



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**

**TUESDAY, 12 APRIL 2022
AT 10:00 AM**

DAY 19

**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 M. FORGACS
and MR H. ATKIN as counsel for The Star Pty Ltd**

**Star Witness
MS PAULA MAREE MARTIN**

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

<THE HEARING RESUMED AT 10:03 AM

MR BELL SC: Ms Martin, you remain bound by the affirmation you made yesterday.

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<PAULA MAREE MARTIN, ON FORMER AFFIRMATION

MR BELL SC: Yes, Ms Sharp.

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

MS SHARP SC: Ms Martin, have you invited any of your legal colleagues at The Star to write "privileged" on their documents even when they have not confirmed that the document is, in fact, privileged?

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MS MARTIN: No, I don't believe so.

MS SHARP SC: Are you aware of a practice amongst your legal team of legal officers marking their documents, including their emails, "privileged" when they have not satisfied themselves that there is a basis for the claim of legal professional privilege?

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MS MARTIN: I don't believe I'm aware of such a practice.

25 **MS SHARP SC:** Does it concern you in any way that Mr Power has a practice of marking his emails with "privilege" even though he has not satisfied himself in each case that the email is privileged?

MS MARTIN: I don't believe I'm aware of such a practice.

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MS SHARP SC: But does it concern you if that's what Mr Power says that he does?

MS MARTIN: I'm sorry. Could you just repeat what that was?

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MS SHARP SC: Yes. Would it concern you if Mr Power had a practice of marking his emails "privileged" even when he had not turned his mind to the question of whether, in fact, those emails were subject to legal professional privilege?

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MS MARTIN: Not necessarily.

MS SHARP SC: And why is that?

45 **MS MARTIN:** Because there may be particular circumstances that prompted that that I'm not aware of.

MS SHARP SC: Well, what if there aren't particular circumstances?

MS MARTIN: I'm still not sure I'd necessarily be concerned.

5 **MS SHARP SC:** Well, is it okay for a lawyer to write on every single one of their emails that it is privileged even when they do not believe that to be the case?

MS MARTIN: If it was every single one of those emails, that may be problematic, if they knew that that wasn't the case.

10 **MS SHARP SC:** What about if it were a substantial number?

MS MARTIN: Again, I'm not sure whether I'd be concerned, depending on the circumstances.

15 **MS SHARP SC:** Well, let me ask you this: can you see any risks involved in that practice where the lawyer is working for a regulated entity?

MS MARTIN: Not necessarily. But, again, I think it would depend on the circumstances.

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MS SHARP SC: Well, let me test it this way: if a regulator were to seek document productions from the entity it regulates and those collating the documents see "privilege" written on the documents, is there a risk that those collecting the documents will not provide them to the regulator because they
25 assume that they are subject to legal professional privilege?

MS MARTIN: In that hypothetical scenario where all of those things played out, then that is potentially a risk.

30 **MS SHARP SC:** Are you aware of any - I withdraw that. Can I move now to discuss your involvement in the KPMG review of The Star's AML/CTF program in 2018?

MS MARTIN: Yes.

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MS SHARP SC: What was your role, if any, in commissioning that review?

MS MARTIN: I don't specifically recall a particular role in commissioning the review, by memory.

40

MS SHARP SC: Were you aware that a review was being commissioned at the time it was first commissioned?

MS MARTIN: I don't specifically recall that timing.

45

MS SHARP SC: Well, you had a role with respect to the administration of the AML/CTF program at that time, didn't you?

MS MARTIN: No, I don't believe I did at that time, if we're referring to the review that was commissioned around 2018.

MS SHARP SC: Yes.

5

MS MARTIN: No, I didn't have that role at that time.

MS SHARP SC: Did Paul McWilliams report to you at that time?

10 **MS MARTIN:** No, he did not.

MS SHARP SC: Did Tarnya O'Neil report to you at that time?

MS MARTIN: No, she did not.

15

MS SHARP SC: Who did they report to?

MS MARTIN: Mr Paul McWilliams reported to Mr Matt Bekier, and Ms Tarnya O'Neil reported to Mr Paul McWilliams, I believe.

20

MS SHARP SC: Now, could I take you to your statement, please, at paragraph 32. Now, you there refer to the KPMG independent review? Have you ever seen the letter of engagement by which The Star engaged KPMG?

25 **MS MARTIN:** I believe I have seen that in preparing for this review, at least.

MS SHARP SC: And can I show you a copy of that letter, please. It's KPMG.0001.001.0047. Mr Bell, could you just pardon me for a moment, please?

30 **MR BELL SC:** Yes.

MS SHARP SC: Could the operator please bring up KPMG.001.001.0047. Now, this is the letter that KPMG wrote to Tarnya O'Neil confirming the scope of its engagement. Have you seen this letter before?

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MS MARTIN: I think, as I just mentioned, I believe I've seen it in preparing for this review.

40 **MS SHARP SC:** And you will agree that it makes no mention of KPMG being retained for the purpose of The Star providing or receiving legal advice?

MS MARTIN: I can only see part of the letter at the moment. Do you want me to review the whole letter, Ms Sharp?

45 **MS SHARP SC:** Well, I will take you, if I can, to pinpoint 0054.

MS MARTIN: Thank you.

MS SHARP SC: Is there anything here where it's stated that KPMG is providing legal advice? And perhaps I could draw your attention to the paragraph above the word "terms". Do you see it says:

5 "It should be noted that this internal audit does not constitute legal advice."

MS MARTIN: I see that sentence, yes.

10 **MS SHARP SC:** I'm taking you to this because you claimed this report was privileged; do you recall?

MS MARTIN: I'm sorry. Which report?

15 **MS SHARP SC:** The KPMG report that reviewed part A of the AML/CTF program.

MS MARTIN: I believe I made a claim that those reports - there were two parts - were privileged at a point in time.

20 **MS SHARP SC:** Yes. And you now say that was wrong, don't you?

MS MARTIN: I've made a statement to that effect in my witness statement.

25 **MS SHARP SC:** All right. Well, do you accept that it was wrong?

MS MARTIN: Sorry, I - in my witness statement, I accepted that the claim that was made for privilege over particular documents that were the KPMG reports, as I think they were defined in my statement, was a claim that was based on my view at the time and which I have, with hindsight, accepted was in error.

30 **MS SHARP SC:** Well, I'm going to suggest to you that there was no proper basis for you to make that claim at the time; do you agree?

35 **MS MARTIN:** No, I don't agree with that statement.

MS SHARP SC: All right. Well, let's review these documents in that event. When you made your claim for privilege initially, did you take the time to review the terms of engagement?

40 **MS MARTIN:** I can't recall that specifically.

MS SHARP SC: But you accept here that it says:

45 "It should be noted that the internal audit does not constitute legal advice."

MS MARTIN: I see that sentence in KPMG's letter, yes.

MS SHARP SC: And could I take you to pinpoint 0054. This is exactly the matter I did take you to. Can I then take you to the attached terms and conditions, which are at pinpoint 0058.

5 **MS MARTIN:** My apologies. That's a bit small on the screen.

MS SHARP SC: Yes. Could I have clause 1.3 enlarged for you. Do you see it says:

10 "Our services exclude the provision of legal advice or services."

MS MARTIN: Yes, I see that sentence.

15 **MS SHARP SC:** Now, you agree that it's quite clear that KPMG was not providing legal services to The Star, don't you?

MS MARTIN: Yes, I see that's what that sentence of their terms of reference says.

20 **MS SHARP SC:** All right. But that's slightly different. You agree, don't you, that KPMG was not, for the purpose of this engagement, providing legal services to The Star, don't you?

25 **MS MARTIN:** Yes, I would accept that.

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

MR BELL SC: Yes.

30 **MS SHARP SC:** Now, could I take you, please, to the first of the KPMG reports dated 16 May 2018. The part A report is STA.3001.0001.2750.

MR BELL SC: What exhibit is that, Ms Sharp?

35 **MS SHARP SC:** I will just have that called up, Mr Bell. It's exhibit B794, Mr Bell. Now, when was the first time you saw this document, Ms Martin?

40 **MS MARTIN:** I don't recall a specific date, but I think in my witness statement I said that it was around the time of a meeting held a week later for review of materials I have.

MS SHARP SC: Right. So that meeting, was that an audit - was that, sorry, a board subcommittee meeting?

45 **MS MARTIN:** Yes, that's the meeting I'm referring to (indistinct).

MS SHARP SC: So you say that you saw this document about a week before that meeting?

MS MARTIN: Apologies, Ms Sharp. I think it was in the week before that meeting; I'm just not sure of a specific date.

5 **MS SHARP SC:** And did you read it carefully at the time you received it?

MS MARTIN: I don't specifically recall what I did at that time.

10 **MS SHARP SC:** Well, do you think that's most likely, in view of your ordinary practices as a senior lawyer at The Star?

MS MARTIN: I think it's possible that I had reviewed it. I couldn't be specific enough to say whether it was a close and detailed review, I think you said.

15 **MS SHARP SC:** Now, on that first page, do you agree you cannot see the word "draft" anywhere?

MS MARTIN: I cannot see that word on my screen, no.

20 **MS SHARP SC:** Who provided this document to you?

MS MARTIN: I think my recollection is that it was provided to me by Tarnya O'Neil.

25 **MS SHARP SC:** Did she tell you it was a draft document?

MS MARTIN: I don't recall.

30 **MS SHARP SC:** Did she tell you it was a final document?

MS MARTIN: I don't recall. I'm sorry.

35 **MS SHARP SC:** Do you remember that you had a planning meeting with Mr McWilliams for the purpose of introducing this report to the audit subcommittee of the board?

MS MARTIN: Yes. On my review of materials in preparing my witness statement, I have seen documents that detail that.

40 **MS SHARP SC:** Were you told by Mr McWilliams at that meeting that it was a draft document?

MS MARTIN: I don't specifically recall the discussion at that meeting.

45 **MS SHARP SC:** Well, the fact that you were both preparing to present it to the board, does that suggest to you it was a final document, Ms Martin?

MS MARTIN: Not that point in and of itself.

MS SHARP SC: Do you sometimes prepare presentations of draft documents to the subcommittee of the board?

5 **MS MARTIN:** That's not my current practice, but I'm not sure that's relevant to the discussions being held in 2018.

MS SHARP SC: Did you have a practice in 2018 of presenting draft documents to the audit committee?

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MS MARTIN: In 2018, I was not ordinarily involved in presenting documents or reports to the audit committee.

15 **MS SHARP SC:** Did you have a practice of preparing draft documents for presentation to any of the subcommittees of the board or the board itself?

MS MARTIN: I don't think I would describe that as a practice that I had.

20 **MS SHARP SC:** So it's something you didn't do as a general matter?

MS MARTIN: I'm just not sure I can be that specific comprehensively about how things were produced in my role to the board at that time.

25 **MS SHARP SC:** Well, would it be an unusual matter for you to prepare draft or work-in-progress documents to the board or one of its subcommittees?

MS MARTIN: I can't rule that out, Ms Sharp. I'm just - I'm just not certain.

30 **MS SHARP SC:** Now, it's right, isn't it, that two representatives of KPMG were invited to present at the audit committee meeting, isn't it?

MS MARTIN: I've been reminded of that in preparing for this review, that KPMG were invited to be available for that meeting.

35 **MS SHARP SC:** Did you invite them?

MS MARTIN: I don't recall, but I wasn't having direct contact with KPMG in relation to the arrangements for the meeting.

40 **MS SHARP SC:** Is it consistent with your ordinary experience at Star Entertainment that senior representatives of a third party are invited to a board meeting or board subcommittee meeting to present on a draft document?

45 **MS MARTIN:** In my experience, external advisors or consultants are called for a range of reasons. So it - it very much depends on their purpose for being involved.

MS SHARP SC: Are they invited when a document is still in draft form, Ms Martin?

MS MARTIN: They may be. I --

5 **MS SHARP SC:** Can I show you STA.3009.0010.0072. Now, this is your handwriting, isn't it?

MS MARTIN: Yes.

10 **MS SHARP SC:** So it looks like you've had a meeting on 22 May 2018. Do you accept that?

MS MARTIN: Yes, it does.

15 **MS SHARP SC:** Did I say 22 May? Yes.

MS MARTIN: Yes.

20 **MS SHARP SC:** All right. So do you agree that what you've discussed is this paper being presented to the board?

25 **MS MARTIN:** I'm not sure that's clear from that note alone. But I think, again, in my witness statement I have said that this appears to be a note from a meeting that was in my diary for 22 May that, yes, was with Mr Paul McWilliams and I think, potentially, the chair of the audit committee to talk about the upcoming meeting.

MS SHARP SC: So you say the chair of the audit committee participated in this meeting with Mr McWilliams? Is that the case?

30 **MS MARTIN:** I think that may have been the case. I would just need to check the diary records, Ms Sharp. I - I'm not clear from the note itself.

MS SHARP SC: And, Mr Bell, this is exhibit B806. And do you see you've noted there that:

35 "KPMG to be available to take questions."

MS MARTIN: Yes. I see that's what's written there.

40 **MS SHARP SC:** Now, can I take you, please, to the part A of the report, which is STA.3001.0001.2750. Do you agree that KPMG made a number of observations about the AML/CTF program which were critical?

45 **MS MARTIN:** I agree they made a number of observations about the AML program. I think - as to whether they used the word "critical", I'm not sure. But they had certainly rated the items in the report.

MR BELL SC: Ms Martin, did you understand at the time that this report by KPMG was setting out its independent review of the part A AML/CTF program for the purposes of the AML/CTF Act?

5 **MS MARTIN:** Yes, Mr Bell. I believe I did understand that in - around this time in May 2018.

MS SHARP SC: And what I might do is show you the AML/CTF Rules, if I could. I will call up INQ.012.002.0001. You agree that I'm showing you the rules
10 of 2007 (No. 1)?

MS MARTIN: Yes.

MS SHARP SC: And --
15

MS MARTIN: That's the title.

MS SHARP SC: Yes. You're aware that these rules impose requirements on reporting entities about obtaining independent reports of their AML/CTF
20 programs?

MS MARTIN: My understanding is that these rules do contain those sorts of details relating to an AML program.

25 **MS SHARP SC:** And you knew that as at early 2018, didn't you?

MS MARTIN: I believe I had that general knowledge, yes.

MS SHARP SC: Could I take you, please, to pinpoint 0095. Do you see there's a heading halfway down that page called Part 9.6, Independent Review?
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MS MARTIN: Yes, I see that.

MS SHARP SC: And clause 9.6.1 says:
35

"Part A must be subject to regular independent review."

MS MARTIN: Yes.

40 **MS SHARP SC:** And you understand that is a legal obligation imposed on a reporting entity, don't you?

MS MARTIN: Yes. In the sense that it's a requirement in these rules, yes.

45 **MS SHARP SC:** What does the word "independent" mean here?

MS MARTIN: My understanding is that it is - or, sorry, that independent review in this sense is the nature of the review to be conducted of the AML program and

that that is to be conducted by someone having an independent capacity from the reporting entity.

5 **MS SHARP SC:** Did you understand that at the time, Ms Martin, that the reviewer had to be independent from the reporting entity?

MS MARTIN: I believe so, yes.

10 **MS SHARP SC:** I know it's rather unusual, Mr Bell, but could I have the AML/CTF Rules marked for identification so we can find them again?

MR BELL SC: Yes. That document will be MFI43.

15 **MS SHARP SC:** Now, Ms Martin, let's return to the part A KPMG report of 16 May. This is exhibit B794. And could I take you, please, to pinpoint 2756. And could I draw your attention to the fourth paragraph down that says:

20 "There are currently two AML administrators across The Star designated business group who are primarily responsible for daily AML reporting to AUSTRAC. While we understand that the number of Star Entertainment's AML/CTF resources may be comparable to other Australian casinos, this number is significantly less than some of the US casinos and could indicate key AML/CTF processes and controls for Star Entertainment may not be
25 adequately performed."

Now, that is a criticism of Star Entertainment; do you agree?

30 **MS MARTIN:** Sorry, Ms Sharp. I - I'm just finishing reading that paragraph quickly. And, sorry, your question was?

MS SHARP SC: That is a criticism of Star Entertainment; do you agree?

35 **MS MARTIN:** My read on that paragraph is it is something that KPMG are flagging as a matter that could indicate that key processes and controls may not be adequately formed - performed, sorry. So --

40 **MS SHARP SC:** Let's, Ms Martin, you agree, don't you, that one of the issues that KPMG identified was that the AML team at Star was not adequately resourced; do you agree or disagree?

MS MARTIN: My recollection is that I would say that that was a risk or a concern that had been highlighted in this report, yes.

45 **MS SHARP SC:** Now, could I take you, please, to pinpoint 2757. And do you see the heading here is Summary of Independent Review Findings?

MS MARTIN: Yes, I see the heading.

MS SHARP SC: Now, do you see in the right-hand column there's a Finding Rating and then there are various colours?

MS MARTIN: Yes.

5

MS SHARP SC: And red means it's high risk; do you agree?

MS MARTIN: It's described as "high", so yes.

10 **MS SHARP SC:** Now, you will see at number 2 it says ML/TF Risk Assessment, and that's ranked as a high finding?

MS MARTIN: Yes, I see that.

15 **MS SHARP SC:** So you understood at the time of reading this that there was a problem here, didn't you?

MS MARTIN: I understood that there were items of high importance that were being called out in this report. And they're expressed, as described there, as particular matters identified in their review.

20

MS SHARP SC: Right. So did you understand they found a problem here?

MS MARTIN: That appears to be the case, yes.

25

MS SHARP SC: Now, one of the things that's said here is that:

"Star Entertainment does not have an adequately documented money laundering/terrorism finance risk assessment methodology."

30

Did you understand that to be a problem that KPMG was identifying?

MS MARTIN: I understood it to mean that that was KPMG's view, as in, it was not adequately documented, the ML/TF risk assessment methodology, and that they considered that of high importance in terms of matters that they would call out for - from their review.

35

MS SHARP SC: And did you accept that that problem existed?

40 **MS MARTIN:** At this time, I'm not sure that I'd formed a view on whether I accepted it or not.

MS SHARP SC: And it's also stated here that:

45 "Star Entertainment applies a default customer money laundering/terrorism financing risk of 'low' that has not been adequately explained or documented."

And it also says:

5 "We note that a customer who brings a significant amount of money into the casino will not automatically be assessed as higher than low risk by Star Entertainment."

10 Did you understand at the time that KPMG were identifying problems with the way Star Entertainment identified anti-money laundering and counter-terrorism financing risk?

MS MARTIN: My understanding was they were identifying things from their review that, in their opinion, were not adequate or of concern, using the wording they have put there.

15 **MS SHARP SC:** Well, I don't think you answered my question, so I will ask it again. Did you understand at the time that KPMG were identifying problems with the way Star Entertainment identified anti-money laundering and counter-terrorism financing risk?

20 **MS MARTIN:** Ms Sharp, I'm just looking at that specific line. I don't have number 2 at the moment.

MS SHARP SC: And I'm asking for your understanding, Ms Martin.

25 **MS MARTIN:** And my understanding of that line item at the time was KPMG's opinion was things were not adequate or there were things in their view that should be considered differently, and they were sufficiently minded - or of the opinion, my apologies, that they were of high concern or risk.

30 **MS SHARP SC:** And did you understand at the time you read this that one of the problems KPMG identified was that there was no risk assessment for counter-terrorism financing as was required by the AML/CTF Rules?

35 **MS MARTIN:** My apologies, Ms Sharp. Can you just repeat that specific point?

MS SHARP SC: Yes. Did you understand at the time of reading this that one of the problems that KPMG had identified was that there was no risk assessment for terrorism financing, even though that was required by the AML/CTF Rules?

40 **MS MARTIN:** I'm not sure whether I was aware specifically of that point at the time. I don't recall. I'm just searching for that on this page.

MS SHARP SC: Well, I will read it out to you at the bottom of row 2:

45 "The risk assessment does not consider terrorism financing as required by the AML/CTF Rules."

MS MARTIN: Thank you. I see that. Yes. That was being called out as something the risk assessment did not address.

5 **MS SHARP SC:** Could I take you to pinpoint 2759, to entry 10. Do you see that's also identified as "high" in red?

MS MARTIN: Yes, I do.

10 **MS SHARP SC:** And that's for the topic:

"Ongoing customer due diligence, transaction monitoring."

MS MARTIN: Yes, I see that.

15 **MS SHARP SC:** Did you understand at the time of reading this that KPMG had identified problems with the transaction monitoring of Star Entertainment?

20 **MS MARTIN:** I think, as I said with the earlier classification, they've identified manual transaction monitoring process areas as being something of high risk or concern, in their opinion, as they've rated in this report as set out there.

MS SHARP SC: Is there some reason why you're reluctant to use the word "problem"?

25 **MS MARTIN:** Not necessarily. I'm just trying to be specific on what I understood at the time, which, at that time in May, I didn't have responsibility for the AML area. So I was drawing from the report heavily to explain what I would have understood at the time.

30 **MS SHARP SC:** Could you just pardon me please, Mr Bell. And perhaps I could have you look at row 11. Did you understand that KPMG had identified some problems with The Star's ongoing and enhanced customer due diligence practices?

35 **MS MARTIN:** At this time, I would have been aware of these two sentences of this report. One calls out there's no procedural document that records how ECDD must be conducted and recorded, and they conclude then that there's potential problems that arise in the sense of it being open to interpretation or inconsistent application in the first part.

40 **MS SHARP SC:** So did you understand a problem had been called out with respect to enhanced customer due diligence; yes or no?

45 **MS MARTIN:** I understood KPMG were calling it out as a moderate area of risk or concern, with the matters in this table identified as being what they had observed. That would have been my understanding at the time.

MR BELL SC: Ms Martin, did you understand that KPMG were identifying a number of shortcomings that needed to be addressed?

MS MARTIN: Yes, Mr Bell. I think that's the nature of these reviews, as well as satisfying a strict statutory requirement.

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

MS SHARP SC: Could I take you, please, to pinpoint 2765. Now, do you see there's a heading there ML/TF Risk Assessment and then a rating of "high" in red?

10 **MS MARTIN:** Yes, I do.

MS SHARP SC: And do you see there's a heading underneath it that says ML/TF Risk Assessment?

15 **MS MARTIN:** Yes, I see that heading.

MS SHARP SC: And do you accept that KPMG is there identifying, in the dot points that follow on that page, a number of deficiencies in the part A program?

20 **MS MARTIN:** I'm just reading those bullet points. Yes, Ms Sharp. I've read that. The question for me - do you mind repeating it?

MS SHARP SC: Do you accept that KPMG, to your knowledge, when you read this, had identified a number of deficiencies in the part A AML program?

25 **MS MARTIN:** When I read this, I would have seen that this particular item deals with the risk assessment component, which is contained in the part A of the program, and that, yes, they are identifying things that are either not contained or not sufficiently documented. And that to the extent that they're required to be, that
30 would be described as a deficiency.

MS SHARP SC: And do you see on the next page, if we can go to - just before I go, you accept, don't you, that one of the deficiencies that was identified was in relation to The Star's risk assessment of junkets? And I will direct your attention to
35 the third dot point and then the second sub dot point.

MS MARTIN: Yes. I see at that point KPMG is saying that:

40 "The risk assessment of The Star's business operations could be enhanced."
And that junkets are specifically listed.

MS SHARP SC: Right. I'm going to keep asking my questions until you answer them, Ms Martin. It's right that one of the deficiencies that KPMG identified was
45 the risk assessment conducted by Star of junkets; correct or incorrect?

MS MARTIN: Ms Sharp, I'm hesitating just because the language is different in that bullet point. And so "deficiency", to me, is a strong word and may reflect

some of the other bullet points. At this bullet point, the language is just different and it says:

"Could be enhanced."

5

Or:

"Could more adequately consider."

10 But nonetheless, it's being called out as an area identified as at least could be more adequate.

MS SHARP SC: And do you see it's also being called out that risk assessment could be enhanced with respect to:

15

"Overseas customers whose source of funds or wealth is unknown, or if known, is not commensurate with their gambling activities."

MS MARTIN: Yes, I see that.

20

MS SHARP SC: So you understood at the time, didn't you, that KPMG thought there was some room for improvement in that regard?

MS MARTIN: Yes, I do.

25

MS SHARP SC: And that's in May 2018 that you had that understanding?

MS MARTIN: Yes.

30 **MS SHARP SC:** Now, could I take you, please, to pinpoint 2766. And you will again note that with the heading ML/TF Risk Assessment, the ranking is "high" red?

MS MARTIN: Yes, I see that.

35

MS SHARP SC: And do you see it is there stated:

"There is no overall assessment of Star Entertainment's jurisdictional risk and jurisdictional risk is described inconsistently through the part A program. Given the number of Star Entertainment's customers who come from overseas and the volume of funds received from overseas, a jurisdictional money laundering/terrorism financing risk assessment that covers appropriate money laundering/terrorism financing jurisdictional risks is both a regulatory requirement and also required to understand appropriate money laundering/terrorism financing risks and to implement appropriate controls."

40

45

Now, did you understand that KPMG was saying at the time there was some room for improvement in that regard?

MS MARTIN: Yes, that's how I read that.

5 **MS SHARP SC:** And could I take you, please, to pinpoint 2767. And do you again see at the top of the page the ranking is "high" in red?

MS MARTIN: Yes.

10 **MS SHARP SC:** And if I could take you to the last dot point, please. It says:

15 "Through our interviews, we note that customers are not formally risk assessed based on the amount of money they bring into the casino and that this is not documented as an ML/TF risk factor. The New South Wales AML administrator informed us that a customer who brings hundreds of thousands of dollars in large sums of money would not automatically be classified as high risk (or critical risk in Star Entertainment's terms). In our view, customers who bring in large amounts of money should be considered higher risk, unless Star Entertainment is reasonably satisfied that they have legitimate and known sources of income and there is no increased risk of money laundering or terrorism financing."

20
25 Now, do you agree that KPMG was clearly calling out a deficiency in risk assessment by The Star when it came to people who were bringing large amounts of cash into the casino?

MS MARTIN: I think in this paragraph, KPMG are clearly saying that, in their - in their view, this is a matter that should be considered higher risk, unless - and then there's some caveats on that.

30 **MS SHARP SC:** Well, do you agree or disagree with their view that it's high risk?

MS MARTIN: My personal opinion today; is that what the question is?

35 **MS SHARP SC:** Well, you can do both. We will start with the personal opinion today.

40 **MS MARTIN:** My personal opinion today is that this is a point that is relevant to consider, and by this point I mean the customers and how they interact with us as a casino operator. And that does include, in the context of the nature of the transaction, the amount of money they may be dealing with. But it's a matter to be taken in context, in my opinion.

45 **MS SHARP SC:** And at the time, that was May 2018, did you consider that customers who brought hundreds of thousands of dollars of cash into the casino should be classified as high risk?

MS MARTIN: I don't recall whether I formed a view on this point at this time in May 2018.

MS SHARP SC: Well, isn't KPMG expressly drawing to the attention of the reader the fact that when customers bring hundreds of thousands of dollars cash into the casino, they should be classified as high risk?

5

MS MARTIN: I read this as they're saying customers who bring in large amounts of money - I'm not sure whether they meant cash in that sentence, and they're saying that, in their view, they should be considered higher risk.

10 **MS SHARP SC:** And did you agree with that view at the time, that is, in May 2018?

MS MARTIN: In May 2018, I don't specifically recall whether I was agreeing or disagreeing with the specific points that they had presented.

15

MS SHARP SC: Well, let's step away from the KPMG report for a minute. In May of 2018, did you think there were any red flags for money laundering if a patron turned up with a bag full of hundreds of thousands of dollars of cash?

20 **MS MARTIN:** Ms Sharp, in my role then, I'm not sure I was turning my mind to that specific point.

MS SHARP SC: I'm asking you based on the money laundering and counter-terrorism financing experience you have, which you did have by May 25 2018, didn't you?

MS MARTIN: Yes. I had some, yes.

30 **MS SHARP SC:** All right. Well, could you attend to my last question, please. Do you want me to ask you again?

MS MARTIN: Yes, please.

35 **MS SHARP SC:** In May 2018, did you think that there was a red flag for money laundering if a patron turned up with a bag of hundreds of thousands of dollars of cash?

MS MARTIN: Yes, I think that's a possible red flag.

40 **MS SHARP SC:** Well, it either is a red flag or it's not a red flag. Which one it is?

MS MARTIN: Ms Sharp, if I could explain it. I think it is a red flag that warrants inquiries being made.

45 **MS SHARP SC:** And what should those inquiries be directed to?

MS MARTIN: Those funds.

MS SHARP SC: And what about them?

5 **MS MARTIN:** Well, the details of the customer presenting themselves and their use of those funds. And then I'm aware we have requirements under our program and supporting standards to understand and know the customer, and that that can include the source of those funds, for example. And that inquiries are made to that effect.

10 **MS SHARP SC:** Well, it raises a clear source of funds issue, doesn't it?

MS MARTIN: I'm sorry, Ms Sharp. I missed the start of the question.

MS SHARP SC: It raises a clear source of funds issue, doesn't it?

15 **MS MARTIN:** I think it clearly raises the need for inquiry.

MS SHARP SC: Into what the source of funds was?

20 **MS MARTIN:** Yes, Ms Sharp.

MS SHARP SC: Now, you attended a meeting of the audit committee in relation to the KPMG report on 23 May 2018?

25 **MS MARTIN:** Yes.

MS SHARP SC: Did you prepare the minutes of that meeting?

MS MARTIN: I think that's my recollection, yes.

30 **MS SHARP SC:** And you and Mr McWilliams presented a copy of the KPMG report, that is, part A, to the audit committee meeting?

35 **MS MARTIN:** I don't recall whether the report was presented. There was a paper to the committee, Ms Sharp.

MS SHARP SC: And what happened at the meeting in relation to your presentation?

40 **MS MARTIN:** I don't specifically recall the meeting itself.

MS SHARP SC: What, do you have no recollection at all of the meeting?

45 **MS MARTIN:** Not independent of looking at minutes and materials that I have looked at for preparing for this review.

MS SHARP SC: So just to be clear, you have absolutely no recollection of anything that was discussed at that meeting?

MS MARTIN: Not separately from having looked at the - the documentation.

MS SHARP SC: Was there anything unusual about that meeting as compared with other board subcommittee meetings you attended?

5

MS MARTIN: I'm not sure what you mean by "unusual". Are you able to explain --

MS SHARP SC: Well, was there a tense tone at the meeting when it came to discussing the KPMG report?

10

MS MARTIN: I'm just not sure I recall a - a tone as such, but I have reflected upon the minutes of the meeting since that documents the discussion of the report.

MS SHARP SC: Well, at the moment I'm asking you about the tone and your recollection.

15

MS MARTIN: I'm just not sure I have a specific recollection outside of my own notes and position in the meeting.

20

MS SHARP SC: Now, it's right, isn't it, that some representatives of KPMG sat outside that meeting?

MS MARTIN: I understand that that's the case. I'm not sure I specifically recalled that until I was reminded of that for this review.

25

MS SHARP SC: And they were never called into the meeting?

MS MARTIN: On my review of the minutes, it doesn't appear they joined the meeting.

30

MS SHARP SC: Did you tell the meeting that the KPMG reports were legally privileged?

MS MARTIN: I'm not sure if that was my exact wording, Ms Sharp. I do recall, again having refreshed from the minutes, that I was speaking to the fact that legal advice was being provided in relation to the reports or utilising the reports. I'm not sure of my exact wording.

35

MS SHARP SC: So you do have a recollection of speaking about that, do you?

40

MS MARTIN: From the minutes, yes, I can see I'm referenced, I believe.

MS SHARP SC: So are you just relying on the minutes here, or do you have some independent recollection?

45

MS MARTIN: I'm relying on the fact I've reviewed the minutes and some of the other materials I had reference to in preparing this - for this review, including my statement, such as the note that you took me to earlier.

5 **MS SHARP SC:** Well, let's go to the minutes. They're at exhibit B, tab 811, STA.5001.0003.0818.

10 **MR BELL SC:** Ms Martin, I need to understand whether you are telling me that, having reviewed the minutes, that has refreshed an independent recollection in your mind, or whether you are still today wholly dependent upon the minutes themselves?

15 **MS MARTIN:** Mr Bell, I think - I have had the opportunity to review materials and that they contain certain content, and I've also reviewed my diary and other correspondence, which means I think I'm now in the position of having a recollection that's based on those materials, and I'm not sure I can distinguish that from having an independent recollection separately of a meeting from 2018. Does that answer your question?

20 **MR BELL SC:** I'm not sure.

MS MARTIN: Sorry.

25 **MR BELL SC:** Having reviewed the minutes, has that refreshed an independent recollection in your mind or not?

30 **MS MARTIN:** I - I don't think it has refreshed an independent recollection. I think it has just reminded me of the contents that are captured within the minutes, and I'm drawing from that.

MR BELL SC: Yes. Thank you. Yes, Ms Sharp.

MS SHARP SC: Now, the minutes record that somebody said that:

35 "KPMG were engaged to conduct the independent review reported in the paper to bring financial services/banking sector expertise to the review and prepare a report for the purposes of legal advice being provided."

40 How did you have the understanding, on 23 May 2018, that one of the reasons KPMG was engaged was to prepare a report for the purpose of legal advice being provided?

45 **MS MARTIN:** Ms Sharp, do you mind first just taking me to that part of the minutes? I can't see that reference.

MS SHARP SC: Operator, could I just have the bottom half of this page highlighted. There are two statements I will take you to, Ms Martin.

MS MARTIN: Yes.

MS SHARP SC: First of all, in the column at the bottom, you will see:

5 "Internal audit status update, part 1, subject to legal professional privilege."

MS MARTIN: Yes, I see that.

MS SHARP SC: And then if you work across the page --
10

MS MARTIN: Yes.

MS SHARP SC: -- you will say:

15 "The committee chair - "

Hang on. I need this enlarged, please, operator:

20 "The committee chair noted that this first part of the internal audit status
update was being discussed in a limited forum in light of the legal
professional privilege protocols in place in relation to the two reviews."

I will take to you that.

25 **MS MARTIN:** Yes.

MS SHARP SC: And then I will take you over the page to pinpoint 0819. And
this last dot point at the top:

30 "KPMG were engaged to conduct an independent review reported in the
paper to bring financial services/banking sector expertise to the review and
prepare a report for the purposes of legal advice being provided on the
company's compliance with the Act with respect to implementation of the
program."
35

Now, how on earth did you get that understanding at that time that that's why
KPMG had been engaged?

40 **MS MARTIN:** Ms Sharp, my recollection is between when the papers were
prepared for the audit committee meeting and the meeting being held itself, which
was, I think, approximately one week, I had discussions with a range of people,
including Mr Bekier, Mr McWilliams and Ms O'Neil, in relation to the paper that
had been prepared for the audit committee. And it was in the course of those
discussions that I provided my opinion on the nature of the independent review
45 that was being conducted and my understanding of what that review was required
to do under the Act, including that there was components of the review that
needed to speak to compliance with the Act. And that that was a point in my view
as expressed at the time that meant that legal advice would be provided as part of

that review. And then from those discussions, I was included in discussions with Paul McWilliams and then the meeting we spoke to earlier on 22 May around engaging with Ms O'Neil on the full reports for the purposes of considering providing that advice.

5

MS SHARP SC: Now, you understand you can't just slap a legal professional privilege claim on any old report that gets commissioned by The Star, don't you?

MS MARTIN: Yes, I understand that.

10

MS SHARP SC: Did you understand at the time this report was first commissioned that it was commissioned for a purpose of providing legal advice?

MS MARTIN: I don't believe I necessarily understood that at the time it was commissioned, Ms Sharp.

15

MS SHARP SC: So --

MS MARTIN: So - my apologies - my discussions that I was referring to were in the - the week of May, and at that time I was engaged with Ms O'Neil on the engagement with KPMG.

20

MS SHARP SC: But you understand that there was a legal obligation on The Star to commission an independent report to review the AML/CTF program, don't you?

25

MS MARTIN: Yes, I do.

MS SHARP SC: And you understand, don't you, that that was the dominant purpose for KPMG being retained?

30

MS MARTIN: I understood that at the time in May in my discussions with Ms O'Neil, yes.

MS SHARP SC: Right. So I just want to understand where we are at the moment.

35

MS MARTIN: Yes.

MS SHARP SC: You accept, don't you, that the report itself is not privileged?

MS MARTIN: No. At this time in May, I did not accept that. And I think this goes to the heart of the error that I made at the time.

40

MS SHARP SC: Well, the error you made was to claim privilege when the claim was totally inappropriate, wasn't it?

45

MS MARTIN: No. In my view, at the time, it was not totally inappropriate.

MS SHARP SC: Well, did you cast your mind to the fact that, under statute, The Star was required to commission an independent report?

5 **MS MARTIN:** I don't recall whether I specifically turned my mind to that at the time, but I understood that to be the case.

MS SHARP SC: And did you understand that there is a dominant purpose test that must be satisfied before a lawyer can claim legal professional privilege?

10 **MS MARTIN:** Yes, I did.

MS SHARP SC: Well, help us to understand how it is that you can say that this draft report is subject to privilege in these minutes?

15 **MS MARTIN:** I think --

MR BELL SC: Ms Sharp, did you mean to refer to it as a draft report in your question?

20 **MS SHARP SC:** No, I didn't. I withdraw the question. Can you help us to understand how it can be said that this report is subject to privilege in these minutes?

25 **MS MARTIN:** My best recollection, Ms Sharp, of how I formed that view was based on the fact that - to satisfy the requirements of that independent review, that it - the review also needed to cover - I think, from memory, there's three or four components - compliance with the Act. And in order to do that, legal advice would be required to be provided as part of. And in my view at the time, you know, that was a - at least a key purpose of the review, and that it may be that the legal advice
30 could be provided by someone other than KPMG if they had not already provided that advice.

MS SHARP SC: While it may be a key purpose to provide some legal advice, it was not the dominant purpose, to your understanding, was it?

35 **MS MARTIN:** I think, Ms Sharp, that was the view that I had formed at that time.

MS SHARP SC: You accept now it's wrong?

40 **MS MARTIN:** I do, Ms Sharp.

MS SHARP SC: And was there even any discussion at this audit meeting about the review being the subject of legal professional privilege?

45 **MS MARTIN:** I'm sorry. Could you just repeat that whole question?

MS SHARP SC: Was there even any discussion at this meeting about the KPMG report being subject to legal professional privilege?

MS MARTIN: The minutes capture that. So, yes, on that basis.

5 **MS SHARP SC:** Well, is there a possibility that there was no discussion but you wrote this in the minutes later?

MS MARTIN: I don't believe so.

10 **MS SHARP SC:** Now, returning to these minutes, who is it that said the words that are recorded on pinpoint 0819:

15 "KPMG were engaged to conduct the independent review reported in the paper to bring financial services/banking sector expertise to the review and prepare a report for the purpose of legal advice being provided on the company's compliance with the Act."

Who said those words?

20 **MS MARTIN:** Ms Sharp, do you mind scrolling up? I can't - I can't see the start of that.

MS SHARP SC: And, operator, could you please show Ms Martin halfway down pinpoint 0818 to halfway down 0.819.

25 **MS MARTIN:** Thank you. So I can see from the paragraph above - the paragraph with those bullet points - that the minutes captured that at this stage it was Mr McWilliams and myself who were speaking to the matters listed in those bullet points.

30 **MS SHARP SC:** So who said those words I've just taken you to?

35 **MS MARTIN:** In that final bullet point? I don't have a separate recollection, but I believe that it's likely that that represents - that last bullet point - a combination of views expressed by Mr McWilliams and myself. And that in connection with the point regarding legal advice, it was possible that was me.

MS SHARP SC: But you have no recollection one way or the other; is that right?

40 **MS MARTIN:** I don't, Ms Sharp. I'm drawing from the minutes.

MS SHARP SC: And a little bit further down on pinpoint 819, it says:

45 "Ms Martin noted that the next steps are for management to complete its review of the report (considering the scope of the review and extent of the fieldwork) and respond, complete the management agreed action plan and finalise legal advice on issues of compliance with the Act."

Did you say that at the meeting?

MS MARTIN: I can see that that's what's captured in the minutes.

5 **MS SHARP SC:** So are you sure that you actually referred to a legal professional privilege claim in the meeting, and it's not something you just wrote afterwards when you were preparing the minutes?

10 **MS MARTIN:** No, I believe the minutes would capture the discussion in the meeting.

MS SHARP SC: Did you make an assertion that this discussion and the KPMG report was subject to privilege to protect these documents from being disclosed to the regulator?

15 **MS MARTIN:** No, I don't believe so.

MS SHARP SC: Now, if I can take you --

20 **MR BELL SC:** Which regulator did you mean, Ms Sharp, in that question?

MS SHARP SC: I meant New South Wales Liquor and Gaming, the Independent Liquor and Gaming Authority or AUSTRAC.

25 **MR BELL SC:** I think you should perhaps make that clear in your question.

30 **MS SHARP SC:** Yes. I will withdraw the question and ask it again. Did you make the assertion in these minutes that the KPMG report was privileged - or the process relating to it was privileged - so as to shield this report and this set of minutes from production to New South Wales Liquor and Gaming, the Independent Liquor and Gaming Authority or AUSTRAC?

MS MARTIN: No, I don't believe so.

35 **MS SHARP SC:** Can I take you, please, to pinpoint 0819, to the paragraph:

"It was noted."

MS MARTIN: Yes. Thank you.

40 **MS SHARP SC:** Do you see it is stated:

"It was noted that the detailed reports have only just been received by management and are undergoing review."

45 **MS MARTIN:** Yes, I see that sentence.

MS SHARP SC: In fact, it's right, isn't it, that Mr McWilliams and Ms O'Neil had been in possession of the report since 16 May; do you agree?

MS MARTIN: I'm not sure I am aware of when they received the reports, Ms Sharp.

5 **MS SHARP SC:** But if you're not aware of it, how could this have been noted?

MS MARTIN: This would be the minutes capturing the discussion in the meeting where that - no, apologies. It's just that's what's captured in the minutes. I --

10 **MS SHARP SC:** Do these minutes accurately record what was discussed at the meeting?

MS MARTIN: I believe they would have.

15 **MS SHARP SC:** Is there a possibility that they don't, Ms Martin?

MS MARTIN: I don't believe so.

20 **MS SHARP SC:** You do agree, don't you, that if a document is privileged, that might be a basis of The Star withholding that document from the market under continuous disclosure laws?

MS MARTIN: I'm sorry. Can you just repeat that question?

25 **MS SHARP SC:** You do understand, don't you, that if a document is privileged, that might be a basis for Star Entertainment withholding the document from the market under continuous disclosure laws?

30 **MS MARTIN:** I understand that the continuous disclosure laws require certain things to be disclosed to the market and that there are bases on which that disclosure may be exempted. I'm - I'm not sure if that specifically answers your question, but that's my understanding.

35 **MS SHARP SC:** It doesn't, so I will ask it again. Do you agree that if a document is legally professionally privileged, that might be a basis for Star Entertainment to withhold the document from the market under the continuous disclosure laws?

40 **MS MARTIN:** I'm not sure I've specifically turned my mind to that point, Ms Sharp.

MS SHARP SC: But does that suggest to you it is necessary for a company to take care that it only asserts privilege when there is, in fact, a proper basis for doing so?

45 **MS MARTIN:** Sorry. Could you repeat that? I'm not sure I followed the full question.

MS SHARP SC: In view of the continuous disclosure laws and the fact that privilege provides one exception to disclosure under those laws, do you agree that a company should take care to ensure that it only makes claims of legal professional privilege in appropriate cases?

5

MS MARTIN: Ms Sharp, I'm not sure that the first statement is something I'm aware of, which is the reference to the basis for legal professional privilege exempting a market disclosure.

10 **MS SHARP SC:** Well, you're the company secretary of Star Entertainment, aren't you?

MS MARTIN: Yes, I am.

15 **MS SHARP SC:** Well, isn't that a matter you ought to have turned your mind to in your capacity as the company secretary?

MS MARTIN: Disclosure obligations are a matter that I turn my mind to in the individual circumstances.

20

MS SHARP SC: So what was the answer to my last question? Have you turned your mind to whether a privilege claim can exempt a company from the ordinary requirements under continuous disclosure rules, or not?

25 **MS MARTIN:** I don't recall that.

MS SHARP SC: Even though you're the company secretary?

MS MARTIN: Yes, I don't recall that.

30

MS SHARP SC: Now, do you agree that the minutes of a meeting are important documents in company law?

MS MARTIN: Yes.

35

MS SHARP SC: And are you aware that under section 251A(1)(b) of the Corporations Act, minutes of directors' meetings are required to be kept?

40 **MS MARTIN:** I have a general awareness of that requirement. I'm not sure of the section reference, Ms Sharp.

MS SHARP SC: And are you aware that under section 251A, minutes are evidence of what has taken place at a meeting unless the contrary is proved?

45 **MS MARTIN:** I would need to see the section, Ms Sharp, but I think that's my general understanding.

MS SHARP SC: And you're sure, are you, that the minutes that you produced do accurately record the conversations that took place at that meeting?

MS MARTIN: Yes, I believe so.

5

MS SHARP SC: And are you telling the truth there?

MS MARTIN: Yes, I am.

10 **MR BELL SC:** We should understand, should we, that if there are references in the minutes to the reports being privileged, it's likely to have been you who made that observation?

MS MARTIN: I think it's likely, Mr Bell, as I said before. Yes.

15

MS SHARP SC: So is the correct position that you thought at the time that the minutes were - I beg your pardon - that the KPMG reports were privileged, but you now accept that view is wrong?

20 **MS MARTIN:** Ms Sharp, I expressed the view that the KPMG reports were prepared for the purposes of providing legal advice, and that was based on my view at the time, and that that view, I have accepted in my witness statement with hindsight, was formed in error.

25 **MS SHARP SC:** But, Ms Martin, you knew at the time that these reports had been commissioned because there was a statutory obligation on Star Entertainment to obtain an independent report, didn't you?

MS MARTIN: Yes.

30

MS SHARP SC: And in fact, the report that you reviewed said as much, didn't it?

MS MARTIN: Sorry. Which report, Ms Sharp?

35 **MS SHARP SC:** The 23. I beg your pardon. The 16 May KPMG report.

MS MARTIN: I'm not sure I recall that that statement is what that report said. I think the point we were taken to earlier was that KPMG weren't providing legal advice.

40

MS SHARP SC: Ms Martin, given that you knew at the time that KPMG had been commissioned to prepare this independent review because of a statutory obligation, how, at that time, could you have reasonably formed the view that the dominant purpose for commissioning that report was for The Star to receive legal advice in respect of that report?

45

MS MARTIN: As I think I said earlier, it was because I'd formed the view that that independent review required, in its components, a position of non-compliance with the Act, which, in my view, necessitated a component of legal advice.

5 **MS SHARP SC:** But that doesn't make the actual report privileged, does it?

MS MARTIN: If the report is being provided for a purpose that requires a legal advice component, I think that's possible.

10 **MS SHARP SC:** Well, let's explore that thought. Are you suggesting that a document that is brought into existence for a purpose unrelated to legal advice itself becomes privileged once a lawyer provides advice in relation to it?

MS MARTIN: I don't think that's what I'm saying.

15

MS SHARP SC: Well, can you please clarify exactly what you are saying so that we can understand.

20 **MS MARTIN:** I think it's, as I said, my view was that the reports were being produced for the purpose of the independent review of the program, and that independent review included a position on legal compliance, and that that advice would then need to be provided as part of that review. And that's what I was discussing at the time with Ms O'Neil.

25 **MS SHARP SC:** Are you telling the truth here, Ms Martin?

MS MARTIN: I am, Ms Sharp.

30 **MS SHARP SC:** You understand, don't you, that if a document is provided to a lawyer for the purpose of providing legal advice, that copy of the document is privileged, but it does not immunise all other copies of that document held elsewhere in the business from production? Do you understand that?

MS MARTIN: Yes, that's my understanding now.

35

MS SHARP SC: Has that always been your understanding?

MS MARTIN: I'm not sure I can recall if that was my understanding at all times.

40 **MS SHARP SC:** Well, was it your understanding in 2018?

MS MARTIN: I don't believe I can recall that from 2018.

45 **MS SHARP SC:** Well, it's a pretty basic proposition associated with legal professional privilege, isn't it?

MS MARTIN: I think it's relevant to legal professional privilege.

MS SHARP SC: In any event, it's right, isn't it, that Mr Bekier was not happy with this report, to your knowledge?

5 **MS MARTIN:** To my knowledge, I think I would describe Mr Bekier's view of the report, based on my interactions with him, as one of concern. He was concerned, would be my description of my interactions with him.

MS SHARP SC: Do you agree he was not happy with the report?

10 **MS MARTIN:** I don't know that I would describe his view of the reports as "not happy", Ms Sharp.

MS SHARP SC: Can I take you back to these minutes for a moment, at pinpoint 0819. There, the minutes say - there's a paragraph - I will have it enlarged for you - midway down the page, "It was noted." Operator, could we enlarge that? Do you see the minutes record:

20 "There are aspects of the content and basis for some opinions that may be contested by management."

MS MARTIN: Yes, I see those words.

MS SHARP SC: Who said that?

25 **MS MARTIN:** I don't know.

MS SHARP SC: Was that recording Mr Bekier's expressed view?

30 **MS MARTIN:** I don't know.

MS SHARP SC: Did you think anything was wrong with the report?

35 **MS MARTIN:** I don't know that I'd formed a view whether there was anything wrong, Ms Sharp. I was, I believe, at this time, still reviewing and discussing the report.

MS SHARP SC: And do you see a bit further down this page - and again, I will have it blown up for you - the minutes record:

40 "Following discussion, the committee noted the extracts presented and noted that management is however continuing to work with KPMG and will revert to the committee further."

45 Now, was that actually said at this meeting?

MS MARTIN: I don't recall whether it was said beyond that's what the minutes capture.

MS SHARP SC: Well, was it said or not?

MS MARTIN: I don't know.

5 **MS SHARP SC:** It's right that these were final reports, isn't it?

MS MARTIN: Just when you're referring to the reports, are you referring to the KPMG reports or the report to the audit committee?

10 **MS SHARP SC:** The KPMG report, Ms Martin.

MS MARTIN: I now understand that these are the final reports, and I believe I knew that at the time of this meeting as well.

15 **MS SHARP SC:** So if you knew that they were final reports at the time of this meeting, why it is recorded in these minutes:

"That management is however continuing to work with KPMG and will revert to the committee further."

20

MS MARTIN: So I can't comment beyond the fact that the minutes would have captured the discussion in the meeting. But I am aware that having reviewed the board papers and the audit committee papers, that the audit committee paper at this time only presented to the committee what's referred to there as "the extracts" from those reports. And I have been reminded from that paper that that necessarily meant that it did not include the management responses and action plans in detail. In fact, I'm not sure.

25

MS SHARP SC: Did you understand at this time that KPMG had already had meetings with representatives of Star Entertainment to confirm the factual assertions in the report?

30

MS MARTIN: I don't recall whether I understood that at this particular time.

35

MS SHARP SC: Could I take you, please, to another document, which is KPMG.001.001.7857.

40

MR BELL SC: I wonder if we might have the morning adjournment now, Ms Sharp, and you can take the witness to that document after the adjournment. I will now adjourn for 15 minutes.

<THE HEARING ADJOURNED AT 11:30 AM

<THE HEARING RESUMED AT 11:46 AM

45

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Ms Martin, are you telling the truth when you say you have no independent recollection at all of the audit meeting?

5 **MS MARTIN:** Yes, Ms Sharp. As I said to Mr Bell earlier, I think I have a recollection now that's been formed by reference to materials in preparing for this review.

10 **MS SHARP SC:** Now, it's right that after this audit meeting, you met with KPMG to discuss aspects of the part A report?

MS MARTIN: Yes.

15 **MS SHARP SC:** Could I show you exhibit B935, which is KPMG.001.001.7857. And could I direct your attention, please, Ms Martin, to the bottom of the page. You will see it's an email from you to Tarnya O'Neil, copied to Mr McWilliams, on 12 July 2018?

MS MARTIN: Yes, I see that.

20 **MS SHARP SC:** And is it right that you had had a meeting with both of them earlier that day?

MS MARTIN: Yes, that's what that email says.

25 **MS SHARP SC:** And you say:

"Please find attached the review notes/list as discussed."

30 **MS MARTIN:** Yes.

MS SHARP SC: Now could I take you, please, to exhibit C61, which is KPMG.001.001.7871. Are these the notes?

35 **MS MARTIN:** Is this the attachment to the email, Ms Sharp?

MS SHARP SC: Well, I'm asking you, Ms Martin.

40 **MS MARTIN:** These appear to be notes from a meeting on that date, and the note appears to me to be on the KPMG reports by virtue of the Part A and Part B headings. So --

MS SHARP SC: Are they your notes?

45 **MS MARTIN:** I think the email reference that they were notes that I had compiled.

MS SHARP SC: Well, are you able to confirm these are your notes?

MS MARTIN: I think they are notes I compiled from a meeting. In the sense that I prepared them, they are my notes.

5 **MS SHARP SC:** And what meeting did you compile them from? Was that the 12 July 2018 notes?

MS MARTIN: I believe so, from that email.

10 **MS SHARP SC:** Now, are these based upon your own matters you wished to clarify about the report, or are they a compilation of a number of people's questions and queries about parts of the report?

MS MARTIN: I think they're a compilation, Ms Sharp.

15 **MS SHARP SC:** And did Mr Bekier give you any feedback which found its way into these notes?

20 **MS MARTIN:** If my recollection is correct, they're from the meeting he may have been in attendance at. So they're - yes.

MS SHARP SC: So is it right that these notes that you made record some queries he had about the report?

25 **MS MARTIN:** I think that's right.

MS SHARP SC: Can I now take you to exhibit B at tab 1027, which is KPMG.001.1779. And do you see this is an email from - sorry, a letter from KPMG to Tarnya O'Neil dated 6 August 2018?

30 **MS MARTIN:** Yes, I can see that.

MS SHARP SC: Now, if I could just show you this letter. You will see that KPMG are explaining what its scope of work was - do you agree - on that first page?

35 **MS MARTIN:** I can see a reference in the third paragraph to:

40 "As part of the agreed scope of work and SGR's established internal audit protocols."

MS SHARP SC: And do you see they're dot pointing the activities they undertook as part of their scope of work?

45 **MS MARTIN:** Could that possibly just be zoomed in on?

MS SHARP SC: Yes.

MS MARTIN: Thank you.

MS SHARP SC: So you've had enough time to tell me. You agree they're telling you what work they had engaged in?

5 **MS MARTIN:** Yes. In a general sense, that's what those bullet points are addressing.

MS SHARP SC: Including interviewing 37 employees across the three casinos?

10 **MS MARTIN:** I see that reference, yes.

MS SHARP SC: And can I take you over the page, please. And do you see there's a heading Overall Summary?

15 **MS MARTIN:** Yes.

MS SHARP SC: And just above that heading, there are two paragraphs. Do you see there's a paragraph:

20 "After the reports had been finalised, KPMG attended three meetings with Star Entertainment's management (which included the chief executive officer, the chief risk officer and the group legal counsel) to clarify 22 specific aspects of the final reports."

25 **MS MARTIN:** Yes, I see that.

MS SHARP SC: And you're the group legal counsel at this time?

30 **MS MARTIN:** My title was group general counsel. I think they're referring to me there.

MS SHARP SC: All right. And you see under the heading Overall Summary, it says:

35 "KPMG has considered all of the additional items for clarification raised by Star Entertainment management."

MS MARTIN: Yes, I see that.

40 **MS SHARP SC:** And:

"KPMG can confirm the findings and recommendations contained in both final reports."

45 **MS MARTIN:** Yes, I see that.

MS SHARP SC: So you understand, don't you, that this is confirmation of the accuracy of the two reports dated 16 May 2018?

MS MARTIN: Yes. It's KPMG confirming those reports stand as presented, yes.

MS SHARP SC: And it's not a supplementary report, is it?

5

MS MARTIN: I thought I just saw that word on the letter, but maybe not.

MS SHARP SC: Well, do you want to have a look at the first page again?

10 **MS MARTIN:** Yes, please. Thank you. I see it's a reference to a request for additional clarification.

15 **MS SHARP SC:** Because you refer in your statement at paragraphs 110, 111 and 112 to this being a supplementary report. But in substance, all this did was confirm the findings in the May 2018 reports; do you agree?

MS MARTIN: I agree it confirms those findings, and it sets out additional points of clarification in support.

20 **MS SHARP SC:** Now, if I can take you back to pinpoint 1780. Do you see there's the reference in the second paragraph at the top to the - if we can scroll down, please, operator. Other way, operator. Sorry. Scroll to the top. Do you see after the dot points, there's a paragraph that says that there was clarification of 22 specific aspects of the final report?

25

MS MARTIN: Yes, I see that reference.

MS SHARP SC: And do you see it says:

30 "Refer to appendix A for summary of meetings and areas of clarification."

MS MARTIN: I do.

35 **MS SHARP SC:** Could I take you, please, to appendix A, which is pinpoint 1783. And do you see at appendix A it refers to three separate meetings?

MS MARTIN: I do.

40 **MS SHARP SC:** And for the meeting of 19 June 2018, do you see there are three items?

MS MARTIN: Yes, I see there's three numbered items.

45 **MS SHARP SC:** So you understand that they were three of the points of clarification?

MS MARTIN: Yes, that's how they're described.

MS SHARP SC: And if I can then take you, please, to pinpoint 1784. This is at appendix B. Do you see there are numbered items?

5 **MS MARTIN:** Sorry. Could that just be enlarged again? I see there's appendix B with item numbers.

MS SHARP SC: And do you see that with respect to the two items on this page, there's a reference to the page 2, para 4, second sentence, for example, and page 2, the four bullet points?

10 **MS MARTIN:** Yes.

MS SHARP SC: And if I take you over to the next page, you see item 3 then refers to page 3, item 2, para 2, sentence 1?

15 **MS MARTIN:** Yes, I see that.

MS SHARP SC: So these are the specific matters that were raised in your notes of 12 July 2018 that I took you to; do you agree?

20 **MS MARTIN:** I can't see that note now, but I --

MS SHARP SC: I will bring it up for you. It's exhibit C61.

25 **MS MARTIN:** Perhaps if we could just go to page 3 of that note, so then I can align that with item 3.

MS SHARP SC: Yes. Well, what I will do - in fact, I will take you back to the first page.

30 **MS MARTIN:** Okay.

MS SHARP SC: And could I invite your attention to the following.

35 **MS MARTIN:** Yes.

MS SHARP SC: With your review notes of 12 July 2018, your third entry is page 3, item 2, para 2, sentence 1?

40 **MS MARTIN:** Yes.

MS SHARP SC: Do you see that corresponds with what KPMG have described as item 3?

45 **MS MARTIN:** I see that that same description is there, yes.

MS SHARP SC: All right. And could I take you to the following page of the KPMG letter, please. And do you see there's item 4? And then a reference next to it, page 3, item 2, para 3, sentence 2?

5 **MS MARTIN:** Yes.

MS SHARP SC: And do you see that corresponds exactly with your note of 12 July 2018?

10 **MS MARTIN:** Yes. The text in brackets is the same as the note.

MS SHARP SC: Yes. So it's right, isn't it, that your notes of 12 July 2018 were provided to KPMG at some point?

15 **MS MARTIN:** I think I saw that from the email as well that was just presented.

MS SHARP SC: So your answer is yes?

20 **MS MARTIN:** Yes, I believe so.

MS SHARP SC: And you understand, don't you, that what KPMG is doing in this letter is responding to each of the 19 items you identified in your 12 July 2018 list?

25 **MS MARTIN:** It appears they're at least responding to some of them. I haven't counted them all. But, yes, I can see they're responding to some of those points.

30 **MS SHARP SC:** And could I take you now to appendix - operator, we can put down the 12 July document. Can I take you to appendix E of the KPMG letter at pinpoint 1793. And do you see that this records all of the meetings that KPMG participated in prior to its 16 May 2018 reports?

MS MARTIN: My apologies.

35 **MS SHARP SC:** Do you see that?

MS MARTIN: The page I have is referring to dates after May in 2018.

40 **MS SHARP SC:** Yes. In relation - they're meetings, though, in relation to the May 2018 report; do you agree?

MS MARTIN: These are meetings KPMG held with individuals that I'm making the assumption was on those reports based on the discussion we've just had.

45 **MS SHARP SC:** Well, surely you have some recollection of this, Ms Martin?

MS MARTIN: I certainly have recollection of the meetings I attended with KPMG, and they were on the part A and part B reports.

MS SHARP SC: And you, in fact, attended five separate meetings with them; is that right?

5 **MS MARTIN:** That's what this register shows, yes.

MS SHARP SC: And one of those meetings you attended together with Mr Bekier, didn't you?

10 **MS MARTIN:** Yes.

MS SHARP SC: And how did Mr Bekier conduct himself at that meeting with the KPMG representatives? Could you tell us, please?

15 **MS MARTIN:** I'm not sure what you mean by "conducted himself".

MS SHARP SC: Was he rude?

20 **MS MARTIN:** That's not my recollection. I wouldn't use that word.

MS SHARP SC: Was he aggressive?

MS MARTIN: That's not my recollection.

25 **MS SHARP SC:** Did he throw the report on the table?

MS MARTIN: I don't recall whether he threw a report on the table.

30 **MS SHARP SC:** Did he refuse to make eye contact with either of the KPMG representatives?

MS MARTIN: I don't recall observing that.

35 **MS SHARP SC:** All right. What do you recall --

MR BELL SC: Ms Martin, can you tell me your recollection of the meeting, please, in terms of Mr Bekier's conduct.

40 **MS MARTIN:** Mr Bell, my recollection of the meeting is very general and from my memory from my position in that meeting. And from my position in that meeting, I recall that it was a meeting to go through the detailed reports themselves and that it was a chance to ask any queries or points of clarification. I do recall, from where I sat, it was - I would use the words - from my perspective, somewhat tense.

45 **MR BELL SC:** Yes. Thank you.

MS SHARP SC: And why was it somewhat tense?

5 **MS MARTIN:** Ms Sharp, from my perspective, it was because there was KPMG representatives, there were internal staff members and the CEO discussing the details of a report that had already been completed and expressed some areas where, as we discussed earlier, they were flagged for action and warranting management response. And that, combined with there needing to be a fulsome understanding of the report - and I think, from memory, quite quickly to report back to the board - it was a - a tense forum.

10 **MS SHARP SC:** In your opinion, did Mr Bekier conduct himself with what one would reasonably expect would be becoming conduct of the CEO of a publicly listed corporation?

15 **MS MARTIN:** I'm just not sure I recall paying that much attention to his conduct as distinct from the meeting more broadly. I do recall it was tense with him in the room. I do recall that I was tasked with collating the notes. And I recall that I was then tasked with doing my role as group general counsel to consider the legal points. And I do recall that as a result, I was doing a reasonable amount of talking in the meeting to facilitate the discussion.

20 **MS SHARP SC:** Now I will ask my question again. Did you consider that Mr Bekier conducted himself with what one would reasonably expect would be becoming conduct of the CEO of a publicly listed corporation?

25 **MS MARTIN:** I'm not sure I recall enough to answer that as a yes or no.

MS SHARP SC: Are you doing your best to assist this review in your answers, Ms Martin?

30 **MS MARTIN:** I believe I am, Ms Sharp.

MS SHARP SC: Are you giving us your fullest recollection, Ms Martin?

35 **MS MARTIN:** I believe I am, because I was focused on my role in that room at the time. And my best recollection relates to how I was feeling and my perspective on the room. I - I'm not sure I was turning my mind to the conduct of others as much.

40 **MS SHARP SC:** Now, can I return you, please, to this letter from KPMG, and can I take you to pinpoint 1780. And do you see in the second paragraph, under Overall Summary, it says:

45 "KPMG can confirm that the findings and recommendations contained in both final reports remain valid."

MS MARTIN: Yes.

MS SHARP SC: So it's right, isn't it, that notwithstanding all of the points of clarification and the subsequent meetings that KPMG had with you and other representatives of The Star, its analysis remained unchanged?

5 **MS MARTIN:** Yes.

MS SHARP SC: Now, so far as you're aware, all of KPMG's recommendations have been implemented; correct?

10 **MS MARTIN:** Yes. As far as I'm aware, there was a program of work with management actions that were put in place in response to the KPMG reports.

MS SHARP SC: Now, it's correct, isn't it, that AUSTRAC requested a copy of part A of the KPMG report on 14 September 2018?

15

MS MARTIN: I recall they issued us a notice in 2018, Ms Sharp, and it included a request for materials which included independent review reports. I'm not sure of the date.

20 **MS SHARP SC:** And that was a coercive statutory notice, wasn't it?

MS MARTIN: That's my understanding.

25 **MS SHARP SC:** Could I take you, please, to exhibit B1087. This is STA.3012.0001.1855. Now, this is in blue shade, so I can't go into too much detail. Do you see the date?

MS MARTIN: I do.

30 **MS SHARP SC:** Now, could I take you, please, to pinpoint 1858. And could I direct your attention, please, to paragraphs - or items 8 to 12. Now, did you review this request at or about the time it was received by The Star?

MS MARTIN: I don't recall if I reviewed it when it was received by The Star.

35

MS SHARP SC: You certainly provided some advice in relation to answering it, though, didn't you?

MS MARTIN: Yes. In my witness statement I have noted that, yes.

40

MS SHARP SC: All right. So you have seen it before?

MS MARTIN: Yes.

45 **MS SHARP SC:** And you saw it before The Star provided an answer to it?

MS MARTIN: Yes.

MS SHARP SC: Now, you understand from paragraphs 8 and 12 that the KPMG report fell within there, don't you?

MS MARTIN: Yes.

5

MS SHARP SC: And you understood that at the time you were providing advice about how to respond to this notice, didn't you?

MS MARTIN: Yes.

10

MS SHARP SC: Could I take you now to exhibit B1102. And do you see that's a letter from The Star dated 5 October 2018?

MS MARTIN: Yes.

15

MS SHARP SC: And I will just show you the signature page, the next page. And that's Mr Brodie. May we take it he consulted with you before finalising this letter and sending it to AUSTRAC? Is that right or wrong?

20

MS MARTIN: I recall some emails with Mr Brodie.

MS SHARP SC: And could I take you, please, to pinpoint 76 - sorry, 0076. And do you see with the row 9, it says:

25

"Copy of the independent reviewer's report."

And it says:

30

"Not included on the basis of legal professional privilege."

MS MARTIN: I see that.

MS SHARP SC: Because the correct position is you had advised that privilege be claimed over the KPMG part A report, hadn't you?

35

MS MARTIN: That's my recollection.

MS SHARP SC: But there was no proper basis for making the claim at that point in time, was there?

40

MS MARTIN: That was not my view at the time.

MS SHARP SC: Well, it can be tested very easily. The reason that this report was commissioned was because The Star was statutorily obliged to obtain the report; do you agree?

45

MS MARTIN: Yes. I agree there was the statutory obligation for the part A report.

MS SHARP SC: Right. So the dominant purpose test could not be satisfied, could it?

5 **MS MARTIN:** Ms Sharp, when I answered earlier, I think I was outlining how I'd arrived at a different view at that time.

MS SHARP SC: Well, the simple fact is that the dominant purpose test cannot be satisfied in relation to a copy of that report, can it?

10

MS MARTIN: That was not the view I'd formed at the time.

MS SHARP SC: Well, Ms Martin, even if a copy of that report was provided to a lawyer somewhere in your organisation, or externally, for the purpose of obtaining legal advice, that does not immunise the original copy of that report from disclosure on the ground of legal professional privilege, does it?

15

MS MARTIN: Ms Sharp, I'm not sure I follow that entire question.

20 **MS SHARP SC:** Well, I will put it again as simply as I can. Just because you send a copy of a document to a lawyer for advice doesn't make the original privileged; do you agree?

MS MARTIN: I think, as I said earlier, that --

25

MS SHARP SC: I'm just asking whether you agree or disagree with that proposition.

MS MARTIN: That's my understanding now.

30

MS SHARP SC: And are you saying that you did not have that understanding at the time?

MS MARTIN: I'm not sure. I think - I'm not sure on what my understanding was at the time, but I had formed a view at the time.

35

MS SHARP SC: Did you seek advice from anybody else before forming that view?

40 **MS MARTIN:** I don't recall that I did seek advice from anyone at that time.

MS SHARP SC: Was your intention to attempt to cloak this document in privilege so that you did not need to provide it to the regulator?

45 **MS MARTIN:** No, that was not my intention.

MS SHARP SC: Are you sure about that?

MS MARTIN: Yes, I am.

MS SHARP SC: And it's right that AUSTRAC pushed back on this claim for privilege, isn't it?

5

MS MARTIN: This claim from 2018?

MS SHARP SC: Yes.

10 **MS MARTIN:** Is that the question?

MS SHARP SC: They pushed back on it, didn't they?

MS MARTIN: I don't recall that in 2018.

15

MS SHARP SC: Well, they pushed back on it in 2019, didn't they?

MS MARTIN: Yes. I recall discussing it with them in 2019.

20 **MS SHARP SC:** And can I show you, please, exhibit B1675, which is STA.3402.002.2699. I'm sorry, I need to take you to the previous exhibit. It's exhibit B1674, which is STA.3402.002.2699. And you will agree that this is another letter from AUSTRAC that I'm showing you?

25 **MS MARTIN:** Yes.

MS SHARP SC: And it attaches another coercive notice to produce, doesn't it?

MS MARTIN: Yes. It says a notice under the Act is enclosed.

30

MS SHARP SC: Could I now take you to that notice, which is exhibit B1675, which is STA.3402.0002.2700. You will agree that's a coercive notice?

MS MARTIN: Yes.

35

MS SHARP SC: And can I take you over the page, please. And the following page. And over the following page, please. Do you see at paragraph 5 that KPMG report is sought again?

40 **MS MARTIN:** Yes, in that it's calling for independent review reports for a certain period of part A of the program.

MS SHARP SC: Now, let me take you to exhibit B1736, which is STA.3402.0002.1704. And do you see this is a reply from The Star to AUSTRAC dated 9 October 2019?

45

MS MARTIN: Yes.

MS SHARP SC: And you provided some advice in relation to the formulation of that reply, didn't you?

5 **MS MARTIN:** I don't recall whether it was this specific reply.

MS SHARP SC: Well, you were made aware, weren't you, that AUSTRAC was, once again, issuing a coercive notice to try to obtain the independent report of KPMG?

10 **MS MARTIN:** Yes, I was made aware of the notice.

MS SHARP SC: And can I take you over the page, please. And do you see, once again, in that bottom row, The Star refuses to provide a copy of the KPMG report and claims legal professional privilege?

15 **MS MARTIN:** I see the reference to the fact that report has not been included on that basis of legal professional privilege.

20 **MS SHARP SC:** So is it right that, once again, you had advised officers at The Star that this report was privileged?

MS MARTIN: I don't recall whether I specifically advised on this letter.

25 **MS SHARP SC:** Well, did you provide advice at that time that the report was privileged, or not?

MS MARTIN: I don't recall whether it was specifically at this time.

30 **MS SHARP SC:** Can I take you, please, to exhibit B2013. And do you see this is a letter of 5 December 2019 from AUSTRAC?

MS MARTIN: Yes, I see that date. And I see it's from AUSTRAC.

35 **MS SHARP SC:** All right. Do you see that AUSTRAC is saying it's an offence not to comply with the notice?

MS MARTIN: Yes, I see that reference.

40 **MS SHARP SC:** And may we take it that Ms Arnott consulted with you about this letter upon receiving it?

MS MARTIN: I don't recall whether Ms Arnott consulted me upon receiving the letter.

45 **MS SHARP SC:** Well, it's most likely she did, given the contents of the letter; do you agree?

MS MARTIN: I'm not sure that it's most likely, but I know I had discussions at some point on this notice.

5 **MR BELL SC:** Ms Martin, you understood at this time that AUSTRAC were continuing to challenge the proposition that the part A report from KPMG was privileged; is that correct?

MS MARTIN: Yes, Mr Bell.

10 **MS SHARP SC:** And you knew that part of the reason why AUSTRAC was challenging that was because they had reviewed the letter of engagement of KPMG?

15 **MS MARTIN:** I can see that's in this letter.

MS SHARP SC: Now, can I take you to The Star's reply, which is B2049. See this is a letter from The Star dated 12 December 2019?

20 **MS MARTIN:** Yes, I see that.

MS SHARP SC: And do you see that The Star continues to maintain that the report is privileged? If you can read the third paragraph.

25 **MS MARTIN:** Could that just be enlarged slightly? It's difficult in this colour. Thank you.

MS SHARP SC: Now, did you advise on the formulation of this letter, Ms Martin?

30 **MS MARTIN:** I don't recall that I did on the letter.

MS SHARP SC: Well, it's most likely you did; do you agree?

35 **MS MARTIN:** No, I don't know that it's most likely I would have on the letter itself.

MS SHARP SC: Well, let's look at these facts. You had originally advised in relation to AUSTRAC's queries that legal professional privilege could be claimed over this report; correct?

40 **MS MARTIN:** Correct.

MS SHARP SC: AUSTRAC has now repeatedly sought to challenge that claim; correct?

45 **MS MARTIN:** Yes, in - in 2019.

MS SHARP SC: Well, in those circumstances, it would be most imprudent for the author of this letter not to consult with you, as the chief risk and legal officer, wouldn't it?

5 **MS MARTIN:** Not necessarily.

MS SHARP SC: In any event, you were aware at around this time, weren't you, that The Star was continuing to assert privilege over the KPMG report, weren't you?

10

MS MARTIN: I was. I had that general awareness.

MS SHARP SC: And do you - well, I withdraw that. How did you know that?

15 **MS MARTIN:** I think I have referenced in my statement that the notices had been discussed with me.

MS SHARP SC: Now, do you see that third paragraph that says:

20 "The Star is not -"

I can't read that out. I withdraw that. That third paragraph is just plainly wrong, isn't it?

25 **MS MARTIN:** I'm just reading that in full. No, I don't believe it's plainly wrong.

MS SHARP SC: Well, isn't that paragraph, and the next, plainly wrong?

30 **MS MARTIN:** Sorry, I will just read the next paragraph. The next paragraph I'm not sure is plainly wrong. I'm not - it - it looks like a general statement.

MS SHARP SC: Well, in the context of the fact that AUSTRAC was seeking this particular report, being the KPMG report, those assertions made for the purpose of resisting the production of the report are plainly wrong, aren't they?

35

MS MARTIN: I'm not sure I'd say they're plainly wrong. I think that fourth paragraph - I'm - I'm not sure where it fits or its relevance to the response to the notice, is more my concern.

40 **MS SHARP SC:** Well, Ms Martin, I suggest that if you can't accept that that letter is plainly wrong, you don't have a basic grip on the laws of legal professional privilege; do you agree?

45 **MS MARTIN:** No, I don't agree that I don't have a grip at all on those principles.

MS SHARP SC: Well, when did you become aware that, in fact, you couldn't make a claim of legal professional privilege in relation to the production of this report?

MS MARTIN: My recollection is that in December of 2019, including a discussion that was held with representatives of AUSTRAC, was the first instance I turned my mind back to the original opinion that I had formed in 2018, to give
5 that further thought.

MR BELL SC: Was that in the context of AUSTRAC making it clear to you that they were going to continue to challenge the claim for privilege?

10 **MS MARTIN:** It was, Mr Bell. And I had a specific telephone call with them in that regard.

MR BELL SC: Yes. Thank you.

15 **MS SHARP SC:** And this was in December of 2019, was it?

MS MARTIN: Yes. I believe late December 2019.

20 **MS SHARP SC:** And it's right, is it, that at that point you reassessed your view and came to the view that you could not claim privilege over the KPMG report?

MS MARTIN: I think, Ms Sharp, I just reassessed my view of whether the report was provided or not.

25 **MS SHARP SC:** Well, is it at that point you realised you had been wrong and you couldn't claim privilege over it?

MS MARTIN: I would certainly say at that point I realised that it was likely to be wrong and that I didn't want to further contest that with AUSTRAC.
30

MS SHARP SC: Can I take you to exhibit B, tab 2095. And here I'm taking you to a letter from AUSTRAC, which is STA.3402.0002.2198. Do you see this is a letter - it's dated January 9, 2019, but you can take it from me that the correct date of this letter is 9 January 2020.
35

MS MARTIN: Thank you.

MS SHARP SC: And if I can take you, please, to the third page, which is pinpoint 2200. And I might need to draw your attention, please, to clause 6.
40

MS MARTIN: Yes.

MS SHARP SC: And I can't read it out to you, but can you read that for yourself, please, under 6.
45

MS MARTIN: Yes.

MS SHARP SC: Now, you see there's a reference to a telephone call in December?

MS MARTIN: Yes.

5

MS SHARP SC: And that was with you?

MS MARTIN: Yes.

10 **MS SHARP SC:** Is that the call you were just referring to?

MS MARTIN: Yes, it is.

15 **MS SHARP SC:** And if we could go over the page, please. And could I ask you, please, to read that page to yourself.

MS MARTIN: Yes. Could that just be enlarged slightly? Thank you.

20 **MS SHARP SC:** Is it correct that on 23 December 2019, when you spoke with AUSTRAC, you continued to maintain that the KPMG report was privileged and immune from production?

25 **MS MARTIN:** I don't recall that I specifically maintained it at that time. I think, as I can see from the start of this letter, it was discussed. And I think I needed to obtain some further information.

MS SHARP SC: Well, what's your recollection? Did you tell them you were going to think about it, or did you tell them that the report was privileged?

30 **MS MARTIN:** I don't recall that I gave a view.

35 **MS SHARP SC:** Well, you understand from this that they're continuing to seek evidence to support a claim that the dominant purpose for which that KPMG report was brought into existence was the provision of legal advice. Do you understand that?

MS MARTIN: Yes.

40 **MS SHARP SC:** And the only fair conclusion is that they are asking for that further evidence because you continued to maintain in your telephone call that the document was privileged?

MS MARTIN: I don't agree with that. I can explain that, Ms Sharp.

45 **MS SHARP SC:** Please do.

MS MARTIN: The - the telephone call was made to me, in my recollection, to outline in more detail AUSTRAC's views and to request that that be considered

and responded to. And I do recall that I was advised, as I think then the letter captures, that AUSTRAC would write to us on this matter, along with - my recollection is there were other matters relating to the notice. And so I don't recall whether I was specifically invited on all to give a view; rather, I was hearing from
5 AUSTRAC at that time, and they were foreshadowing that a fulsome response was required.

MS SHARP SC: Now, it's correct that ultimately, on about 20 January 2020, The Star did provide a copy of the KPMG report to AUSTRAC?
10

MS MARTIN: That's correct.

MS SHARP SC: And I will show you exhibit B3204. And I'm showing you a letter from The Star to AUSTRAC of 20 January 2020.
15

MS MARTIN: Yes.

MS SHARP SC: And I will show you the second page, please.

MS MARTIN: Yes.
20

MS SHARP SC: And I will show you the page after that. And the page after that. And can I take your attention, please, to point 6.

MS MARTIN: Yes.
25

MS SHARP SC: It's right, isn't it, that privilege is still being asserted over the KPMG report, isn't it?

MS MARTIN: I can see the sentence that it does not intend to waive legal professional privilege.
30

MS SHARP SC: Well, it necessarily follows, doesn't it, that The Star was continuing to maintain that the document was privileged?
35

MS MARTIN: I'm just reading that second paragraph that has been highlighted, Ms Sharp. Sorry, the question was?

MS SHARP SC: That The Star continued, in this letter, to claim that the KPMG report was privileged.
40

MS MARTIN: I think that can be inferred from the text that it's not intending to waive legal professional privilege.

MS SHARP SC: Did you contribute to the text in this letter?
45

MS MARTIN: I don't recall contributing to the text in this letter.

MS SHARP SC: Well, did you advise on it, in view of the fact that you had spoken personally with representatives of AUSTRAC in December about this position?

5 **MS MARTIN:** I recall advising on the provision of the reports.

MS SHARP SC: Well, it's most likely that you assisted in the drafting of this letter, isn't it?

10 **MS MARTIN:** No, it's not most likely.

MS SHARP SC: It's most likely that you reviewed this letter before it was sent to AUSTRAC, wasn't it?

15 **MS MARTIN:** No, not necessarily.

MS SHARP SC: Are you being truthful in your answers?

20 **MS MARTIN:** Yes, I believe I am.

MS SHARP SC: Is it simply the case that you don't remember, or are you denying that you did?

25 **MS MARTIN:** No, I think I was saying I don't recall contributing. So I would say I just don't recall, Ms Sharp.

MS SHARP SC: All right. Well, is it most likely that you did, in view of the fact that you were the person who had the conversation with the AUSTRAC officer on 23 December 2019?

30 **MS MARTIN:** I'm sorry. Most likely that I consulted on the letter or --

MS SHARP SC: That you consulted on the letter, firstly.

35 **MS MARTIN:** Yes.

MS SHARP SC: That you - and is that most likely?

40 **MS MARTIN:** I think it is likely that I had discussions with the members of my team responding to the letter to advise my view that the reports should be provided.

MS SHARP SC: And is it most likely you reviewed a copy of this letter prior to it being sent to AUSTRAC?

45 **MS MARTIN:** No, I don't think it's most likely.

MS SHARP SC: Are you doing your best to assist this review at the moment?

MS MARTIN: I am, Ms Sharp. I just - I don't agree that it was most likely that I would have reviewed the letter if I had had a discussion around providing the reports.

5

MS SHARP SC: In any event, it's your evidence, is it, that by December 2019, you considered that privilege could not be claimed over the independent part A review report; is that right?

10 **MS MARTIN:** Ms Sharp, I think it would be more correct to say that in December, I had formed the view that certainly more consideration needed to be given to that claim; that it was being contested by AUSTRAC; and that, in any event, my view was that at that time, the report should be given to AUSTRAC.

15 **MS SHARP SC:** Well, when did you form the view that privilege couldn't be claimed?

MS MARTIN: I think I've truly formed the view of the error that I made in the opinion I was giving back in 2018 in preparation for this review.

20

MS SHARP SC: And it's right, isn't it, that in continuing to press this claim where one was not properly available, The Star's dealings with AUSTRAC were far from transparent and collaborative; do you agree?

25 **MS MARTIN:** No, I don't agree with that.

MS SHARP SC: Well, that answer is just wrong, isn't it?

MS MARTIN: No, I don't believe so.

30

MS SHARP SC: Can I show you, please, document STA.5002.0007.2441. And this is exhibit B3006. It's exhibit B3006. Can you see I'm showing you minutes of a meeting of directors of The Star Entertainment Group of 28 July 2021?

35 **MS MARTIN:** Yes, I see that.

MS SHARP SC: And do you see that you're recorded as being in attendance?

MS MARTIN: Yes.

40

MS SHARP SC: Can I take you to pinpoint 2449. Can you see there's a reference to Ebsworth Lawyers?

MS MARTIN: Yes. I see that at the top of the page, Ms Sharp.

45

MS SHARP SC: And do you see there's also a reference to BDO?

MS MARTIN: Yes.

MS SHARP SC: Now, it's right, isn't it, that BDO were commissioned by Star Entertainment to provide the next part A independent review, weren't they?

5 **MS MARTIN:** My recollection is The Star engaged Mr Seyfort and BDO for the purposes of that review.

MS SHARP SC: All right. But it is The Star that has a legal obligation to commission a part A independent review, isn't it?

10

MS MARTIN: Yes. The - if you're a responsible entity under the AML Act, you're required, under your program, to do independent reviews of part A of that program. Yes.

15 **MS SHARP SC:** And do you see these minutes state that - and I will highlight this. These minutes record:

20 "Ms Martin noted the purpose of attendance by Mr Seyfort and Mr Simms is to outline the process and key aspects, as well as general observations during phase 1 of the independent review of the company's AML program (review of part A). Ms Martin noted that the phase 1 report was provided to the board on 7 June 2021. Mr Seyfort noted that both phases of the review are being conducted subject to legal professional privilege."

25 **MS MARTIN:** Yes, I see that reference.

MS SHARP SC: Now, you understand, don't you, that the dominant purpose of commissioning the BDO part A review is not for the provision of legal advice, don't you?

30

MS MARTIN: I think, as we've discussed today, that the purpose of a part A review is to comply with the statutory obligations under the AML Act.

MS SHARP SC: And that is not a purpose of providing legal advice, is it?

35

MS MARTIN: I accept that that's not the dominant purpose of that, as at today.

MS SHARP SC: Are you saying you didn't realise that back in July of last year?

40 **MS MARTIN:** I'm not sure I'd turned my mind to it in July of last year, in connection with this particular matter.

MS SHARP SC: Is what, in substance, is happening here is that Star has retained Ebsworth to commission that independent review on Star's behalf so it can cloak that review in legal professional privilege? Is that what's happening here?

45

MS MARTIN: No, I don't believe so.

MS SHARP SC: Is that what you were attempting to do?

MS MARTIN: No, I wasn't.

5 **MS SHARP SC:** Were you acting with the intention that you would have a proper basis to claim privilege over this independent part A review if you had external lawyers commission it on behalf of The Star?

MS MARTIN: Ms Sharp, can you just repeat that altogether once again?

10

MS SHARP SC: Were you acting with the intention that you would have a proper basis to claim privilege over this independent part A review if you had external lawyers commission it on behalf of Star?

15 **MS MARTIN:** I don't think that was my driving intention here.

MS SHARP SC: Can I take you, please, to STA.3402.0008.4549. Now, this is exhibit B3369. And you'd agree that a BDO report is attached to this email chain, to which you're a party?

20

MS MARTIN: I can see there's an attachment to this email I received. Yes.

MS SHARP SC: And you see that the email has "privilege" written on it?

25 **MS MARTIN:** Yes, I see that.

MS SHARP SC: What's privileged about this?

MS MARTIN: I'm not sure I can --

30

MS SHARP SC: And I will take you to the attachment.

MS MARTIN: Thank you.

35 **MS SHARP SC:** It's STA.3402.0008.4551. This is exhibit BB370 - I'm sorry. Exhibit B3370. You agree this is a draft report on transaction monitoring?

MS MARTIN: Yes. I can see the heading of the report references transaction monitoring.

40

MS SHARP SC: All right. Is the dominant purpose for this report being commissioned so that legal advice can be provided to Star Entertainment Group about it?

45 **MS MARTIN:** I can see from the cover of the report that it's saying it's being prepared - apologies - for the purpose of legal advice being provided.

MS SHARP SC: Yes. But I'm asking what, in substance, you know to be the case.

MS MARTIN: I'm drawing my recollection from these documents, Ms Sharp, and so that's my reference to the report.

5 **MS SHARP SC:** I will approach it another way. Have you been involved in this arrangement with BDO?

MS MARTIN: Not directly, Ms Sharp, no.

10 **MS SHARP SC:** Have you had knowledge of this arrangement?

MS MARTIN: I've had knowledge of the work being conducted.

15 **MS SHARP SC:** Well, are you able to say what legal advice was being provided to The Star Entertainment Group in relation to this BDO report?

MS MARTIN: I have awareness that HWL Ebsworth had been engaged to give legal advice in relation to the areas arising out of the report.

20 **MS SHARP SC:** You see the heading of this draft report is Independent Review, don't you?

MS MARTIN: Yes, I see that heading as well.

25 **MS SHARP SC:** Well, does that assist you in understanding whether any legal advice was being given in relation to the independent review?

MS MARTIN: Not of itself.

30 **MS SHARP SC:** Does that give you any indication of whether the dominant purpose for obtaining this report from BDO was for the provision of legal advice?

MS MARTIN: Not of itself, Ms Sharp. I'm just - I'm not aware of all of the context and circumstances.

35 **MS SHARP SC:** So you're not in a position to say whether a claim for privilege may properly be made in relation to this draft independent review?

MS MARTIN: Not from these documents.

40 **MS SHARP SC:** What about from your knowledge of what has been going on since November of last year?

45 **MS MARTIN:** I don't believe I can talk to it specifically, but my general knowledge was that there was engagement of both HWL Ebsworth and BDO. And HWL was providing legal advice, and BDO were completing a review which included the independent review of part A of the program.

MS SHARP SC: Can I take you to document STA.3004.0006.0003. Do you see this is an information note?

MS MARTIN: Yes, I do.

5

MS SHARP SC: And it's dated 19 July 2019?

MS MARTIN: Yes, I see that.

10 **MS SHARP SC:** It's from Kevin Houlihan?

MS MARTIN: Yes.

MS SHARP SC: It's called Operation Great Wall?

15

MS MARTIN: Yes, I see that.

MS SHARP SC: And what's Operation Great Wall?

20 **MS MARTIN:** It would've been a file or an investigation being maintained by Mr Houlihan.

MS SHARP SC: And do you see it's called Legal Summary?

25 **MS MARTIN:** I see the heading INV/Legal Summary.

MS SHARP SC: And do you see there's a little box that has the word "summary" in it?

30 **MS MARTIN:** Yes.

MS SHARP SC: Now, it says:

35 "The purpose of this summary is to brief The Star's legal team to assist them in the preparation of legal advice for the business in relation to legal and regulatory obligations arising from the investigation and also prepare for any anticipated legal proceedings."

MS MARTIN: Yes, I see that.

40

MS SHARP SC: Had you requested Mr Houlihan at this time to conduct any investigations so that you could provide legal advice?

MS MARTIN: I don't specifically recall, Ms Sharp, at this time.

45

MS SHARP SC: You see, was there a practice at Star, of which you were aware, of the investigations team marking all of their notes to you as being privileged, or

for the purpose of legal advice, even when no member of the legal team was seeking to provide legal advice?

5 **MS MARTIN:** I'm not sure if I'm aware of a practice at all times for all notes being marked this way. I note I have seen notes marked this way.

10 **MS SHARP SC:** Have you encouraged investigators to mark their information notes to you with some kind of statement that the document is prepared for the purpose of the legal team providing advice?

MS MARTIN: No, not as a general note.

MS SHARP SC: Have you ever done that?

15 **MS MARTIN:** I think my recollection is that it's likely that I have done it in certain contexts, yes.

20 **MS SHARP SC:** See, is it the case that, in fact, there is a general practice at The Star of investigators marking their documents with "privilege", or saying they're for the purpose of the legal team providing advice, simply to immunise these documents from production to regulators, such as ILGA, New South Wales Liquor and Gaming or AUSTRAC?

25 **MS MARTIN:** No, I don't think so.

MS SHARP SC: Would that be a convenient time, Mr Bell?

30 **MR BELL SC:** Well, I just have a couple of questions. Operator, can you bring up Ms Martin's statement, which is INQ.002.004.0201, at point 0224, please. And, Ms Martin, if I could draw your attention to paragraph 125. You there refer in the second-last sentence to discussions you had with Mr Bekier in relation to the privilege claim over the KPMG reports. And I infer those discussions are in January 2020; is that correct?

35 **MS MARTIN:** Mr Bell, it may have been late December or early 2020, but thereabouts. Yes.

40 **MR BELL SC:** And you say there that in discussions with Mr Bekier, you recommended that the privilege claim be withdrawn, and Mr Bekier agreed. Can you please tell me, as best you can recall, the substance of what you said to Mr Bekier?

45 **MS MARTIN:** I don't know that I have a very clear recollection, Mr Bell, but I know that I was concerned after that phone call that having had communicated directly to me by the representatives of AUSTRAC the concerns that they held and, in particular, stepping through aspects relating to the various parts of materials that The Star was producing in response to notices, key in that was the claims being made for legal professional privilege and the KPMG reports.

And I was concerned that these were really debates, if I can just be plain, not worth having with the regulator. And so at that time, I think my recollection was the discussion with Mr Bekier that we simply withdraw the claim and produce the reports. I suspect it was in quite general terms, Mr Bell, because we were covering a couple of categories of requests from AUSTRAC, and I recall being particularly concerned that the meeting had been requested directly with myself on short notice and that I wanted to be responding to that appropriately.

10 **MR BELL SC:** And I understand you've told me that it's only in more recent times in preparation for this review that you've truly come to understand that there was no proper basis for a claim for privilege over the KPMG reports; is that correct?

15 **MS MARTIN:** I think that's correct, with the reference to "proper basis", Mr Bell. I think up until and including this point, I still viewed the circumstances in a particular way that meant that I held a view that privilege could be claimed over those reports.

20 **MR BELL SC:** So should I understand the gist of your advice to Mr Bekier to be that it was in the interests of a good relationship with AUSTRAC for the claim to privilege to be withdrawn, rather than you telling him at that time that the claim for privilege was mistaken?

25 **MS MARTIN:** I think I would say, Mr Bell, that first and foremost, my concern was the provision of the report and the relationship with AUSTRAC.

MR BELL SC: Yes. Yes. Thank you. Well, I will now adjourn until 2 pm.

30 **<THE HEARING ADJOURNED AT 1:00 PM**

<THE HEARING RESUMED AT 2:01 PM

MR BELL SC: Yes, Ms Sharp.

35 **MS SHARP SC:** Could I show you exhibit B, tab 2840, which is ANZ.2000.0003.0001. And do you see that this is a part A independent review of the money laundering program of BDO dated May 2021?

40 **MS MARTIN:** Yes, I see that heading.

MS SHARP SC: And do you see it says "privileged and confidential"?

MS MARTIN: I see that.

45 **MS SHARP SC:** This report is not privileged, is it?

MS MARTIN: It appears to be labelled that way, Ms Sharp.

MS SHARP SC: Well, is there any basis for claiming privilege over this independent review of part A?

5 **MS MARTIN:** I'm not sure I've got the circumstances to answer that.

MS SHARP SC: Well, can I - just one matter while I'm here. Do you see the document ID is ANZ?

10 **MS MARTIN:** Yes, I do.

MS SHARP SC: Okay. You can take it from me that ANZ has produced this document to the inquiry. Now, you understand, don't you, that if ANZ has a copy of it, if there ever was any privilege in it, it has now been waived?

15

MS MARTIN: No, I don't understand that's necessarily the case.

MS SHARP SC: Really, Ms Martin?

20 **MS MARTIN:** My general understanding is if it's provided on a confidential basis, it may not have been waived.

MS SHARP SC: Ms Martin, that's not correct. There's a waiver if it's provided to somebody else, isn't there?

25

MS MARTIN: That's not my understanding.

MS SHARP SC: Now, you understand that there is a waiver of legal professional privilege if one acts contrary to the maintenance of the privilege, don't you?

30

MS MARTIN: Yes, I understand that general concept.

MS SHARP SC: In any event, can I take you to exhibit B at tab 3370, which is STA.3402.0008.4551. Now, this is a different draft report of BDO, which is the - it says it's the Phase 2 Reporting (Transaction Monitoring), September 2021?

35

MS MARTIN: Yes, I see that.

MS SHARP SC: Now, that's now six months ago. Has this report been finalised?

40

MS MARTIN: I think it has, yes.

MS SHARP SC: And when was it finalised?

45 **MS MARTIN:** I'm not sure I recall exactly. Its production, I think, from memory, was in two stages. It may have been recently in 2022.

MS SHARP SC: And how recently?

MS MARTIN: I would say in the last month or two, because there was some work that was completed and it finalised, I think - it would be in the last month or two.

5

MS SHARP SC: I call for the production of the final version of the BDO Phase 2 (Transaction Monitoring) report.

MS RICHARDSON SC: I will make inquiries.

10

MS SHARP SC: Now, do you agree, Ms Martin, that one aspect of risk management is ensuring that The Star has the right cultural settings in place?

MS MARTIN: Can you just repeat the start of that question, Ms Sharp?

15

MS SHARP SC: Yes. Do you agree that one aspect of risk management is in ensuring that The Star has the right cultural settings in place?

MS MARTIN: I would describe that slightly differently, in that risk management is - can be informed by or affected by the cultural settings in place.

20

MS SHARP SC: Well, do you understand that there is a relationship between the concepts of governance, risk and culture within an organisation?

MS MARTIN: I understand that all of those components exist within an organisation and there are areas of interrelationship.

25

MS SHARP SC: And, really, they all influence each other, don't they, the approach to risk management, the approach to governance and the culture of the organisation?

30

MS MARTIN: Yes, I think that's possible.

MS SHARP SC: Well, you're the chief risk officer, aren't you?

35

MS MARTIN: Yes.

MS SHARP SC: Well, saying "possible" makes your answer sound a little tentative. What is your view?

40

MS MARTIN: I was just giving consideration to the way you framed that.

MS SHARP SC: Well, as the chief risk officer of the organisation, what do you say is the relationship between risk management, governance and culture?

45

MS MARTIN: I think that can be answered a number of different ways. What comes to mind for me is that the culture of an organisation, particularly with respect to risk and compliance, then has a bearing on the risk management

approach and, at times, effectiveness. And in turn, governance arrangements across an organisation support and facilitate the risk management framework that may be in place, as - as an example. But I do think that could be answered many ways.

5

MS SHARP SC: Do you agree that the cultural settings of an organisation affect good governance or otherwise?

10 **MS MARTIN:** I think they can. I think that there's also a relationship the other way around, in that good governance helps support and foster good culture.

MS SHARP SC: So in a sense, culture, risk management and governance are levers which affect each other?

15 **MS MARTIN:** Yes, they can affect each other.

MS SHARP SC: Have you played any role in creating a culture of compliance within your organisation?

20 **MS MARTIN:** I think I have.

MS SHARP SC: And how have you - I withdraw that. How have you played that role?

25 **MS MARTIN:** I think it's there by virtue of my role in my team, in the sense that the role includes legal, compliance and risk management areas. And as an advisory function, and with that being my role to lead that team, we clearly play a role in developing those functions. And I think that, in turn, assists with contributing to the culture. Not exclusively, but has a role in that.

30

MS SHARP SC: Now, can I take you to exhibit B at tab 3451, which is STA.3018.0002.0024. And what I'm showing you here is the front page of a PwC report for The Star called Risk and Compliance Culture Review, Final Report, January 2022?

35

MS MARTIN: Yes, I see that.

MS SHARP SC: Did you play any role in commissioning that document?

40 **MS MARTIN:** I did.

MS SHARP SC: And what was the role you played?

45 **MS MARTIN:** So I was responsible for liaising with PwC to commission the report.

MS SHARP SC: And I take it you've read the report?

MS MARTIN: I have.

5 **MS SHARP SC:** Could I take you to the pinpoint 0028. And do you see there's - and I will have to have this enlarged for you, Ms Martin. Do you see there's a black box with "Background" written in it?

MS MARTIN: Yes.

10 **MS SHARP SC:** And do you see it states:

"Risk and compliance culture relates to how the organisational culture, or 'the way we do things around here' influence risk and compliance outcomes."

15 **MS MARTIN:** Yes, I see that.

MS SHARP SC: And do you agree with that?

MS MARTIN: Yes, I would.

20 **MS SHARP SC:** It also states that:

25 "A sound risk and compliance culture is a core element of a risk management framework and requires that an organisation undertakes activities to develop a risk and compliance culture that supports its people in operating effectively within the risk appetite."

Do you agree with that proposition?

30 **MS MARTIN:** I do, with one exception. I'm not sure I would describe it as a core element of a risk management framework unless you were to include - you know, giving that word "framework" quite a broad definition. And otherwise, yes.

35 **MS SHARP SC:** And could I take you to another document, please. It's INQ.023.001.0001. This will need to be marked, Mr Bell.

MR BELL SC: I will mark that document MFI44.

40 **MS SHARP SC:** What I'm showing you is a document that received some attention during Kenneth Hayne's Royal Commission into the financial sector. Have you seen this report before? It's Banking and Conduct and Culture: A Call for Sustained and Comprehensive Reform. It's dated 2015, published by the Group of Thirty.

45 **MS MARTIN:** I don't recall that I've seen this, Ms Sharp.

MS SHARP SC: Can I take you, please, to page 17 of this document, which is pinpoint 0019. And if I can just have that first paragraph enlarged for you. It says:

"Culture is defined as 'the ideas, customs, and social behaviour of particular people or society'. Culture is the glue that binds individuals to an institution; it creates a consistent framework for behaviours and business practices."

5 Do you agree with that observation?

MS MARTIN: Yes, I think I would.

10 **MS SHARP SC:** And do you see it says:

"Culture is what people do when no one is watching."

MS MARTIN: Yes, I see that.

15 **MS SHARP SC:** And do you agree with that observation?

MS MARTIN: I do. My understanding is that's a commonly used phrase to describe culture in simple terms.

20 **MS SHARP SC:** Can I take you, please, to exhibit B at tab 2928. Do you see this is an email from Oliver White to you, forwarding a legal - and it's dated 2 July 2021. And it's forwarding advice that Mr White received on 10 May 2013. And if I could go over the page, please. Do you see this is - what I'm showing you is an advice from Mallesons in relation to the CUP proposal?

25 **MS MARTIN:** Yes, I see that.

MS SHARP SC: Now, were you made aware in 2013 that Oliver White was taking advice from Mallesons in relation to the CUP proposal?

30 **MS MARTIN:** I was aware some advice was being taken, I believe, in 2013 or '14.

35 **MS SHARP SC:** So were you aware of the proposal to use CUP cards in order for patrons to purchase gaming chips or, indeed, pay off cheque cashing facilities?

MS MARTIN: I was aware around that time of 2013 or '14 of an arrangement being entered into with NAB to provide a CUP facility whereby, ultimately, the funds from those transactions could be used for gaming purposes.

40 **MS SHARP SC:** And did you play any kind of role in the legal sign-off for that proposal?

45 **MS MARTIN:** I don't recall that.

MS SHARP SC: Well, do you think that, given your position, you would have played a role in the sign-off of that proposal?

MS MARTIN: No, not necessarily. My team may have been involved in giving legal advice on that proposal at that time.

5 **MS SHARP SC:** Could I take you to exhibit B at tab 2946. And this is STA.3401.0003.5785. Do you see probably the first third of the page is an email from Oliver White dated 24 June 2013?

MS MARTIN: Yes, I can see that.

10 **MS SHARP SC:** And do you see that you're copied into it?

MS MARTIN: Yes, I am.

15 **MS SHARP SC:** Now, was your usual practice to read emails that were sent or copied to you?

MS MARTIN: More so those that are sent to me than copied to me.

20 **MS SHARP SC:** I will take you to the beginning of this email. It says:

25 "Further to Friday's meeting/call re China UnionPay and potential workarounds to ensure funds can be made available immediately, I spoke to Paula briefly re AML/CTF issues for establishing an Echo Entertainment Group Limited CCF/CCL and whether we were permitted to have a corporate CCF under our existing program."

MS MARTIN: Yes, I see that.

30 **MS SHARP SC:** Do you agree that you did speak with Oliver White at about that time in relation to China UnionPay and the possibility of creating a cheque cashing facility in conjunction with it?

35 **MS MARTIN:** I accept that, on the basis this email says that. I don't specifically recall otherwise, though.

MS SHARP SC: And is it right that you provided some views to him about AML/CTF implications of using CUP cards?

40 **MS MARTIN:** I can see that in the second paragraph that that is referenced, that we've discussed CCFs and the AML/CTF program.

MS SHARP SC: And what is your recollection of your discussions at that time about using CCFs in conjunction with CUP cards?

45 **MS MARTIN:** Ms Sharp, outside this paragraph, I'm - I'm not sure I can recall anything from this time independently.

MS SHARP SC: Nothing at all?

MS MARTIN: No, not beyond the fact that there was clearly a discussion, as outlined in this email, when this - when this matter was being considered by Oliver White.

5

MS SHARP SC: So you, it must follow, have no recollection of whether the New South Wales Liquor and Gaming or ILGA were notified that CUP cards would be swiped at a hotel in conjunction with this proposal?

10 **MS MARTIN:** No, I don't recall that.

MS SHARP SC: And you have no recollection of whether anybody consulted with the authority or with Liquor and Gaming New South Wales about whether a cheque cashing facility could be used in conjunction with CUP cards?

15

MS MARTIN: I don't have any independent recollection, but I have been made aware through this review and in preparing my statement that my team were liaising with the regulator on matters relating to CCFs in the ICM.

20 **MS SHARP SC:** But is it right that you had no involvement at all with liaising with the regulator at the time?

MS MARTIN: I don't have any recollection involving - or, sorry, of myself being involved with liaising with the regulator at that time.

25

MS SHARP SC: And that is in both 2013 and 2014, is it?

MS MARTIN: Yes.

30 **MS SHARP SC:** So is it right that any view you now hold about whether the regulator was consulted with is entirely dependent upon what others within your organisation have told you?

MS MARTIN: I believe so, yes.

35

MS SHARP SC: Now, you'd agree, by reference to this email I've taken you to, you did understand by 24 June 2013, at the latest, that the CUP cards were being used at The Star?

40 **MS MARTIN:** I'm just reading the email. I'm not sure whether, from this email, it's clear they were being used at this time. I certainly can see, and my recollection is, that in 2013 their use was being considered.

45 **MS SHARP SC:** Did you know at this time that their use was being considered by way of the cards being swiped at the hotels rather than at the cages?

MS MARTIN: I know I became aware of that. I'm not sure whether that was at this exact time, in that level of detail.

MS SHARP SC: When did you become aware of that matter?

5 **MS MARTIN:** I think, in reviewing materials that I looked at for my statement, it was at least by some time late in 2015. It could have been earlier, Ms Sharp, but there was a point in late 2015 where that would be the latest point.

10 **MS SHARP SC:** And at that point, did you understand why the hotel was involved in the process of swiping the CUP cards?

MS MARTIN: I think I had general knowledge of that, yes.

MS SHARP SC: And what was that general knowledge that you had?

15 **MS MARTIN:** That the merchant terminals had been set up there, in conjunction with our arrangement with NAB, to enable the CUP cards to be used to make a purchase at that point. And that was the structure that had been adopted for that arrangement, and that there was - by that point, I was aware that there was a
20 second step then, to the extent that those funds were being made available in connection with gaming, which I mentioned in my earlier answer.

MS SHARP SC: Did you appreciate at that time that UnionPay prohibited China UnionPay cards being used to purchase gaming chips?

25 **MS MARTIN:** I don't recall whether I knew that point at that time.

MS SHARP SC: But you did become aware of that at some point, did you?

30 **MS MARTIN:** Yes.

MS SHARP SC: Now, could I show you exhibit F at tab 54, which is STA.3034.0001.0591. Now, I'm showing you an internal memo from Mr White dated 3 February 2014. And do you see it's copied to you?

35 **MS MARTIN:** Yes, I do.

MS SHARP SC: And do you see it's sent to the then CEO, John Redmond; Matt Bekier, who was then the chief financial officer; and Adrian Hornsby, the VIP of credit and collections?

40 **MS MARTIN:** Yes, I do.

MS SHARP SC: Now, I will just have this enlarged a little bit so you can read it. Now, may we take it that you did read this at the time?

45 **MS MARTIN:** I can't recall that I read it at the time, but I have received it.

MS SHARP SC: Do you think, since somebody that you supervised was sending a legal advice to the CEO, it's most likely you would have read it at the time?

5 **MS MARTIN:** I think it's likely, yes.

MS SHARP SC: It's most likely, isn't it?

10 **MS MARTIN:** I say "likely" just because I may have also been verbally briefed on it and had the email for my information. But it's definitely likely.

MS SHARP SC: And is it most likely you discussed this advice with Mr White, in addition to reading this document?

15 **MS MARTIN:** It's likely that Oliver and I discussed it at least at a high level.

MS SHARP SC: And is it right that by this time, you knew that patrons were swiping the CUP cards at the hotel?

20 **MS MARTIN:** I'm not sure whether I knew that specifically at this time.

MS SHARP SC: Well, did you understand that there was a difficulty that Star was facing, in that there was a gap between the time at which the card was swiped and when funds had cleared into The Star's bank account?

25 **MS MARTIN:** Yes.

MS SHARP SC: So does it not follow that you understood at that time that the swipes were taking place at the hotel?

30 **MS MARTIN:** Not necessarily from that point alone.

MS SHARP SC: Well, what's the most likely situation, Ms Martin?

35 **MS MARTIN:** At this time, I think I understood, in a general sense, the process. I'm just not sure whether I knew exactly where the terminals were at this time. But I do know that I became aware of the terminals being at the hotel as distinct from the cage at some point that was certainly no later than late 2015.

40 **MS SHARP SC:** Now, given that you were the chief legal officer at this time, may we take it that you would have been concerned to ensure that the casino operator was not acting in breach of the Casino Control Act in New South Wales?

45 **MS MARTIN:** Yes. I would have been generally concerned about our compliance with the Casino Control Act.

MS SHARP: And is it right that as a prudent lawyer, you would have wished to understand any advice that was given by those you supervised in relation to The Star's compliance with its obligations under the Casino Control Act?

5 **MS MARTIN:** I would have wished to understand - understood, sorry, that a member of my team was advising on the matter and be aware of that advice being given at a high level. I'm not sure I could go as far as saying be across the detail of all of the advice myself.

10 **MS SHARP SC:** You did know at that time that there were various restrictions in the Casino Control Act on the casino operator or its agents providing credit in connection with gaming?

MS MARTIN: Yes, I was generally aware of that.

15 **MS SHARP SC:** And you were also aware, weren't you, that a cheque cashing facility was one way in which, for practical purposes, credit could be provided to patrons?

MS MARTIN: Yes. In a general sense, yes. It - it performed that function.

20 **MS SHARP SC:** Did you know at this time that a concern about using the China UnionPay cards was that there was a period of time where funds were uncleared and, therefore, there was an issue about whether chips could be provided to patrons without the regulator considering that credit had been provided to the patrons?

25 **MS MARTIN:** Yes, I think I was generally aware of that point at around this time.

30 **MS SHARP SC:** And, indeed, that is precisely what this advice is about; do you agree?

MS MARTIN: Yes, it appears to be.

35 **MS SHARP SC:** And it's right, isn't it, that the idea was devised that when the CUP card was swiped, to cover that period of time before funds cleared in the casino's accounts, a temporary cheque cashing facility could be granted to the patron?

MS MARTIN: That's the solution this memo seems to be addressing. Yes.

40 **MS SHARP SC:** Well, you know that happened at the time, don't you?

MS MARTIN: Yes. Again, I'm - I'm generally aware that that was what was done at the time.

45 **MS SHARP SC:** All right. So you were generally aware, in about 2014, that The Star created what it called a temporary cheque cashing facility for use in conjunction with CUP cards?

MS MARTIN: Yes. I'm not sure what it was called, Ms Sharp, but that concept of a temporary CCF or a short-term CCF, to be used in conjunction with the CUP cards, I'm aware of.

5 **MS SHARP SC:** And did you ever give advice about that matter yourself?

MS MARTIN: On the matter of the temporary CCF, I don't believe I gave any advice that I can recall.

10 **MS SHARP SC:** Can I show you, please, exhibit B at tab 91. This is STA.3412.0151.0079. Now, you see this email is from Andrew Power to Oliver White, and you're copied in?

MS MARTIN: Yes, I see that.

15

MS SHARP SC: And it's Privileged CUP?

MS MARTIN: Yes, I see that.

20 **MS SHARP SC:** And do you see Mr Power says:

"I had a chat with Paula about China UnionPay during the week and she asked me to relay some of that information to you and next steps."

25 **MS MARTIN:** Yes, I see that.

MS SHARP SC: It's right, isn't it, that Andrew Power and Oliver White were keeping you updated about the CUP process during 2013, 2014 and 2015, isn't it?

30 **MS MARTIN:** I would say we've certainly had discussions about it.

MS SHARP SC: Well, they kept you updated, didn't they?

35 **MS MARTIN:** They kept me updated in a general sense on what they were working on, yes.

MS SHARP SC: And is it right that you had a good understanding of what the process with the CUP cards involved?

40 **MS MARTIN:** No, I don't think that's right at this time.

MS SHARP SC: Well, they'd checked in with you on a number of occasions about CUP cards by 9 October 2015, hadn't they?

45 **MS MARTIN:** I don't recall whether it was a number of occasions, but I do recall we had had some discussions about it. I was across it at a high level. I'm not sure I could speak specifically to the operational details, and that's what I mean when I say I'm not sure I had an awareness of the details of the operation.

MS SHARP SC: All right. Do you accept that by 2015, at the very latest, you were aware that the CUP cards were being swiped at the hotel?

5 **MS MARTIN:** I think I was aware of a connection to the hotel from October 2015. I think I've put that in my statement.

MS SHARP SC: And you were aware by that time, were you, that China UnionPay cards were prohibited by UnionPay International from being used to
10 purchase gaming chips; is that right?

MS MARTIN: I'm not sure whether I specifically recall that prohibition at this time.

15 **MS SHARP SC:** Well, would it be of concern to you if the two lawyers who reported to you were aware of that fact and had not made it known to you by that time?

MS MARTIN: Possibly, yes.
20

MS SHARP SC: Well, that would be a concern to you, wouldn't it?

MS MARTIN: I think - looking back on it now and knowing what I know now, I think I would have appreciated understanding more detail at the time.
25

MS SHARP SC: Now, were you aware that Mr White was giving legal advice about whether The Star was complying with its merchant agreement with NAB in 2014?

30 **MS MARTIN:** I don't recall that.

MS SHARP SC: Well, surely that's the very kind of matter you would expect the solicitor reporting to you to keep you abreast of; do you agree?

35 **MS MARTIN:** I expect solicitors to keep me apprised of the general matters they're advising on, not necessarily the specific components of that advice.

MS SHARP SC: Well, advice on compliance with a contractual agreement with your banking partner is the kind of matter you would expect the solicitor you
40 supervise to let you know about, isn't it?

MS MARTIN: I think a material contractual matter with a banking partner of The Star, yes.

45 **MS SHARP SC:** And one where, as a part of that contractual arrangement, you gave indemnities to your banking partner?

MS MARTIN: Again, I think material terms of the contract and, you know, assuming the indemnity is a material point in that context, possibly, yes.

5 **MS SHARP SC:** Well, what I will do is show you a document and you can tell us whether you consider the advice to be material. If I could show you exhibit B at tab 77. It's STA.3008.0008.0358.

MS MARTIN: Could that just be enlarged slightly. It's quite faint. Thank you.

10 **MS SHARP SC:** And could you just note up the top here that there's an exchange between two of the lawyers you supervise, Mr White and Mr Power, on 24 April 2015 in relation to CUP?

15 **MS MARTIN:** Yes, I see that.

MS SHARP SC: And do you see that what's attached to that email is NAB's letter of offer, NAB's transactional banking and facility fees letter, and NAB's merchant agreement?

20 **MS MARTIN:** Yes.

MS SHARP SC: And could I take you to the bottom of that page where you will see there's an email from Oliver White dated 11 April 2014?

25 **MS MARTIN:** Yes, I see that.

MS SHARP SC: You see he's addressing that email to Damon Colbert and David Kelley?

30 **MS MARTIN:** Yes.

MS SHARP SC: And who is Damon Colbert?

35 **MS MARTIN:** I think Damon Colbert was a member of the finance team at that time.

MS SHARP SC: And what about David Kelley?

40 **MS MARTIN:** David Kelley was the - I think his title was akin to chief risk officer. It might have been a title slightly different to that, but that's the concept.

MS SHARP SC: Could I take you to pinpoint 0359. And do you see the email starts:

45 "Further to our meeting the other day on the issue of CUP and the request for legal advice on the relevant terms of applying to our acceptance to CUP."

MS MARTIN: Yes.

MS SHARP SC: And can you see there that Mr White is advising on the terms of the merchant agreement between NAB and Star Entertainment?

5 **MS MARTIN:** I'm just reading those first couple of paragraphs. Yes. I can see there's advice being given on the - what's referred to as the merchant terms.

MS SHARP SC: Do you agree that this is advice about material matters?

10 **MS MARTIN:** I think the materiality is difficult to judge on this email, but I can see it is about certain restrictions or requirements.

MS SHARP SC: Well, let me show you the rest of it, please.

15 **MS MARTIN:** Thank you.

MS SHARP SC: Can I direct your attention - operator, can you show the bottom half of pinpoint 0359 and then the top half of pinpoint 0360. Do you see that Mr White is advising, in that second last dot point on pinpoint 0359:

20

"We have authorised NAB to withdraw amounts from our related account in relation to fines, penalties or similar costs that NAB may incur under card scheme rules."

25 And then the next dot point:

"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 law or obligation owed to any person."

30

And then on the next page:

"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."

35

Now, that's all very material to the contractual arrangements between Star Entertainment and NAB, isn't it?

40 **MS MARTIN:** I think it's just a general summary of the terms and conditions, and a conclusion is drawn from that.

MS SHARP SC: But the conclusion that is drawn is:

"I do not believe there is a breach of the merchant terms."

45

MS MARTIN: Yes.

MS SHARP SC: That's a very material conclusion from a legal perspective, isn't it?

5 **MS MARTIN:** I would describe that as the key part of the advice.

MS SHARP SC: Well, surely Mr White would not have sent an advice like this without consulting with you about it first?

10 **MS MARTIN:** No, I don't agree with that.

MS SHARP SC: You were his direct supervisor, weren't you?

MS MARTIN: Yes, I was.

15 **MS SHARP SC:** And this was an advice about whether The Star was in breach of merchant terms with its key banking partner, wasn't it?

MS MARTIN: Yes.

20 **MS SHARP SC:** What, and you're suggesting that Mr White could give advice of this type without running it by you first?

MS MARTIN: Yes.

25 **MS SHARP SC:** Is that right?

MS MARTIN: Yes. The advice doesn't need to be run by me as such.

MS SHARP SC: But weren't you his supervisor?

30 **MS MARTIN:** Yes.

MS SHARP SC: Well, wouldn't a prudent risk management strategy be to cross-check advice that the person you supervise was providing to other aspects of the business?

MS MARTIN: No. As group general counsel, I think it was reasonable to rely upon lawyers in my team providing advice.

40 **MS SHARP SC:** What, and so your general practice was not to review advice prepared by lawyers in your team about material questions of contract law?

MS MARTIN: It was not my practice to separately review all pieces of advice done by lawyers in my team.

45 **MS SHARP SC:** Well, that wasn't quite my question, so I will ask it again. Was it your general practice not to review advice prepared by members of your legal team in relation to material contractual agreements to which The Star was a party?

MS MARTIN: Ms Sharp, I'm just trying to pull that sentence apart. I am saying it was my practice to be aware of my lawyers giving advice on matters and not necessarily review all of the advice that they gave.

5

MS SHARP SC: Had you looked at the NAB merchant terms at around this time?

MS MARTIN: I don't I believe I had.

10 **MS SHARP SC:** Had you looked at the UnionPay International rules by about this time?

MS MARTIN: I don't believe I had.

15 **MS SHARP SC:** And is it your evidence that neither Mr White nor Mr Power made you aware that there may have been a question of compliance by Star Entertainment with its contractual obligations under the merchant terms with NAB?

20 **MS MARTIN:** I don't recall that.

MS SHARP SC: Well, I want you to assume for a moment that one of the provisions of those merchant terms was that UnionPay could claw back payments made under the UnionPay card if there was a breach of scheme rules. Do you understand that to be a material matter?

25

MS MARTIN: Ms Sharp, could you just clarify the reference to "scheme rules"?

MS SHARP SC: The UnionPay International rules.

30

MS MARTIN: Thank you. It could potentially be a material matter.

MS SHARP SC: And did you understand - I withdraw that. Assume for a moment that The Star agreed to indemnify NAB in the event of any breach of the Union International scheme rules. Do you consider that to be a material matter?

35

MS MARTIN: It could possibly be.

MS SHARP SC: Well, it is, isn't it?

40

MS MARTIN: Well, I - I think the context is relevant as well.

MS SHARP SC: Well, the context is many millions of dollars moving through the China UnionPay swipe channel. Does that assist?

45

MS MARTIN: Not that statement in and of itself.

MS SHARP SC: In any event, can I return to exhibit B at tab 91.

MS MARTIN: Yes.

5 **MS SHARP SC:** You agree, don't you, that by the time of this email, into which you're copied, you had asked for steps to be taken to detail the legal position associated with accepting China UnionPay from a contractual/merchant terms perspective?

10 **MS MARTIN:** Sorry, Ms Sharp. I was just reading. The - could you please repeat that question?

15 **MS SHARP SC:** You accept that by this time, that is, 9 October 2015, you had asked that steps be taken in relation to detailing the legal position associated with accepting China UnionPay from a contractual/merchant terms perspective?

MS MARTIN: Yes. I would agree at this stage I've had a discussion around advice being given as outlined in that email, which you've just generally described.

20 **MS SHARP SC:** Did you look at the merchant terms at this point?

MS MARTIN: I don't recall that.

MS SHARP SC: Do you think it's most likely you did?

25 **MS MARTIN:** I don't recall.

MS SHARP SC: Are you doing your best to assist Mr Bell in your answers now, Ms Martin?

30 **MS MARTIN:** I believe I am.

35 **MS SHARP SC:** Are you able to tell us what happened after you gave instructions to detail the legal position associated with accepting China UnionPay from a contractual/merchant terms perspective?

MS MARTIN: Not on recollection alone on 2015, no.

40 **MS SHARP SC:** Can I take you to STA.3412.0151.0084. This is exhibit B96. And do you see that you're copied into this email from Oliver White on 28 October 2015?

MS MARTIN: Yes, I do.

45 **MS SHARP SC:** And did you read this at the time, do you expect?

MS MARTIN: I'm not sure without scrolling down, given I was copied. It is possible.

MS SHARP SC: Well, do you think in light of the fact that a week or so prior to that you had asked somebody to detail the merchant term arrangements with NAB, it is most likely that you would have read this email at the time?

5 **MS MARTIN:** It's most likely that if I didn't read it at the time, I read it shortly thereafter.

MS SHARP SC: And what Mr White says is:

10 "Please see the email chain below. This was the one I was previously referring to where we sought input from NAB on how this would work and they say use the relevant code and that our internal transfers after a transaction swipe are not information for CUP or NAB."

15 And it also says:

"I see that the person we are dealing with in this chain is not particularly senior and will check the position of the persons raising questions in Queensland."

20 **MS MARTIN:** Yes, I see that.

MS SHARP SC: Now, the problem by this time is that you and Mr White and Mr Power are not sure whether NAB is aware that the CUP cards are being used to purchase gaming chips; that's right, isn't it?

MS MARTIN: I'm not sure that's right.

30 **MS SHARP SC:** Well, isn't it right that what Mr White is doing here is going through The Star's documentary records to see what information you hold about what NAB has been told about the purpose of these CUP transactions?

MS MARTIN: I'm not sure I can tell that on that email, Ms Sharp.

35 **MS SHARP SC:** Well, do you have a recollection that this was a concern that you had back in 2015?

40 **MS MARTIN:** No. My recollection, drawn from the emails, is that there were discussions happening at this time on the topic of CUP, as we've seen in the emails.

MS SHARP SC: Now, it's clear beyond doubt that by this time, you knew the CUP cards were being swiped at the hotel; correct?

45 **MS MARTIN:** I think as I said earlier in my statement, there was a time in October 2015, or late in 2015, where it became clear to me at the latest point that, yes, the swipes were occurring at the hotel.

MS SHARP SC: And you knew that those swipes were so patrons could be given gaming chips?

5 **MS MARTIN:** I knew that those swipes were occurring for certain customers and that one of the uses that the funds were being put to ultimately in a two-step process was in connection with gaming purposes, yes.

MS SHARP SC: So you knew there was a two-step process, did you?

10 **MS MARTIN:** I did by around two thousand - at this time, later in 2015 at the latest or at the --

MS SHARP SC: And what was the two-step process?

15 **MS MARTIN:** Sorry, Ms Sharp. When we were talking earlier about the CCF process, that was two steps.

MS SHARP SC: Yes. What was the two-step process, please?

20 **MS MARTIN:** That the swipe would occur for the customer using their CUP card, and that a second step was required then to make funds available for their use in connection with gaming via a front money account.

25 **MS SHARP SC:** And why was it necessary for there to be two steps instead of one?

30 **MS MARTIN:** So there were a couple of reasons for this, in my recollection. One is under the Casino Control Act, there were restrictions on the use of debit and credit cards in connection with gaming. And the other one was - my understanding was - in connection with the arrangements with NAB. And I'm not sure when they became specifically clear to me, but the arrangement had been put in place with NAB for the swipe to occur so that the arrangements could be set up such that they could provide the service under the - their merchant arrangements.

35 **MS SHARP SC:** Well, why does that arrangement make it necessary for there to be a two-stage process?

40 **MS MARTIN:** So my understanding was that there needed to be a purchase for goods and services that was not directly connected with gaming.

MS SHARP SC: And was that because you were well aware by that time that UnionPay International prohibited the use of CUP cards for purchasing gaming chips?

45 **MS MARTIN:** I was aware, Ms Sharp, that there was a reason that it couldn't be directly for gaming. I'm just not sure when I became aware of the specific terms. But I knew under the arrangements with NAB that it needed to be set up such that the purchase was separate to the ultimate use in connection with gaming.

MR BELL SC: But, Ms Martin, whether it was one step or two steps, or one stage or two stages, you understood that the purpose of the use of the CUP cards was to provide funds for patrons for gaming; is that correct?

5

MS MARTIN: I - I did, Mr Bell, that that was an ultimate purpose.

MR BELL SC: Yes. Thank you.

10 **MS SHARP SC:** Could I take you to STA.3412.0151.0081. Do you see the top of the email chain is an email from you?

MS MARTIN: Yes.

15 **MS SHARP SC:** Dated 22 October 2015?

MS MARTIN: Yes.

20 **MS SHARP SC:** And if I can take you down the chain to the email that you clearly received from Deborah Waterson dated 22 October 2015.

MS MARTIN: Yes, I see that.

25 **MS SHARP SC:** You knew at this point in time that NAB was making queries about the use to which China UnionPay cards were being put; correct?

MS MARTIN: Yes. This email captures a query from NAB in relation to the transactions through CUP.

30 **MS SHARP SC:** All right. And what it says is that:

"Neil from NAB was inquiring about the volume and expected value figures. He asked if we were aware that China UnionPay transactions were not to be utilised for gaming purposes."

35

Now, you knew that at the time, didn't you?

MS MARTIN: Yes. I knew that some of the funds were ultimately used for gaming purposes.

40

MS SHARP SC: But you knew they weren't allowed to be, didn't you?

45 **MS MARTIN:** I knew that the arrangement was put in place so that it meant - sorry - excuse me - it met NAB's requirements for there to be a separate purchase.

MR BELL SC: I don't think you've answered counsel assisting's question, Ms Martin.

MS MARTIN: Apologies.

MR BELL SC: Would you like to put that question again?

5

MS SHARP SC: Yes. You knew at the time that the China UnionPay cards were not to be used to purchase gaming chips; correct?

MS MARTIN: I would describe my awareness as I was - I was aware that it was not to be used directly for that purpose.

10

MR BELL SC: What do you mean by "directly"? What difference does the word "directly" make here?

MS MARTIN: That it could occur in a separate transaction but not in the initial transaction.

15

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: And was the reason for that separate transaction to give the appearance that the CUP cards were not being used to purchase gaming chips?

20

MS MARTIN: I don't know that it was to give an appearance. It was to enable the service to be set up with NAB.

25

MS SHARP SC: Well, are you being frank with us, Ms Martin, about what your knowledge was at this time?

MS MARTIN: Yes, I believe I am.

30

MS SHARP SC: All right. Well, why did you think there was a two-stage process occurring at this time in view of the fact you knew there was a prohibition on these cards being used to purchase gaming chips?

MS MARTIN: Because my understanding was that the merchant facility could be set up by NAB to make a purchase of goods and services and that the funds could be made available separately for gaming, is my recollection.

35

MS SHARP SC: So you knew perfectly well at the time that a process had been constructed to put distance between the swiping of the CUP cards at the hotel and the making available of gaming chips to the patrons who had swiped the cards; correct?

40

MS MARTIN: I wouldn't use the description "create distance". But it was two steps.

45

MS SHARP SC: Well, sitting here today, do you think there's any problem with this two-step process you're describing?

MS MARTIN: Sitting here today, yes, I think there is possibly.

MS SHARP SC: And what's that problem?

5

MS MARTIN: Well, I say "possibly" because, depending on the circumstances, when I reflect back on this today, it does not appear to necessarily set up clearly across ourselves and NAB transparent arrangements, potentially, depending on what discussions had been had and what arrangements were being put in place that I am just not privy to. So --

10

MS SHARP SC: Well, this whole two-stage process was a sham, wasn't it?

MS MARTIN: No, I wouldn't describe it that way.

15

MS SHARP SC: It was a sham to create the impression that CUP cards weren't being used to purchase gaming chips, wasn't it?

MS MARTIN: No, I - I disagree with that.

20

MS SHARP SC: And you knew at the time this was a sham, didn't you?

MS MARTIN: No.

MS SHARP SC: In any event, let's return to this email --

25

MR BELL SC: There is one thing I just wanted to clarify. Are you saying that, sitting here today, you can only see a possible problem with the CUP arrangements that took place between 2013 and 2020?

30

MS MARTIN: I said "possible", Mr Bell, yes, but only because I don't believe I'm privy to all the arrangements and circumstances. And so I - I would need to make some assumptions. But knowing what I know, you know, today, it's - and that's limited knowledge. There's a possibility that this was a problem.

35

MR BELL SC: This whole arrangement was quite unethical, wasn't it?

MS MARTIN: No, I don't think I'd use that word.

MR BELL SC: And do you see any problem with the culture of an organisation that allowed this practice to continue for seven years, sitting here now?

40

MS MARTIN: On the assumption that there were problems with it, then, yes, I think that's something that, culturally, you would want to be considered in more detail and not necessarily continued, particularly I say, Mr Bell, taking account of circumstances that I'm aware of now.

45

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Now, I will return to this email chain. It's right that you were liaising with Deborah Waterson on around 22 October 2015 in relation to a query she had received from NAB?

5

MS MARTIN: Ms Sharp, I know I received a query from her. I'm not sure if I liaised with her beyond that, rather than passing her query on.

MS SHARP SC: Can I take you now to the terms of her email. And we'll have this enlarged, please. Operator, could we have this part of pinpoint 0081 enlarged - sorry, 80 enlarged. So what Ms Waterson says to you in her 22 October email is:

15

"I received a phone call yesterday from Neil from NAB in relation to the email below sent re the expected volume and value of transactions through China UnionPay capable EFTPOS terminals requested for The Star Entertainment properties. Neil was inquiring about the volume and expected value figures. He asked if we were aware that China UnionPay transactions were not to be utilised for gaming purposes and then advised that, as part of the merchant approval assessment, questions had been raised in regards to the proposed coding of these transactions (hotels, motels and resorts) and the dollar value of the transactions. His exact comment was, 'That makes for a very expensive hotel room.' At this stage, I advised Neil that I would look into his queries and would get back to him in regards to this matter. I brought this matter to the attention of Lisa Oates and Paula Martin. Paula requested that I reach out to you with this query."

20

25

Now, Ms Waterson advised you of this call, didn't she?

30

MS MARTIN: Yes.

MS SHARP SC: And clearly, what she advised you of was that NAB was suspicious about whether these CUP card transactions were really for purchasing hotel accommodation; do you agree?

35

MS MARTIN: I agree, yes, that there was a question from an individual from NAB on that point.

40

MS SHARP SC: And you were on notice from this point that there was a real prospect that NAB did not understand what the true purpose of the CUP swipes were; do you agree?

MS MARTIN: I was on notice that this individual at NAB had questions.

45

MS SHARP SC: That's not my question. You were on notice from this point that there was a real prospect that NAB did not understand what the true purpose of the CUP swipes were; correct?

MS MARTIN: No, I disagree with that. I would bring it back to this person at NAB that had --

5 **MS SHARP SC:** And the fact that you were on notice of this is why you, together - well, you instructed Mr White to make inquiries as to what documentary holdings The Star had to indicate whether NAB knew one way or the other whether the CUP transactions were being used to purchase gaming chips; correct?

10 **MS MARTIN:** No, I had referred the matter to people to look into.

MS SHARP SC: And the evidence you are giving now is not a candid and frank account of your knowledge to this review, is it?

15 **MS MARTIN:** No, that's not right.

MS SHARP SC: Can I take you, please, to exhibit B at tab 102. This is STA.3009.0009.0021. Now, do you see this says Andrew Power RAR, 30 November 2015?

20 **MS MARTIN:** Yes, I see that.

MS SHARP SC: What does "RAR" stand for?

25 **MS MARTIN:** Actually, I'm not sure I know that.

MS SHARP SC: Is it risk assessment report?

MS MARTIN: I don't know.

30 **MS SHARP SC:** I will take you to the next page of it, please, pinpoint 0022. Does that assist you in understanding whether "RAR" stands for risk assessment report or review?

35 **MS MARTIN:** No, not really. It looks like a summary report of some description.

MS SHARP SC: Well, it is one that you've seen before?

MS MARTIN: I don't recall.

40 **MS SHARP SC:** I will take you, please, to exhibit B at tab 117, STA.3412.0151.0097.

MS MARTIN: Do you mind just enlarging that a little? Thank you.

45 **MS SHARP SC:** Now, I'm wondering now I show you this, it is not your email, but if you might be able to assist us in understanding what "RAR" means. Do you see Mr Power sends an email to Damian Quayle on 20 April 2016 that says:

"Greg has asked me to pass on a few issues that came up in my RAR today."

MS MARTIN: I see that. Perhaps that's a reference to a regular meeting.

5 **MS SHARP SC:** Now, I appreciate this is not your document, but I want to find out whether you were made aware of this issue at the time. Do you see tab 3, it says - item 3.

MS MARTIN: Yes.

10

MS SHARP SC:

15 "CUP: as previously discussed with you, I have undertaken a review of the CUP process and believe that the legal risk is low to moderate, but from a PR perspective I recommend we make two changes to our process: (a) cease creating dummy rooms for customers who are not staying at the hotel."

Now, were you made aware of that?

20 **MS MARTIN:** I don't recall whether I was at this time, Ms Sharp. But I did become aware of the concept of I think what was referred to as dummy rooms at - at a point in time.

MS SHARP SC: And what about 3(b):

25

"Have documented guidelines which you use for the purpose of you making a decision as to whether to permit our biggest CUP user (PL) to draw down further funds from his CUP account."

30 **MS MARTIN:** I don't have a recollection of that point.

MS SHARP SC: What, you don't have any recollection of there being a concern about how much money Phillip Dong Fang Lee was withdrawing using his CUP card?

35

MS MARTIN: I don't recall that.

MS SHARP SC: What, so no one from your legal team or elsewhere in the business made you aware of that at the time?

40

MS MARTIN: I don't recall that.

MS SHARP SC: Did you know who Phillip Dong Fang Lee was at the time?

45 **MS MARTIN:** My best recollection is I would not have necessarily known that at the time.

MS SHARP SC: Well, did you know he was one of the largest local players by way of turnover at the casino at that time?

MS MARTIN: I don't know that I would have known that.

5

MS SHARP SC: Can I show you a document, please. If I could call up part B, tab 73, which is STA.301.0002.1932. Do you see it's your signature in the bottom left of this page, Ms Martin?

10 **MS MARTIN:** Yes, it is.

MS SHARP SC: And we may take it that you looked at a document before you signed it?

15 **MS MARTIN:** Yes.

MS SHARP SC: And do you see it's a request for a cheque cashing limit change?

MS MARTIN: I see that.

20

MS SHARP SC: And it's right, isn't it, that when there was a request for a cheque cashing limit of a particular value, you or somebody else with an equivalent position of you was required to authorise it?

25 **MS MARTIN:** Yes. There was a delegation of authority that was a matrix-style approval structure. My position was one included on that.

MS SHARP SC: And you were authorised to approve big cheque cashing facilities, weren't you?

30

MS MARTIN: I was an - one of a number of authorised approvers at a particular dollar limit. I can't - I can't recall, Ms Sharp, but --

35 **MS SHARP SC:** And you obviously, in order to authorise a change for a cheque cashing limit, had to have some vague understanding of who the patron was; correct?

MR MARTIN: No.

40 **MS SHARP SC:** Are you saying that you could authorise a cheque cashing facility limit change without having any understanding at all of who the customer was?

45 **MS MARTIN:** Yes, relative to the business. That wasn't necessarily an understanding I needed to have. There was particular information presented when these approvals were sought.

MS SHARP SC: Well, you had to approve it for some reason, didn't you?

MS MARTIN: Yes.

5 **MS SHARP SC:** Well, didn't you have to check something in order to give your approval?

MS MARTIN: There were materials provided to me to substantiate that.

10 **MS SHARP SC:** And what were you substantiating when you gave your approval, Ms Martin?

MS MARTIN: The CCF limit approval was in order.

15 **MS SHARP SC:** What were you substantiating?

MS MARTIN: We had a CCF policy at the time and so there were particular pieces of information put forward in support of the recommendation for the limit.

20 **MS SHARP SC:** And what pieces of information were they that you had to check before giving your approval?

MS MARTIN: I don't recall specifically. They came through as a standard approval request.

25 **MS SHARP SC:** Well, there must have been something you had to check before you could give your approval?

MS MARTIN: Yes, the materials provided to me.

30 **MS SHARP SC:** Well, you still give approvals for cheque cashing facility limit changes, don't you?

35 **MS MARTIN:** My - my role is still one that appears on a approvals matrix, yes. I'm very rarely used.

MS SHARP SC: And what do you check these days, Ms Martin?

40 **MS MARTIN:** The materials that are provided to me with the approval request, but I can't recall, Ms Sharp --

MS SHARP SC: And what materials are they, Ms Martin?

45 **MS MARTIN:** The materials that come through under the cheque cashing limit approval request in accordance with the policy.

MS SHARP SC: I'm sorry if my question is in any way unclear, so I will try to make it as clear as I can. What documents or information do you have to check before giving your approval?

MS MARTIN: I don't recall offhand.

MS SHARP SC: But you give these approvals now, don't you?

5

MS MARTIN: Ms Sharp, I can't remember the last time I gave one of these approvals. It's very infrequent for me.

MS SHARP SC: Well, do you see in this one, you've approved a cheque cashing limit change from \$12.3 million to \$23.3 million?

10

MS MARTIN: Yes, I see that.

MS SHARP SC: So you've approved an \$11 million increase all in one go?

15

MS MARTIN: Yes.

MS SHARP SC: And you see a box has been ticked "CUP"?

MS MARTIN: Yes.

20

MS SHARP SC: Now, it's not every day you give a \$11 million increase in a cheque cashing facility limit, is it?

MS MARTIN: I can't comment on that. This is not something I regularly do.

25

MS SHARP SC: Well, I think you can comment on that case. It's not something you do every day, giving an \$11 million increase in a cheque cashing limit change, it is?

30

MS MARTIN: I personally don't, but I can't speak for The Star.

MS SHARP SC: Well, surely you knew at this time in April 2015 when you approved an \$11 million increase in a cheque cashing facility limit for CUP that it was for Mr Phillip Dong Fang Lee?

35

MS MARTIN: Ms Sharp, I can see those details on that slip.

MS SHARP SC: Well, surely you knew that there was an issue in around 2015 and 2016 about the amount of money that Phillip Lee was debiting on his China UnionPay card at The Star in Sydney?

40

MS MARTIN: No, I don't recall that.

MS SHARP SC: Are you telling the truth at the moment?

45

MS MARTIN: I am, Ms Sharp.

MS SHARP SC: Now, could I take you to STA.3412.0151.0102. Do you see this is an email from Mr Power dated 27 April 2016 to Mr Quayle, copied to you?

MS MARTIN: Yes.

5

MS SHARP SC: It is exhibit B118.

MS MARTIN: Yes.

10 **MS SHARP SC:** And may we expect you would have read this at the time?

MS MARTIN: I don't specifically recall.

MS SHARP SC: And what it says is:

15

"In order to provide legal advice to the business in preparation for the casino licence review, can you please provide an update in relation to CUP and our current processes and procedures."

20 And do you see further it says:

"In particular, can you please provide an explanation of the guidelines which are used for the purpose of you making a decision as to whether to permit our biggest CUP user (Mr Lee) to draw down further funds from his CUP account."

25

MS MARTIN: Yes, I see that.

30 **MS SHARP SC:** You agree, don't you, that you're being made aware of a concern about the level of funds that Mr Lee is withdrawing using his CUP card?

MS MARTIN: I can see from that Mr Power is asking for an explanation on the guidelines being used.

35 **MS SHARP SC:** So this was a matter that you were made aware of at the time, isn't it?

MS MARTIN: I don't recall separate to seeing this email now.

40 **MS SHARP SC:** And were you involved in giving any consideration as to whether the CUP process should be mentioned to Dr Horton, who was conducting a casino licence suitability review at this time?

MS MARTIN: I don't specifically recall that.

45

MR BELL SC: Can I just ask this, Ms Martin: was it your usual practice to read emails into which you were copied which came from the lawyers under your supervision?

5 **MS MARTIN:** Generally, Mr Bell, but it may not have been exactly at the time. And it may have been dependent upon whether, sort of, general work had otherwise been described to me as being undertaken by them, in which case, this was, for example, for my information that they were acting on that.

MR BELL SC: I understand there may be circumstances in which you may not follow your usual practice, but that was your usual practice, was it?

10 **MS MARTIN:** Yes.

MR BELL SC: Yes. Thank you.

15 **MS SHARP SC:** Can I show you exhibit B124, which is STA.3009.0009.0058.

MS MARTIN: Yes, I see that.

20 **MS SHARP SC:** This is a document, Memo of Legal Advice Re Key Risks, dated 11 May 2016?

MS MARTIN: Yes, I see that.

25 **MS SHARP SC:** Do you recognise this as a document prepared by Andrew Power?

MS MARTIN: Not specifically from that page, Ms Sharp, no.

30 **MS SHARP SC:** Well, he provided this document to you and Mr Bekier on around 11 May 2016, didn't he?

MS MARTIN: I don't recall that specifically, but that's possible.

MS SHARP SC: Do you see it's a memo of key risks?

35 **MS MARTIN:** Yes, I see that.

MS SHARP SC: And rank number 1 is China UnionPay?

40 **MS MARTIN:** Yes. I see item 1 there under the heading Rank is number 1, China UnionPay.

MS SHARP SC: And in the column Issue/Background, it says:

45 "Whether CUP transfers for gambling purposes are permitted and the potential for the service to be used as a means of circumventing restrictions imposed by the Chinese Government on Chinese nationals withdrawing funds from China."

You were aware that was an issue at the time, weren't you?

MS MARTIN: I recall that around this time, I was aware of that point, that is, Chinese Government restrictions in place on currency movements out of China, yes.

MS SHARP SC: And do you see the first specific issue identified here is (a):

10 "Whether CUP policies supporting practice of converting CUP credit through the SR lounge by swiping CUP cards on NAB EFTPOS (and attributing an amount to a hotel room and creating a temporary CCF for gambling) is permitted or known."

You knew that was an issue at the time, didn't you?

15 **MS MARTIN:** I knew at the time, as we discussed earlier, there was a need to ensure that the way in which the service was being used accorded with the arrangements with NAB. And we saw a query earlier from a representative of NAB about the way in which that service was being used, which was, you know, a few months prior to this summary.

MS SHARP SC: All right. Now --

MS MARTIN: So I knew that.

25 **MS SHARP SC:** Now attending to my question: you knew that there was an issue in relation to whether CUP policies supported the practice of converting CUP credit through the SR lounge by swiping CUP cards on NAB EFTPOS and attributing an amount to a hotel room and creating a temporary CCF for gambling was permitted?

30 **MS MARTIN:** What I was aware of, Ms Sharp - because I'm not sure of the reference to "CUP policy" there - is whether the arrangements that had been established were known to NAB, in particular, and were being operated in a way that was permitted was an issue.

MS SHARP SC: And do you see the specific issue (b) identified is:

40 "Whether The Star is circumventing China laws and creating a reputational risk and taking active steps to conceal this practice (noting NAB email)."

MS MARTIN: Sorry, Ms Sharp. Where is that, that you were reading?

MS SHARP SC: At (b).

45 **MS MARTIN:** Yes, I see that.

MS SHARP SC: Right. Now, you knew there was a concern about the CUP process being concealed from NAB at this time, didn't you?

5 **MS MARTIN:** I don't know that I'd use the word "conceal", Ms Sharp. I knew that questions had been raised by NAB and that that was being looked into. I then became aware at some point that that was inconsistent with other information that we had from NAB in relation to - I'm just referring to the entity, in relation to the level of detail that they had and understood about the service.

10 **MS SHARP SC:** Right. Well, just so we can all understand, were you aware that there was a question in your organisation as to whether NAB knew the real purpose for which these CUP swipes were being put?

15 **MS MARTIN:** I knew that a question had arisen from a representative of NAB.

MS SHARP SC: And you were aware, weren't you, that - I withdraw this. What steps did you take to assure yourself that NAB representatives knew the true purpose to which these CUP card swipes was being put?

20 **MS MARTIN:** I don't specifically recall, Ms Sharp, other than liaising with my team on this topic. And I know some materials were then made available to me about the interactions with NAB when the service was set up around this time. So at this time, my best recollection is they were the steps that I took.

25 **MS SHARP SC:** Well, did you ever make any calls with NAB representatives yourself to ensure that NAB was aware of the real purpose of the CUP cards, and that is to purchase gaming chips?

30 **MS MARTIN:** I didn't, Ms Sharp.

MS SHARP SC: And did you ever ask any of your lawyers to put in a call to NAB to let them know that the real purpose of the CUP cards was to purchase gaming chips?

35 **MS MARTIN:** I don't recall that.

MS SHARP SC: Well, wasn't that the prudent thing to do if there was any concern at all that NAB was not aware of the real purpose for which these CUP cards were being debited?

40 **MS MARTIN:** I think it was a prudent thing to do for - by someone from The Star, potentially - not necessarily from the legal team, but potentially also from the finance team who were having the regular interactions with NAB and would have had a more complete picture. And by making that call and having that discussion,
45 a complete picture could have been confirmed.

MS SHARP SC: Did you see any document at all at this time from which you could confidently draw the conclusion that NAB knew that CUP cards were being swiped in order to purchase gaming chips?

5 **MS MARTIN:** I recall having seen an email that detailed interactions on the setup, that gave an example that included a transaction either for gaming chips or on a front money account, is my recollection.

MS SHARP SC: Well, I call for the production of that email.

10

MS RICHARDSON SC: I think I know what that is, but do we have permission to speak to the witness overnight as to which email she is referring to?

15 **MR BELL SC:** Well, let me just ask. Are you referring to an email in 2013, Ms Martin?

MS MARTIN: I'm not sure of its year, Mr Bell. It might be.

20 **MR BELL SC:** All right.

MS MARTIN: Or twenty - somewhere between 2013 and 2015.

MR BELL SC: All right. But since that period, 2013 to 2015 --

25 **MS MARTIN:** Yes.

MR BELL SC: -- you had received or seen other communications which indicated that officers of NAB were not aware that the funds were being used for gaming; is that correct?

30

MS MARTIN: Yes.

35 **MR BELL SC:** And did you take any steps to - I think the question counsel assisting is asking is, did you take any steps to ensure that NAB was aware that, in fact, the CUP cards were being used to obtain funds for gaming?

40 **MS MARTIN:** Yes. I don't have a specific recollection beyond the fact that I do recall having conversations with Mr White from time to time, particularly on his interactions with the finance team, as he was doing most of the work from the legal team and providing advice to the finance team on this front.

MR BELL SC: Yes. I think I will take the afternoon adjournment now, Ms Sharp. I will adjourn for 15 minutes.

45 **<THE HEARING ADJOURNED AT 3:36 PM**

<THE HEARING RESUMED AT 3:50 PM

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** If I could return, please, operator, to exhibit B124. This is STA.3009.0009.0058. Now, do you see those words "taking active steps to conceal this practice (noting NAB email)"?

MS MARTIN: Yes, I see that.

10 **MS SHARP SC:** Surely these words in this advice rang alarm bells for you?

MS MARTIN: I don't specifically recall, Ms Sharp. But words like "conceal practice" and "circumvent laws" generally are of concern to me.

15 **MS SHARP SC:** But you say you have no recollection of receiving this document?

MS MARTIN: I have no independent recollection, no. I --

20 **MS SHARP SC:** If I take you now to (c), the third specific risk identified here is:

"Use by prominent customer under certain self-imposed operational restrictions that are not defined or documented and able to be influenced by commercial objectives."

25 Now, surely Mr Power made you aware there was a concern about the use by Phillip Dong Fang Lee of the CUP card?

30 **MS MARTIN:** Ms Sharp, I don't specifically recall. But you have taken to me an - to an email that I was copied across that that was the subject of, and I can see this point here. And on the basis that this is a memo prepared by Mr Power that was briefed to Mr Bekier and myself, then - as you said, then I've been made aware of it.

35 **MS SHARP SC:** Well, what did you discuss with Mr Bekier and Mr Power at about this time in relation to CUP?

40 **MS MARTIN:** I don't recall, Ms Sharp. But I suspect it was being taken through the issues and risks outlined in this table, and certain actions that I can see are to be taken in the following columns.

MS SHARP SC: Can I show you STA.3401.0003.6859. And this is an email from Oliver White to a number of people, including yourself, dated 16 January 2017?

45 **MS MARTIN:** Yes, I see that.

MS SHARP SC: By the way, you would agree from all of these emails I've shown you from your colleagues, Mr Power and Mr White, that they are regularly emailing you about CUP during this period 2014 to 2017?

MS MARTIN: I don't know that I would say regularly. But I have clearly received emails on the topic, Ms Sharp.

5 **MS SHARP SC:** This is exhibit B167. And is it most likely you read this email about CUP?

MS MARTIN: Again, I don't recall. But this is addressed to me, so I think it's reasonable to assume that at some point I've turned my mind to this email.

10

MS SHARP SC: Just going back to your state of mind in 2017, surely by this time you appreciated that there was some risks with the CUP process at Star; is that right?

15 **MS MARTIN:** Yes, Ms Sharp. That was seen in the document earlier, that - for example, that was the discussions, as you'd said, between Andrew Power and Mr Bekier and myself.

20 **MS SHARP SC:** But surely you appreciated there were some risks with CUP processes at this time?

MS MARTIN: Yes, Ms Sharp. I think that would be fair to say, at this time.

25 **MS SHARP SC:** Now, what Mr White is doing at this email is drawing your attention to the fact that there are concerns about CUP - or about casinos tightening the use of CUP cards. And do you see he says that there's:

"Potential exposure should CUP be shut down as a payment method for Star Entertainment."

30

MS MARTIN: Apologies, Ms Sharp. I'm just reading that.

MS SHARP SC: Operator, could I have this paragraph enlarged for Ms Martin.

35 **MS MARTIN:** Thank you.

MS SHARP SC: And what Mr White says is:

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

45 **MS MARTIN:** Yes, I see that.

MS SHARP SC: Well, surely all of these risks associated with CUP at this time were high on your agenda, weren't they, Ms Martin?

5 **MS MARTIN:** Ms Sharp, the risks with CUP were known to me. And at this time, in the role of group general counsel, I recall that members of my team were looking at this from a legal perspective and also liaising with the risk team. I just can be reminded from the top of this email that there's members of the risk and finance team across it as well. So I do have a recollection of discussing the risk more broadly with this service with the chief risk officer in and around this time as well.

10 **MS SHARP SC:** And do you recollect that in 2017, legal officers reporting to you sought some advice from Mallesons about some of these risks?

MS MARTIN: I - I don't recall that.

15 **MS SHARP SC:** Did they need permission from you before they briefed to external firms to receive legal advice?

MS MARTIN: No.

20 **MS SHARP SC:** Would you expect to be made aware of legal advice provided by external firms to the lawyers reporting to you?

MS MARTIN: No, not necessarily.

25 **MS SHARP SC:** Would you expect to be made aware of advice from external lawyers in relation to a matter that you considered carried with it some risks to the business?

MS MARTIN: Not necessarily if it was lower level matter, Ms Sharp.

30 **MS SHARP SC:** Well, what about if it was a risk to the reputation of the casino or a risk from a financial perspective? Then would you expect to be briefed?

MS MARTIN: Yes, potentially.

35 **MS SHARP SC:** Well, that's a prudent risk management strategy, isn't it?

40 **MS MARTIN:** It would be prudent to make sure that relevant people, I think, had that advice, Ms Sharp, and that may or may not include my role. It may include the relevant business owner. So that's only why I say "possibly", but it would be --

MS SHARP SC: Well, surely you exercised some kind of supervisory function in relation to Mr White and Mr Power in relation to CUP?

45 **MS MARTIN:** In a - in a general supervisor sense, yes, not in the sense of a review of advice.

MS SHARP SC: Well, you're not suggesting that they wouldn't make you aware of advice provided by an external law firm in relation to risks associated with the CUP process, are you?

5 **MS MARTIN:** I'm not suggesting that, I don't think.

MS SHARP SC: Because that would be quite irresponsible of both of them, wouldn't it?

10 **MS MARTIN:** Could potentially be.

MS SHARP SC: And it would be quite remiss of you in exercising your supervisory functions in relation to these lawyers, wouldn't it?

15 **MS MARTIN:** Sorry. Could you just phrase what would be remiss?

MS SHARP SC: If your lawyers did not make you aware of advice from an external law firm about certain risks associated with the CUP process?

20 **MS MARTIN:** No, I don't think that's remiss of me.

MS SHARP SC: It suggests some shortcoming in your supervision, does it not?

25 **MS MARTIN:** No.

MS SHARP SC: Could I show you exhibit B, tab 3095. This is STA.3401.0006.6254. And could I take you - this is not your document, but I want to see whether you were made aware of this, Ms Martin. If I can take you to the first page - sorry, the second page, pinpoint 6255. Do you see there's an email from Mr White to a lawyer at Mallesons dated 3 May 2017?

30 **MS MARTIN:** Yes.

MS SHARP SC: And do you see that he's attaching the merchant agreement with NAB and the latest set of China UnionPay rules?

35 **MS MARTIN:** I can see they're referenced in the email, yes.

MS SHARP SC: And do you see Mr White says:

40 "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 that The Star has agreed to indemnify NAB."
45

Surely Mr White made you aware that he was seeking advice about this from Mallesons?

MS MARTIN: I'm just reading that paragraph.

5 **MS SHARP SC:** Surely Mr White made you aware that he was seeking this advice from Mallesons?

MS MARTIN: I don't recall the specifics of this advice that he was speaking - seeking, Ms Sharp.

10 **MS SHARP SC:** Surely he made you aware of it; do you agree?

MS MARTIN: I just don't recall.

15 **MR BELL SC:** Isn't it likely that he did, Ms Martin?

MS MARTIN: Mr Bell, it's possible that it would have been on his list of matters, for example, that he was seeking advice on the merchant terms.

20 **MS SHARP SC:** It's most likely he made you aware of this, isn't it?

MS MARTIN: I just don't recall, Ms Sharp, whether I was made aware of the specific details as compared with a more general proposition.

25 **MS SHARP SC:** Are you doing your best to tell the truth here, Ms Martin?

MS MARTIN: I am, Ms Sharp. I - I haven't seen this email before, and so I'm doing my best to recall and place that in time with other matters I was aware of.

30 **MS SHARP SC:** Now, can I take you to the response to Mr White on pinpoint 6254. See the response dated 4 May 2017?

MS MARTIN: Yes, I see that.

35 **MS SHARP SC:** And at point 2, it says:

"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."

40 **MS MARTIN:** I see that.

MS SHARP SC: That's not a clean bill of health, is it?

45 **MS MARTIN:** It says it may be arguable that we have not. It's not expressed in absolute terms.

MS SHARP SC: Yes. It's not a clean bill of health, is it?

MS MARTIN: If what you mean by "clean bill of health" is not in absolute terms, then I agree with you.

5 **MS SHARP SC:** The only fair reading of that statement is that there is a risk that The Star has breached the terms of the merchant agreement; do you agree?

MS MARTIN: I would describe that as it's not beyond doubt and, in that sense, there is a risk.

10 **MS SHARP SC:** Surely Mr White made you aware that Mallesons considered there was a risk that The Star had breached the terms of the merchant agreement with NAB?

MS MARTIN: Ms Sharp, I don't recall.

15

MS SHARP SC: And surely Mr White forwarded this email to you?

MS MARTIN: I don't recall.

20 **MS SHARP SC:** And if he did not do so, it would have been completely remiss of him; do you agree?

25 **MS MARTIN:** I'm not sure I'd say "completely remiss". I would say it would have been preferable in the context of the fact that risks, or at least the matter of compliance with the merchant agreement, had previously been raised.

MS SHARP SC: And of course, by this time, you were aware that there was a concern about whether NAB knew the true purpose of swiping these CUP cards; correct?

30

MS MARTIN: I think, as we discussed earlier, I was aware of a query being raised by an NAB representative, yes.

MS SHARP SC: And can you see number 4 here? It says:

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 transaction, such as 'membership accounts' or possibly 'lodging'."

40

Now, the only fair reading of this statement is that Mallesons had concerns that the NAB did not know the true purpose of these transactions; do you agree?

45

MS MARTIN: Ms Sharp - apologies - I'm still reading that paragraph. Okay. I've completed reading that. Do you mind repeating that question?

MS SHARP SC: The only fair reading of this statement is that Mallesons had concerns that NAB did not know the true purpose of these transactions; do you agree?

5 **MS MARTIN:** No. I read that as they're saying it's not clear.

MS SHARP SC: Well, that's a significant risk, isn't it?

10 **MS MARTIN:** Potentially. They then go on to say:

"It would be helpful if you could provide any other communications."

So at that point, I think it's inconclusive.

15 **MS SHARP SC:** Well, surely Mr White made you aware that Mallesons did not consider that the documents provided to it conclusively established that NAB knew the true purpose of these transactions?

20 **MS MARTIN:** I don't recall that.

MS SHARP SC: Can I take you, please, to exhibit B at tab 397, which is STA.3402.0008.1057. And do you see this is an email to you, Ms Martin?

25 **MS MARTIN:** Yes, I do.

MS SHARP SC: From the lawyer you supervise, Mr Power?

MS MARTIN: Yes.

30 **MS SHARP SC:** It's dated 28 July 2017?

MS MARTIN: Yes.

35 **MS SHARP SC:** Senior Management Compliance Assurance. May we take it you read that email at the time?

MS MARTIN: Yes, on or about that time.

40 **MS SHARP SC:** And do you see item 2 is headed China UnionPay?

MS MARTIN: Yes.

MS SHARP SC: And he says:

45 "The risks associated with CUP are well known."

MS MARTIN: Yes.

MS SHARP SC: And did you accept that observation at the time?

MS MARTIN: I don't recall, Ms Sharp, of what I did or my thoughts at that time. But from the documents that we've reviewed today, I can see that the risks have
5 been highlighted, including across senior management members, with that service.

MS SHARP SC: And the risks were highlighted to you at the time, weren't they?

MS MARTIN: Some of the documents we've looked at, yes, present information
10 to me, and I accept the table that we looked at. On your assertion it was provided to me and discussed with me, means that those risks have been brought to my attention, along with others.

MS SHARP SC: Well, it's not my assertion, Ms Martin. What Mr Power says in
15 his advice to you of 28 July 2017 is this:

"And a risk assessment and legal advice has been given in this regard."

MS MARTIN: Yes. And I'm saying that that was captured in the table that we
20 looked at earlier, and on that basis - or that table's description, I would accept that sentence.

MS SHARP SC: And he says here:

25 "Earlier in this year, an instruction had been given to hotel staff to start issuing 'dummy' rooms to international guests."

Surely --

30 **MS MARTIN:** Yes.

MS SHARP SC: -- this was a concern to you?

MS MARTIN: Yes, it was.

35 **MS SHARP SC:** And why was that?

MS MARTIN: My - is this the dummy rooms point, Ms Sharp?

40 **MS SHARP SC:** Yes.

MS MARTIN: Yes. Well, my recollection of this issue was that the procedures
that had been set up to be put in place with the use of this service were not being
followed, and that that was being done with an element of deliberate intent.
45

MS SHARP SC: Well, there was deliberate intent with issuing hotel invoices at
all in relation to these transactions, wasn't there?

MS MARTIN: I'm not sure what you mean by that.

MS SHARP SC: Well, these CUP cards were not being swiped so people could pay their hotel bills, were they?

5

MS MARTIN: They were being swiped so that they could make a purchase in connection with the hotel room, but those funds were being used for other purposes as well, primarily in connection with gaming.

10 **MS SHARP SC:** I'm sorry. Is that the position you maintain today?

MS MARTIN: Ms Sharp, that was my description of the service.

MS SHARP SC: And is that how you describe it today?

15

MS MARTIN: I describe it as - I've said I believe that the CUP cards were used to make a purchase in connection with the hotel room and then funds, in a second step, were made available for gaming.

20 **MS SHARP SC:** There was no connection with a hotel room at the time, was there?

MS MARTIN: My understanding was there was.

25 **MS SHARP SC:** Well, the only connection was that a fake invoice was issued for it.

MS MARTIN: That's not my understanding.

30 **MS SHARP SC:** It was sham documentation, wasn't it?

MS MARTIN: Well, I'm not sure I follow the reference to "sham documentation", Ms Sharp.

35 **MS SHARP SC:** Well, did Phillip Lee spend \$11 million on a hotel room the day you authorised the increase in his cheque cashing facility?

MS MARTIN: No, he - he didn't. But there was required to be, under the procedures, is my understanding, a connection with the hotel stay.

40

MS SHARP SC: Do you see anything appropriate at all about this process that was adopted by Star in the period 2013 to early 2020 about issuing a hotel invoice when CUP cards had been swiped for the purpose of providing patrons with gambling chips?

45

MS MARTIN: I'm not sure I can comment on the nature of the hotel invoice. But my understanding was there was a process that was documented that was not intended to be a sham, as you've described, but that was intended to enable a

process in using that merchant facility to be conducted where funds were made available for gambling purposes.

5 **MS SHARP SC:** The very reason for documenting the transactions this way was to avoid the restriction that UnionPay International imposed on China UnionPay cards being used to purchase gaming chips; that's right, isn't it?

10 **MS MARTIN:** I can describe the process, but I'm not sure of the documentation being created that you're referring to, Ms Sharp. But it - the process was done in two stages to enable the transaction to occur in a way that - my understanding at the time was - was permissible.

MS SHARP SC: And do you see any problem with it now, Ms Martin?

15 **MS MARTIN:** Knowing all that I do today, Ms Sharp, and that I don't still have full, complete knowledge of the circumstances, I do see some problems.

20 **MS SHARP SC:** Well, what piece of knowledge do you have today that you didn't have when you were regularly briefed by Andrew Power and Mr White in 2013, 2014, 2015, 2016 and 2017?

25 **MS MARTIN:** Ms Sharp, I believe I'm missing some of that information that sat behind those briefings, and I also believe I'm missing some of the information of all the interactions with other departments in our business.

MS SHARP SC: And returning to this email that Mr Power sends to you on 28 July 2017, do you see he says:

30 "The instruction -"

That is, about dummy invoices:

35 "Was corrected, but it highlights a risk that the use of CUP for international guests may well have exceeded the intended scope of the service, which may call into question the arrangement we have in place with Star's bank."

MS MARTIN: I do.

40 **MS SHARP SC:** Why didn't you call this problem out at the time with senior management at The Star?

45 **MS MARTIN:** Ms Sharp, my recollection is that this particular issue around the use of the rooms and whether the procedure was followed or not had first been called out by Andrew Power, and then I do have a recollection of calling this particular issue around those rooms out myself.

MS SHARP SC: And who did you call it out to?

MS MARTIN: My recollection is through to the chief risk officer at the time and I think, from memory, I was raising this particular issue with Mr Bekier in connection with those discussions with Mr McWilliams. But I am - I'm not certain of the detail of those discussions.

5

MS SHARP SC: And what were you raising with Mr Bekier?

MS MARTIN: I don't recall the specific discussions, Ms Sharp, but it was on this issue of the dummy room. My concern was that there were procedures in place for a very specific purpose and that they weren't being followed, and that gave rise to a number of risks, including those, in this case, with my role as group general counsel, in relation to compliance with the Casino Control Act, for example.

10

MS SHARP SC: To be clear, you didn't raise with Mr Bekier that the whole arrangement should be brought to an end, did you?

15

MS MARTIN: I don't recall putting that to him at this time.

MS SHARP SC: Well, it's most likely you did not, isn't it?

20

MS MARTIN: I don't recall, Ms Sharp.

MS SHARP SC: Well, surely you'd have a recollection of the fact if you told the CEO that he should put a stop to this whole CUP process?

25

MS MARTIN: That's possible. But in the context of the risk discussions, I'm not sure it wasn't traversed.

MS SHARP SC: Now, I'm going to take you to a document. It's not your document, but I want to find out whether you were made aware of it at the time. It's STA.3103.0001.0285. It's exhibit B, tab 254. Do you see this is an email from Andrew Bowen at NAB?

30

MS MARTIN: I see that.

35

MS SHARP SC: And it's dated 30 March 2017?

MS MARTIN: Yes.

MS SHARP SC: And it's to Mr Harry Theodore and Nanette Lowe?

40

MS MARTIN: Yes.

MS SHARP SC: And, sorry, who was Nanette Lowe?

45

MS MARTIN: I think she was a member of the finance team.

MS SHARP SC: And what Mr Bowen says here is that:

"Further to the discussion we had last year, re merchant acquiring for China UnionPay cardholders, I have been asked to forward the following to remind Star Entertainment of China UnionPay's terms and conditions."

5

And it continues:

"As Star Entertainment Group acquiring bank, NAB are committed to protecting our customers' reputation. NAB would like to ensure that all transactions through Star Entertainment Group merchant facilities restrict gambling. Gambling applies a separate merchant category code to what is currently applied to Star Entertainment Group's Astral VIP merchant terminal, thereby we must ensure that no proceeds or deposits for gambling are placed through this terminal. Please ensure strict controls are in place to avoid any gambling credits being placed through the terminals."

10
15

So you agree, do you, that the instruction from NAB as at 30 March 2017 was very clear that The Star should ensure that strict controls were in place to avoid any gambling credits being placed through the hotel terminals?

20

MS MARTIN: I see that language in the email, yes.

MS SHARP SC: Were you made aware of this instruction by Mr Theodore at the time?

25

MS MARTIN: I don't recall that I was.

MS SHARP SC: You'd agree that there's nothing at all in this email that suggests that NAB knew that the CUP cards were being swiped at the hotel in order for patrons to purchase gaming chips?

30

MS MARTIN: I don't see anything on the face of that email.

MS SHARP SC: What, are you suggesting that NAB did know this?

35

MS MARTIN: No. I'm just saying, from that email, I don't see anything.

MS SHARP SC: But is it correct that you have any basis to suggest that NAB knew at this point in time that the CUP cards were being swiped in order to purchase gaming chips?

40

MS MARTIN: My recollection generally from around this time was that there were discussions also occurring with NAB and that NAB had established the merchant agreement arrangements with us, Ms Sharp. So --

45

MS SHARP SC: Well, are you suggesting that you had confirmed for yourself that NAB knew that the CUP cards were being used to purchase gaming chips?

MS MARTIN: I don't recall at this specific time whether I had confirmed that specifically myself with Mr Theodore.

5 **MS SHARP SC:** Well, did you ever?

MS MARTIN: Yes.

MS SHARP SC: When?

10 **MS MARTIN:** More recently.

MS SHARP SC: And when was that?

15 **MS MARTIN:** I've had discussions with him about the arrangements with NAB.

MS SHARP SC: And, sorry, who have you had discussions with?

MS MARTIN: Mr Theodore.

20 **MS SHARP SC:** Did you have any discussions with him prior to this arrangement terminating with the CUP card in March of 2020?

MS MARTIN: Yes. I had discussions with Mr Theodore in November of 2019.

25 **MS SHARP SC:** Well, we'll come back to those. Can I take you, please, to exhibit B at tab 287. And do you agree that this is an email from Mr White to people at The Star, and you're copied into it?

MS MARTIN: Yes.

30 **MS SHARP SC:** And it's dated 1 May 2017?

MS MARTIN: Yes, it is.

35 **MS SHARP SC:** And you see he says:

40 "As I am sure you will appreciate from previous discussions between us, the use of China UnionPay direct debit cards at our properties is a sensitive issue, particularly as China UnionPay cards are not to be used directly for acquiring gaming chips."

MS MARTIN: Yes, I see that.

45 **MS SHARP SC:** And we may expect that you read this email at the time?

MS MARTIN: Again, I don't recall specifically, but I am copied across it.

MS SHARP SC: And Mr White notifies that:

"The potential for issues has been highlighted over the last three working days with requests for detailed documentation on CUP transactions from China UnionPay (via NAB)."

5

MS MARTIN: Yes, I see that.

MS SHARP SC: So you understood from this point in time that UnionPay was making requests via NAB about what these China UnionPay transactions were for, didn't you?

10

MS MARTIN: That's what's in this email.

MS SHARP SC: Well, you understood that at the time, didn't you?

15

MS MARTIN: I would have understood it at around the time I read the email.

MS SHARP SC: And can I take you, please, to - well, I withdraw that. What were your discussions with Mr Theodore in November of 2019 you just referred to?

20

MS MARTIN: I think I outlined those in my statement. They were discussions around another request from the NAB for information.

MS SHARP SC: Well, put aside your statement for the moment. What's your best recollection of what you discussed with Mr Theodore at that time?

25

MS MARTIN: My best recollection, I think, is as set out in my statement, Ms Sharp. But if I can describe it generally, I was discussing with him the queries from NAB and that they had asked for additional information and that that seemed to - to my recollection at that time - represent a shift in the NAB's request for information, and I was looking to understand that.

30

MS SHARP SC: And did you come to be talking to Mr Theodore, or did he initiate a conversation with you?

35

MS MARTIN: I think in my statement I refer to a number of conversations. There was --

MS SHARP SC: Well, can I just stop you for a minute there, Ms Martin. Your best recollection, please, without looking at your statement.

40

MS MARTIN: My best recollection is that there were multiple discussions. The - there was one that my recollection is Mr Theodore initiated with me on a response to NAB, and then my recollection is there are others that I initiated with him separately.

45

MS SHARP SC: And were you aware at that time that NAB was making inquiries on behalf of UnionPay International about whether the CUP swipes were being used to purchase chips?

5 **MS MARTIN:** Ms Sharp, I recall that NAB were making the queries. The details of that, I think I would need to look at the documents again, sitting here today.

MS SHARP SC: Well, were you aware that NAB was passing on inquiries of UnionPay International?

10

MS MARTIN: I think I was aware of that in November, at some point. Yes.

MS SHARP SC: And were you aware that responses that The Star was providing were being passed on by NAB to UnionPay?

15

MS MARTIN: I'm not sure I recall those specific details without looking at the emails, because there are emails that relate to this that I'm aware of.

20 **MS SHARP SC:** Did you see emails at the time that The Star was sending to NAB?

MS MARTIN: I recall seeing one, yes.

25 **MS SHARP SC:** And what was that one?

MS MARTIN: It was the one referenced in my statement, I believe, in early November.

30 **MS SHARP SC:** And what did that email say?

MS MARTIN: Ms Sharp, I don't recall without it on the screen, the specific wording.

35 **MS SHARP SC:** Well, let's go to your statement, then. Which paragraph?

MR BELL SC: I think it might be paragraph 144, Ms Sharp.

MS SHARP SC: Did you write your statement, Ms Martin?

40 **MS MARTIN:** In - I did it in consultation with our external lawyers, and then I reviewed and signed it.

MS SHARP SC: Is this statement based on your own recollections, Ms Martin?

45 **MS MARTIN:** It is, along with documents that I refer to in preparing it.

MS SHARP SC: So what paragraph do you say is relevant?

MS MARTIN: My apologies, Ms Sharp. Is that a question for me? Just --

MS SHARP SC: Yes.

5 **MS MARTIN:** I believe I talk to a response to the NAB in the section that's on communications with - or raising concerns, and that section has a number of paragraphs. The specific response that I was referring to I think is referred to at paragraph 153 and also paragraph 144.

10 **MS SHARP SC:** Well, let's go to 144 to start with. And, operator, could we call up document STA.3401.0005.1453. Now, that's an email to you from Mr White dated 7 November 2019?

MS MARTIN: Yes.

15

MS SHARP SC: And Mr White is saying that:

"Paula, I believe that Harry has touched base with you on this already today."

20 **MS MARTIN:** Yes, I see that.

MS SHARP SC: And by this time, you were aware that NAB had been making inquiries of Star on behalf of UnionPay?

25 **MS MARTIN:** At the time that I looked at these emails, I was aware NAB had been making an inquiry of us, when I first looked at them.

MS SHARP SC: Well, when were they first made available to you? Was it this date, or earlier?

30

MS MARTIN: Ms Sharp, there were other emails that I recall that I put in my statement. But I looked at a particular email on 7 November.

MS SHARP SC: Is this the particular email you looked at?

35

MS MARTIN: No. My apologies. I was referring to a draft response to NAB.

MS SHARP SC: I'll take you to that. If we go to the second page. You see down the bottom there's an email from Ms Arthur of NAB to Ms Scopel dated 6
40 November 2019? Is that the email you're referring to?

MS MARTIN: I don't know that it is, without seeing whether it's the one I replied to.

45 **MS SHARP SC:** Do you need to look at your statement?

MS MARTIN: No. I think it's more helpful to look at the email perhaps, but I will look at my statement.

MS SHARP SC: Do you need to look at paragraph 153?

5 **MS MARTIN:** Yes, Ms Sharp. I'm there now. I believe there was an email that I looked at that has a time stamp of 11.18 am.

MS SHARP SC: That's at paragraph 153(b)?

10 **MS MARTIN:** Yes.

MS SHARP SC: Operator, could we call up document 3105.0011.5190. Operator, the document I'm calling up is one that should be in exhibit A, and it is document STA.3105.001.5190. There it is. Is this the email you're referring to, Ms Martin, the one from Sarah Scopel to you and others?

15 **MS MARTIN:** Ms Sharp, there's one from Sarah Scopel to myself and others that then I reply to. The one that I replied to in my statement that I do need to refer to for the time was one with the time stamp of 10.19 am, and I've replied to it at 11.36 am. And so this may be it. But it --

20 **MS SHARP SC:** Well, we'll start with this email that's on the screen now.

MS MARTIN: Yes.

25 **MS SHARP SC:** Can I take you to the end of it, please.

MS MARTIN: Yes.

30 **MS SHARP SC:** Now, this is the same email I previously took you to, but here it is again.

MS MARTIN: Okay.

35 **MS SHARP SC:** It's from Ms Arthur to Ms Scopel dated 6 November 2019?

MS MARTIN: Yes, I see that.

MS SHARP SC: And it says:

40 "UnionPay have provided us notice indicating they are considering issuing
NAB a directive to cease provision of UnionPay card acceptance to The Star.
UnionPay can fine NAB. From our conversation with local UnionPay
representatives, China's central bank is not satisfied with UnionPay's
45 explanations received from The Star (via NAB) for previous irregular
transaction investigation requests. The People's Bank has observed individual
cardholders spending more than 20 million at the Star which they believes
includes gambling and are struggling to see how this level of expenditure
could be made on non-gambling entertainment."

And:

5 "UnionPay has requested The Star provide the following by noon tomorrow."

Then it says:

10 "Documentation that proves that individual clients are spending the above amount at their venue on entertainment and accommodation expenses."

Now, did you have any doubt whatsoever when you read this email that what UnionPay wanted to know was whether the China UnionPay cards were being used to purchase gaming chips?

15 **MS MARTIN:** I'm just re-reading that first paragraph. I think they're asking, in that first paragraph, about the basis for the expenditure, saying that they're struggling to see how it could be non-gambling, and the implication is then the question of whether it is non-gambling.

20 **MR BELL SC:** Could you answer counsel assisting's question, Ms Martin, please.

MR BELL SC: I'm sorry, Ms Sharp. Could you repeat the specific question?

25 **MS SHARP SC:** Did you have any doubt whatsoever when you read this email that what China – I beg your pardon – UnionPay wanted to know was whether the CUP cards were being swiped to purchase gambling chips? Was there any doubt in your mind?

30 **MS MARTIN:** When I read the email, I don't believe so.

MS SHARP SC: Now could we take you to the proposed response that Ms Scopel drafts that she sends to you. If we can return - do you see she says "draft" and then commences it, "Hi Tanya"?

35 **MS MARTIN:** Yes.

MS SHARP SC: And she says:

40 "Without specific customer transactions to review, it's difficult to understand the area of concern."

And then she goes on to say:

45 "As previously mentioned, certain very high end premium guests at The Star Entertainment Group's integrated resorts incur expenses at the hotel, across a range of entertainment venues with the resort, as well as travel expenses."

And then if we can scroll down a little bit more, please, operator. You see:

5 "Nature of the charges: we confirm the terminal is located in The Star Grand Hotel, outside of gaming related areas and gaming transactions are not conducted at the hotel. To provide further comfort around the nature of the transactions being non-gaming related."

10 Now, you well understood at the time of reading this draft response that the very purpose of this draft response was to imply that these China UnionPay cards were not being used to purchase gaming chips; is that correct or incorrect?

MS MARTIN: Ms Sharp, when I read the email more fully, it became clear to me that this email does not clearly set out the full use of the service.

15 **MS SHARP SC:** It doesn't set it out at all.

MS MARTIN: No, it doesn't hit on the key point of the use in connection with gaming.

20 **MR BELL SC:** Ms Martin, this draft response is utterly misleading; would you agree?

MS MARTIN: I think, on its face, Mr Bell, it is a misleading response to the questions being asked.

25 **MS SHARP SC:** And you appreciated that perfectly well at the time you reviewed that, didn't you?

MS MARTIN: Ms Sharp, I think I understood that when I reviewed the email fully.

30 **MS SHARP SC:** At that time?

MS MARTIN: At the time I reviewed it, yes.

35 **MS SHARP SC:** And --

MS MARTIN: That email.

40 **MS SHARP SC:** -- an email in these terms was, in fact, sent to NAB at that time, wasn't it?

MS MARTIN: Yes, it was. I think --

45 **MS SHARP SC:** So you did nothing --

MS MARTIN: Or close to those terms .

MS SHARP SC: You did nothing to prevent that email being sent, did you?

MS MARTIN: I did not at the time, Ms Sharp.

5 **MS SHARP SC:** Even though you appreciated it was utterly misleading?

MS MARTIN: Ms Sharp, I think it's important to know that I have to admit that I don't believe I read the email fully until after it was sent. And I acted in - in haste on this.

10 **MS SHARP SC:** Even though you had a conversation with Mr Theodore about it at the time?

15 **MS MARTIN:** The conversation I had with Mr Theodore, Ms Sharp, was very brief, and it was pointing me to areas of the response, which I looked at and responded in haste, which I regret doing.

MS SHARP SC: Well, let me show you this email from you, which is STA.3105.0011.6197. And here, you are replying to Ms Scopel's email which sets out its utterly misleading draft. And you state:

20

"This looks okay to me, noting the advice Oliver has already provided in relation to the potential risk regarding the inclusion of jet services."

25 **MS MARTIN:** Yes, I see that.

MS SHARP SC: You gave the okay to send this utterly misleading response to NAB, didn't you?

30 **MS MARTIN:** Ms Sharp, I don't believe I was giving an okay to send it. I - my recollection is I was asked for an opinion on the content that was being provided, which I looked at in the context of expense examples in connection with VIP players. I looked at it in haste, and I did it without fully reviewing the email or the email trail whilst I was discussing the matter with Harry, is my recollection.

35 **MS SHARP SC:** You knew perfectly well that a misleading response was being provided to NAB's queries, didn't you?

40 **MS MARTIN:** Ms Sharp, at the time, I don't believe that I had fully digested the response.

MS SHARP SC: There was nothing confusing or difficult to digest about this response, was there?

45 **MS MARTIN:** I don't think it was confusing or difficult, Ms Sharp. I just don't think I spent the time on it, and I instead was engaged in the discussion and providing a hasty response. On review afterwards, I agree that the face of that email is misleading in that it could be - it could contain a clear point on the use for gaming.

MS SHARP SC: It did clearly mislead as to the true purpose of these transactions and you knew that perfectly well at the time, didn't you?

5 **MS MARTIN:** Ms Sharp, that's just not how I would describe my knowledge at the time.

MS SHARP SC: And even if you thought that NAB knew what the true purpose of the transactions were, you had no basis whatsoever to think that UnionPay
10 knew what the true purpose of the transactions were, did you?

MS MARTIN: Ms Sharp, at the time I provided that response, I just hadn't turned my mind to it.

15 **MR BELL SC:** Ms Martin, Ms Scopel was sending this draft response to you for your review; correct?

MS MARTIN: Yes.

20 **MR BELL SC:** And you discussed it with Mr Theodore; correct?

MS MARTIN: Yes. Very briefly, Mr Bell. My recollection is he interrupted me in another conversation or meeting to look at it at that particular moment. And then I
25 did look at it in more detail later. But in that moment, I don't believe I did.

MR BELL SC: Are you asking me to find that you didn't, in fact, review it before you said, "This looks okay to me"?

MS MARTIN: I didn't review it completely, Mr Bell. I looked at the expense
30 examples and discussed it with Harry. I did not review the complete email trail, is my recollection.

MS SHARP SC: Well, that answer you're giving is completely false, isn't it?

35 **MS MARTIN:** No, I don't think it's false, Ms Sharp. I --

MS SHARP SC: Well, let's look at your email that you send to Ms Scopel where you say:

40 "This looks okay to me, noting the advice Oliver has already provided in relation to potential risks regarding the inclusion of jet services. I would also suggest removing the tour company receipt for the private Japan tour if this actually relates to travel in Japan as I am not sure that helps our case with
45 connecting expenses to hotel stays in Sydney, Australia."

You knew perfectly well that the purpose of this email, that you okayed, was to misleadingly suggest that people swiping the CUP cards had not done so in order to purchase gaming chips?

MS MARTIN: I didn't give it that much thought at the time, Ms Sharp.

MS SHARP SC: And you're not telling the truth here today, are you?

5

MS MARTIN: No, I am telling the truth because I regret not spending the time on it.

MS SHARP SC: And the reality is that you behaved completely unethically at that time in sanctioning the sending of this response to NAB?

10

MS MARTIN: In that moment, Ms Sharp, I don't think I was unethical. I think I acted in haste. And by not pausing and making further inquiry, it's a very poor email on my part.

15

MS SHARP SC: Now can I take you, please, to STA.3401.0003.8482. And you'd agree that this is an email that Mr Theodore sent to you on 3 March 2020?

MS MARTIN: Yes, Ms Sharp.

20

MS SHARP SC: And by this time, it's right, isn't it, that you had been told that UnionPay had, in fact, sent a warning letter to NAB?

MS MARTIN: I believe, yes, that had been advised to me by the time this email was sent.

25

MS SHARP SC: And did you take any steps to ask any officer within The Star to tell NAB what, in fact, the CUP cards had been used for?

MS MARTIN: Ms Sharp, can you just repeat that full question?

30

MS SHARP SC: Did you take any steps at all at this time to ask any officer of Star Entertainment to tell NAB what, in truth, the CUP cards had been used for?

MS MARTIN: Ms Sharp, my recollection is that in the time that followed the November response - so broadly in November and December - I did have discussions with Mr Theodore and Mr Bekier about the requests that had been received from NAB, and the nature of those requests, and the information that The Star could provide in response to them. I don't recall having a discussion in - in March.

35
40

MS SHARP SC: And what did you tell them to do?

MS MARTIN: Ms Sharp, I have a general recollection of the discussions being about the requests and the risks with them and discussing the ongoing use of the service, primarily, and --

45

MS SHARP SC: And did you tell them that they should communicate to NAB to let them know what the true purpose of the CUP transactions was?

5 **MS MARTIN:** I don't recall whether I had that specific discussion around the interactions with NAB. I was more concerned about the use of the service, is my memory, after having discussions with Mr Theodore about the level of NAB's knowledge.

10 **MS SHARP SC:** And it's right, isn't it, that in all the circumstances, you participated in providing misleading responses to NAB in answer to the queries it passed on from China UnionPay?

15 **MS MARTIN:** I participated in the sense that I sent that email we've just looked at, yes, Ms Sharp.

20 **MS SHARP SC:** And at any time, did you and Mr - sorry, I withdraw that. Did you and Mr White or you and Mr Power or you three together have any discussions at all about whether the practice of sending these responses to NAB was in any way unethical?

25 **MS MARTIN:** Ms Sharp, I'm not sure that I have a recollection in relation to other responses being sent to NAB. But on this particular response, I was having discussions with Mr Theodore that I was concerned about the queries from NAB. I don't recall if I used the word "unethical" specifically.

MS SHARP SC: And did you use that word "unethical" with either Mr Power or Mr White?

30 **MS MARTIN:** I don't recall.

MS SHARP SC: Do you see any problem with the culture of an organisation that would permit this kind of email to be sent to its bank?

35 **MS MARTIN:** I've reflected on this, Ms Sharp, and I do believe, looking back on it with hindsight, there was a problem with the way the response was provided in haste and without a thorough consideration and discussion of the relevant risks, which, with hindsight, I believe would have led to a very different outcome.

40 **MS SHARP SC:** Well, did you appreciate at the time that there was any problem with what you were participating in on 7 November 2019?

MS MARTIN: At the time I sent the reply, Ms Sharp, I don't think I'd turned my mind to it.

45 **MS SHARP SC:** Even though you reviewed it carefully enough that you had a concern about whether jets should be included in the email response?

MS MARTIN: My recollection, Ms Sharp, is that was a question that was put to me in the discussion with Mr Theodore about the types of expenses. So --

MS SHARP SC: Can I take you to paragraph 50 of your statement, please.

5

MS MARTIN: Sorry, paragraph 50?

MS SHARP SC: Now, what you there say is that:

10 "I am not aware of additional AML/CTF risks having arisen from the use of CUP cards."

Is that your position?

15 **MS MARTIN:** Yes. With the rest of that sentence in my statement, yes.

MS SHARP SC: So:

20 "I am not aware of additional AML/CTF risks having arisen from the use of CUP cards, The Star's AML/CTF processes themselves had shortcomings."

So what shortcoming are you pointing to there?

25 **MS MARTIN:** So, Ms Sharp, I think in this part of the witness statement, I am commenting on risk management, shortcomings across a range of topics. And in this section, I commented on risk management shortcomings in relation to AML/CTF processes. Some of those that are outlined in the response relate to matters that relate to the likes of front money accounts and particular customers. And so those shortcomings could be imported into scenarios involving the use of CUP because CUP was used in connection with those accounts. So I was trying to incorporate that there are aspects of the dealings that a customer could have with CUP cards that are interrelated into the areas of AML/CTF risk management shortcomings.

35 **MS SHARP SC:** So are there any obvious AML/CTF risks you can see that were associated with using the CUP cards the way they were at Star Entertainment in the period 2013 to March 2020?

40 **MS MARTIN:** Not in and of the use of the service itself.

MS SHARP SC: Well, isn't the source of funds a massive risk associated with the use of these cards?

45 **MS MARTIN:** No, I wouldn't describe it that way.

MS SHARP SC: Is that a convenient time to adjourn for the day, Mr Bell?

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

MS MARTIN: Thank you.

<THE HEARING ADJOURNED AT 5:00 PM