



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, 6 APRIL 2022
AT 2:00 PM**

DAY 15

**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 Witness
MR OLIVER JOHN WHITE**

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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 2:01 PM

MR BELL SC: Mr White, you remain bound by the affirmation you took yesterday.

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<OLIVER JOHN WHITE, ON FORMER AFFIRMATION

MR BELL SC: Yes, Ms Sharp.

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

MS SHARP SC: Mr White, I'm now going to ask you some questions about China UnionPay. Could I ask the operator to bring up STA.3401.0003.6853, please? And could I direct your attention, Mr White, to the email at the bottom of the page. Mr Bell, this is exhibit B2928. And do you see there's an email from Malleasons to you dated 10 May 2013?

15

MR WHITE: I do.

20 **MS SHARP SC:** And do you see the subject is Section 75 Advice?

MR WHITE: I do.

MS SHARP SC: And could I take you over the page, please. And do you see - what's happened is that you have been forwarded a further email of the 30 April 2013?

25

MR WHITE: I do.

30 **MS SHARP SC:** And do you see it says that there's an advice that:

"Has been written in a format that should be capable of being disclosed to the authority if you choose to waive privilege in it."

35 **MR WHITE:** I do.

MS SHARP SC: And it says:

"For that reason, this memo does not touch on whether or not NAB will be entitled to transfer the funds under the UnionPay rules."

40

MR WHITE: I do.

MS SHARP SC: Did you understand that Malleasons had not provided advice to Star at that time about any entitlement of NAB to transfer funds under UnionPay rules?

45

MR WHITE: I - I don't remember, I'm sorry.

MS SHARP SC: Were you aware at this time that there were UnionPay rules?

MR WHITE: I - I don't remember. I'm sorry.

5

MS SHARP SC: Did you read the advice that was forwarded to you at the time of this email?

MR WHITE: I - I - I don't remember at that time, no.

10

MS SHARP SC: Do you think it's most likely you did, given that it's sent only to you and it says:

"Hi Oliver - copy as discussed."

15

MR WHITE: That's entirely possible.

MS SHARP SC: Well, do you accept it's most likely that you did read the advice that the Mallesons partner forwarded to you at that time?

20

MR WHITE: Sorry. Do you mind saying that again, sorry?

MS SHARP SC: Sure. Do you think it's most likely that you did read the Mallesons advice that the Mallesons partner forwarded to you at that time?

25

MR WHITE: Yes.

MS SHARP SC: Can I take you to a copy of that advice, please, which is exhibit B at tab 24. This is STA.3008.008.0078. Now, it's right, isn't it, that advice was sought from Mallesons in 2013 about whether China UnionPay cards could be used in order for patrons to withdraw money from their bank accounts in order to purchase gaming chips?

30

MR WHITE: I can see the advice, but my recollection is I wasn't actually involved in the project at this time. Fiona Walmsley was part of The Star Sydney legal team and didn't report to me.

35

MS SHARP SC: Who did she report to?

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MR WHITE: She reported to Andrew Power.

MS SHARP SC: So who, to the best of your recollection, were the lawyers who were involved in CUP at that time? Was it Fiona Walmsley and Andrew Power, or were there other lawyers as well?

45

MR WHITE: I believe it was Fiona and Andrew at that stage and that I then became involved later.

MS SHARP SC: All right. Well, let me take you to another email, which is which is document STA.3401.0003.5785. And, Mr Bell, that is exhibit B2946. Now, can you see that is an email, midway down the page, from you dated 24 June 2013?

5 **MR WHITE:** I can see that, yes.

MS SHARP SC: And you are emailing Fiona Walmsley and also some other people, and you are copying Paula Martin and Andrew Power?

10 **MR WHITE:** Yes.

MS SHARP SC: Were they involved in the proposal to use China UnionPay at this time?

15 **MR WHITE:** I - I don't recall exactly, but I can see they were copied on and so I - they would have been across what was going on, yes.

MS SHARP SC: And do you see in that email, you say:

20 "Further to Friday's meeting/call re China UnionPay and potential work arounds to ensure funds can be available immediately, I spoke to Paula briefly re AML/CTF issues."

MR WHITE: Yes.
25

MS SHARP SC: All right. So it is most likely that you discussed some aspects of China UnionPay with Paula Martin at about the time of this email, isn't it?

MR WHITE: Yes, it is.
30

MS SHARP SC: All right. And it's right that an issue at that time was whether funds could be - I withdraw that - whether patrons could be provided with gambling chips as soon as they had swiped their CUP cards?

35 **MR WHITE:** That - that - that appears to be the case from the content of the email, yes.

MS SHARP SC: Well, weren't you working on the issue of what could be done about making gaming chips available to patrons as soon as they swiped their CUP cards?
40

MR WHITE: I - I don't know if I - I don't recall that I was before this meeting, but that appears to be an outcome from the meeting on the previous Friday in June.

45 **MS SHARP SC:** And with reference to that Friday in June, in the middle of the page it's stated:

"As a start, we would want it to cover the two instances discussed on Friday -"

Dot point:

5

"CUP payments, so that funds could be advanced to patrons immediately and -"

Dot point 2:

10

"Intra-group fund transfers, so that patrons now in Sydney can access any funds at Jupiters immediately without waiting on funds to clear internally."

MR WHITE: Yes, I see that.

15

MS SHARP SC: And why was it a problem waiting for funds to clear? Why was it necessary to wait for funds to clear before patrons could be given their gambling chips?

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MR WHITE: I - I - I don't recall. I believe that was an issue that the business was raising. But I don't recall what that issue was, I'm afraid.

MS SHARP SC: I'll take you to some further documents. If I could now show to you, please, exhibit B at tab 32, and this is STA.3412.0151.0026.

25

MR WHITE: Yes.

MS SHARP SC: And do you see this is an email that you sent to others attaching a - it looks like a PowerPoint presentation on the China UnionPay process?

30

MR WHITE: Yes.

MS SHARP SC: So weren't you quite involved in the matter at this time, Mr White?

35

MR WHITE: I - I can see in the third paragraph I say:

"Is there someone who is responsible for driving this project and putting together a project plan?"

40

And I guess this is a week later. So I think at that stage, I may have - look, I - I - I - apart from what it says, I - I really don't remember the - what - the specifics, I'm afraid.

45

MS SHARP SC: Well, I will take you to pinpoint 0028, please. And this is part of the email chain that you're responding to. Do you see that Mr Graeme Stevens sends an email on 19 June 2013?

MR WHITE: Yes.

MS SHARP SC: And it says:

5 "If we release funds before they can be seen in our account, ILGA regard this as the provision of credit."

Now, does that refresh your memory that that is the reason why there was concern about when the funds had cleared?

10

MR WHITE: Yes, I see. That would be the case, yes.

MS SHARP SC: Right. So just to confirm, there was a concern at this time that if a patron swiped their CUP cards and chips were made available to that patron before the funds had cleared, then there was a risk ILGA would regard that as the provision of credit?

15

MR WHITE: Yes, that sounds correct.

20 **MS SHARP SC:** Now, could I also take you, while we are here, to pinpoint 0027. Do you see there's an email from Mark Walker dated 19 June 2013 in your email chain you're responding to?

25

MR WHITE: I can't see it at the moment, sorry.

MS SHARP SC: Operator, could you go to pinpoint 0027, please. Do you see that email from Mr Walker of 19 June 2013?

30 **MR WHITE:** I do.

30

MS SHARP SC: Yes. And it says - dot point:

"Funds do not go anywhere near a casino account."

35 Dot point:

"The transaction is always done through the hotel as a purchase."

40 Now, at this time, that is, mid-2013, you were aware, weren't you, that the CUP cards were being swiped at the hotel in Sydney rather than at the casino cage?

MR WHITE: I - I - the date of this email, I - I - I can't be certain as sort of - I - I don't recall. But based on my emails that I've seen as part of this process, I believe my first involvement was the meeting on Friday, 21 June. So this would have been prior to my involvement.

45

MS SHARP SC: Okay. Well, what happened --

MR WHITE: But my understanding - that was my understanding of the process.

MS SHARP SC: What happened at the meeting on 21 June?

5 **MR WHITE:** I - I don't remember, I'm sorry. All I can tell is what I can see in the emails, I'm sorry. I don't remember the meeting.

MS SHARP SC: Well, let me take you to another document, also sent by you, exhibit B - hang on, I will have to give you the document number. It's
10 STA.3008.0008.0184.

MR WHITE: Yes, I see that.

MS SHARP SC: Now, this is exhibit B38. And this is an email from you, dated
15 26 July 2013, to a number of your colleagues where you're referring to CUP transactions; do you agree?

MR WHITE: Sorry, may I read the - sorry, if I can just read the email for a few
20 moments, that would be great. Sorry. Sorry. I've finished now. Sorry. Thank you.

MS SHARP SC: Okay. So you were sending an email about the CUP process at that time; do you agree?

MR WHITE: Yes.
25

MS SHARP SC: And at that time, there was an issue about whether, in the absence of cleared funds following a CUP transaction, the regulator would regard The Star as providing credit to a patron?

30 **MR WHITE:** Yes.

MS SHARP SC: And you were involved in investigating what could be done about that issue; correct?

35 **MR WHITE:** Yes.

MS SHARP SC: Could I then take you, please, to exhibit B at tab 3332. We're jumping forward a little bit in time here. This is STA.3401.0001.4216. Right. I don't think this is the correct exhibit. I will give the document ID instead. It's
40 STA.3401.0001.4216. And that's exhibit B332. And what I wanted to take your attention to, Mr White, was the email from Graeme Stevens to you dated 9 April 2014.

MR WHITE: Yes.
45

MS SHARP SC: Do you see that?

MR WHITE: I do.

MS SHARP SC: And do you see that the email is called Chine - I assume that's China - UnionPay capability NAB?

5 **MR WHITE:** I do.

MS SHARP SC: And do you see there's an attachment, which is Volume II Business Rules October 2012?

10 **MR WHITE:** Yes.

MS SHARP SC: So you agree that attachment was being sent to you?

MR WHITE: Yes.

15

MS SHARP SC: Could I take you to that attachment, please, and I will come back to that, if I need to. Operator, could we go to exhibit B333, which is STA.3402.0007.2472. Do you see this document bears the same name as that attachment, which is Operating Regulations Volume II Business Rules October 2012?

20

MR WHITE: Yes.

MS SHARP SC: Do you accept that this is the attachment to that email I just showed you?

25

MR WHITE: Yes.

MS SHARP SC: Do you - you are aware, aren't you, that these are the UnionPay International rules?

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MR WHITE: Yes.

MS SHARP SC: And you have read these before, have you?

35

MR WHITE: I - I've certainly looked at them. I'm not sure that I've read them all the way through.

MS SHARP SC: You're aware, aren't you, that they prohibit the China UnionPay card to be used to purchase gambling chips?

40

MR WHITE: Yes.

MS SHARP SC: And when did you first become aware of that prohibition?

45

MR WHITE: I - I can't remember, I'm sorry.

MS SHARP SC: Do you think, given that Mr Stevens emailed them to you in April 2014, it would have been by that time?

MR WHITE: I think that's likely, yes.

5

MS SHARP SC: And it's right that by that time, you were aware that, in fact, these CUP transactions were being swiped in the hotel rather than in the casino?

MR WHITE: Yes.

10

MS SHARP SC: And did you know why that was that these transactions were being swiped in the hotel rather than in the casino?

MR WHITE: It was my understanding that that was the process that was being operated. Certainly when I - my involvement with CUP had started, that was - I - I can't remember when I became aware, but I would have become aware at some stage as to the process which was, as I understood it, a two-stage process: a swipe in the hotel, which was charged to the patron's room; and then once the funds had cleared, those funds were then subsequently transferred to be used for gaming.

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20

MS SHARP SC: And you knew at all times, didn't you, that when the - these CUP cards were being swiped, that is so funds could be made available to patrons to purchase gambling chips?

MR WHITE: Well, no, I - I thought that they were - that the swipe was for the pre-charge to the hotel room, and my understanding was - and also based upon - in that email chain from Graeme Stevens, we were just looking at there were some emails back and forth with NAB in which NAB also confirmed that that two-stage process worked from their perspective. And so, therefore, I thought that that was fine and that - because - that that restriction, therefore, was not applicable because of the two-stage process.

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MR BELL SC: Mr White, you did know, didn't you, that The Star was using the China UnionPay cards to provide funds for patrons for gambling?

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MR WHITE: I - yes. Ultimately yes.

MS SHARP SC: And you did know that the CUP device was used because it was a convenient way of moving large sums of money out of China, didn't you?

40

MR WHITE: I don't think that that was something that I was turning my mind to. I was just looking at the fact that this was providing legal advice on the sort of specific issues around the use of the CUP.

MS SHARP SC: Well, you did know, didn't you, that the swipe occurred at the hotel because the UnionPay International rules prohibited the cards being used to purchase gambling chips?

45

MR WHITE: Sorry. Sorry. Can you put the question to me again, sorry?

5 **MS SHARP SC:** Yes. You did know, in 2013 and 2014, that the reason why the CUP cards were being swiped in the hotel was because the UnionPay International rules prohibited those cards being used to purchase gambling chips?

MR WHITE: Yes, but my recollection is that I thought that the two-stage process was sort of legally workable.

10 **MS SHARP SC:** All right. Well, we'll come back to that. You referred to an email from NAB. So let me take you back to that, if I can. This is exhibit B at tab 332. This is STA.3401.0001.4216. Now, are you referring to the email from Andrew Haberley from NAB Bank dated 19 March 2013?

15 **MR WHITE:** I am.

MS SHARP SC: All right. And you've read this email before, have you?

20 **MR WHITE:** Yes. I - I don't recall whether - at the time when I first read it, but I have read this email, yes.

MS SHARP SC: And what it says is:

25 "There is no Transaction Limit assigned by UnionPay but NAB have a terminal limit of \$999,999. In regards to your request below around withdrawing the funds from the customers' cards as they transact at the Hotel, UnionPay advised me this is fine as long as the merchant category code is not restricted or subject to transaction limits which in this case it should not be based on the below document."

30

Is that the email you say you were relying on?

MR WHITE: It is, but it's the - the next paragraph:

35 "You will need to keep in mind that the transaction will not be completed and posted for 24 hours. Once the funds hit the account after 24 hours, you can disperse them accordingly to the casino's operating/playing accounts.

40 **MS SHARP SC:** All right. And I will take you over the page to so you can read the rest of the email.

MR WHITE: And I think it says:

45 "Thanks, Regards, Andrew Haberley."

MS SHARP SC: All right. And did you want to look at the email from David Aloï that was sent to Andrew Haberley as well?

MR WHITE: That - potentially so, but I - I was - it was more that particular part of the email.

5 **MS SHARP SC:** So I just - you were aware in 2013, were you, that the CUP cards were swiped at the hotel?

MR WHITE: I believe so, yes.

10 **MS SHARP SC:** And you were aware in 2013, weren't you, that the reason why these transactions were taking place is so patrons could purchase gambling chips?

MR WHITE: I - I understood that the ultimate use for the - the funds was for gaming, yes.

15 **MS SHARP SC:** Right. But you also understood at the time that UnionPay International rules forbade the use of China UnionPay cards to purchase gambling chips?

20 **MR WHITE:** Yes, I was aware of that prohibition on transactions to buy the gaming chips. Yes.

MS SHARP SC: But you thought that notwithstanding that prohibition, NAB had said you can proceed with these transactions; is that right?

25 **MR WHITE:** That's correct. The other thing is that my understanding as well was that we didn't have a direct relationship with CUP. Our relationship was solely with NAB through the - as we were the - I'm trying to think of what the correct phrase was - the merchant, and they were the merchant acquirer.

30 **MS SHARP SC:** And you spent a little bit of time advising on the merchant agreement, didn't you?

MR WHITE: I did.

35 **MS SHARP SC:** Right. Did you ever personally talk to anybody from NAB about the use of the China UnionPay cards?

MR WHITE: Not that I recall, no.

40 **MS SHARP SC:** And did you ever personally talk to anyone from UnionPay International about the use of the China UnionPay cards?

MR WHITE: No.

45 **MS SHARP SC:** Could I take you, please, to STA.3008.0008.0358. And do you see that that's an email from you, dated 24 April 2015, to Andrew Power?

MR WHITE: I do.

MS SHARP SC: And one of the attachments is the NAB merchant agreement?

MR WHITE: I can't - it - it would appear so from the title, but --

5

MS SHARP SC: All right. And you say in that email:

"Hi Andrew, please see below my advice on this issue."

10 **MR WHITE:** Yes.

MS SHARP SC: And then let me take you to the email at the bottom of the page. And just to note, Mr Bell, this is exhibit B77. Now, you see there's another email from you at the bottom of the page, Mr White, dated 11 April 2014?

15

MR WHITE: Yes, I do.

MS SHARP SC: All right. I will take you to the pinpoint 0359. Do you see what's stated at the top there is:

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"Further to our meeting the other day on the issue of CUP and the request for legal advice on the relevant terms applying to our acceptance of CUP, I have reviewed the attached documents."

25 **MR WHITE:** Yes.

MS SHARP SC:

30

"Which I understand to be all current documents relevant to our merchant facilities with NAB."

MR WHITE: Yes.

MS SHARP SC: So it's right that you did review, and indeed carefully review, the NAB merchant terms at the time?

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MR WHITE: Yes.

MS SHARP SC: And in fact, in the third paragraph, you refer to a series of merchant terms which set out restrictions and requirements in respect of CUP?

40

MR WHITE: Sorry. If we could scroll down, please, operator, sorry. Sorry, I was looking in the wrong spot. Yes.

MS SHARP SC: And do you see further down, under the first round of dot points, you say:

45

"Please note there are no other express restrictions on the use of CUP or specific reference to UnionPay's terms in the general terms and conditions."

MR WHITE: Yes.

5

MS SHARP SC: And do you see the third dot point down is:

"A transaction is not valid if it is illegal for any reason."

10 And do you see a further dot point is:

"We have authorised NAB to withdraw amounts from our related accounts in relation to any fines, penalties or similar costs that NAB may incur under card scheme rules (which would include CUP scheme rules)."

15

MR WHITE: Yes.

MS SHARP SC: So did you understand there was what I will call a clawback provision in the merchant agreement?

20

MR WHITE: Yes.

MS SHARP SC: Since it refer - your email, that is - referred to CUP scheme rules, do you think you had read the scheme rules by this time?

25

MR WHITE: I don't know if I would have read - as I say, I don't think I've - sorry. I don't recall having read the entirety of the scheme rules, but --

MS SHARP SC: You do accept they were emailed to you by Mr Stevens in 2014?

30

MR WHITE: I do.

MS SHARP SC: And you were providing advice on how the merchant terms at NAB operated?

35

MR WHITE: That's correct, although - I'm sorry, I - sorry. May - may I - sorry, I just need to take a second to read this because it's - it was my understanding that the scheme rules were not applicable to The Star, and I'm just wondering if that was in this advice. But I'm sorry, I haven't had a chance to read it.

40

MS SHARP SC: I will assist you in that event. If I can take you to the last dot point on pinpoint 0359, you there say:

45

"We warrant to NAB that in having received or receiving the merchant services, we have not been and will not be in breach of any relevant law or obligation owed to any person."

MR WHITE: Yes.

MS SHARP SC: So you knew you had to be mindful of warranties that The Star had given to NAB about the use of CUP card or otherwise?

5 **MR WHITE:** Yes. Sorry. May I see the - the next page of the email as well, please.

MS SHARP SC: Yes. Certainly. Operator, could you show Mr White pinpoint 0360.

10

MR WHITE: Right. Sorry. That's fine. Thank you.

MS SHARP SC: And do you see you say:

15 "On the basis of the above and my understanding of current processes for CUP, I do not believe there is a breach of NAB's merchant terms."

MR WHITE: I do.

20 **MS SHARP SC:** Surely, in providing this advice, you would have read the UnionPay rules by this time?

MR WHITE: I - I - sorry I'm not disputing that I read at least part of the UnionPay rules, but I don't believe I will have read the whole of the UnionPay rules.

25

MS SHARP SC: Did you understand at this time that if - on the basis that The Star had given warrant ties to NAB and that there were clawback provisions in the agreement with NAB, it was important to get the advice right about whether using a CUP card could be in breach of the merchant agreement with NAB?

30

MR WHITE: Sorry. Yes.

MS SHARP SC: You did understand that?

35

MR WHITE: Sorry. Sorry. Could you say the question again? Sorry, I --

MS SHARP SC: In view of, firstly, the warranties that The Star gave to NAB pursuant to the merchant agreement and, secondly, the clawback provisions in the merchant agreement, it was important that you got the advice right about whether usage of the CUP card would be in breach of arrangements with NAB?

40

MR WHITE: Yes, I agree.

45 **MS SHARP SC:** Did you seek any external legal advice on that question?

MR WHITE: Not that I recall.

MS SHARP SC: Did anybody else within your legal team suggest that you seek legal advice on that question?

MR WHITE: Not that I recall.

5

MS SHARP SC: Can I take you to the merchant agreement between The Star and NAB. These are the general terms and conditions. Operator, could you call up, please, STA.3401.0003.6907. This is exhibit B2925. Now, it's right that you had a look at the merchant agreement for the purpose of providing that advice I've just taken you to, isn't it, Mr White?

10

MR WHITE: Yes.

MS SHARP SC: Could I take you to pinpoint 6931. Do you see that the word "card schemes" is defined and it means, in (b):

15

"For the remainder of this agreement, Visa, MasterCard, EPAL and China UnionPay."

20 **MR WHITE:** Yes.

MS SHARP SC: And do you see there's then defined "card scheme rules" which:

25 "Means the rules and regulations which regulate participants in the card schemes."

MR WHITE: I can see that.

MS SHARP SC: So you accept, don't you, that "card scheme rules" include the rules of UnionPay in respect to the China UnionPay card?

30

MR WHITE: I do.

MS SHARP SC: And could I take you now, please, to pinpoint 6935. Could I take you to the definition of "relevant law" at the top. And do you see "relevant law" means

35

"Any of -"

40 And then (c):

"Any card scheme rules applicable to the confidential information, the provision of the merchant services and any other obligations to be performed under this agreement."

45

Now, do you accept that "relevant law" includes the UnionPay International card scheme rules?

MR WHITE: Yes, it would appear to do so.

MS SHARP SC: Now could I take you to pinpoint 6936. And do you see there's a heading in red that says Your obligations?

5

MR WHITE: Yes.

MS SHARP SC: Now, these are the obligations of the merchant, aren't they?

10 **MR WHITE:** I believe so, yes.

MS SHARP SC: And if I could take you to pinpoint 6938. Do you see there's a heading UnionPay Card terms and conditions?

15 **MR WHITE:** Yes.

MS SHARP SC: And there's clause 3.5?

20 **MR WHITE:** Yes, I see that.

MS SHARP SC: Do you see clause 3.5(b) says that:

"A UnionPay card can only be processed on a UnionPay terminal by swiping the card through that terminal in the presence of the UnionPay cardholder."

25

MR WHITE: Yes.

MS SHARP SC: So you understand, don't you, that when the CUP card was swiped at the hotel, the card owner had to be present?

30

MR WHITE: Yes.

MS SHARP SC: And then if I take you to (e), it says:

35

"A UnionPay card transaction must not be processed to give the UnionPay cardholder cash."

MR WHITE: Yes.

40 **MS SHARP SC:** And you were aware of that rule at the time, were you?

MR WHITE: I - I believe I called that out in the advice.

45 **MS SHARP SC:** And then could I take you, please, to pinpoint 6950. Do you see there's a heading 7, Processing Transactions?

MR WHITE: Yes.

MS SHARP SC: And can I take you over the page to pinpoint 6951. And do you see there's a warranty term here - and I will have it highlighted for you - clause 7.3, which says:

5 "In giving us information on a transaction or otherwise for the purposes of this agreement, you warrant that (a) all the particulars are true."

MR WHITE: Yes, I see that.

10 **MS SHARP SC:** Now, did you understand that if the NAB asked you for information about the transaction, you had warranted that the information you were providing was true?

MR WHITE: I can see that that's a provision in there, yes.

15 **MS SHARP SC:** Well, you advised on the warranty provisions of this agreement, didn't you?

20 **MR WHITE:** I did, but I can't - I can't see now whether I called - specifically called that provision out in my advice, I'm sorry.

MS SHARP SC: Well, you do agree that there is a warranty in these merchant terms that when Star provides information to NAB in the form of information on the transaction, Star warrants that all the particulars are true?

25 **MR WHITE:** I can see that, yes.

MS SHARP SC: And do you see it also provides clause 7.3 that The Star warrants that:

30 "(b) the transaction is valid and acceptable."

MR WHITE: Yes.

35 **MS SHARP SC:** And then could I take you, please, to pinpoint 6956. And there's a heading 13, Costs, Fees and Other Payments. And do you see it says at clause 13.1:

40 "You must pay us the amounts listed in clause 13.2."

MR WHITE: I do.

MS SHARP SC: And then at 13.2, it says:

45 "You authorise us to withdraw, without notice, the following amounts from any account you have with us, (including your nominated account)."

And let me take you over the page to subparagraph (h). It says:

5 "all fines, penalties or similar costs (however described) imposed on us under card scheme rules because of your conduct in relation to the merchant services including where your conduct results in an unacceptable rate of chargebacks or because you failed to comply with the Data Security Standards. An unacceptable rate of chargebacks includes one which is declared unacceptable under card scheme rules or relevant law;"

10 **MR WHITE:** I - I see that. I believe I had included that in my advice.

MS SHARP SC: Yes. Because that was one of the clawback provisions you advised on, wasn't it?

15 **MR WHITE:** Correct.

MS SHARP SC: So this allows NAB to claw back fines that it's required to pay?

MR WHITE: Yes.

20 **MS SHARP SC:** And do you see there's the use of that expression "relevant law" there?

MR WHITE: I do.

25 **MS SHARP SC:** Okay. You understand, don't you, that "relevant law" includes the provisions of the China UnionPay scheme rules?

30 **MR WHITE:** I do, although I think that was under "card scheme rules" as well, which was the immediately preceding wording. But yes.

MS SHARP SC: And then if I take you to pinpoint 6963. Do you see there's an indemnity and set-off provision?

35 **MR WHITE:** I do.

MS SHARP SC: And do you see it says 17.1:

40 "You agree to indemnify us for all losses and liabilities we incur because:
(a) you breach an obligation that you have under the agreement."

MR WHITE: I do.

45 **MS SHARP SC:** And (e):

"Any wilful default, negligence, fraud, act or omission by you or your agents or representatives relating to this agreement;"

MR WHITE: Yes, I see that.

MS SHARP SC: And finally, if I could take you to pinpoint 6966. Do you see there's a representation and warranty clause?

5

MR WHITE: I can see that, yes.

MS SHARP SC: And at clause 21.1, it says:

10 "You represent and warrant to us that:

(a) in having received and receiving the merchant services, you have not been and will not be in breach of any relevant law or any obligation owed to any person."

15

MR WHITE: I see that.

MS SHARP SC: Now, at the time, did you understand that warranty to extend to a warranty that Star had not been and will not be in breach of the UnionPay International scheme rules?

20

MR WHITE: No, I think - I - I can see that that's an error. I - I - it was my understanding that the China UnionPay card scheme rules didn't generally apply to The Star. So that's - that's - now that you've taken me through this, I can see that that potentially brings the operation of those scheme rules into the terms of this agreement.

25

MR BELL SC: More than potentially, Mr White.

30 **MR WHITE:** Sorry, Mr Bell?

MR BELL SC: More than potentially, Mr White, surely?

MR WHITE: Correct.

35

MS SHARP SC: You see, it's right, isn't it, that the merchant terms and conditions pick up and apply the scheme rules as part of the contractual relations between NAB and The Star?

40 **MR WHITE:** I can see that now. That's the error on my part at the time.

MS SHARP SC: But no external advice was ever sought by you about the application of the Union scheme rules or the effect of the merchant general terms and conditions?

45

MR WHITE: Sorry. Not - not at this time, no.

MS SHARP SC: Not before The Star commenced permitting UnionPay - CUP cards to be swiped at the hotel?

5 **MR WHITE:** That's right. Although - sorry. From having looked at some of the emails in relation to this, I think that had started potentially before I even became involved with providing advice on CUP transactions. But I take your point that at this stage in early 2014, I hadn't.

10 **MS SHARP SC:** Do you accept - and if you don't, tell me. But do you accept that there was a lack of reasonable care on your part in the advice you provided in your 24 April 2015 email about the applicability of the NAB merchant agreement and the UnionPay International rules?

15 **MR WHITE:** On - on - look, on reflection, that - that might be warranted. Yes.

MS SHARP SC: Would it have been prudent at that time, on this important question, to seek the legal advice of an external firm?

20 **MR WHITE:** With - with reflection and hindsight, yes, definitely.

MS SHARP SC: But to the best of your knowledge, no other lawyer within The Star team who was dealing with the UnionPay matter made that suggestion to you?

25 **MR WHITE:** Not that I recall, no.

MS SHARP SC: And it's right that there were more senior lawyers within The Star at that time than you?

30 **MR WHITE:** Yes, there were.

MS SHARP SC: So Mr Power was more senior to you?

35 **MR WHITE:** No. At that stage, he was - we were at the same level.

MS SHARP SC: Who were the more senior lawyers?

MR WHITE: We - both Andrew and I reported to Paula Martin at that time.

40 **MS SHARP SC:** Now, we know that the UnionPay cards were used at The Star up until March of 2020. Were you ever made aware of instances where patrons remained at the gaming tables and their CUP cards were taken away from them and swiped at the hotels?

45 **MR WHITE:** I am not aware of that.

MS SHARP SC: Did you understand that if that had occurred, that would have been a breach of the merchant terms and conditions I just took you to?

MR WHITE: I do. And it raises huge questions around fraud as well because my understanding was that the card had to be - you had to enter a PIN and sign. So I just don't know how that could have been possible.

5

MS SHARP SC: Could you just pardon me for a moment, please, Mr Bell.

MR BELL SC: Yes.

10 **MS SHARP SC:** Now, could I – now I think it's right that you've accepted that there was an issue with funds on the CUP cards clearing in Star's accounts before patrons could be provided with gambling chips?

15 **MR WHITE:** I - I - I know from seeing the emails that that was certainly an issue that the business was raising repeatedly and was obviously a very important issue with them, yes.

20 **MS SHARP SC:** Because it's right, isn't it, that the business was concerned that there was an unacceptable delay in the period between when the patron swiped their card and when the chips were made available to them?

MR WHITE: I believe that's what it says in the emails, yes.

25 **MS SHARP SC:** And people within the business, including yourself, looked for workarounds to this problem?

MR WHITE: I was certainly providing legal advice on what would be legally possible. But yes.

30 **MS SHARP SC:** And is it right that the position was posited that, really, once the card had been swiped, the money would be coming, so the regulator did not have to worry about whether the funds had cleared or not?

35 **MR WHITE:** That - that sounds correct, yes.

40 **MS SHARP SC:** And could I show you, please, exhibit C, tab 7, which is ILGA.013.001.0073. Now, I'm not sure whether you've seen this before, Mr White, and I will ask you that in a minute. This is a letter from Graeme Stevens, the regulatory affairs manager at The Star, to Micheil Brodie, who was then the CEO of the authority, dated 22 November 2013.

MR WHITE: Yes, I see that. Sorry, may I just read the - the letter, if I may?

45 **MS SHARP SC:** Yes, please do.

MR WHITE: Thank you.

MS SHARP SC: Please let me know when you've finished reading it, Mr White.

MR WHITE: I'm nearly there, sorry. Okay. Sorry. Yes, I've finished reading. Thank you.

5 **MS SHARP SC:** Now, did you see this letter or have any role in its preparation at the time?

MR WHITE: I - I don't remember, I'm sorry.

10 **MS SHARP SC:** Do you see it doesn't refer to the China UnionPay card? Do you accept that?

MR WHITE: Yes, I do.

15 **MS SHARP SC:** All right. But what it does refer to is the use of debit cards at the casino?

MR WHITE: Yes, it does.

20 **MS SHARP SC:** And what it does say, in paragraph 4, is:

25 "Despite the transaction being processed and approved, (a merchant copy is printed to this effect) some financial institutions these funds may not actually be deposited into The Star's account for up to 48 hours after the transaction actually takes place."

I think there's a grammar error there. But this is raising that issue of the cleared funds, isn't it?

30 **MR WHITE:** It - it appears to do so, yes, definitely.

MS SHARP SC: And what is happening in this letter is that The Star is asking the authority to amend the internal controls so as to permit The Star to make chips available even when those funds have not cleared; do you agree?

35

MR WHITE: Yes.

MS SHARP SC: Now, is it your evidence that you simply don't remember if you were involved in this?

40

MR WHITE: It is. I - it is my evidence.

MS SHARP SC: And you can take it from me that the authority did not approve that request. Were you aware of that in late 2013, early 2014?

45

MR WHITE: I - I believe I was aware - I - I don't know if it was in this context or if it was in the context of that earlier email. Sorry. I - I don't recall.

MS SHARP SC: Mr Bell, I've just been made aware that the solicitors for The Star have a document which may very well be relevant to my very next question. Could I just take a short adjournment to understand what the situation is?

5 **MR BELL SC:** Yes. We will adjourn until that situation has been resolved.

<THE HEARING ADJOURNED AT 2:54 PM

<THE HEARING RESUMED AT 3:31 PM

10

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Yes, Mr Bell. Thank you for that short adjournment. What happened in that period was this - well, as I was examining Mr White, I was made
15 aware that the lawyers acting for Star Entertainment and The Star had some new documents to produce, and you issued a summons to obtain those documents. Those documents were then made available very shortly after you adjourned. The cover letter to those documents - three were produced.

20 The cover letter explained that, in fact, two of those documents were also responsive to summons number 11, which was summons you issued on 22 February 2022 and which was returnable on 4 March. Mr Bell, I've reviewed that summons - summons number 11 - and paragraph 6, which was headed China
25 UnionPay, requested all documents regarding communications between The Star or Star Entertainment Group to ILGA or New South Wales Liquor and Gaming in the period 1 January 2013 to 31 December 2014 for the purposes of notifying about, or seeking approval for, the use of China UnionPay cards, including in the association with cheque cashing facilities.

30 Now, what we were provided in the adjournment, Mr Bell, in my submission, falls squarely within paragraph 6 of that 22 February 2022 summons. That's because we have received a document, which was an email from Suzanne Mawer, M-a-w-e-r, to Jocelyn Smith at ILGA dated 19 December 2014, which is
35 STA.3041.0001.0026, and that attaches a copy of a cheque cashing and deposit facility. And, within that document, which was also just produced which is STA.3041.0001.0028, there is a reference to China UnionPay at pages 10 onwards of that document.

40 So, Mr Bell, there is something of a concern that it hasn't been produced before today. That said, I am in a position to continue my examination at this stage, but I wish to place that on the record.

MR BELL SC: Ms Richardson, do you acknowledge that two of these three documents ought to have been produced in answer to the summons issued on 22
45 February 2022?

MS RICHARDSON SC: I do accept that they are responsive.

MR BELL SC: Well, Ms Richardson, it is extremely disruptive to the work of this review to be receiving documents that ought to have been provided much earlier in the midst of an examination. I think it's appropriate, in the circumstances, that those instructing you provide me with a statutory declaration explaining why these documents were not produced in answer to that summons, and when those documents were first produced to those instructing you. Would you be able to do that?

MS RICHARDSON SC: That will be done.

MR BELL SC: Yes. Thank you.

MS RICHARDSON SC: I – I'll ensure that is done.

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Can I take you to a document, please, Mr White, which is exhibit F at tab 54. And this is STA.3034.0001.0591. Now, do you see that this is an internal memorandum from you to the then CEO, John Redmond; the then chief financial officer, Matt Bekier; Adrian Hornsby; and group general counsel, Paula Martin?

MR WHITE: I see that, yes.

MS SHARP SC: And you recall preparing this, do you?

MR WHITE: I'm - I'm afraid I don't specifically, no.

MS SHARP SC: Well, let me take you through this document. Pardon me, Mr Bell. I've just got to call it up on my iPad. Now, if I could take you to the executive summary. Can you see that what you are there recounting is that a potential patron from China wishes to access funds through their CUP debit card?

MR WHITE: Yes.

MS SHARP SC: And you say:

"The best potential solution is to temporarily establish a cheque cashing facility."

MR WHITE: Yes.

MS SHARP SC: And this would:

"allow play to commence (with the cheque cashing facility cleared once the cleared funds from the CUP transaction arrive in The Star's bank account)."

MR WHITE: Yes.

MS SHARP SC: And you there say:

5 "there is a risk that ILGA would still form the view that this process is a provision of credit in breach of section 74."

MR WHITE: Yes.

10 **MS SHARP SC:** So you did take - or make an effort to make it clear that there was a risk associated with this process?

MR WHITE: Yes.

15 **MS SHARP SC:** And just to be clear, that was a risk that a suggestion you were recommending would breach the Casino Control Act?

MR WHITE: Yes.

20 **MS SHARP SC:** Now, under the heading Background, you recount:

"it is ILGA's view that a patron using CUP can only access the funds for which they have transacted once those funds have cleared."

25 **MR WHITE:** Yes.

MS SHARP SC: And that was your understanding of the challenge at the time?

MR WHITE: Yes.

30 **MS SHARP SC:** And you note then it takes about 24 to 72 hours for the funds to clear and that makes the situation practically unworkable?

MR WHITE: Yes.

35 **MS SHARP SC:** And then a few paragraphs down, you say:

40 "In this instance, the proposed patron (a \$50,000 player) from the People's Republic of China and does not have a cheque book or an Australian bank account."

MR WHITE: Yes.

45 **MS SHARP SC:** All right. Now, that presented some challenges for creating a cheque cashing facility, didn't it?

MR WHITE: It - it - sorry. Sorry, let me consider that. Sorry.

MS SHARP SC: Well, I withdraw the question. I'll move on. There's a heading Operating a Cheque Cashing Facility. You there state:

5 "The standard practice across Echo's properties is for a house marker to be signed on buy-in."

Now, a house marker is a counter cheque, isn't it?

10 **MR WHITE:** That's correct.

MS SHARP SC: You then state:

15 "If the patron does not have an Australian bank account, the house marker is supported by a signed, but otherwise blank cheque from the patron's relevant overseas bank account."

MR WHITE: Yes.

20 **MS SHARP SC:** Now, to the best of your understanding, that was the ordinary practice at Star Entertainment at that time, right?

MR WHITE: Correct.

25 **MS SHARP SC:** All right. So there was an actual blank cheque involved?

MR WHITE: Yes.

30 **MS SHARP SC:** And the actual blank cheque was drawn on the overseas bank account of the patron?

MR WHITE: Correct.

MS SHARP SC: Now, what you then go on to say is that:

35 "The house marker is the 'cheque' for the purposes of the cheque cashing facility."

40 And what you are there saying is that the counter cheque is the cheque for the purposes of the cheque cashing facility; do you agree?

MR WHITE: Yes.

45 **MS SHARP SC:** And then you go on to explain what the requirements of the cheque are, don't you?

MR WHITE: Yes.

MS SHARP SC: And what you refer to are the elements of the definition of a cheque in the Cheque Act?

5 **MR WHITE:** I believe so. Or the Cheques and Payment Orders Act, I - I believe it was called at the time maybe.

MS SHARP SC: Yes. In fact the -it was the Cheque and Payment Orders Act at the time. And that was the statute that was referred to in section 75 of the Casino Control Act, wasn't it?
10

MR WHITE: Yes.

MS SHARP SC: And it said that:

15 "For the purpose of section 75 of the Casino Control Act, apply the same definition of 'cheque' as you find in the Cheque Act."

MR WHITE: Sorry. Sorry. Do you mind saying that to me again, sorry?

20 **MS SHARP SC:** Yes. Section 75 of the Casino Control Act said that:

"For the purpose of this provision, 'cheque' has the same meaning as in the Cheques Act."

25 **MR WHITE:** That's correct.

MS SHARP SC: So what you --

MS RICHARDSON SC: I'm sorry. That's not what section 75 says.
30

MR BELL SC: Yes. Well, Ms Richardson, my understanding is that the Cheque and Payment Orders Act changed its name to the Cheques Act and is otherwise the same legislation. Is that your understanding (indistinct)?

35 **MS RICHARDSON SC:** That is my current understanding, but I understood my learned friend to be reading a direct quote from the Act, which was not correct.

MS SHARP SC: I wasn't, but I'm happy to read the direct quote if that assists in any way. Hang on a moment. So in section 75(1) of the Casino Control Act, it provides:
40

"In this section, 'cheque' has the same meaning as in the Cheque and Payment Order Act 1986 of the Commonwealth but does not include a traveller's cheque or a cheque that is undated or post-dated."
45

And you understood that at the time?

MR WHITE: Yes.

MS SHARP SC: So what you were looking for is how "cheque" was defined in the Cheque and Payment Orders Act of 1986?

5 **MR WHITE:** Yes.

MS SHARP SC: And what you're doing at pinpoint 0592 of your memo is setting out what you understand is the meaning of a cheque in the Cheque Act?

10 **MR WHITE:** It appears so, yes.

MS SHARP SC: And one of those requirements is (a):

"An unconditional order to pay."

15

MR WHITE: Yes.

MS SHARP SC: And (b) is:

20

"Addressed to a person to a 'financial institution'."

MR WHITE: Yes.

25 **MS SHARP SC:** And at that time, "financial institution" was defined in the Cheque Act to include an overseas financial institution, wasn't it?

MR WHITE: I believe so, yes.

30 **MS SHARP SC:** Now, you then go on and say:

"Accordingly, provided we have bank details of the relevant overseas bank and put this on a house marker -"

35 And you mean a counter cheque there, don't you?

MR WHITE: I do.

MS SHARP SC:

40 "And that is signed by the patron or their authorised signatory, we will have a valid cheque and can provide chips against the cheque under the cheque cashing facility provisions in section 75 of the Casino Control Act."

45 **MR WHITE:** Yes.

MS SHARP SC: So you were well aware that The Star needed to comply with section 75 if it was to create a cheque cashing facility?

MR WHITE: Yes.

5 **MS SHARP SC:** And if it did not create a cheque cashing facility and it was the case that credit was provided, that would put the casino into breach of section 74, wouldn't it?

MR WHITE: I believe so, yes.

10 **MS SHARP SC:** Now, if we - well, that's exactly what you say under the heading Interaction with Prohibition on Credit, isn't it?

MR WHITE: Sorry. I haven't had a chance to fully read the - the memo again, sorry.

15 **MS SHARP SC:** All right. Well, I will have that highlighted for you. It's in pinpoint 0952. Operator, could you highlight the section Interaction with Prohibition on Credit, please.

20 **MR WHITE:** Sorry, I --

MS SHARP SC: So what you state there is:

25 "The complication of operating a cheque cashing facility for patrons with overseas banks arises from --"

Dot point:

30 "The prohibition on the provision of credit in section 74(1) of the Casino Control Act and --"

Dot point 2:

35 "That house markers are generally only recognised and banked by Australian banks."

MR WHITE: Yes.

40 **MS SHARP SC:** Now, at that time, you understood, didn't you, that counter cheques were generally only recognised and banked by Australian banks?

MR WHITE: Sorry, I - I said that. I think rather than "banked", I think I - I probably meant "honoured", but --

45 **MS SHARP SC:** Yes. Okay. So you understood that overseas bank did not honour counter cheques?

MR WHITE: That - I believe that was my understanding at that time.

MS SHARP SC: And then a little further down, under that heading, you say:

5 "The position above has also generally meant that patrons with bank accounts only in countries which would not permit a cheque payable to The Star to be banked and honoured (e.g China) have not been able to access a cheque cashing facility."

MR WHITE: Yes.

10 **MS SHARP SC:** Okay. Then there's a heading Current Situation with CUP, and you state in the second paragraph - if we can have this shown, operator. You there state:

15 "ILGA have stated that in their views funds the subject of a CUP transaction may only be recognised when they clear in The Star's bank account. To date, The Star has not sought to challenge this position."

MR WHITE: Yes.

20 **MS SHARP SC:** And it's right, isn't it, that by this time, The Star had suggested that they could use CUP funds without the transaction clearing - I withdraw that. It's right, isn't it, that by this time, The Star had proposed to ILGA that where a debit card had been used but the funds had not yet cleared, it would nevertheless be permissible to advance the gaming chips to the patron and the authority had
25 rejected that position?

MR WHITE: Sorry, the - I think from the last - the letter that you showed me, that - it would appear that Graeme had certainly written to ILGA. I don't remember- I think, as I've already said, I - I don't recall whether I was aware
30 of that at the time or not.

MS SHARP SC: All right. Well, then there's this heading Proposed Workaround, and you there state:

35 "A potential workaround is to allow a cheque cashing facility to be drawn by a patron with overseas bank accounts, but without a supporting blank cheque, on the basis that the approved confirmation on the use of the CUP is confirmation that the funds will arrive."

40 So it's right that you were proposing a new procedure which, until that time, had not been used by The Star?

MR WHITE: It - it would appear so, yes.

45 **MS SHARP SC:** And then you identify:

"The issues to be considered in relation to this solution are -"

Dot point:

5 "ILGA's stated view on the position of CUP transactions to date (as set out above) which might suggest that they would form the view that the use of the cheque cashing facility in this circumstance is a prohibited provision of credit. Echo/The Star would argue that their view is not correct, but this has not been raised/challenged to date."

10 So you did appreciate there was a risk that what you were proposing would contravene the Casino Control Act, didn't you?

MR WHITE: It would appear so, yes.

15 **MS SHARP SC:** And you there state at dot point 4 on pinpoint 0593:

"Whilst it is unlikely that ILGA will investigate this matter unless it ends up in a position of default (ie the CUP approved transaction is not honoured by payment and accordingly the house marker is banked and dishonoured) it is possible that this will be flagged as an issue during an audit of house markers/cheques held by the cage."

What you were really saying there is it's possible that ILGA won't investigate this new proposal or this new procedure, right?

25 **MR WHITE:** Sorry. Do you mind - sorry. Can I see the previous page, sorry, next to - next to this one as well, please. Sorry.

MS SHARP SC: Operator, could you show the previous page.

30 **MR WHITE:** Sorry, sorry. You don't need to highlight it, sorry. Sorry. Do you mind putting down the highlighted piece? Sorry. Sorry, yes. That would appear to be the case, sorry. Yes.

35 **MS SHARP SC:** Now, it's right, isn't it, that you, after preparing this memo, spoke with John Redmond who said that this proposal should proceed and that a cheque cashing facility could be granted to the CUP patrons; do you agree?

MR WHITE: I believe so, yes.

40 **MS SHARP SC:** Can I show you exhibit B at --

45 **MR BELL SC:** Sorry, Ms Sharp, before we leave this document. Mr White, do you remember telling me yesterday that you understood at all times since 2013 that one requirement for a valid cheque was that it be an unconditional order in writing that required the financial institution to pay on demand a sum certain?

MR WHITE: Yes.

MR BELL SC: And if you look at the four bullet points at the top of page point 0592, which were intended to set out the requirements of the cheque, you have omitted to include the requirement that the - it must be an order that requires the financial institution to pay a sum. Do you agree?

5

MR WHITE: I do, Mr Bell.

MR BELL SC: Yes. Now, these arrangements, involving the use of CUP and patrons from China, involved, as you understood it, a banking relationship with a bank in China for the provision of a CUP card to the patron; correct?

10

MR WHITE: Yes, Mr Bell.

MR BELL SC: But there was - so far as were you aware, there was no cheque account which had been agreed between the bank in China and the patron; correct?

15

MR WHITE: Correct.

MR BELL SC: And, therefore, there was no agreement, as you would understand it, between the bank in China and the patron under which there was an arrangement for the bank in China to honour cheques drawn by the patron; correct?

20

MR WHITE: Sorry. Yes. I - I believe that's correct, Mr Bell, yes.

25

MR BELL SC: And if there was no such arrangement, there could not be, could there, as you would understand it - a counter cheque could not, as you understand it, have required the financial institution in China to pay anything; correct?

30

MR WHITE: I'm sorry. I'm not sure if I'm following the - the - sorry, the thought process here, sorry, I'm afraid.

MR BELL SC: Let's go back and start again. You understood that a valid cheque was an unconditional order in writing that required a financial institution to pay a sum of money; correct?

35

MR WHITE: Yes.

MR BELL SC: You understood that there was no cheque account between the bank in China which had provided a CUP card and the patron; correct?

40

MR WHITE: Yes.

MR BELL SC: So there was no arrangement, as you understood it, between the bank in China and the patron under which the bank in China agreed to honour cheques issued by the patron; correct?

45

MR WHITE: Yes.

MR BELL SC: And in those circumstances, you must have understood, I take it, that these counter cheques which were being proposed did not require the bank in China to pay on that cheque; correct?

5

MR WHITE: Well, I - I - I thought on the face of it that it was still a valid cheque, so --

MR BELL SC: But this bank in China would not have known about the cheque and certainly didn't authorise the patron to draw cheques on it, did it?

10

MS RICHARDSON SC: Well, I - sorry, I object to that question because, in my submission, it has an erroneous factual premise, which is that a counter cheque is not issued by the patron. Here, it's issued by the casino and signed by the patron.

15

MR BELL SC: I think I was asking a different question, but let me ask it again so we're all clear. You understand that this counter cheque was issued by the casino; correct?

MR WHITE: Yes.

20

MR BELL SC: It was a piece of paper that was prepared by the casino?

MR WHITE: Correct.

25

MR BELL SC: And the customer signed it?

MR WHITE: Yes.

MR BELL SC: And the bank that was named on the cheque was the bank which had issued a China UnionPay card to the patron; correct?

30

MR WHITE: I believe so, yes.

MR BELL SC: But so far as you were aware, there was no cheque account which had been agreed between the patron and the bank in China; correct?

35

MR WHITE: Correct.

MR BELL SC: So there was no arrangement between the patron and the bank in China which required the bank in China to pay on a cheque; correct?

40

MR WHITE: Correct. But I didn't see that as being a requirement of the Cheques Act.

45

MR BELL SC: All right. So you didn't understand that a cheque had to be an order which required the bank in China to pay?

MR WHITE: But that would be on the face of it, on - as in, on the face of the cheque.

5 **MR BELL SC:** So you understood, did you, that this counter cheque required the bank in China to pay and could have been presented to the bank in China and it would have been obliged to pay?

MR WHITE: It certainly - it certainly could be - yes. Yes.

10 **MR BELL SC:** And your advice proceeded on that basis, did it?

MR WHITE: I believe so, yes. In the - I - my advice believed that this would be a valid cheque, yes.

15 **MR BELL SC:** And just to be clear, it would mean that The Star, if it needed to, could present this counter cheque to the bank in China and the bank in China would be obliged to pay on that cheque if there were sufficient funds in the customer's account?

20 **MR WHITE:** On that one, I guess it would be subject to the laws in China, which I'm not aware of. But certainly it could be presented in Australia and go through the banking system.

25 **MR BELL SC:** But these were cheques drawn on banks like the China Construction Bank and so forth, weren't they?

MR WHITE: I - I don't know for certain, but potentially yes.

30 **MR BELL SC:** Yes. And so far as you were aware, those banks had no cheque account arrangements with the patrons; correct?

MR WHITE: I believe that's correct, yes.

35 **MR BELL SC:** So you must have understood that the banks in China were not required to pay on this counter cheque because there were no chequeing arrangements; correct?

40 **MR WHITE:** I - sorry, I - sorry, I think I - yes, I - I think I understand the point you're saying now, but I don't think that was - and I can understand now, sorry, the point you are making, but that wasn't in my contemplation at the time. I think I - I was, it would appear, potentially erroneously believing it was a valid cheque.

45 **MR BELL SC:** Yes. And I assume it wasn't in your contemplation in your time because you didn't set it out in the bullet points at the top of page point 0592 which set out the requirements for a valid cheque; correct?

MR WHITE: That's correct, Mr Bell.

MR BELL SC: Yes. Now, if you had, in fact, appreciated in order for there to be a valid cheque, it had to be an order which required the financial institution in China to pay, you would have concluded, I take it, that these counter cheques that you were proposing were not valid cheques?

5

MR WHITE: I think that's a fair assumption.

MR BELL SC: And if that were the case, then each time such a cheque was issued - I withdraw that. If that was the case each time such a counter cheque was issued, there would be a breach of section 74 of the Act, would there not?

10

MR WHITE: That would - that would appear to be the case, yes, Mr Bell.

MR BELL SC: Yes, Ms Sharp.

15

MS SHARP SC: Now, can I take you to - well, I withdraw that. Once you had given this advice in February 2014, to the best of your understanding, was this procedure implemented at The Star?

20

MR WHITE: I believe so, yes.

MS SHARP SC: Can I take you now to exhibit B47, which is STA.3009.0009.0023. Now, I am showing you a file note that you apparently made on 15 October 2015?

25

MR WHITE: Yes.

MS SHARP SC: And it's right that you did make that file note on that date?

30

MR WHITE: I believe so.

MS SHARP SC: And what you do there is refer to an event which occurred on 3 February 2014?

35

MR WHITE: Yes.

MS SHARP SC: And that's the very same day that you wrote this advice I've just taken you to?

40

MR WHITE: Yes.

MS SHARP SC: So it's right, isn't it, that on 3 February 2014, Adrian Hornsby approached you regarding the granting of a cheque cashing facility to patrons who had swiped China UnionPay cards?

45

MR WHITE: Yes.

MS SHARP SC: And you prepared a briefing note for Matt Bekier and John Redmond, and that's the note that I've just taken you to, isn't it?

MR WHITE: I believe so.

5

MS SHARP SC: And that day, did you provide both of them with a hard copy of that briefing note?

MR WHITE: That's what my file note says. I - I - I'm afraid I don't remember, but I believe that that would be correct.

10

MS SHARP SC: And in the third paragraph of this file note, you say:

15 "Adrian Hornsby and I approached Matt Bekier, who gave his approval to us, but referred us also to John Redmond to consider the matter and confirm whether he approved."

MR WHITE: Correct.

20 **MS SHARP SC:** And that is your best recollection of what happened on or about 3 February 2014?

MR WHITE: I believe so, yes.

25 **MS SHARP SC:** So it's right that Matt Bekier approved the procedure that you had recommended in this advice?

MR WHITE: Yes.

30 **MS SHARP SC:** Did you discuss with Mr Bekier the risks that you identified with that process not being approved by ILGA?

MR WHITE: I - I - I can't recall, but I would expect so, yes.

35 **MS SHARP SC:** And you then say that Mr Bekier approved the procedure, but also referred you to John Redmond to consider the matter. And then you record in this note:

40 "We had a brief meeting in person with John Redmond where we ran through the memo content and answered questions around the value of the transactions under consideration."

Now, that's your best recollection of what happened, it is?

45 **MR WHITE:** Yes.

MS SHARP SC: Did that meeting in person with Mr Redmond happen on or about 3 February 2014?

MR WHITE: I believe so, yes.

5 **MS SHARP SC:** Was there any discussion with Mr Redmond at all about the risks that you had identified in that memo?

MR WHITE: I - I can't recall specifically, but I believe so, yes.

10 **MS SHARP SC:** Was there any suggestion by either Mr Bekier or Mr Redmond that you seek external legal advice on this matter?

MR WHITE: No, there wasn't.

15 **MS SHARP SC:** Did you have any discussion with Andrew Power or Paula Martin about your advice?

MR WHITE: I - I can't remember, I'm sorry.

20 **MS SHARP SC:** Do you think it's most likely that you would have at that time?

MR WHITE: Certainly my general approach was to discuss material matters with Paula.

25 **MS SHARP SC:** I'm just asking because you were the more junior of the two of them, weren't you?

30 **MR WHITE:** I was - at - at this point, I was reporting to Paula and it was certainly my general practice to keep Paula across anything that was material or important. And - so, yes.

MS SHARP SC: And do you think that given this was - well, I withdraw that. This was an important issue, wasn't it?

35 **MR WHITE:** I believe so, yes.

MS SHARP SC: And you had identified certain risks with this suggested procedure, hadn't you?

40 **MR WHITE:** I had.

MS SHARP SC: Well, in view of the fact that it was both important and you had identified certain risks, is it most likely that you discussed this matter with Paula Martin at the time?

45 **MR WHITE:** I - I think it's likely, but I - I can't be certain, I'm sorry.

MS SHARP SC: But to the best of your recollection, nobody said to you that you should seek some external legal advice about this matter?

MR WHITE: No.

MS SHARP SC: And just returning to your file note, you there record that:

5

"John Redmond confirmed orally that Adrian should proceed and the cheque cashing facility could be granted to such patrons."

MR WHITE: Yes.

10

MS SHARP SC: And that file note does accurately set out what your best recollection was, does it?

MR WHITE: I believe so, yes.

15

MS SHARP SC: And then you record that:

20

"My understanding was this meant a cheque cashing facility could be granted to such patrons on Echo's usual terms (i.e. compliance with usual requirements for granting a cheque cashing facility) save that the credit checks were not required."

MR WHITE: Yes.

25

MS SHARP SC: And it is right that what you meant there was that a personal cheque from the patron was not required?

MR WHITE: I - I - I can't be sure, but that's possible.

30

MS SHARP SC: Are you able to explain why, when you record conversations occurring on or around 3 February 2014, you did not write this file note until 15 October 2014?

MR WHITE: I'm sorry, I - I can't recall why there would have been the delay.

35

MS SHARP SC: To the best of your knowledge and recollection, was any permission sought from ILGA at this time to use the cheque cashing facility in the manner you recommended in your 3 February 2014 document?

40

MR WHITE: Not that I recall.

MS SHARP SC: Well, you didn't institute any process for seeking the consent of ILGA, did you?

45

MR WHITE: No, I didn't.

MS SHARP SC: And to the best of your recollection, did anybody else tell you that it would be a good idea to seek the approval of ILGA in relation to this proposal?

5 **MR WHITE:** I don't - I don't recall that being the case at the time, no.

MS SHARP SC: Can I take you to a document, please, Mr White. This one is exhibit B at tab 73, STA.3014.0002.1932. Now, you're familiar with who Phillip Dong Fang Lee is, aren't you?

10

MR WHITE: I'm - I'm aware that he was a patron of The Star Sydney.

MS SHARP SC: He was one of the biggest users of the China UnionPay facility at The Star in Sydney, wasn't he?

15

MR WHITE: I - I don't know for sure. I - I wouldn't be across the detail of who was using cards.

MS SHARP SC: I just want to understand the paperwork here. What I'm showing you is a document which says Request for Cheque Cashing Limit Change on 6 April 2015, right?

20

MR WHITE: That would appear so, yes.

25 **MS SHARP SC:** And you see it's in the name of Phillip Dong Fang Lee?

MR WHITE: Yes.

MS SHARP SC: And it requests a cheque cashing limit change from 12.3 million to 23.3 million?

30

MR WHITE: Yes.

MS SHARP SC: Do you see that's an \$11 million increase that's requested?

35

MR WHITE: I do.

MS SHARP SC: And do you see there's a little box and in handwriting it says "CUP" and there's a tick?

40

MR WHITE: I see, yes.

MS SHARP SC: And do you see that one of the people who has approved it is Paula Martin?

45

MR WHITE: I do.

MS SHARP SC: Is this the request for a cheque cashing facility that stood behind what I will call the temporary cheque cashing facility that you proposed in your memo on 3 February 2014?

5 **MR WHITE:** I believe so, yes. I - I can't be certain, but I believe so.

MS SHARP SC: Can I show you the next page of this document, which is pinpoint 1933. Now, I will have this enlarged for you so you can see it. Do you see that there's a sum of about 53.6 Chinese yuan referred to here?

10

MR WHITE: I can see that, yes.

MS SHARP SC: And this is a counter cheque, isn't it?

15 **MR WHITE:** Yes.

MS SHARP SC: You recognise this as one of The Star's counter cheques?

MR WHITE: I believe so, yes.

20

MS SHARP SC: And it says a cheque number?

MR WHITE: Yes.

25 **MS SHARP SC:** And it says the date is 6 April 2015?

MR WHITE: Yes.

MS SHARP SC: And do you see that it says "China Construction Bank"?

30

MR WHITE: I see that, yes.

MS SHARP SC: So what this is - is a - well, it says:

35 "Pay to the order of Star Pty Ltd."

And then it says "China Construction Bank"?

MR WHITE: Sorry. I can see where it says:

40

"Pay to the order of Star Pty Ltd."

And then the amount of --

45 **MS SHARP SC:** Yes. Could you look just above that, please.

MR WHITE: Sorry. Yes. I see that it is addressed to China Construction Bank, yes.

5 **MS SHARP SC:** And those numbers we see at the bottom left of the document - the BSB number, the account number and so on - they're the BSB number - well, I withdraw that. Do you know what they're the BSB number and account number of?

MR WHITE: I don't. I think that - no, I don't.

10 **MS SHARP SC:** Well, in accordance with what I call the temporary cheque cashing facility you recommended, the process was to take the BSB number and the account number from the China UnionPay bank account, wasn't it?

MR WHITE: I - I'm not sure. That would be an operational matter.

15 **MS SHARP SC:** Well, did you understand at the time that this - a counter cheque, if presented to China Construction Bank, would not, in fact, require China Construction Bank to pay this money to The Star?

20 **MR WHITE:** Sorry, can - can you say that question again to me, please? Sorry.

MS SHARP SC: Did you understand back in 2014 that if a counter cheque like this was presented to China Construction Bank, China Construction Bank would not, in fact, have to pay the sum of money indicated here to The Star?

25 **MR WHITE:** I'm not sure if I knew that they didn't have to pay. I - I think I assumed it would be unlikely that they would.

30 **MS SHARP SC:** Right. Because even though this is styled as an order, in fact, there was no obligation at all on China Union - sorry China Construction Bank to pay this sum of money to The Star?

MR WHITE: Well, I - I think --

35 **MS RICHARDSON SC:** I object - to that question. There's a matter I need to raise in the absence of the witness.

40 **MR BELL SC:** Well, perhaps I can clarify it and you can tell me if you still need to raise it in the absence of the witness. But would it be fair to say this, Mr White: you understood that China Construction's Bank - China Construction Bank's obligation to pay that sum arose from the China UnionPay card which it had issued to Mr Lee and which had been swiped, which was the underlying transaction; correct?

45 **MR WHITE:** Yes.

MR BELL SC: But not- it was not an obligation that arose by virtue of this document. It arose by virtue of the China UnionPay card; correct?

MR WHITE: I don't think that's right - Mr Bell, my understanding was - was that this was a valid cheque, that could be presented, but was unlikely to be honoured. But I think I - my understanding as well was that the funds had already been - the - the CUP transaction had already been approved and that, therefore, the funds would arrive and so, therefore, the likely - the - it was extremely unlikely that this bank - or the cheque would never actually be banked. I think that's - that would be my understanding at the time.

MR BELL SC: Let's just take it step by step. You understood that this counter cheque was issued in accordance with the proposal in the memorandum of early 2014, which we've looked at and examined already; correct?

MR WHITE: Correct.

MR BELL SC: And it was issued to cover the fact that there was a period of time - a gap - between the swiping of the card and the funds arriving as cleared funds in The Star's accounts; correct?

MR WHITE: Correct.

MR BELL SC: And that's why this counter cheque was issued, to try and ensure that there was no provision of credit in that intervening period; correct?

MR WHITE: Correct.

MR BELL SC: But you also understood, as you told me earlier, I think, that there was no cheque account arrangements between Mr Lee and China Construction Bank. The only banking arrangements of which you were aware was the issue of a China UnionPay card; correct?

MR WHITE: I would - I - I - I was - sorry, I'm not sure that I was - The Star was - would be aware that there was a CUP card issued by that bank. I'm not sure if I was aware of what the other banking arrangements were - sorry, whether The Star was aware of other banking arrangements, but - sorry, I take your point. We weren't - we - The Star was not - was not aware whether there was a - a cheque account for Mr Lee with that bank.

MR BELL SC: And as you've already told me, you understand that a valid cheque is an unconditional order in writing that requires the financial institution to pay on demand; correct? You told me that several times.

MR WHITE: I understand that now, Mr Bell, yes.

MR BELL SC: Right. And there was no - so far as you were aware, there was no cheque account arrangements between China Construction Bank and Mr Lee; correct?

MR WHITE: That's correct.

MR BELL SC: And so if that were the case, there was no – if that was the case, then the China Construction Bank was not required to pay on this cheque because there was no cheque account arrangements between them; correct?

5

MS RICHARDSON SC: I object to – I object to that question, and I would ask to raise this in the absence of the witness.

MR BELL SC: Well, we will do that. Yes. Okay.

10

<THE HEARING IN PUBLIC SESSION ADJOURNED AT 4:16 PM

<THE HEARING IN PUBLIC SESSION RESUMED AT 4:21 PM

15 **MR BELL SC:** Mr White, I will ask you a question that I asked you yesterday and you can consider it and tell me whether it's correct. Did you understand at all times since 2013 that in order for there to be a valid cheque, it must be unconditional order in writing from the customer that requires the financial institution to pay?

20

MR WHITE: Yes, but I don't think I understood that to mean what you - you're explaining to me what it means or could mean. I'm sorry. That - that wasn't my understanding of - of how a cheque worked.

25 **MR BELL SC:** Listen carefully to my question and see if you can answer this question. At all times since 2013, did you understand that a requirement of a valid cheque was that it be an unconditional order in writing that it requires the financial institution to pay?

30 **MR WHITE:** I - I'm not - I - I think - I've answered in the - I - I'm sorry, Mr Bell. I'm - I'm trying to work out how I - I just provided an answer - I know that's not maybe directly answering, but my understanding was that - that if - sorry . But - I - I would have known - or I certainly had read the Cheques Act, but I - given the previous discussion, I don't think I understood or fully grasped the import of that in that I thought that the counter cheque met that in being a valid cheque. But I can now see, based on the point you're raising with me, that maybe I was mistaken in that regard.

35

MR BELL SC: And were you aware at all times since 2013 that section 11 of the Cheques Act provided that an unconditional order in writing must be more than an authorisation or request to pay?

40

MR WHITE: I believe I was aware that that was a provision of the Act. But again, I - I didn't think that was relevant to this cheque because I thought it was a valid cheque.

45

MR BELL SC: Right. And looking at the document in front of us, which is a counter cheque that counsel assisting has taken you to --

MR WHITE: Yes.

5 **MR BELL SC:** -- it's correct, is it not, that the only banking arrangement of which you understood The Star was aware between China Construction Bank and Mr Lee was a China UnionPay debit card?

MR WHITE: Yes, that would be correct.

10 **MR BELL SC:** So far as The Star was aware - I withdraw that. So far as you were aware, there was no other banking arrangement between China Construction Bank and Mr Lee?

15 **MR WHITE:** I - I wouldn't have been personally aware of - this is the first time I've seen this, sorry, counter cheque.

20 **MR BELL SC:** And when you were preparing your memorandum on the 3 February 2014 - exhibit F54 - perhaps we should go back to that. Can we go back to exhibit F54, please, operator. The premise on which you were working in preparing this memorandum was that the only banking arrangement between the patron and the bank in China was a China UnionPay debit card; correct?

25 **MR WHITE:** Sorry. Mr Bell, sorry, I just need to read the - the background again to --

MR BELL SC: Yes, of course.

MR WHITE: -- familiarise myself with what I was saying at the time.

30 **MR BELL SC:** Have a look under Proposed Workaround on the second page, page point 0592. Can we see that, please, operator. And do you see there that you say that:

35 "A potential workaround was to allow a CCF to be drawn by a patron with overseas bank accounts, but without a supporting blank cheque."

MR WHITE: Yes, I see that.

40 **MR BELL SC:** So the premise was that the only banking arrangement required between the bank in China and the patron was a China UnionPay debit card?

45 **MR WHITE:** I'm sorry, Mr Bell. I can't remember. I - I don't know if that would have been my understanding because to have the debit card, you would have to have an underlying account as well. But I - I'm - I'm sorry, I can't be absolutely certain because this is a very long time ago and I don't think, until I - until the - I saw a copy of this in the documents for the review, that I've actually reviewed this memo since that time.

MR BELL SC: You had no basis to conclude, when you were preparing this memorandum, that there was a cheque account between the bank in China and the customer; correct?

5 **MR WHITE:** Correct, but I didn't believe that was a requirement under the Cheques Act.

MR BELL SC: All right. So you proceeded on the basis, did you, that these counter cheques were valid cheques?

10

MR WHITE: Yes.

MR BELL SC: And you tell me, I think, that you understood at all times that a cheque had to require a financial institution to pay; is that right?

15

MR WHITE: I think so. I'm - my - as - I think I've said what my understanding was, was that I understood this to be a valid cheque, including, I believe, in the Cheques and Payment Orders Act a little further down - and I can't remember which section it is, but there's a piece around - which is in the negative, saying that just because a cheque includes the details of an account, doesn't mean to say that it's not a valid cheque. And so my understanding of - of that in the previous provisions meant that it just had to be - that the - that - that it was just had to be drawn on the - on the bank - sorry, on - on the financial institution.

20

25 **MR BELL SC:** So you took this advice to the CEO and the CFO; correct?

MR WHITE: I did.

MS SHARP SC: And you understood that The Star acted on this advice?

30

MR WHITE: I - I - yes.

MR BELL SC: If it turns out that this advice is wrong, it would follow that on each occasion on which a temporary counter cheque was issued, there would be a breach of section 74; correct?

35

MR WHITE: I - I understand that, yes.

MR BELL SC: Yes, Ms Sharp.

40

MS SHARP SC: And in fact, it would breach section 74 if the counter cheque were issued and the chips were advanced to the patron before the funds from the CUP card had cleared?

45 **MR WHITE:** Yes, that would be correct.

MS SHARP SC: Could I just take you, please, Mr White, to exhibit B at tab 3, which is STA.3012.0005.0037.

MR WHITE: Do you mind if we just pause for a moment, please?

MS SHARP SC: Could we have a five-minute adjournment?

5

MR BELL SC: We will take an adjournment.

<THE HEARING ADJOURNED AT 4:31 PM

10 **<THE HEARING RESUMED AT 4:41 PM**

MR BELL SC: Mr White, are you able to proceed?

MR WHITE: I am, Mr Bell.

15

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Could I just take you, Mr White, to a few documents that we have recently received, and I will have to have these marked for identification. First of all, operator, could I call up STA.3040.0001.0011. And you will see there's an email at the bottom of this document, Mr White, from David Procter dated 27 November 2014, and you're one of the people it's copied to?

20

MR WHITE: Yes, I see that. Is - is there sorry. Is there more of a chain to this email?

25

MS SHARP SC: Yes. I just want you to identify it first of all, and then I will have it marked for identification. So, Mr Bell, could I have this document marked for identification, please?

30

MR BELL SC: Yes. It will be MFI38.

MS SHARP SC: All right. Now, Mr White, there's a reference here to recent discussions with you around China UnionPay and temporary cheque cashing facilities, and you will see that Mr Stevens is asked to review your advice?

35

MR WHITE: Yes.

MS SHARP SC: And do you recall such a review happening at that time?

40

MR WHITE: I - I'm afraid I - I don't remember the specifics. I can see there's an email there.

MS SHARP SC: And just - you wanted to see the next page, so let me show it to you. It's 0012. And you will see there's reference there to section 10 of the Cheques Act. Now, I don't need to ask you any more about that. Can I then take you, please, to a copy of a cheque cashing and deposit facility. It's a

45

document - it's STA.3041.0001.0028. And this document, Mr Bell, does not bear a date on its terms, so I will first of all have this marked for identification.

MR BELL SC: MFI39.

5

MS SHARP SC: And then I will call up the document that covers it, which is STA.3041.0001.0026. Now, this is not your document, Mr White, but I'm showing it to you just to establish a date. Do you see this is an email from Suzanne Mawer, M-a-w-e-r, to Jocelyn Smith at ILGA dated 9 December 2014?

10

MR WHITE: I see that, yes.

MS SHARP SC: And do you see it's entitled SOP Update Cheque Cashing and Deposit Facilities?

15

MR WHITE: I see that, yes.

MS SHARP SC: Could I have that email marked for identification, please, Mr Bell?

20

MR BELL SC: Yes. That will be MFI40.

MS SHARP SC: Could I take you back now, Mr White, to that cheque cashing and deposit facility SOP. And were you very familiar with these standard operating procedures?

25

MR WHITE: I was at certain times. I don't recall whether I was at all times. I - I remember I went through a later process of - that - of reviewing these, but I - I can't recall whether I was at this time.

30

MS SHARP SC: Well, I will just ask you a question and you may or may not be able to answer it. If I go to pinpoint 0037 of this document, please. And do you see there's a heading Task Acceptance of China UnionPay Debit Card?

35

MR WHITE: I do.

MS SHARP SC: All right. And what I'm going to do is have the next page put up together with it so you can see the - well, most of the task. Now, is it right that - if you look at the left-hand column, is it right that paragraphs 1 to 6 relate to the situation with the China UnionPay card where funds have cleared - and you may be assisted in looking at paragraph 5 there - while paragraphs 7 through 14 relate to the situation where there are uncleared funds?

40

MR WHITE: Sorry, let me - I need to read the - sorry.

45

MS SHARP SC: Take your time.

MR WHITE: So I've - I've read the steps. Should I read the standard as well, sorry?

5 **MS SHARP SC:** No, no, no. Just the steps. All I wanted to know is whether paragraphs 1 to 6 deal with the situation where there are cleared funds, and paragraph 7 onwards deal with the situation where there are uncleared funds.

MR WHITE: That would appear to be the case, yes.

10 **MS SHARP SC:** All right. And at paragraph 8, this is where this procedure of the temporary cheque cashing facility is referred to.

MR WHITE: Yes, I see that.

15 **MS SHARP SC:** And if I do take you now over to the standards column on pinpoint 0038. Can you see in the second bottom paragraph in that column, there is a reference to the CMS-generated counter cheque?

MR WHITE: Yes.

20 **MS SHARP SC:** Is that the counter cheque that you were recommended be generated for a temporary cheque cashing facility associated with the CUP swipes, or don't you know?

25 **MR WHITE:** I - I don't know for certain.

MS SHARP SC: All right. Well, just while we're there, could I take you to pinpoint 0039, please. Now, here there's a reference - do you see in the left-hand column at number 16, it says:

30 "For third-party CUP transactions."

MR WHITE: Yes.

35 **MS SHARP SC:** Are you able to tell us what a third-party CUP transaction is?

MR WHITE: My - my understanding - or my recollection is that it related to where a cardholder who swiped their card subsequently transferred the value to another person.

40 **MS SHARP SC:** So does that mean that patron A could - I withdraw that. Does that mean that person A could swipe their CUP card at the hotel and then gaming chips could be made available to person B?

45 **MR WHITE:** I - I'm not sure if that could be the case, but I think it was more that the funds would go - would - once the funds were cleared, they would be put into the front money account of the cardholder and then with a front money account transfer in accordance with The Star's standard requirements to another person.

MS SHARP SC: And just while we're here, could I also take you, please, to pinpoint 0042. Do you see there's a heading there Acceptance of Cheques for Cheque Cashing Facility Drawdowns?

5

MR WHITE: Yes.

MS SHARP SC: And could I just take you, please, over the page to pinpoint 0043. And do you see it says:

10

"Note, patrons with a CCF drawn on an overseas bank must provide a signed personal cheque prior to any drawdown. Overseas banks do not honour The Star generated counter cheques."

15 And I'm just wondering, was that consistent with your understanding at the time, or you didn't know that, that is, in late 2014?

MR WHITE: I - I think in - I - I can't be certain of that time, I'm sorry.

20 **MS SHARP SC:** Can I take you now, please, to another document. This is STA.3401.0003.3854. And this is exhibit B2969.

MR WHITE: Yes.

25 **MS SHARP SC:** And do you see that - that there's an email from you at the bottom of that first page, sent to Paula Martin and Andrew Power, dated 29 January 2016?

MR WHITE: I can see that, yes.

30

MS SHARP SC: And it's described as a - the subject is Privileged and Confidential, CUP Team Member Briefing Note.

MR WHITE: Yes.

35

MS SHARP SC: And do you agree that what you - and you might need to refer up the chain now. Do you agree that attached to that email chain was a document called CUP High Level Briefing Note?

40 **MR WHITE:** Sorry, I can see where it says attachments. Yes, I see that.

MS SHARP SC: Could I now take you to a different document, which is STA.3401.0003.3856. And this is, Mr Bell, exhibit B at 2970. Now, I'd ask you to assume for a moment that this is the document that was attached to that email. Do you recognise this as a document you prepared?

45

MR WHITE: I don't recall. But if it was attached to that email, then, yes.

MS SHARP SC: And do you see at paragraph 9 it says:

5 "The Star Entertainment Group may provide cheque cashing facilities to approved patrons, which may be repaid with cleared funds originating through a CUP transaction."

MR WHITE: Yes.

10 **MS SHARP SC:** And was that a reference to the temporary cheque cashing facility associated with CUP card?

MR WHITE: I don't know for certain, but it is likely, yes.

15 **MS SHARP SC:** Can I take you to another document, please. This is STA.3401.0006.7347. Do you see that's an email from you dated 28 November 2016?

MR WHITE: I do.

20 **MS SHARP SC:** And this is exhibit B147. You there state in the second paragraph:

25 "As you may be aware, VIP use of China UnionPay credit cards is a sensitive area and we need to ensure the relevant documentation is drafted to minimise potential risk to the business."

MR WHITE: Yes.

30 **MS SHARP SC:** And why was it a sensitive area at that time?

MR WHITE: I'm afraid I can't remember specifically for that period, but I believe that would be - and I said "credit card", but I believe that was because of the - the - sorry, I'm getting myself tied up.

35 **MS SHARP SC:** Well, I will approach it another way. I will take you to the attachment to this email, and this is STA.3401.0006.7348. Now, this is exhibit B, tab 148. And what I'm showing you, Mr White, is an invoice for Astral Tower and Residences. And do you see in the description of the transaction it says "CUP front money"?

40 **MR WHITE:** I do.

45 **MS SHARP SC:** Now, if I could return to you that email at exhibit B147. Do you see - what you say in the second paragraph after saying, "It's a sensitive area," is that:

"If at all possible, I would like to amend the standard wording to say 'transfer to customer's The Star account'."

MR WHITE: Yes.

5 **MS SHARP SC:** And it is right, isn't it, that what you wanted to do was not have the words "CUP front money" appear on The Astral Tower invoice but instead have the word "transfer to customer's The Star account" appear on the invoice?

MR WHITE: Yes. That appears to be what the email says, yes.

10 **MS SHARP SC:** And the reason you were asking for this at the time is because you wanted to distance the hotel receipt from any relationship with the provision of front money?

15 **MR WHITE:** I - I don't - I - I don't recall that being the case, no.

MS SHARP SC: Well, I suggest that that was the case, and you well knew it at the time.

20 **MR WHITE:** I - I - I - I don't remember. I - yes, I don't remember, I'm sorry.

MS SHARP SC: Can I take you now to STA.3401.0003.6859. And do you see that's another email from you dated 16 January 2017?

25 **MR WHITE:** Yes, I see that.

MS SHARP SC: And this is exhibit - Mr Bell, it's exhibit B167. And you've sent this to a number of people, including Harry Theodore and Paula Martin?

30 **MR WHITE:** Yes.

MS SHARP SC: And it's right that what you're doing is drawing people's attention to some media articles about the use of China UnionPay cards in casinos?

35 **MR WHITE:** That appears to be the case, yes.

MS SHARP SC: And what you say in that second paragraph is that:

40 "If the general gist of the stories is correct and Beijing is looking to limit the use of the CUP cards for capital outflows, then we should be aware of this and considering our potential exposure should CUP be shut down as a payment method for The Star Entertainment Group or CUP is both shut down as a payment method and CUP refuses to clear one or more of the approved transactions."
45

Now, it's right, isn't it, that you were aware that the CUP card was a way of moving money out of mainland China, notwithstanding the Chinese Government's restrictions on the flow of capital outside of China?

MR WHITE: Sorry. Could you put that question - sorry, I was still reading the email. Sorry. Do you mind putting that question to me again, sorry?

5 **MS SHARP SC:** Yes, I will, Mr White. At this time, you understood that the CUP card was a method for getting money out of mainland China, notwithstanding the mainland Chinese Government's restrictions on capital outflows?

10 **MR WHITE:** I think my - sorry. I believe my understanding at the time was that the CUP card was sort of legally possible or legally permissible, if that's the correct way of putting it. But - and - and at the time, my understanding was that The Star wasn't bound by the CUP rules. I appreciate that has been pointed out as factually incorrect. But I was also aware that CUP sort of could decide to stop the - sorry, stop the use of the CUP card sort of at any time, so --

15 **MS SHARP SC:** So is it correct that what you were trying to do was draw these risks to your colleagues' attention?

20 **MR WHITE:** That's correct. Because I can see I've copied in Chad Barton, who was the CFO at the time and who was the main decision-maker on things relating to CUP, and Paul McWilliams, who was the chief risk officer as that stage as well, as well as Harry and Paula that you've already drawn attention to.

25 **MS SHARP SC:** And could I take you now, please, to STA.3401.0006.8832. And this is another email from you, and this one is dated 7 February 2017. And is it right that this is just a file note you've written to yourself?

MR WHITE: It appears so, yes.

30 **MS SHARP SC:** And this is exhibit B193. And if I could just take your attention to this document. You're recounting, aren't you, that a player who is - or was - I withdraw that. You're recounting in this file note that a patron who has been advanced funds at The Star using CUP is under investigation by the Federal Police for money laundering offences?

35 **MR WHITE:** I - I think - sorry. Just reading through it, it says that he has been subject to media reports alleging he is under investigation. But, yes, that - that would appear to be the case, yes.

40 **MS SHARP SC:** And then if I take you to the third last - sorry, the fourth-last paragraph, what you there record is:

"I went and saw Matt Bekier at approximately 3 pm today to discuss -"

45 That patron:

"Flagging reputational risk and possible risk around China UnionPay."

MR WHITE: Yes.

MS SHARP SC: And may we take it that in your file note, you were accurately recording what it was you did?

5

MR WHITE: I believe so, yes.

MS SHARP SC: And you're accurately recording the conversation you had with Matt Bekier?

10

MR WHITE: Yes.

MS SHARP SC: And in your file note, you say:

15

"Matt was of the view that for \$100,000, it was probably not worth the reputational risk, but since the player was already flying to Sydney, given the relatively small buy-in, it was not worth knocking the patron back now."

MR WHITE: Correct.

20

MS SHARP SC: So that, you say, is what Matt Bekier said to you at the time?

MR WHITE: Yes.

25

MS SHARP SC: And it's right, isn't it, that what you were trying to do was draw a reputational risk to the concern of Mr Bekier, who was then the CFO?

MR WHITE: No, he was the CEO by this stage.

30

MS SHARP SC: I withdraw that. Who was then the CEO?

MR WHITE: Yes.

35

MS SHARP SC: And then you also record here that subsequent to your meeting with Matt, you call Adrian Hornsby to alert him to the proposed CUP customer and possible risk around not expecting to play much?

MR WHITE: Yes.

40

MS SHARP SC: And it's right that you did have that conversation with Adrian Hornsby?

MR WHITE: I - I believe so because I put it into this email.

45

MS SHARP SC: And again, you were trying to warn Mr Hornsby of a risk associated with the CUP card, were you?

MR WHITE: I believe so, yes.

MS SHARP SC: And if I go a further paragraph down, you say:

5 "I went back and mentioned this to Matt, who was now sitting with Chad."
Is that Chad Barton?

MR WHITE: Correct.

10 **MS SHARP SC:**

"Both noted this additional information, but considered in light of his being
on the flight and using CUP, that they were prepared to proceed for now.
They suggested that we try to keep this low profile."

15 **MR WHITE:** Yes.

MS SHARP SC: And that accurately records the conversation you had with them
at that time?

20 **MR WHITE:** I - I can't be certain, but I believe so because I don't think I would
have put it into this email had I otherwise.

MS SHARP SC: So this is really a file note you're making to yourself?

25 **MR WHITE:** Yes, I believe so.

MS SHARP SC: Why is it you were making a file note to yourself about this
matter?

30 **MR WHITE:** I - I can't recall.

MS SHARP SC: Well, can I take you to another document, please. If we can now
go to STA.3401.0007.06 - I beg your pardon. I have given you the wrong
35 document number. Let me start again. If we could go to - I withdraw that. Yes.
Can I take you to STA.3401.0006.8831. Do you see that's an email from you to
Mr Power dated 3 May 2017?

40 **MR WHITE:** I do.

MS SHARP SC: And this is exhibit B327. And what you're asking for is:

45 "Would you have any correspondence around your directions to the hotel
team at The Star relating to CUP arising from the section 31 review?"

MR WHITE: Yes.

MS SHARP SC: Now, is the reference to "the section 31 review" a reference to the periodic suitability review that the authority conducts into Star's casino licence?

5 **MR WHITE:** I believe so.

MS SHARP SC: And what you there say is that:

10 "It turns out that the hotel team are entering all CUP swipes against a centralised dummy account, including when the patron is staying at one of our hotels."

MR WHITE: Yes.

15 **MS SHARP SC:** So it's right, isn't it, that you were aware at that time that a centralised dummy account had been created for the CUP swipes?

MR WHITE: Yes.

20 **MS SHARP SC:** And is it right that you just found out about that at about this time?

MR WHITE: I believe so, yes.

25 **MS SHARP SC:** And is it right that what you were trying to do here was make Mr Power aware of your concern?

MR WHITE: Yes.

30 **MS SHARP SC:** Can you recall if Mr Power and you had any conversation about this?

MR WHITE: I - I can't remember, I'm afraid.

35 **MS SHARP SC:** Mr Bell, I note the time. I wonder whether it would be possible - if it was convenient to others - if we sat around another 15 minutes, only because we have lost a lot of time today.

40 **MR BELL SC:** Ms Richardson, I will be guided by you and Mr White as to whether that's convenient or not.

MS RICHARDSON SC: It's convenient to me. Could I have a moment --

45 **MR WHITE:** I'm - I'm fine for another 15 minutes as well, if it's - if it's convenient to everyone else.

MR BELL SC: In that case, we can proceed, I think, Ms Sharp.

MS SHARP SC: Can I take you now, please, to STA.3401.0006.6254.

MR WHITE: Yes.

5 **MS SHARP SC:** And this is exhibit B, tab 3095.

MR WHITE: Yes.

10 **MS SHARP SC:** Now, what I should do, as with many of these emails, is start at the back. So if I take you to pinpoint 6256. Do you see that's an email from a solicitor at Mallesons to you dated 3 May 2017?

MR WHITE: Yes, I do.

15 **MS SHARP SC:** Is it right that you were seeking advice from Mallesons at this time?

MR WHITE: Yes.

20 **MS SHARP SC:** And could I take you to the next email in the chain. If we go to pinpoint 6255.

MR WHITE: Yes.

25 **MS SHARP SC:** And could you - do you see there's an email from you dated 3 May 2017?

MR WHITE: I do.

30 **MS SHARP SC:** And it's to a number of solicitors at Mallesons, isn't it?

MR WHITE: Yes.

35 **MS SHARP SC:** And what you're doing is providing them with The Star's merchant agreement with NAB and the latest set of the UnionPay rules?

MR WHITE: Yes.

40 **MS SHARP SC:** So is it correct that you did seek external legal advice in relation to aspects of the merchant agreement and the UnionPay rules at this time?

MR WHITE: I did.

45 **MS SHARP SC:** And what you say in the second dot point is:

"The email attaching the rules is also of interest as it shows a set of discussions between The Star members and the NAB team servicing The Star around how the swipe was proposed to work and how it has been operating in

practice. Please note that in most instances the amount credited to the patron's room account is used to clear an amount outstanding by the customer with The Star, rather than any purchase of chips."

5 **MR WHITE:** Yes.

MS SHARP SC: And you then state:

10 "The most material question on which we need advice here is whether the transactions which have previously been settled could be unwound in some way by China UnionPay, were it to find out that a merchant facility was operated in breach of its rules. I know The Star has agreed to indemnify NAB."

15 **MR WHITE:** Yes.

MS SHARP SC: Now, you did understand at this time, didn't you, that those China UnionPay cards were being swiped in breach of China UnionPay's rules?

20 **MS RICHARDSON SC:** I object to that question. It has not been put to this witness as to what the breach of the China UnionPay rules is in relation to the swipe at the hotel.

25 **MS SHARP SC:** I'm happy to withdraw that question and approach it a different way. I will come back to this email, Mr White. Could I take you, please, to the China UnionPay rules at exhibit B, tab 333, which is STA.3402.0007.2472. Now, you accept, don't you, that given your seeking advice from Mallesons about a possible breach of the UnionPay rules, you would have read them by that time?

30 **MR WHITE:** I - I think, consistent with what I've said previously, is I don't recall having read the whole of the CUP rules.

MS SHARP SC: Well --

35 **MR WHITE:** But I - I - I believe I've read sections of the rules.

MS SHARP SC: Well, I will take you to an aspect of them and you can tell me if you've read these. Could I take you, please, to pinpoint 2598. And I'm showing you a schedule in those rules. Do you see there's a little acronym in the corner that
40 said "MCC"?

MR WHITE: I do.

MS SHARP SC: And do you understand that that means merchant category code?
45

MR WHITE: I - I'll take your word for it. I think that would be the logical meaning of it, yes.

MS SHARP SC: And do you see, about three rows down, there's a number 7995 which is defined as:

5 "Betting, including lottery tickets, casino gaming chips, off-track betting, and wagers at race tracks."

MR WHITE: I do.

10 **MS SHARP SC:** And do you see there's a tick and a red box there that says "fully prohibited"?

MR WHITE: Yes.

15 **MS SHARP SC:** Now, at this time - and that is by 2017 - had you at least read that part of the UnionPay rules that said that this transaction was fully prohibited by UnionPay International?

20 **MS RICHARDSON SC:** I object to that question. It should be clarified which transaction my learned friend is suggesting is in breach.

MS SHARP SC: I'm happy to put it again. Did you understand, Mr White, from that part of the UnionPay rules that you read, that they prohibited the CUP cards being used to purchase casino gaming chips?

25 **MR WHITE:** I understood that as being that directly used to purchase casino gaming chips. But based on the sort of - for - the two-stage process with the swipe at the hotel, clearing of the funds and then the subsequent transfer, that that would potentially be permissible.

30 **MS SHARP SC:** I see. And - I withdraw that. So could I - having gone to this, can I now return to your email to Mallesons seeking advice, please.

MR WHITE: Yes.

35 **MS SHARP SC:** That's exhibit B at tab 3095 at pinpoint 6255.

MR WHITE: Yes.

40 **MS SHARP SC:** And if we go back, operator, to pinpoint 6255. And if I take you back to the - that paragraph:

45 "As I am sure Ken conveyed, the most material question on which we need advice here is whether the transactions which have previously been settled could be unwound some way by China UnionPay, were it to find out that the merchant facility was operated in breach of its rules."

Now, let me break this down. By the time you sent this email, were you concerned that the merchant facility had been operated in breach of UnionPay's rules?

MR WHITE: I thought there was - I - I think, by this stage, I thought there was - it was possible that CUP would find that this was in breach of its rules, yes.

5 **MS SHARP SC:** And why did you think that, Mr White?

MR WHITE: Because there was an albeit indirect link to gaming and that, because CUP are the - effectively the judge of their own rules, that they could find that even if the indirect - or two-stage process that I believed had been blessed by
10 NAB wasn't - that they - they could - sorry, that CUP could adjudge that that didn't count and - because it's their rules to decide what's - what's workable and what's not.

MS SHARP SC: And when you say you thought the transactions had been
15 blessed by NAB, what do you mean there?

MR WHITE: By that, I mean the original email chain with - between David Aloï and the NAB person back in this - I had seen on an email from 2013, and I also think based on - well, yes, my recollection of discussions with other - with
20 treasury team members who had been speaking to NAB.

MS SHARP SC: And just to be clear, the NAB document you were referring to is the one I took you to earlier this afternoon?

25 **MR WHITE:** Yes.

MS SHARP SC: Now, you say in this email that:

30 "The Star has agreed to indemnify NAB in relation to claims against NAB for breaches."

Is it right that what you were concerned about at this time was that there was possibly a breach of the UnionPay rules in relation to the swipes of the CUP cards, and you wanted to know what impact this had for the indemnity that Star had
35 granted to NAB?

MR WHITE: Yes, but - I - I have a recollection, but I can't be certain as to whether it was at this - around this time exactly or not, of being in a meeting and - and - on CUP. I can't be absolutely certain of who was at that meeting either,
40 I'm afraid. It's - it's - it's not a precise recollection. But I do recall that at that meeting, Chad Barton, who was the CFO at the time and the key decision-maker on all things CUP for the vast majority of the time that The Star was using CUP - that there was a discussion around the consequences and that I noted the indemnity, and I think I also - I can't be certain, but my recollection is that I was
45 also saying, "Well, the other thing I can see is that they will take China - that China UnionPay will direct NAB to cease - to - to stop The Star using CUP." And that my recollection, and from being pushed on this, was Chad saying, "Well, let's just wait until they take it away from us."

MS SHARP SC: So your --

5 **MR WHITE:** And I - I think this - I think this might have - I - I can't be certain whether this preceded this, or this followed this, but that could well have been the genesis of this email.

10 **MS SHARP SC:** And just to go now to the first page of this email chain at pinpoint 6254. Do you see this is an email from a lawyer at Mallesons to you dated 4 May 2017?

MR WHITE: I do.

15 **MS SHARP SC:** And it's expressed as being "preliminary thoughts". Do you see that?

MR WHITE: I do.

20 **MS SHARP SC:** And point number 1 is:

"We consider the merchant agreement gives NAB the right to request the transaction information from The Star."

25 **MR WHITE:** Yes.

MS SHARP SC: And had you been receiving any transaction information requests from NAB at this point in time?

30 **MR WHITE:** Yes. I believe it's in other emails that have been made available to the review. I believe that the - shortly before this, towards the end of April and the last few days of April, that was when The Star had received its first information requests from NAB in relation to CUP transactions.

35 **MS SHARP SC:** And, sorry, that was April 2017?

MR WHITE: Late April - late April 2017 is my recollection.

40 **MS SHARP SC:** And did that strike you as a little bit odd, given your assumption that NAB understood how these China UnionPay cards were being used?

45 **MR WHITE:** I - I think - and - and again, it's probably clearer within the emails, and this is me paraphrasing, but I believe it was - at that stage NAB was - or, sorry, it became clear during that that it was passed through by NAB from queries it was receiving itself.

MS SHARP SC: And were they queries from UnionPay International?

MR WHITE: I can't be certain whether it was UnionPay International or whether it was cardholder banks themselves.

5 **MS SHARP SC:** But did you understand that the queries were, in essence, being made by one of those two entities and NAB was forwarding them in order to obtain information from The Star?

MR WHITE: Around this time, yes.

10 **MS SHARP SC:** Could I just return you to this advice - I withdraw that - this email from Mallesons at pinpoint 6254. Do you see at point 2, it is stated:

15 "Based on the information you have provided to us, it may be arguable that The Star has not breached the terms of the merchant agreement by processing hotel package transactions with UnionPay cards. As discussed, The Star is only bound by the merchant agreement, not the UnionPay scheme rules. There is nothing in the merchant agreement that prohibits The Star from processing such transactions."

20 **MR WHITE:** Yes.

MS SHARP SC:

25 "Further, there is nothing in the agreement that requires The Star to comply with the UnionPay scheme rules."

MR WHITE: Yes.

30 **MS SHARP SC:** And then if I can draw your attention to paragraph 3:

"We note there may also be an argument that the hotel package transactions -"

35 I think that must be "were":

"Parts of the proceeds -"

I withdraw that. I will start again. Paragraph 3 provides:

40 "We note that there may also be an argument that hotel package transactions where parts of the proceeds are transferred into Star accounts are also not prohibited under the UnionPay scheme rules as it may not be characterised as a 'fully prohibited' transaction."

45 **MR WHITE:** Yes.

MS SHARP SC: Now, did you understand, when you were reading this, that this was not unqualified advice that was being provided to you?

MR WHITE: At the time, I - I - I - sorry. My - my recollection of - at the time was that I felt that this was the advice. With hindsight, you know, having read this much more closely now, I can see that it says "preliminary thoughts".

5

MS SHARP SC: But you did rely on this at the time, did you?

MR WHITE: I did.

10 **MS SHARP SC:** Did you pass this on to anybody else within your organisation?

MR WHITE: I - I don't recall whether I forwarded the advice, as in, forwarded this email. But I would certainly have shared the content of it with - with others within the organisation.

15

MS SHARP SC: And who would you have shared the contents with?

20 **MR WHITE:** Definitely with Paula, as I would discuss most - sorry. I will take that back. I would certainly discuss material issues with CUP with Paula on a regular basis.

MS SHARP SC: And would you - well, I withdraw that. Did you discuss this with Chad Barton or Matt Bekier?

25 **MR WHITE:** It's - I - I - I don't - my recollection is that Chad Barton - I - I don't recall having a discussion with Matt Bekier about CUP, certainly after sort of now having seen the file note in relation to the February 2014 conversation. But subsequent to that, when Chad became CFO, which was shortly after that, my recollection is that the key decision-maker and the key person to provide
30 information to in relation to CUP was Chad. And I - I think it - like, I can't recall whether I briefed Chad on this advice, but I think it's likely that I did.

MS SHARP SC: And just if I could draw your attention, please, to paragraph 4, Mr White. It is stated that:

35

"It is not clear based solely on the documents that you have provided to us that NAB has understood that it may have endorsed or permitted behaviour by The Star that could potentially breach the scheme rules. Rather, it appears from the email chain alone that NAB was considering the most appropriate merchant code for the hotel packages transactions, such as 'membership accounts' or possibly 'lodging'. It would be helpful if you could provide other
40 communications you have had with NAB on this topic."

45 Now, did you understand from this that you were being advised that it wasn't clear that NAB knew that these CUP cards were being used to purchase gambling chips?

MR WHITE: I certainly understood that - that they were saying that the email chain wasn't clear as - wasn't clear on that matter, yes.

5 **MS SHARP SC:** And did you personally take any steps to check at this time whether NAB was aware that the CUP cards were being swiped at the hotel and ultimately gambling chips were being purchased?

MR WHITE: I don't recall having done so, no.

10 **MS SHARP SC:** Did you tell anybody else that Mallesons had raised this particular concern, that is, that NAB may not have been aware?

15 **MR WHITE:** I - I don't recall having done so, although I - I - yes, I - look, I - I can't recall. I - I'm - I'm sure I raised the fact that - probably more in the context of the final point of saying that, you know, there - that there's definitely nothing that would say that NAB, because they knew of this, wouldn't be able to take action against The Star. I think that's certainly the point that I - that I - again, it's not an exact recollection. But my vague recollection is that that was the point that I conveyed, was that - that the - you know, the indemnity was - could be relevant to
20 The Star.

MS SHARP SC: So is it right, then, that after receiving this email, you still thought that Star was at a risk vis-a-vis the indemnity that it had given to NAB?

25 **MR WHITE:** Yes.

MS SHARP SC: And did you make that apparent to anyone else at The Star?

30 **MR WHITE:** I - I - I can't be entirely certain, but I'm pretty sure that would have been conveyed to Chad.

MS SHARP SC: And what about to Ms Martin?

35 **MR WHITE:** I - I can't be sure. It's - it's likely, but I - I just really can't be sure, I'm sorry.

MS SHARP SC: And did you obtain any further advice from Mallesons about this matter?

40 **MR WHITE:** Not at this stage.

MS SHARP SC: Did anyone else from The Star direct you at this time to obtain further advice from Mallesons about the matter?

45 **MR WHITE:** No.

MS SHARP SC: I'm going to move on to a slightly different topic now, Mr Bell. Would this be a convenient time to adjourn for the day?

MR BELL SC: Yes, I will adjourn until 10 am tomorrow.

<THE HEARING ADJOURNED AT 5:35 PM