again, please.

5 **MS SHARP SC:** Yes. Sure. Was your view that the controls that were put in place weren't working to manage the risks?

MR HOULIHAN: The controls were put in place to manage the risk, yes. Did we have a number of Suncity employees trying to circumvent the controls? Yes.

10

MS SHARP SC: And they were circumventing the controls, weren't they?

MR HOULIHAN: Correct.

15 **MS SHARP SC:** So the risk management wasn't working, was it?

MR HOULIHAN: Not to its full extent, no.

20 **MS SHARP SC:** Who did you consider the decision-making responsibility lay with at this point in time, that is, May and June 2018?

MR HOULIHAN: With respect to which category, sorry?

25 **MS SHARP SC:** The money laundering risk that was present in this room.

MR HOULIHAN: Thank you. That would revert back to the AML compliance officer or the chief legal risk officer.

30 **MS SHARP SC:** And who was the AML compliance officer at that time?

MR HOULIHAN: In 2018? I believe it might have been Mr Paul McWilliams. Sorry, I don't recall --

35 **MS SHARP SC:** Was it Skye Arnott?

MR HOULIHAN: I don't believe so. I thought, if my memory serves me correctly, it was Mr McWilliams.

40 **MS SHARP SC:** And was the AML compliance officer --

MR HOULIHAN: Mr McWilliams?

MS SHARP SC: Yes.

45 **MR HOULIHAN:** I - I believe so.

MS SHARP SC: Might you be wrong about that?

MR HOULIHAN: I - I could be. If you could show me a document or something that could help - assist - refresh my memory.

5 **MS SHARP SC:** Well, I can't at the moment. Who was the chief legal officer?

MR HOULIHAN: Again, I believe that would have been Mr McWilliams at that time as well - the chief risk officer?

10 **MS SHARP SC:** Yes.

MR HOULIHAN: Chief risk officer was Mr McWilliams.

15 **MS SHARP SC:** And, I'm sorry, I thought you said that you expected decisions would be made by the chief legal officer?

MR HOULIHAN: Yes. Sorry. Thank you. The chief risk officer would have been in charge of making those decisions, I beg your pardon.

20 **MS SHARP SC:** And did you regard Ms Paula Martin as having any decision-making responsibility at this time about these risks?

MR HOULIHAN: No. She was the - the legal officer, not the chief legal and risk. That became a position at a later time.

25 **MS SHARP SC:** Mr Bell, could I have a five-minute adjournment at this point?

MR BELL SC: Yes. I will adjourn for five minutes.

30 **MS SHARP SC:** Thank you.

<THE HEARING ADJOURNED AT 4:37 PM

<THE HEARING RESUMED AT 4:43 PM

35 **MR BELL SC:** Yes, Ms Sharp.

MS SHARP SC: Mr Houlihan, are you aware that in May 2019, Mr Graeme Stevens conducted an audit on Salon 95?

40 **MR HOULIHAN:** I'm not aware that he did.

MS SHARP SC: So that wasn't something made available to you at that time?

45 **MR HOULIHAN:** Not that I recall, no.

MS SHARP SC: All right. Taking it from me that an audit was conducted in 2019, does it surprise you in any way that you weren't made aware of it?

MR HOULIHAN: No.

MS SHARP SC: So you didn't have any kind of ongoing monitoring role with respect to Salon 95 while it was being used as the Suncity exclusive VIP room?

5

MR HOULIHAN: No.

MS SHARP SC: Can I take you to an email, which is STA.3418.0011.0621. That's exhibit B1437. Now, I just want to - I know this isn't your document, but I want to see if you were made aware of this at the time. So could I just ask you to have a look at this email from Ian Tomkins to Skye Arnott, copied to Graeme Stevens, dated 24 June 2019.

10

MR HOULIHAN: I see that. Thank you.

15

MS SHARP SC: And, operator, could you just scroll up for Mr Houlihan, please.

MR HOULIHAN: Thank you. Could you scroll a bit more, please? Thank you. Thank you.

20

MS SHARP SC: Did you work with Ian Tomkins, who was a senior regulatory affairs adviser?

MR HOULIHAN: I - I worked with Ian, yes.

25

MS SHARP SC: Was he in the investigation team?

MR HOULIHAN: No.

MS SHARP SC: Did he - but you did liaise with him from time to time?

30

MR HOULIHAN: Yes.

MS SHARP SC: Can I just take you back to the top of that email chain, please. And we will just focus there. Now, could I please remind you that any words that are shaded blue are confidential, so you and I can't say them.

35

MR HOULIHAN: Yes.

MS SHARP SC: But you see the characterisation of four separate transactions in 2019, do you?

40

MR HOULIHAN: Yes, I do.

MS SHARP SC: Is this - and you see the reference to "S 95". You understand that's a reference to Salon 95, don't you?

45

MR HOULIHAN: Yes, I do.

MS SHARP SC: Were you made aware of these concerns in June of 2019?

MR HOULIHAN: Not that I recall, no.

5

MS SHARP SC: Do you think you should have been made aware of these concerns?

MR HOULIHAN: Yes.

10 **MS SHARP SC:** Does this refresh your memory as to whether Skye Arnott was the AML compliance officer by this time?

MR HOULIHAN: In '19? That's --

15 **MS SHARP SC:** Yes.

MR HOULIHAN: -- a year later than the previous inquiry. I - I believe Skye was the compliance officer in '19, yes.

20 **MS SHARP SC:** So if information like this becomes available to anyone at The Star, is it your expectation that information ought be communicated to you?

MR HOULIHAN: Or my team, yes.

25 **MS SHARP SC:** And you're quite certain that this information was not conveyed to you at this time?

MR HOULIHAN: I don't recall it being conveyed.

30 **MS SHARP SC:** So - I withdraw that. Can I now take you to another document, Mr Houlihan. This is exhibit C, tab 78. And it's STA.3427.0037.3869. Now, you see this is an email of 12 June 2019?

MR HOULIHAN: I do.

35

MS SHARP SC: This is from Angus Buchanan to Paula Martin, Oliver White and you?

MR HOULIHAN: Correct.

40

MS SHARP SC: And it's called Hong Kong Jockey Club Suncity Report?

MR HOULIHAN: Correct.

45 **MS SHARP SC:** Do you remember receiving this email?

MR HOULIHAN: I do.

MS SHARP SC: Now, at this time, Angus Buchanan had recently been employed to work with your team, had he?

5 **MR HOULIHAN:** Employed by The Star and worked with me under a go-to type of relationship, yes, but not directly with the investigators.

MS SHARP SC: Now, it's right that in this email he gives you a copy of the Hong Kong Jockey Club report on Suncity?

10 **MR HOULIHAN:** Correct.

MS SHARP SC: And did this email come out of the blue, or had he told you he would be sending it to you?

15 **MR HOULIHAN:** I believe Angus informed me that he would send me a copy, yes.

MS SHARP SC: And did you understand that Mr Buchanan had worked on that report when he was working at the Hong Kong Jockey Club?

20 **MR HOULIHAN:** Correct.

MS SHARP SC: What did he tell you in that regard?

25 **MR HOULIHAN:** That he was the due diligence - no, sorry, let me correct that. Part of his duties at the Hong Kong Jockey Club was as a due diligence manager, and that this was the type of report that he supplied to his leaders at the Hong Kong Jockey Club as a due diligence review.

30 **MS SHARP SC:** And did he tell you he had participated in this particular due diligence review?

MR HOULIHAN: Yes.

35 **MS SHARP SC:** Did he tell you what form his participation took?

MR HOULIHAN: I beg your pardon?

MS SHARP SC: Did he tell you what form his participation took?

40 **MR HOULIHAN:** I - I believe he was the author of the report.

MS SHARP SC: Okay. Did he express any concerns to you at this time about the propriety of the Suncity group?

45 **MR HOULIHAN:** No.

MS SHARP SC: Really?

MR HOULIHAN: Yes.

MS SHARP SC: Did you read the Hong Kong Jockey Club report that he sent to you?

5

MR HOULIHAN: I did.

MR BELL SC: I imagine you would have read it carefully, Mr Houlihan?

10 **MR HOULIHAN:** I - I did, Mr Bell.

MS SHARP SC: If we could just go through this email. You will see that Mr Buchanan tells you that the report:

15 "Is a comprehensive report and was prepared due to the potential threat Suncity posed/poses to the integrity of racing in Hong Kong."

20 **MR HOULIHAN:** Correct.

MS SHARP SC: So you would agree that he told you that Suncity posed a potential threat to the integrity of racing in Hong Kong?

25 **MR HOULIHAN:** To the racing in Hong Kong? Yes.

MS SHARP SC: Yes. Okay. And he tells you that he suspects that:

30 "Certain aspects of the report may be of interest to The Star."

MR HOULIHAN: Correct.

MS SHARP SC: And there are some words in blue shade --

35

MR HOULIHAN: Yes.

MS SHARP SC: -- but he told you that, didn't he?

40 **MR HOULIHAN:** The parts in blue, I beg your pardon?

MS SHARP SC: Yes.

MR HOULIHAN: Yes.

45

MS SHARP SC: So can we take it you read this report at the time it was sent to you with considerable interest?

MR HOULIHAN: I did.

MS SHARP SC: And it's right that at this time, you were aware that Suncity was one of The Star's largest junkets in terms of turnover?

5

MR HOULIHAN: Correct.

MS SHARP SC: And it's right that at this time that you were aware that there had been a series of non-compliances in Salon 95?

10

MR HOULIHAN: Correct.

MS SHARP SC: So can I take you can I take you through this report, please. One of the documents that was sent to you is the one I will take you to firstly. This is part C, tab 79, which is STA.342.0037.3870. And I will just let you have a look at that whole document, if the operator can scroll it.

15

MR HOULIHAN: And I accept the blue part too.

20

MS SHARP SC: Great.

MR HOULIHAN: Yes. Sorry. Just scroll up a little bit, sorry. Thank you. No, sorry, the other way. Down, sorry.

25

MS SHARP SC: Now, you saw that document at the time you were sent this email, did you?

MR HOULIHAN: I did.

30

MS SHARP SC: And you read it?

MR HOULIHAN: I have.

MS SHARP SC: All right. And you know Martin Purbrick is the director of security and integrity at the Hong Kong Jockey Club at the time?

35

MR HOULIHAN: Correct.

MS SHARP SC: And you see that this states:

40

"Suncity clearly involves a number of criminal enterprises, although the business lines are so diverse that these are well hidden in more obscure legitimate businesses."

45

MR HOULIHAN: Correct.

MS SHARP SC:

5 "Given the known criminality and also
the background of the main principals in
triad societies, we continue to see
Suncity as a threat to the club."

Wasn't this information of enormous concern to you upon reading this?

10 **MR HOULIHAN:** I read this with the mindset that it was prepared for a racing club,
yes. And then I also note that Mr Martin also continues to say that they could
continue to monitor and to ensure related persons for membership and ownership of
horse racing and sponsorship. So I took from this report, that Angus shared with me
15 confidentially, that it was with respect to the risks associated to a horse racing club
and not that of a casino.

MS SHARP SC: Did you think there was more risk associated - well, more risk of
criminal infiltration at a horse racing club than at a casino?

20 **MR HOULIHAN:** Yes.

MS SHARP SC: Well, isn't the fact that it is he asserted that Suncity clearly
involves a number of criminal enterprises a matter that was of considerable concern
to you, given that Suncity had a business relationship with The Star?
25

MR HOULIHAN: That was Mr Martin's words. I was still yet to see the clearly
involvement in a number of criminal enterprises. I was not drawn to anything that
specifically showed me evidence of Suncity being involved in criminal enterprises.

30 **MS SHARP SC:** What evidence were you looking for?

MR HOULIHAN: I also note the part in blue, the timeliness, the relationships with
those people as well, the ongoing time that those people were spending there, that
there was nothing that was made available to myself that was evident that these
35 suggestions or opinions of criminal enterprise were readily available to make those
(indistinct).

MS SHARP SC: So, you would agree that the Hong Kong Jockey Club is a very
well-respected institution worldwide?
40

MR HOULIHAN: I do.

MS SHARP SC: And you would agree that the due diligence available to it was
top-notch?
45

MR HOULIHAN: I do.

MS SHARP SC: And here, you've got a statement from the director of security and integrity at the Hong Kong Jockey Club unequivocally that Suncity clearly involves a number of criminal enterprises. Surely, with your background, this was of extreme concern to you, was it not?

5

MR HOULIHAN: They were Mr Martin's words, yes.

MS SHARP SC: But was it of extreme concern to you, Mr Houlihan?

10 **MR HOULIHAN:** No. Suncity was very well respected amongst a whole lot of casino operators and had been the subject of casino probity globally. The concerns raised in this report were those of the people involved - the Hong Kong Jockey Club, and I took that on the value that that is the report that was shared with me, was a risk assessment done - or a due diligence report done on behalf of the Hong Kong Jockey Club, not on behalf of a casino operator.

15

MS SHARP SC: But didn't it contain information about Suncity that was of – that was of - clear and direct relevance to Star Entertainment?

20 **MR HOULIHAN:** When I read this report, there was no direct evidence that led me to this "criminal enterprises" as defined by Mr Martin in that comment.

25

MS SHARP SC: Well, you've got a conclusion of the director of security and integrity at the Hong Kong Jockey Club that Suncity clearly involves a number of criminal enterprises.

MR HOULIHAN: Which they continue to monitor. Correct.

30

MS SHARP SC: Well, what evidence are you looking for here, Mr Houlihan?

MR HOULIHAN: Something more than somebody's commentary in a document. In the document supplied to me by Mr Buchanan, I did not see any direct evidence or any direct correlation to Suncity's involvement in criminal enterprise.

35

MR BELL SC: Mr Houlihan, could I just draw your attention to the second-last paragraph. Mr Purbrick is recommending:

40

"Continued monitoring to ensure that we exclude related persons from membership, horse ownership and race sponsorship."

Do you see that?

45

MR HOULIHAN: I do, sir.

MR BELL SC: So the monitoring was not to form a view about criminality, which seems to have been a conclusion about which seems to be in reach, but monitoring to ensure that related persons were excluded, wasn't it?

5 **MR HOULIHAN:** Correct.

MS SHARP SC: Did you understand --

MR BELL SC: Sorry. Sorry, Ms Sharp. You go on.

10

MS SHARP SC: Yes. Did you understand that the Hong Kong Jockey Club banned Suncity and Alvin Chau from membership with the Hong Kong Jockey Club?

MR HOULIHAN: No, I'm not aware whether they did execute that power.

15

MS SHARP SC: Did you ask Angus Buchanan?

MR HOULIHAN: I don't recall. It would be remiss of me if I didn't ask him.

20

MS SHARP SC: Well, weren't there a series of media reports about it in July of 2019?

MR HOULIHAN: Of this report? Yes.

25

MS SHARP SC: Yes. And of the fact that Hong Kong Jockey Club had banned Suncity and Alvin Chau?

MR HOULIHAN: I recall the media articles, but not specific to the details of what were in those articles.

30

MS SHARP SC: Well, do you recall that the articles said that Hong Kong Jockey Club had banned Suncity and Alvin Chau from membership?

MR HOULIHAN: I don't recall that, no. But I will take it from you, Ms Sharp, that that's what they said.

35

MS SHARP SC: Well, can I take you through this report. May we take it that you read it carefully at the time?

40

MR HOULIHAN: I did.

MS SHARP SC: Can I take you, please, to STA.3014.0007.0001. This is B710. And could I take you, please, to pinpoint 0003.

45

MR HOULIHAN: And could I be a pain and have that enlarged, please. Thank you.

MS SHARP SC: We will work through from the heading - Introduction. Do you see that:

5 "The purpose of the report is to provide
an update and overview of Suncity
Group's business operations, key
personalities and links to organised
crime."

MR HOULIHAN: Correct.

10 **MS SHARP SC:** And you understood, didn't you, if Suncity was linked to organised
crime, that was relevant not only to Hong Kong Jockey Club but to Star
Entertainment, didn't you?

MR HOULIHAN: Yes.

15 **MS SHARP SC:** If we look at the executive summary in paragraph 2, do you see
that Suncity is said to have been founded by Alvin Chau Cheok Wa?

MR HOULIHAN: Correct.

20 **MS SHARP SC:** And you understood at the time that he was the financial backer of
the Suncity junket?

MR HOULIHAN: Correct.

25 **MS SHARP SC:** And do you see it says:

30 "He is alleged to be a member of the
Macau faction of the 14K triad society
and follower of former 14K leader Wan
Kuok Koi (aka 'Broken Tooth Koi').

MR HOULIHAN: I see that.

35 **MS SHARP SC:** And:

40 "It is suspected the Suncity Group also
has connections to Charles Heung, Wah
Keung - "

That's K-e-u-n-g:

45 "A senior office bearer of the Sun Yee
On triad society."

MR HOULIHAN: Yes, I see that.

MS SHARP SC: So this is what is reported in the executive summary. Isn't that of some concern to you?

5 **MR HOULIHAN:** Again, there is allegations and suspicion, but nothing to draw my attention to how those allegations and suspicions are drawn upon.

MS SHARP SC: Aren't allegations and suspicions important information for you when you are forming a view about whether a person The Star deals is of good repute?

10 **MR HOULIHAN:** Agreed. But that wasn't my duty at that time, to determine if somebody was of good repute.

MS SHARP SC: It was your duty to conduct investigations so that others could form that view, wasn't it?

MR HOULIHAN: Correct.

MS SHARP SC: Well, that was something you had to be very mindful of, wasn't it?

20 **MR HOULIHAN:** And I was.

MS SHARP SC: You were mindful of the fact that Star Entertainment could only deal with people of good repute?

25 **MR HOULIHAN:** Correct.

MS SHARP SC: Does that mean it's okay for them to deal with suspected triads?

30 **MR HOULIHAN:** No.

MS SHARP SC: Well, why isn't this information relevant to you at this time?

MR HOULIHAN: Because this is, as I said before, a report completed by Mr Buchanan on behalf of the Hong Kong Jockey Club. We had our own reports around this time as well that may have been contradictory to this report.

MS SHARP SC: Didn't it suggest you needed to undertake some further due diligence?

40 **MR HOULIHAN:** Correct.

MS SHARP SC: None was undertaken at this time, was it?

45 **MR HOULIHAN:** Not at that exact time, no.

MS SHARP SC: Well, not in any time close by this either, was it?

MR HOULIHAN: Mr Buchanan and I made a trip overseas.

MS SHARP SC: And when was that?

5 **MR HOULIHAN:** Not too long after this report, I believe.

MS SHARP SC: And you went to the Hong Kong Jockey Club, didn't you?

MR HOULIHAN: I did.

10

MS SHARP SC: And you spoke to people about this report, didn't you?

MR HOULIHAN: I did.

15 **MS SHARP SC:** And did they disown the findings in this report?

MR HOULIHAN: They didn't disown it, no.

20 **MS SHARP SC:** Did they tell you they had made a mistake in any of their conclusions?

MR HOULIHAN: No.

25 **MS SHARP SC:** Did they tell you they stood by these conclusions?

MR HOULIHAN: Yes.

30 **MS SHARP SC:** So did they tell you they suspected that the Suncity Group - I withdraw that. Did they tell you they suspected Alvin Chau had been a member of the Macau faction of the 14K triad society?

MR HOULIHAN: When he was a young muck dealer, yes.

35 **MS SHARP SC:** So it's okay if The Star Casino deals with people who used to be triads?

MR HOULIHAN: Who were associated or alleged to be.

40 **MS SHARP SC:** Well, how does one determine whether somebody is actually a member of a triad gang? What evidence are you looking for?

45 **MR HOULIHAN:** Confirmation from my external relationship people; evidence from other junket operators or approvers who have then approved all these other operations around the world; other probity information that has been suggested that Mr Chau and also Suncity have been through probity by other government agencies and also other countries of relevance where they operate; and any other evidence that was available to me at that time due through third - third-party reports to identify if there was any substance to these allegations.

MS SHARP SC: Do you think there is no substance to these allegations, Mr Houlihan?

5 **MR HOULIHAN:** There's allegations that they relied upon information that they had available to them that wasn't available to me.

MS SHARP SC: I'm asking you a different question. Do you think there are no substance to these allegations?

10

MR HOULIHAN: There could be substance, yes.

MS SHARP SC: Well, do you think there is no substance to them?

15 **MR HOULIHAN:** No.

MS SHARP SC: All right. Now, you were well aware by this time, weren't you, that Suncity was of considerable interest to law enforcement authorities, weren't you?

20 **MR HOULIHAN:** They were of interest, yes.

MS SHARP SC: So isn't that some confirmation of what suspicion is being reported here?

25 **MR HOULIHAN:** There's a lot of people who are interest to law enforcement.

MS SHARP SC: Isn't that some confirmation of the suspicion reported here?

MR HOULIHAN: Again, it's suspicion. No action.

30

MS SHARP SC: Now, we will continue through this executive summary. Do you see in the third paragraph it says:

35 "Cheng Ting Kong is Alvin Chau's major business partner."

MR HOULIHAN: Yes, I see that.

MS SHARP SC: Do you see it says:

40

"Cheng and Alvin Chau have 11 common directorships in Hong Kong."

MR HOULIHAN: Correct.

45

MS SHARP SC: Do you doubt that piece of information?

MR HOULIHAN: Do I doubt that, sorry? Is that what you said?

MS SHARP SC: Do you doubt that piece of information?

MR HOULIHAN: I haven't tested it, but I don't have any reason to doubt it, no.

5

MS SHARP SC: Do you see it says:

"Cheng is believed to be a member of
the 14K triad society in Hong Kong."

10

MR HOULIHAN: I see it says he is believed to be, yes.

MS SHARP SC: Well, does it make any difference if it says Cheng is a member of
the 14K triad society in Hong Kong?

15

MR HOULIHAN: Yes, it does.

MS SHARP SC: And what difference is that?

MR HOULIHAN: The difference for me is that they all have backed out and
qualified the opinion, is he or is he not a member of the 14K triad society in Hong
Kong. If they were solid on that intel, then the comments would be that he 'is' a
member, not 'believed' to be a member.

25 **MS SHARP SC:** And what about this:

"Intelligence sources report that Cheng
is involved in illegal bookmaking, drug
trafficking and large scale money
laundering activities."

30

MR HOULIHAN: Yes.

MS SHARP SC: Do you have any reason to doubt that?

35

MR HOULIHAN: No.

MS SHARP SC: So does this cause you some concern that Alvin Chau's major
business partner is reported by intelligence sources to be involved in illegal
bookmaking, drug trafficking and large scale money laundering activities?

40

MR HOULIHAN: Sorry, Ms Sharp. I missed the question.

MS SHARP SC: Yes. Is it of any concern - well, I will withdraw the question and
put it again. Does this cause you some concern that Alvin Chau's major business
partner is reported by intelligence sources to be involved in illegal bookmaking, drug
trafficking and large scale money laundering activities?

45

MR HOULIHAN: Without having the ability to identify who the intelligence sources are, I take it on the value of what's written there. But I haven't had an opportunity to test that data or that intelligence.

5 **MS SHARP SC:** Do you understand that it's for the casino to positively assure itself that the people with whom it deals are of good repute?

MR HOULIHAN: Sorry. Did you say am I aware?

10 **MS SHARP SC:** Do you understand, and did you understand at the time you read this, that it is for the casino operator to assure itself that the people who it deals with are of good repute?

MR HOULIHAN: Yes.

15

MS SHARP SC: This is clearly suggesting, is it not, that Alvin Chau and his major business partner are not of good repute?

MR HOULIHAN: It is one document with that opinion.

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MS SHARP SC: Well, don't you give any weight to the fact that this is a due diligence report authored by the very due diligence officer that has now been hired by your organisation?

25 **MR HOULIHAN:** Yes.

MS SHARP SC: Well, on the basis of this report, you could not be satisfied that Alvin Chau or Suncity were of good repute, could you?

30 **MR HOULIHAN:** I could be satisfied that I needed to test this data and this document, yes.

MS SHARP SC: And just to be clear, other than going to the Hong Kong Jockey Club, you did not further test this data?

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MR HOULIHAN: I spoke with some of my external relationships and inquired as to their concerns and were they actively involved in - with respect to what was in blue before. Sorry.

40 **MS SHARP SC:** Right. Was there anything in the liaison you had with your various contacts on that trip that stood against the proposition that intelligence sources reported that Cheng is involved in illegal bookmaking, drug trafficking and large scale money laundering activities?

45 **MR HOULIHAN:** I didn't have access to the intelligence sources as they were referred to here. But the people that I spoke to, both back home in Australia and abroad, said that they certainly had interest, but there was nothing that they were actively or proactively doing at that point in time.

MS SHARP SC: But you didn't have any evidence made known to you to suggest that Cheng was not involved in illegal bookmaking, drug trafficking and large scale money laundering operations?

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MR HOULIHAN: With respect to Mr Cheng, no.

MR BELL SC: Did you ascertain who the intelligence sources were who were reporting that Cheng was involved in illegal bookmaking, drug trafficking and large scale money laundering?

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MR HOULIHAN: That was never reported to me, sir, no.

MR BELL SC: Did you make any inquiries as to who the intelligence sources were that were reporting this data?

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MR HOULIHAN: Yes.

MR BELL SC: And who were they?

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MR HOULIHAN: I wasn't privy to that information. That was retained by the Hong Kong Jockey Club.

MR BELL SC: So you made inquiries and you were told that that information couldn't be disclosed to you; is that right?

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MR HOULIHAN: Correct.

MR BELL SC: But this must have been, I suggest, of concern to you, that intelligence sources were reporting this as a fact?

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MR HOULIHAN: Correct. It was of concern.

MR BELL SC: Yes, Ms Sharp.

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MS SHARP SC: I see the time. I'm sorry, I've gone to 5.15, Mr Bell. Would it be convenient to adjourn for today?

MR BELL SC: Yes. I will adjourn until 10 am tomorrow morning.

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MR HOULIHAN: Thank you.

<THE HEARING ADJOURNED AT 5:14 PM