



**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**

**FRIDAY, 29 APRIL 2022  
AT 10:00 AM**

**DAY 25**

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

**Star Witness  
MR GREGORY FRANCIS HAWKINS  
MR HARRY JAMES THEODORE**

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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:** Mr Hawkins, you remain bound by the oath you have previously taken.

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**<GREGORY FRANCIS HAWKINS, ON FORMER OATH**

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

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

**MS SHARP SC:** Mr Hawkins, I take it you're aware of Michael Whytcross?

**MR HAWKINS:** Yes.

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**MS SHARP SC:** And he is the General Manager of Finance and Commercial at Star Entertainment?

**MR HAWKINS:** Yes.

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**MS SHARP SC:** His role has been to provide support to the international business?

**MR HAWKINS:** That's correct, yes.

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**MS SHARP SC:** And it's right, isn't it, that when you assumed responsibility for the international business in around April 2018, he commenced reporting directly to you?

30 **MR HAWKINS:** He may have, yes, for a short period, yes.

**MS SHARP SC:** Well, he did, didn't he?

**MR HAWKINS:** I - yes, I think that's right. Yes.

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**MS SHARP SC:** And are you saying that he no longer reports to you?

**MR HAWKINS:** No, at a - at a point in time, he was realigned directly under the finance group. And Mr Whytcross has departed the organisation.

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**MS SHARP SC:** He has resigned, has he?

**MR HAWKINS:** That's correct.

45 **MS SHARP SC:** And what were the circumstances of that?

**MR HAWKINS:** I understand he - he tendered his resignation and was relocating interstate.

**MS SHARP SC:** And when did he tender his resignation?

5 **MR HAWKINS:** I - I would need to check, but I think it was probably a few months ago.

**MS SHARP SC:** Has anyone else resigned in recent times? That is, in the senior executive team?

10 **MR HAWKINS:** Mr - Mr Bekier has tendered his resignation. But as far as I'm aware, I think that's it.

**MS SHARP SC:** Now, until what point in time did Mr Whytcross report directly to you?

15 **MR HAWKINS:** I don't recall the exact date.

**MS SHARP SC:** Was it till about November 2020?

20 **MR HAWKINS:** Look, it - it may have been. I - I just don't recall when - when that function was centralised or when his reporting line was changed. I can't recall the date.

**MS SHARP SC:** And while he did report directly to you, he reported to you about the overseas patron bank accounts, didn't he?

25 **MR HAWKINS:** He - he would have kept me, yes, updated on those matters. Yes.

30 **MS SHARP SC:** And he reported to you about the different payment channels that were available to facilitate overseas patrons moving their funds into Australia for the purpose of providing front money or to repay CCF facilities?

**MR HAWKINS:** I'm - I'm sure he would have kept myself updated on that, yes.

35 **MS SHARP SC:** Do you recollect that he did?

**MR HAWKINS:** I - I think he and some members of our legal team had kept myself updated on - yes, on that matter.

40 **MS SHARP SC:** And that's - I withdraw that. Could I take you to exhibit B at tab 1578, which is STA.3004.0008.0001. I seem to have the wrong document being called up here. I will just call out the - not the exhibit number but the document ID. STA.3004.0008.0001. What I'm showing to you, Mr Hawkins, is an internal memo from Oliver White to you and to Ms Martin dated 26 August 2019. I will  
45 just have that enlarged. Mr Bell, this is exhibit B1579.

**MR BELL SC:** Thank you.

**MS SHARP SC:** Now, may we take it you read the memo that was addressed to you at the about the date this document bears?

5 **MR HAWKINS:** I'm sure I would have read it, yes.

**MS SHARP SC:** And do you recall reading this document?

10 **MR HAWKINS:** I have seen this document, yes.

**MS SHARP SC:** Do you recall reading it at the time?

**MR HAWKINS:** Not specifically, but I'm aware of it.

15 **MS SHARP SC:** And it's right, isn't it, that what Mr White does in this document is brief you on the various overseas payment channels available to Star at that time to assist patrons move their money from overseas and into the casino?

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

**MS SHARP SC:** And part of your responsibility at this time was supervising those overseas payment channels, wasn't it?

25 **MR HAWKINS:** I think broadly, the - the collection and payment channels, I would say, were - were managed more through the finance and credit and collections area. But I had awareness of it.

30 **MS SHARP SC:** Well, you were across the detail, weren't you, as the head of the international rebate business?

**MR HAWKINS:** I - I was certainly generally aware of the collection process, yes.

35 **MS SHARP SC:** And that is because it was becoming increasingly difficult to move funds from overseas jurisdictions into Australia at this time, wasn't it?

**MR HAWKINS:** Yes.

40 **MS SHARP SC:** And you participated with others within your organisation to open up various payment channels, didn't you?

**MR HAWKINS:** I - I was aware there was team members looking at that, yes.

**MS SHARP SC:** And you were one of the people looking at it, weren't you?

45 **MR HAWKINS:** I - I was being informed of it.

**MS SHARP SC:** Yes. Because you were the decision-maker as the head of the international rebate business; do you agree or disagree?

**MR HAWKINS:** I - I don't necessarily think on these matters I was the decision-maker. In my sense, it - it fell more to our credit and collections and finance area to advise on.

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**MS SHARP SC:** But at this time, that is, August 2019, Mr Whytcross reported directly to you, didn't he?

**MR HAWKINS:** I - I would need to check the date, but - but certainly the credit and collections unit did not report to me.

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**MS SHARP SC:** But Mr White is preparing the memorandum to you, isn't he?

**MR HAWKINS:** Yes, that's correct.

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**MS SHARP SC:** All right. You do accept that you had responsibility for the overseas payment channels at this time, don't you?

**MR HAWKINS:** I accept I had direct responsibility for the sales team and would have been aware of this correspondence, yes.

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**MS SHARP SC:** Well, you were responsible for these overseas payment channels, weren't you?

**MR HAWKINS:** I had a - I had a level of responsibility, in conjunction with others in the organisation.

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**MS SHARP SC:** Well, wasn't it your responsibility, as the head of the international rebate business, to ensure for yourself that all was appropriate and in order in relation to the overseas payment channels?

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**MR HAWKINS:** I accept that, yes.

**MS SHARP SC:** That was part of your responsibility, wasn't it?

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**MR HAWKINS:** I accept it - it was, to - to monitor it. Even though specifically some parts of it didn't report through to me in the structure, I accept that I was being advised of it, yes.

**MS SHARP SC:** And do you accept any shortcomings in terms of your exercise of responsibility with respect to the overseas payment channels?

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**MR HAWKINS:** I certainly relied on the - what I understood the risk assessment and legal support on the establishment of a number of those channels.

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**MS SHARP SC:** So you haven't said you accept any responsibility. Does that mean you don't?

**MR HAWKINS:** I accept that there was team members from the sales function participating and assisting with some of the - the transactions, and I had a senior position relative to this. So I accept the level of responsibility.

5 **MS SHARP SC:** And tell us what you accept, please, Mr Hawkins.

**MR HAWKINS:** I accept that these channels were established. I accept the guidance from legal that they had been - the channels that referred to here had been risk-assessed and accept the advice that Mr White had provided that other  
10 channels needed to be managed sensitively and carefully.

**MS SHARP SC:** You understand, don't you, that there are some very significant problems with the overseas payment channels, don't you?

15 **MR HAWKINS:** I understand there can be, yes.

**MS SHARP SC:** Yes. Well, what responsibility do you accept for those problems?

20 **MS RICHARDSON SC:** I object. In fairness to this witness, the problems that are being directed to this witness should be articulated.

**MS SHARP SC:** I'm happy to do that. Do you accept that entering into an arrangement with Kuan Koi, by which he collected cash deposits on behalf of  
25 patrons and then transferred money from his own account in Macau through to a bank account in Australia, was wholly inappropriate because it obscured the source of funds and because there had been no know your customer checks in terms of where those cash deposits came from?

30 **MR HAWKINS:** My understanding at the time was that it had been - had a relevant AML/CTF risk assessment completed, which included an understanding of the source of funds.

**MS SHARP SC:** Did you ever check that for yourself?

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**MR HAWKINS:** No, I didn't.

**MS SHARP SC:** So you're basically saying you don't accept responsibility for the Kuan Koi arrangement, aren't you?

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**MR HAWKINS:** I'm unclear on who initiated the proposal, but I accept it was in place when I had broad oversight of that area.

**MS SHARP SC:** Well, you're not accepting any responsibility for it at all at the  
45 moment, are you, even though you're the head of the international rebate business at the time?

**MR HAWKINS:** I'm accepting responsibility that it was initiated and activated while I held that role overseeing the sales team, yes.

5 **MS SHARP SC:** But do you accept there was something wrong with this payment channel?

**MR HAWKINS:** Well, at the - at the time, with my assessment, I had concluded there - there wasn't, by nature of the guidance I had been provided.

10 **MS SHARP SC:** And have you had cause to reflect back?

**MR HAWKINS:** With regards to that payment channel, my understanding is still that the source of funds was a part of that process and that our AML/CTF team had performed a risk assessment and signed off on it.

15 **MS SHARP SC:** Are you aware that, in the end, at least two third-party remitters were assisting Mr Kuan Koi to collect those funds and then the third-party remitters were placing the money into The Star accounts?

20 **MR HAWKINS:** I am aware of that now.

**MS SHARP SC:** Do you see any problem with that?

25 **MR HAWKINS:** I do, yes, by nature of the advice that Mr White had provided. Yes.

**MS SHARP SC:** And what's the problem with that?

30 **MR HAWKINS:** My understanding is those other parties hadn't been appropriately assessed by our legal team in signing off that arrangement.

**MS SHARP SC:** And are you aware that The Star relied upon those third-party remitters to conduct know your customer and source of funds checks?

35 **MR HAWKINS:** No, I wasn't aware of that.

**MS SHARP SC:** Well, that's a significant dropping of the ball, isn't it, on the part of Star?

40 **MR HAWKINS:** Yes, I accept that.

**MS SHARP SC:** And you still don't know that, as you sit here today?

45 **MR HAWKINS:** No.

**MS SHARP SC:** And you're familiar with the fact that EEIS entered into loans with certain patrons?

**MR HAWKINS:** I'm broadly aware of that, yes.

**MS SHARP SC:** And do you see anything appropriate with this concept of the EEIS loan?

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**MR HAWKINS:** It was --

**MS SHARP SC:** Sorry, anything inappropriate. The transcript has - I will withdraw that. The transcript has recorded my question incorrectly. Do you see anything inappropriate with the concept of the EEIS loans?

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**MR HAWKINS:** I think the process was established around the time that I took over the role with IRB. My understanding is, again, that it had been appropriately assessed internally and signed off. So I'm unaware of what was inappropriate with it.

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**MS SHARP SC:** Well, wasn't the very purpose of creating this loan arrangement to obscure the fact that patrons were transmitting money to the casino?

**MR HAWKINS:** My understanding it was established to provide an option for those customers who couldn't participate in a CCF and that the relevant KYC and source of funds information were applicable to it.

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**MS SHARP SC:** Why would there be any circumstance, ever, where a customer could not take out a CCF but could take out a loan with EEIS?

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**MR HAWKINS:** I'm unclear on that.

**MS SHARP SC:** Well, what I suggest to you is that the EEIS loan concept was a mere device intended to obscure the fact that patrons were, in substance, moving money to the casino. Do you agree or disagree?

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**MR HAWKINS:** I'm unclear in terms of my level of understanding of EEIS and how it was used. I can only rely on my knowledge that it had been appropriately approved internally and risk-assessed.

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**MS SHARP SC:** But you, at this time that the EEIS loans were on foot, were the head of the international rebate business, Mr Hawkins. Wasn't it your responsibility to be on top of the detail and ensuring that there was nothing inappropriate or non-compliant about these loan facilities?

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**MR HAWKINS:** I - I accept that that was part of my responsibility. But the application of this and the operation of it, in my view, was more overseen by our credit and collection area, and that's a space that I wasn't as close to. But I accept what you're saying. I had some responsibility, yes.

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**MS SHARP SC:** And you're now aware, of course, that in Macau, staff of The Star were providing the Bank of China with false documentation which made



untrue assertions about the source for large cash deposits that were deposited in Bank of China; that's right?

**MR HAWKINS:** I'm aware of that, yes.

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**MS SHARP SC:** But you had no idea at the time that this was occurring?

**MR HAWKINS:** No.

10 **MS SHARP SC:** Isn't the reality that these types of arrangements that I've just taken you to that were in place in the period 2013 to 2020; arrangements where hundreds of millions of dollars were remitted and integrated into Star's accounts which may well have been hidden from law enforcement authorities because the source of funds was obscured?

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**MS RICHARDSON SC:** I object to that question. Perhaps I could do this in the absence of the witness.

20 **MR BELL SC:** Yes. Operator, if we could move to private mode in the absence of Mr Hawkins, please.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 10:21 AM**

**<THE HEARING IN PRIVATE SESSION RESUMED AT 10:21 AM**

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**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 10:22 AM**

**<THE HEARING IN PUBLIC SESSION RESUMED AT 10:22 AM**

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

**MS SHARP SC:** You accept, don't you, that of their nature, casinos are vulnerable to money laundering?

35 **MR HAWKINS:** Yes, I accept that.

**MS SHARP SC:** Do you accept that money laundering risks are heightened when you are dealing with patrons moving funds from mainland China, Hong Kong or Macau?

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**MR HAWKINS:** I accept that that can be a heightened risk which needs (indistinct).

45 **MS SHARP SC:** And do you accept that money laundering risks are heightened when third-party remitters, sometimes called money services businesses, are the ones collecting and depositing funds into The Star or EEIS bank accounts?

**MR HAWKINS:** I accept that that risk is heightened, yes.

**MS SHARP SC:** Do you accept that anybody reviewing a bank account statement of EEIS, and knowing nothing else about that company, would not associate it with a casino?

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**MR HAWKINS:** I - I - if there was no other reference information on the statement, I accept that.

**MS SHARP SC:** Now, to the extent that patrons deposited funds into bank accounts in the name of EEIS, people - for example, law enforcement authorities or regulators - reviewing those bank account statements of the customers would not be alerted, by virtue of those bank account statements alone, that the deposits were, in truth, made to fund gambling in a casino, would they?

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15 **MR HAWKINS:** I - I accept that.

**MS SHARP SC:** And do you agree that if a bank account statement of one of those patrons indicated that a purpose of a transaction was to repay a loan to EEIS, that would not convey that, in fact, the substance of the transaction was to fund gambling?

20

**MR HAWKINS:** Yes. If there was no other information and that was it, I accept that.

**MS SHARP SC:** Do you accept, therefore, that encouraging patrons to make deposits into EEIS, rather than into a Star bank account directly, served to obscure the true nature of the transaction?

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**MR HAWKINS:** My understanding is that - that wasn't the purpose of it.

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**MS SHARP SC:** But do you understand that was the effect?

**MR HAWKINS:** I - I understand if another party was looking at information and EEIS was the reference, that they wouldn't be able to directly understand what that was related to.

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**MS SHARP SC:** And do you understand that if The Star and EEIS did not lodge with AUSTRAC any international financial transfer instructions in respect of transactions occurring in the EEIS accounts, AUSTRAC would not be notified of what were sometimes very large transactions?

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**MS RICHARDSON SC:** I object to that question, and I will need to deal with it in the absence of the witness.

**MS SHARP SC:** I withdraw it. My suggestion to you, Mr Hawkins, is that in relation to the maintenance of the Bank of China accounts in Macau where staff members were providing fake source of funds letters, in the maintenance of the EEIS loan arrangements, in the preparedness to outsource cash collection

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responsibility to Kuan Koi and permit him to move front money into the accounts of various patrons and then to modify that arrangement by permitting money service businesses to collect that cash and move it through to Kuan Koi's front money account, Star - and you, in particular - showed a careless disregard to the real risks of money laundering occurring in transactions which Star ultimately controlled?

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10 **MS RICHARDSON SC:** I object to that question. It has about 12 independent elements. This witness couldn't possibly fairly deal with it.

**MR BELL SC:** Well, I will allow it because I think each of those elements has been dealt with individually and I think counsel assisting has an obligation to put the ultimate proposition to the witness.

15 **MR HAWKINS:** My understanding was the EEIS and the Kuan Koi arrangement had been risk-assessed and approved internally. I accept that the team members dealing with Bank of China is currently under investigation, and that would be inappropriate. And the use of the Kuan Koi account with other remitters was not to my knowledge, and I would accept that that was not endorsed internally.

20 **MS SHARP SC:** Well, the reality is that these various payment channels that I have taken you to were ones established while failing to pay appropriate regard to the real risk of money laundering; do you agree or disagree?

25 **MR HAWKINS:** Well, I disagree because, as I said, my understanding is those channels had been reviewed internally, signed off by our AML/CTF team, risk-assessed and legal had endorsed them.

30 **MS SHARP SC:** And I suggest to you that your last answer exhibits the fact that you still have a complete lack of insight into the very real risks of money laundering in those accounts and how they ought appropriately be managed by a casino operator.

35 **MR HAWKINS:** I understand what you're saying. But at the time, I relied on internal advice on those matters.

**MS SHARP SC:** And still today you do not accept any real responsibility for these failings and shortcomings, do you?

40 **MR HAWKINS:** I'm accepting that the - if team members did the wrong thing, that was not endorsed. That needs to be further understood. And that the use of the other remitters was certainly not approved or endorsed as well. And if there's other learnings to be taken, we will, from this.

45 **MS SHARP SC:** And to be clear, you are not accepting any personal responsibility or acknowledging any shortcomings on your own behalf in relation to this matter, are you?

**MR HAWKINS:** I'm saying I accept that in the position I was in, I was relying on various forms of internal guidance and that's the position I took at the time.

5 **MR BELL SC:** I do think you need to answer the question, please, Mr Hawkins.

**MR HAWKINS:** I - I accept responsibility for the position I took at the time that was reliant on that, and I'm not sure I can say much more about it.

10 **MS SHARP SC:** Well, the position you're taking right now demonstrates a fundamental lack of insight into how to effectively manage the very real risks of money laundering; that's right, isn't it?

15 **MR HAWKINS:** I understand if there's learnings to be taken from it, I'm sure the company will. But at the time, as I said, I understood there was a source of funds, understanding it had been reviewed, and the guidance was it was acceptable to proceed.

20 **MS SHARP SC:** I will move on now. Yesterday I took you to a July 2019 investigation note from Mr Houlihan. I will now take you to a different document, which is STA.3402.0008.1343. Sorry, I've misdescribed it. It's, in fact, an email rather than - in fact, nothing has come up yet. I will - it's STA.3402.0008.1342. Now, I'm showing you an email from Paula Martin to Kevin Houlihan dated 14 November 2019?

25 **MR HAWKINS:** Yes.

**MS SHARP SC:** And do you see Ms Martin says in her email to Mr Houlihan that she supports his proposal, which is one for an overseas trip. And in the third dot point:

30 "Will Greg be briefed before or after the trip?"

Now, in all likelihood, that Greg is you; do you agree?

35 **MR HAWKINS:** Yes.

40 **MS SHARP SC:** All right. Can I now show you through this email. If we could scroll to the bottom of this page, please, operator. And could I draw your attention to the email from Mr Houlihan dated 14 November 2019 entitled Proposed Travel Requirements For Staff Interviews. Now, were you aware at this time that Mr Houlihan was investigating, firstly, allegations that Kuan Koi, or somebody associated with him, had misappropriated funds; and (b) allegations in relation to Marcus Lim, the president of international VIP gaming?

45 **MR HAWKINS:** No, I don't recall being aware of this.

**MS SHARP SC:** So is it your position that despite the fact that Ms Martin asked Mr Houlihan whether you would be briefed before or after the investigation, he at no time briefed you?

5 **MR HAWKINS:** I don't recall being briefed on it.

**MS SHARP SC:** And were you briefed by either or both of these investigations by Ms Martin in or around November 2019?

10 **MR HAWKINS:** No.

**MS SHARP SC:** Don't you think it's odd that you weren't briefed on the Kuan Koi allegation given that you, as the head of the international rebate business, were ultimately responsible for that arrangement?

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**MR HAWKINS:** Yes. Dependent on the outcome of the investigation, if there was something material, I would have expected for action to be taken, yes, and to be - and to be included in that.

20 **MS SHARP SC:** Well, it was material enough that they were sending the head investigator overseas.

**MR HAWKINS:** Yes, I accept that.

25 **MS SHARP SC:** Well, doesn't it suggest that something has gone wrong in the process if you're not even aware there's an investigation on foot?

**MR HAWKINS:** The investigations unit operated distinctly from other operational areas, understandably in my view, and that's why that would have occurred. But as I said, I don't recall being briefed on the outcomes.

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**MS SHARP SC:** Well, you can't think of any reason, can you, why it would be necessary for the investigator to be independent of you insofar as it was alleged that Kuan Koi or one of his associates was misappropriating funds?

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**MR HAWKINS:** I'm unclear on the depth of the investigation. If the investigation unit was perhaps assessing that relative to management in that space as well. So I'm not sure of the breadth of what was being investigated. And as you're aware, I'm not - I'm not clear on the outcomes of it.

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**MS SHARP SC:** And you're still the head of the international rebate business, aren't you?

**MR HAWKINS:** I am, yes.

45

**MS SHARP SC:** Isn't it right that The Star has been investigating arrangements with Kuan Koi for several months now?

**MR HAWKINS:** I'm not aware of that.

5 **MS SHARP SC:** Now, can I return to ask you some further questions. Well, firstly, before I go there, I want to show you your transcript of evidence when you gave evidence before Patricia Bergin for the purpose of the New South Wales inquiry into Crown Resorts. Do you remember giving evidence to her one day in February?

10 **MR HAWKINS:** Yes, I do.

**MS SHARP SC:** I will just bring up the transcript for you, if I could. And, sorry, Mr Bell, I'm just going to need some help to find the document ID for the transcript. Just pardon me for one moment. In fact, I will come back to that. My learned junior will find that reference. I will go to something else in the meantime.  
15 I want to ask you a few more questions about CUP, Mr Hawkins. Mr Theodore says that in the period August 2019 to March 2020, he discussed with you NAB's requests for information about CUP transactions; do you agree or disagree?

20 **MR HAWKINS:** I don't recall any - he may - may have occurred that he advised that there was, you know, ongoing inquiries about it. But I don't recall the specifics of the discussion.

**MS SHARP SC:** Well, were you aware that various staff members of Star were providing answers to NAB's queries about CUP transactions that were not correct?  
25

**MR HAWKINS:** No, I wasn't.

**MS SHARP SC:** Are you sure about that?

30 **MR HAWKINS:** Yes.

**MS SHARP SC:** Could it be that you were, in fact, assisting in putting together answers that were designed to mislead readers of the emails about the true purpose to which the CUP transactions were applied?  
35

**MR HAWKINS:** No, I played no part in that.

**MS SHARP SC:** Could I take you, please, to STA.3411.0015.5126. Operator, it's STA.3411.0015.5129. Now, what I'm showing you, Mr Hawkins, is an email that  
40 Mr Whytcross sent to Mr Theodore, and copied to you and Ms Scopel, on 7 November 2019?

**MR HAWKINS:** Yes, I see that.

45 **MS SHARP SC:** And do you see Mr Whytcross says:

"Harry, off the back of our discussion yesterday, please find attached a sample of high-value invoices covering aircraft charter, premium wine, diamonds, vehicles and tourism activities."

5 **MR HAWKINS:** Yes, I see that.

**MS SHARP SC:**

10 "These are related both to the international rebate business and the international premium mass events and if required there are more aviation related costs."

15 Now, you understand that what Mr Whytcross is doing here is gathering together documents which may justify large expenditure on CUP cards that is not for the purpose of gambling, don't you?

**MR HAWKINS:** No. I wasn't aware of that.

20 **MS SHARP SC:** Well, you're copied into this email.

**MR HAWKINS:** I accept that.

25 **MS SHARP SC:** Well, surely you - well, I withdraw that. It's most likely that you read this email at the time given it was sent by the person that you immediately supervised and was sent to the CFO of the organisation?

**MR HAWKINS:** I have seen this email, but - I - I didn't recall it, but I accept I may have looked at it.

30 **MS SHARP SC:** Well, it's quite clear that what's going on here is that documents are being gathered together to convey an impression that large expenditure on CUP cards was being used for non-gambling purposes; do you agree?

35 **MR HAWKINS:** No, I had no awareness of that.

**MS SHARP SC:** And are you being truthful in your evidence when you say you did not participate in any way in seeking to give anyone reading emails back to NAB a false impression as to the true purpose to which the CUP cards were put?

40 **MR HAWKINS:** I had no participation in that.

**MS SHARP SC:** And is it your evidence that you simply didn't turn your mind to why Mr Whytcross was assembling together a random selection of documents showing high-value invoices?

45 **MR HAWKINS:** I don't recall reading at the time, but I accept I was copied on it. When I would have no idea what this was for, what the request was about.

**MS SHARP SC:** Well, did you ask?

**MR HAWKINS:** No.

5 **MS SHARP SC:** Are you sure about that?

**MR HAWKINS:** I'm sure.

10 **MS SHARP SC:** Are you sure you didn't know what was going on at this point in relation to NAB?

**MR HAWKINS:** Yes, I'm sure.

15 **MS SHARP SC:** Now, can I move you to exhibit H at 380. What I'm showing you - I think I said you gave evidence in February to Commissioner Bergin. In fact, you gave evidence on 4 August 2020; do you accept that?

**MR HAWKINS:** Yes.

20 **MS SHARP SC:** Pardon me a moment, Mr Bell. Can I take you please to page 849 on the transcript. Now, could I direct your attention to the top of that page, line 1. I asked you:

25 "Did Suncity staff operate their own cash desk in the Suncity room?"

And you replied:

30 "No, they didn't operate a cash desk; they operated what we call a service desk."

And I asked you:

35 "And at that service desk, could cash be exchanged for chips with Suncity staff?"

And you answered:

40 "I think they would be able to perform some of what we call the rolling of non-negotiable chips may have occurred there, but I expect there wouldn't have been cash to chip exchanges happening -"

I think that must be:

45 "At that desk."

**MR HAWKINS:** Yes.

**MS SHARP SC:** Now can I take you to page 850. And you say at the top:



"The service desk was there to assist with the general service of the customers that Suncity may have had playing on various programs."

5 And then I said:

"Just so we can understand more about the Suncity service desk, what exactly - what activity was conducted there?"

10 And you answered:

15 "They would - for example, it could be managing tourism-related experiences for their customers. It could be used to facilitate transportation arrangements for customers who are in the room. It could be used as a point for any of the customers who may be visiting Australia for the first time to interact with one of the staff there to assist them with their guest experience."

20 And then I asked you about some footage that had been played, and no doubt you're aware of it as the blue cooler bag footage, are you, Mr Hawkins?

**MR HAWKINS:** I'm aware of that, yes.

**MS SHARP SC:** And --

25 **MR HAWKINS:** Could I just please have it enlarged?

**MS SHARP SC:** Yes. And then at line 30, I said to you:

30 "We now know that footage depicted somebody depositing from an Aldi cooler bag very large bundles of cash on the Suncity service desk at Crown Melbourne. Now, that particular activity, could that ever happen at the Suncity desk at The Star in Sydney?"

35 And you answered:

"I would expect not. If it were to occur or the presentation of cash were to occur there, that would be directed to the satellite cage or immediately picked up by a surveillance team and reported as a suspicious transaction."

40 Now, the evidence you gave to the Bergin Inquiry was not correct, was it?

**MR HAWKINS:** It was certainly what I recalled at the time of that questioning.

45 **MS SHARP SC:** Well, by the time of this questioning, you had, in fact, on two separate occasions, issued warning letters to Suncity telling them not to engage in cash transactions at the service desk, hadn't you?

**MR HAWKINS:** I had, yes.

**MS SHARP SC:** And, in fact, your organisation had given Suncity service protocols that said they could engage in some cash transactions at the service desk; that's right, isn't it?

5

**MR HAWKINS:** That's correct.

**MS SHARP SC:** Well, you must have known that these answers you gave to Commissioner Bergin were wrong at the time you gave them?

10

**MR HAWKINS:** No, that's not right. I mean, my response to your questions at the time was what I recalled. I think the witness - the statement that I provided didn't specifically cover off any of this questioning. So at the time that you were providing those questions to me, that is what I recall at that stage.

15

**MS SHARP SC:** And, in fact, in between the period when you sent the first warning letter and the second warning letter to Suncity, the general counsel at Star Sydney, Andrew Power, had advised you there was an unacceptable risk occurring in Salon 95, hadn't he?

20

**MR HAWKINS:** Yes. He had sent that letter, yes.

**MS SHARP SC:** So it was clear to you at the time you gave your evidence to Commissioner Bergin that there had, in fact, been a significant problem with cash transactions in Salon 95; correct?

25

**MR HAWKINS:** I accept that that had occurred. But at - at the time, in wanting to respond without having had prepared for it, I just could not - I didn't recall that at the stage. And I recall there was some other interjection occurring at the time when I was giving the responses, but --

30

**MS SHARP SC:** Did you set out to mislead Commissioner Bergin in the evidence you gave that day to that inquiry?

35

**MR HAWKINS:** No, absolutely not.

**MR BELL SC:** Mr Hawkins, are you asking me to accept that when you gave this evidence to Commissioner Bergin in 2020, you had forgotten that there had been cash for chips exchanges occurring at the Suncity desk in 2018 and large cash transactions occurring in both 2018 and 2019?

40

**MR HAWKINS:** Mr Bell, I'm - I'm asking you to accept that at that time, I had been particularly focused on the statement I'd prepared, which didn't include this line of questioning. And my responses then, this was the best of my recollection. I accept that I clearly was aware of other matters. But at that point in time, that's what I could recall.

45

**MR BELL SC:** You hadn't forgotten those matters, had you?

**MR HAWKINS:** I certainly didn't recall them specifically at the time of this. I hadn't researched and improved my level of understanding in terms of responding to those questions at the time.

5

**MR BELL SC:** So you are asking me to accept, aren't you, that at the time you gave this evidence to Commissioner Bergin in 2020, you had forgotten the cash for chip exchanges that had occurred at the Suncity desk in 2018 and the large cash transactions that had occurred there in 2018 and 2019; is that the case?

10

**MR HAWKINS:** I'm asking you to accept that the - the cash for chip transactions, I didn't recall at the time. And as guided previously, I was only at the time aware - now I know of one cash transaction in the room. I wasn't aware of those others. I only became aware of that over the last few months.

15

**MR BELL SC:** And are you asking me to accept that you had forgotten that you had issued two warning letters to Suncity for serious breaches of protocols and procedures?

20

**MR HAWKINS:** At the time I was responding to that, I - I didn't recall that and apply it to that scenario. So I accept - accept that.

**MR BELL SC:** How could you have forgotten those matters, Mr Hawkins, at the time you gave your evidence on oath to Commissioner Bergin?

25

**MR HAWKINS:** I think at the time, as I said, I wasn't necessarily prepared for this line of questioning. I had been focused on other matters that I was expected to be asked about. So I hadn't reviewed or been prepared in any way for those matters that occurred a couple of years prior.

30

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

**MS SHARP SC:** Are you telling the truth in your answers now?

35

**MR HAWKINS:** Yes, I am.

**MS SHARP SC:** I have no further questions, Mr Bell.

**MR BELL SC:** Operator, can you please bring up STA.9999.9999.0006, please. Mr Hawkins, you gave evidence on Wednesday that you had an analysis indicating that a player was more profitable as a local player than a rebate player. Do you recall giving that evidence?

40

**MR HAWKINS:** Yes, I do.

45

**MR BELL SC:** And is this the analysis to which you were referring?

**MR HAWKINS:** This is - this is a summary that was completed that was requested.

5 **MR BELL SC:** Yes. You're aware that when you gave that evidence, there was a call made for the analysis and that this document, and the Excel spreadsheet attached to it, was produced by The Star?

**MR HAWKINS:** I'm aware of that, yes.

10 **MR BELL SC:** And this was - this particular analysis, at least, was an analysis prepared in contemplation of you giving evidence to this review, was it?

15 **MR HAWKINS:** I did ask for the author of this to provide it to me relevantly recently on the basis that there may be some discussion on this.

**MR BELL SC:** Yes. Operator, can we go to STA.9999.9999.0008, which is an Excel file. Do you see this is the Excel file that was attached by Mr Palomares to his email to you on 7 April?

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

**MS SHARP SC:** Now, an implicit assumption in this analysis, would you agree, is that if a player was transferred from being a local player to a rebate player, the play would have the same turnover as a rebate player?

25 **MR HAWKINS:** The player would have the same revenue.

**MR BELL SC:** Yes. And the same turnover, because there would be the same house edge on the turnover?

30 **MR HAWKINS:** Yes, I accept that. Yes.

**MR BELL SC:** And - however, it would be reasonable to assume, wouldn't it, that if a local player was offered a rebate of 1.1 per cent of his or her turnover, the player would have an incentive to increase gambling turnover?

**MR HAWKINS:** Not necessarily. That would only be based on the front money that that player has.

40 **MR BELL SC:** Yes. It wouldn't necessarily occur, but it would be reasonable to assume that it could occur because the player was being given an incentive in the form of a rebate on turnover; correct?

45 **MR HAWKINS:** If they had more funds available, possibly.

**MR BELL SC:** Well, part of the funds - the additional funds they would have available would be the rebate commission; correct? The rebate that was being paid to them?

**MR HAWKINS:** That they could reinvest that, yes.

**MR BELL SC:** Yes.

5

**MR HAWKINS:** We - we don't see many customers who would move from that sort of local status to a rebate program for the differences in the type of rewards they're given.

10 **MR BELL SC:** Yes, no, I understand that's your evidence, but I'm just trying to understand the mathematics of it. A rebate would operate as an incentive to increase turnover, would it not?

15 **MR HAWKINS:** It can, but - but generally the rebate in the sector, whether it's interstate or international, is now factored into what customers have an expectation on. So it's really like a competitive positioning. So an international guest may not come to Australia unless a rebate is offered akin to what they may be offered in other jurisdictional properties - overseas properties.

20 **MR BELL SC:** Yes, I understand that. But this is an analysis which is comparing a local player compared to a rebate player; correct?

**MR HAWKINS:** Yes.

25 **MR BELL SC:** And the context in which we are considering this question is the local player being converted from a local player to a rebate player; correct?

**MR HAWKINS:** Yes. If one was to move from one to two, yes.

30 **MR BELL SC:** Yes. And if the local player was then receiving a rebate of 1.1 per cent of turnover, that could well be an incentive to increase turnover, could it not?

35 **MR HAWKINS:** It could, if they had more funds to spend.

**MR BELL SC:** Yes. So just using these figures - and I appreciate that this is hypothetical. But assuming that the player's turnover doubled as a rebate player, the theoretical revenue would increase from 100,000 to 200,000; correct?

40 **MR HAWKINS:** Yes, if - the 100,000, I think, should be considered as the money they have to spend. So if the rebate player had \$200,000 to lose, that would double the contribution.

45 **MR BELL SC:** Well, this is revenue that we're looking at; correct?

**MR HAWKINS:** Yes. Which is ultimately the amount that the customer can lose.

**MR BELL SC:** Well, the rebate commission here is 40,000; correct?

**MR HAWKINS:** Yes. Based on the program of 1.1 per cent, yes.

5 **MR BELL SC:** Yes. And that would imply a turnover of about 3.6 million; correct? Producing revenue of 100,000?

10 **MR HAWKINS:** The non - the win rate on that program would be approximately 2.7 per cent for each bet that's placed. So I would have to reverse-engineer the turnover, but I accept that.

**MR BELL SC:** All right. Well, in any event, the Revenue column is identifying the revenue, that is, the turnover, less the amount paid back to the customer as winnings; correct? It's the theoretical revenue?

15 **MR HAWKINS:** It's the theoretical loss that the customer would make, if they had \$100,000 to spend and they lost it all.

**MR BELL SC:** Well - yes. Okay. So it's the theoretical win to the casino?

20 **MR HAWKINS:** Yes.

**MR BELL SC:** But assume that the revenue - that converting from a local player to a revenue player increased the player's revenue to 200,000. So it doubles the revenue. Can you make that assumption?

25 **MR HAWKINS:** Okay.

**MR BELL SC:** That would involve the rebate commission also doubling to \$80,000; correct?

30 **MR HAWKINS:** Yes.

**MR BELL SC:** And it might also mean that the sales offers might also double to, say, \$10,000?

35 **MR HAWKINS:** It could, yes.

**MR BELL SC:** And so the total reinvestment in those circumstances would be \$90,000?

40 **MR HAWKINS:** Yes.

**MR BELL SC:** And the gaming tax would be \$20,000?

45 **MR HAWKINS:** Yes.

**MR BELL SC:** And the variable - the player's variable contribution would be \$90,000?

**MR HAWKINS:** That's correct.

5 **MR BELL SC:** And so that would be a significant increase from the player's contribution as a local player if you made the assumptions that I've made?

10 **MR HAWKINS:** Yes. I - I would say that the margin on that play would still be at 45 per cent. But, yes, there would be a larger contribution, if we could double the front money of the customer.

15 **MR BELL SC:** And not only that, the- in those circumstances, the gaming duty payable to the New South Wales Government at \$20,000 would still be less than the duty payable on the player's turnover as a local player of \$29,000 on those assumptions?

**MR HAWKINS:** Yes. That's right.

**MR BELL SC:** I will mark those documents as MFI56. Yes, Ms Richardson.

20 **MS SHARP SC:** I'm sorry, Mr Bell. Could I ask one question to follow up to that?

**MR BELL SC:** Yes.

25 **MS SHARP SC:** Mr Hawkins, you gave an answer to one of my questions earlier during your examination to the effect that you had done some modelling to compare the differences in duty when a player was a local player as compared with an international rebate player, and then I called for the production of the modelling you had done. Is this document that Mr Bell has just taken you to the  
30 extent of the modelling that you did?

**MR HAWKINS:** This was what I was guided to provide. So this was a very high-level summary that was prepared for me a few weeks ago. The - what we would call the patron profitability for various segments in the business would be  
35 modelled elsewhere and, in fact, could easily be brought together in a much more detailed version, if required.

40 **MS SHARP SC:** When you gave your answer to me that modelling had recently been done, is this the only document you were referring to?

**MR HAWKINS:** I'm trying to recall what I said, but I think I referred to a summary was available. And when I departed that day, I did seek guidance from counsel at this end as to what should be provided, and it was requested that this recent summary was provided.  
45

**MS SHARP SC:** So this was the only document you provided in answer to the call?

**MR HAWKINS:** Yes.

**MS SHARP SC:** I have no further questions.

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

**MS RICHARDSON SC:** I have no questions.

10 **MR BELL SC:** Yes. Mr Hawkins, the direction I will make is that your examination is adjourned, but you won't be required to come back unless you receive notification from those assisting the review. Thank you for your evidence.

**MR HAWKINS:** Thank you.

15 **<THE WITNESS WAS RELEASED**

**MR BELL SC:** Yes, Ms Sharp. Who is the next witness?

20 **MS SHARP SC:** The next witness is Mr Harry Theodore. I wonder whether - given that it's just after 11 o'clock, I wonder whether it would be convenient to have the mid-morning adjournment now so there aren't two adjournments this morning.

25 **MR BELL SC:** Yes. I will do that. I will adjourn now for 15 minutes. Thank you.

**MS SHARP SC:** Thank you.

**<THE HEARING ADJOURNED AT 11:04 AM**

30 **<THE HEARING RESUMED AT 11:20 AM**

**MR BELL SC:** Ms Sharp, you're calling Mr Theodore, are you?

35 **MS SHARP SC:** Yes.

**MR BELL SC:** Mr Theodore, would you prefer to take an oath or an affirmation?

**MR THEODORE:** An affirmation, please, Mr Bell.

40 **<HARRY JAMES THEODORE, AFFIRMED**

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

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

**MS SHARP SC:** Mr Theodore, what is your full name, please?

**MR THEODORE:** Harry James Theodore.



**MS SHARP SC:** Your work address is known to those assisting this inquiry?

**MR THEODORE:** Yes.

5

**MS SHARP SC:** You have prepared two statements for the purpose of this inquiry?

**MR THEODORE:** Yes, I have.

10

**MS SHARP SC:** The first of those statements is dated 7 February 2022?

**MR THEODORE:** I believe it is, yes.

15

**MS SHARP SC:** Are the contents of that statement true and correct?

**MR THEODORE:** Yes.

**MS SHARP SC:** You have prepared a second statement dated 16 February 2022?

20

**MR THEODORE:** I believe that's correct.

**MS SHARP SC:** Are the contents of that statement true and correct?

25

**MR THEODORE:** I believe they are.

**MS SHARP SC:** You are presently the chief financial officer for Star Entertainment Group?

30

**MR THEODORE:** Yes, I am.

**MS SHARP SC:** I will ask you some more questions about that in a minute. But in the meantime, it's correct, isn't it, that you started your employment with Star Entertainment Group in June of 2011?

35

**MR THEODORE:** Yes, it is.

**MS SHARP SC:** And from June 2011 until September 2018, you were head of strategy and investor relations?

40

**MR THEODORE:** Yes, I was.

**MS SHARP SC:** Now, could I ask you to clarify something for me at paragraph 5 of your first statement, please. Do you have that statement to hand?

45

**MR THEODORE:** I do.

**MS SHARP SC:** If you look at paragraph 5(a), are we to understand that you were head of strategy and investor relations in the whole period June 2011 until September 2018 but your role was expanded in the ways you indicate in (i) to (iv)?

5 **MR THEODORE:** Yes, Ms Sharp. If I can clarify. So I held the position of head of strategy and investor relations over that entire period. And in 2012, my role was expanded to include group reporting. And then in 2016, it was expanded to include the treasury function. But the group reporting function at that point I no longer performed. So I effectively swapped group reporting for treasury in terms of my  
10 overall responsibilities.

**MS SHARP SC:** But is it right that in the period June 2011 to September 2018, the name of your position was head of strategy and investor relations?

15 **MR THEODORE:** I think it was head of strategy investor relations, then head of strategy investor relations and group reporting and then head of strategy, investor relations and treasury.

**MS SHARP SC:** And you set out your responsibilities during that period at  
20 paragraph 5 of your statement, don't you?

**MR THEODORE:** Yes, I do.

**MS SHARP SC:** And in relation to that position when your role was extended to including the head of treasury, it's right that you were responsible for overseeing the treasury function?  
25

**MR THEODORE:** Yes, I was.

30 **MS SHARP SC:** And your primary responsibility there was to manage funding?

**MR THEODORE:** I had a number of responsibilities in terms of what the treasury functions responsibilities were. So they were managing funding, liquidity, any sort of hedging or derivatives that the group took out, as well as sort of the  
35 administration of bank accounts. So that was the function of - of the - of treasury as a whole.

**MS SHARP SC:** And you, in fact, oversaw the administration of The Star Entertainment Group's bank accounts?  
40

**MR THEODORE:** As the head of the treasury function, yes. That came under the treasury function.

**MS SHARP SC:** And in your head of treasury function, you were also responsible  
45 for overseeing relationships with Star Entertainment Group's banks?

**MR THEODORE:** Yes, I was.

**MS SHARP SC:** Now, it's right, isn't it, that from October 2018 to August 2019, you were the chief commercial officer of Star Entertainment Group?

**MR THEODORE:** Yes, that's correct.

5

**MS SHARP SC:** And in that role, you were responsible for corporate strategy, business development, investor relations and overseeing Star Entertainment strategic joint ventures, long-term planning and capital allocation?

10 **MR THEODORE:** That's correct, yes.

**MS SHARP SC:** And while you occupied this position, you were not responsible for the treasury function?

15 **MR THEODORE:** That's correct, yes.

**MS SHARP SC:** Now, in around September 2019, you were appointed to the position of chief financial officer?

20 **MR THEODORE:** I believe it was - my appointment was in some point in August 2019, Ms Sharp. But I was transitioning from the middle of August '19 into the role. So around September is - is correct.

25 **MS SHARP SC:** And you continue in your employment as the chief financial officer, do you?

**MR THEODORE:** I do, yes.

**MS SHARP SC:** Are you now responsible for the treasury function?

30

**MR THEODORE:** So the treasury function reports in to me. I have a general manager who oversees the treasury function, but that general manager reports to me.

35 **MS SHARP SC:** Is that Danny Huang?

**MR THEODORE:** That's correct, yes.

**MS SHARP SC:** And previously it was Sarah Scopel?

40

**MR THEODORE:** That's correct.

**MS SHARP SC:** And your direct report is to the CEO, isn't it?

45 **MR THEODORE:** Yes, it is.

**MS SHARP SC:** And until recently, that was Mr Bekier?

**MR THEODORE:** That's correct.

**MS SHARP SC:** And for the moment, it is Mr John O'Neill?

5 **MR THEODORE:** Yes. That's the executive chairman, yes.

**MS SHARP SC:** Now, it's right, isn't it, that Mr Whytcross, the general manager of commercial and finance, reports directly to you?

10 **MR THEODORE:** He did up until recently, Ms Sharp. He's recently left the business. But until about a month ago, yes, he reported directly to me.

**MS SHARP SC:** And in what circumstances did he leave the business?

15 **MR THEODORE:** He received an offer for a role in financial services and so he resigned around December, and he's been working out his notice period and transitioning his responsibilities since that time. And that transition completed at the end of last month, I believe.

20 **MS SHARP SC:** And for what period of time was he reporting directly to you?

**MR THEODORE:** From when I took on the chief financial officer role.

**MS SHARP SC:** So is it right that it's from around August of 2019?

25 **MR THEODORE:** Correct.

**MS SHARP SC:** And prior to that, is it correct that he reported directly to Greg Hawkins?

30 **MR THEODORE:** I believe he was reporting to Chad Barton, who was the group CFO, prior to August '19. He may have reported to Greg at a period of time before that. But my recollection is, when I took on the CFO role, he had been reporting to Chad and he - he then commenced reporting to me.

35 **MS SHARP SC:** In your capacity as the CFO, how closely do you ordinarily work with Greg Hawkins?

40 **MR THEODORE:** Greg is a peer. So we - we both are members of the executive team, and we both report to Matt Bekier. And depending on whatever matter, I would speak to Greg and - and work with him. Members of my team - and Michael primarily performed that function - would provide commercial support to Greg. So Michael would interact with him more so than I. But in terms of certain

45 **MS SHARP SC:** And amongst his responsibilities, he's head of the international rebate business, isn't he?

**MR THEODORE:** Greg Hawkins is. Yes, he is.

**MS SHARP SC:** And what have you observed are his responsibilities in that regard?

5

**MR THEODORE:** The sales team report in to Greg Hawkins. So he's responsible for managing the sales team. He's responsible for the strategy of the international rebate business. So resourcing, which markets the group is focused on, which segments of the business we're focused on and allocating resources. I'd say they are the main sort of functions that he is responsible for as the executive in charge of that business.

10

**MS SHARP SC:** And in the time that you have been CFO and he has been responsible for the international VIP business, have you endeavoured to keep him up to date regarding payment channels for international patrons to pay money into Star?

15

**MR THEODORE:** In - in - in various forms, yes, Ms Sharp. One observation maybe is - from my perspective is the time I've been in the CFO role has - in between moving into the CFO role and COVID hitting, there was a relatively short period of time that the VIP business was operating fully. So sort of transitioning into the role between August and November, then borders closing in January, the VIP business hasn't functioned in the same way it has historically for a long period of time. I'd say we - I interact with Greg. We have a credit committee meeting that occurs at least once every three months, and that's where most of the interaction would be around customers repaying and particularly customers who haven't repaid. That - that would be sort of the main regular interaction we have around sort of credit and collections, and Greg attends those meetings as well.

20

25

30

**MS SHARP SC:** And is it correct to say that one of the concerns of the credit committee is to ensure that patrons do repay debts owed to the casino?

**MR THEODORE:** Yes, it is.

35

**MS SHARP SC:** And for that reason, it's important, isn't it, that members of the credit committee have an understanding of the payment channels open to international patrons to make those payments?

**MR THEODORE:** Yes, I'd say it is.

40

**MS SHARP SC:** Now, it's right, isn't it, that you're one of the most senior executive officers of Star Entertainment Group?

45

**MR THEODORE:** I sit on the executive committee. I'd say we're all on - everyone on the executive committee is notionally on the same level in - in the organisation. So, you know, other than Matt, I'm the next - other than Mr Bekier, I'm the next level down in terms of the organisational structure.

**MS SHARP SC:** So you do accept, do you, that you're one of the most senior executive officers at Star Entertainment?

5 **MR THEODORE:** I'm an executive, and I'm of equal seniority to the other executives in the corporate structure.

**MS SHARP SC:** Sitting underneath the CEO?

10 **MR THEODORE:** That's correct, yes.

**MS SHARP SC:** So your position is next most senior under the position of CEO?

15 **MR THEODORE:** In terms of the way the organisational structure works, the CEO is the top level. There's then an executive committee and we're all, I'd say - we're called level of work one. We're all of the same seniority, and there would be seven or eight executive team members.

20 **MS SHARP SC:** Now, is it correct that in your capacity as the CFO, you attend all board meetings of Star Entertainment?

**MR THEODORE:** Yes.

25 **MS SHARP SC:** And do you attend all meetings of the board subcommittee on risk?

**MR THEODORE:** In my role as CFO, yes.

30 **MS SHARP SC:** And in your role as CFO, do you attend all of the board subcommittee audit meetings?

**MR THEODORE:** Yes, I do.

**MS SHARP SC:** What are your tertiary qualifications, Mr Theodore?

35 **MR THEODORE:** I have a degree, which was a combined degree, a law degree and a Bachelor of Business.

40 **MS SHARP SC:** And it's right that you were a clerk and later a lawyer at Allen Arthur Robinson in the period June 2004 to 2007?

**MR THEODORE:** Yes, that sounds correct.

45 **MS SHARP SC:** And from July 2007 to May 2011, you were an equities research analyst at Royal Bank of Scotland?

**MR THEODORE:** It was ABN AMRO initially but became Bank of Scotland. Yes, that's correct.

**MS SHARP SC:** And you worked your way up to become the head of gaming and food and beverage research at that organisation?

**MR THEODORE:** That's correct, yes.

5

**MS SHARP SC:** Now, it's correct, isn't it that credit and collection reports through you?

**MR THEODORE:** It does, yes.

10

**MS SHARP SC:** Now, that was formerly headed by Adrian Hornsby, wasn't it?

**MR THEODORE:** When I took on the CFO role, Adrian reported to me as the head of credit and collections. That's correct.

15

**MS SHARP SC:** And when did he leave the organisation?

**MR THEODORE:** It was around the middle of 2020.

20 **MS SHARP SC:** In what circumstances did he leave the organisation?

**MR THEODORE:** After COVID hit, the business was - the international VIP business was affected first, obviously, with the closure of the international borders. And then more broadly, the business was impacted with the closure of the property in around late March 2020. In response to the impact of COVID on the business, we performed a number of measures to mitigate some of the impacts, and a restructure of the international business was performed at that point and Adrian left. His role was the head of credit and collections as part of that restructure.

25

30 **MS SHARP SC:** So was he made redundant?

**MR THEODORE:** Yes, he was.

**MS SHARP SC:** And was it at that time that Michael Whytcross assumed responsibility for credit and collections?

35

**MR THEODORE:** That's correct.

**MS SHARP SC:** Does the cage report to you?

40

**MR THEODORE:** No.

**MS SHARP SC:** I beg your pardon?

45 **MR THEODORE:** No, it does not.

**MS SHARP SC:** What's the reporting line for the cage at Star Sydney?

**MR THEODORE:** Ultimately reports up in to Greg Hawkins. So there's a general manager in charge of cage and some other operations, who I believe reports to the COO, who then reports in to Greg Hawkins as the head of the property.

5 **MS SHARP SC:** And the COO, that's Mr Quayle, is it?

**MR THEODORE:** Correct. Yes.

10 **MS SHARP SC:** Can I show you an organisational chart. I just want to understand if this is still correct. If we go to exhibit B2903 at STA.5002.0007.2621. This is a board paper dated 27 May 2021. I'm just going to take you to an organisational chart. If we could go, operator, please, to pinpoint 2653. Now, can you see this is in the context of international strategy update?

15 **MR THEODORE:** Yes, I can.

**MS SHARP SC:** So this is a chart which depicts the organisational structure for May 2020 in relation to the international aspect of the business. My first question: does that accurately depict what the organisational arrangements were in May of 2021?

**MR THEODORE:** I believe it does, Ms Sharp.

25 **MS SHARP SC:** Does that accurately depict what the organisational arrangement is today, or has it changed in some way?

**MR THEODORE:** I believe the structure is consistent, but some of the individuals obviously have moved from those various roles.

30 **MS SHARP SC:** All right. Now, you've said that the cage ultimately reports to Greg Hawkins through Mr Quayle, the COO. But that's something that sits outside the international business, is it?

35 **MR THEODORE:** That's correct.

**MS SHARP SC:** It's correct, isn't it, that you are one of two directors of The Star Pty Ltd?

40 **MR THEODORE:** Yes, I am.

**MS SHARP SC:** And The Star Pty Ltd holds the casino licence in New South Wales?

45 **MR THEODORE:** Yes, it does.

**MS SHARP SC:** And you have been a director since 18 December 2019?

**MR THEODORE:** I believe that's correct, Ms Sharp.



**MS SHARP SC:** Is Mr Matt Bekier the other director?

**MR THEODORE:** Yes, he is.

5

**MS SHARP SC:** So that hasn't changed with his resignation as the CEO?

**MR THEODORE:** I believe it's in the process of being changed. I'm - I'm not aware whether it formally has yet or not.

10

**MS SHARP SC:** And who is proposed to be appointed as the other director?

**MR THEODORE:** I'm not - I'm not sure, Ms Sharp. I believe Mr O'Neill, but I'm - I'm not aware of the exact individual who's proposed.

15

**MS SHARP SC:** Is it right that Ms Paula Martin is the company secretary of The Star Pty Ltd?

**MR THEODORE:** I believe so, yes.

20

**MS SHARP SC:** Now, an article in The Australian dated 29 April 2022 reports that you are set to depart from Star Entertainment within weeks; is that correct?

**MR THEODORE:** I haven't made a decision on my continued employment with The Star. So I continue to be employed as the CFO, and I will consider my position after I provide my evidence.

25

**MS SHARP SC:** Are you aware of this article in The Australian that I've just referred to?

30

**MR THEODORE:** Yes, I've seen it.

**MS SHARP SC:** What it says is:

35

"Sources with direct knowledge of discussions said Mr Theodore's resignation plans have been communicated internally."

Is that right or wrong?

40

**MR THEODORE:** That's not correct.

**MS SHARP SC:** What's the correct position?

**MR THEODORE:** I have discussed with Mr O'Neill that I will consider my position after I give my evidence.

45

**MS SHARP SC:** So you haven't indicated that you do have a plan to resign at this stage?

**MR THEODORE:** No, I haven't.

5 **MS SHARP SC:** Are you a close associate of the casino operator?

**MR THEODORE:** Yes, I am.

10 **MS SHARP SC:** And what are the implications of you being a close associate, so far as you understand?

**MR THEODORE:** I understand I have to be licensed to be a close associate.

**MS SHARP SC:** Is that all?

15 **MR THEODORE:** And that licensing has a range of requirements that I need to meet.

20 **MS SHARP SC:** Do you understand that to be a close associate of the casino operator, you need to be of good repute having regard to character, honesty and integrity?

**MR THEODORE:** Yes.

25 **MS SHARP SC:** Are you aware that one of Star's core values is "do the right thing"?

**MR THEODORE:** Yes, I am.

30 **MS SHARP SC:** What does that mean?

**MR THEODORE:** I think it means what it says, which is when we make decisions and take actions that we seek to do what is right. The way I sort of describe it or interpret it is not asking the question "can we", but "should we", and making sure we are asking the "should we" question when we are making  
35 decisions on various matters.

**MS SHARP SC:** And how long has that been a core value of The Star or Star Entertainment?

40 **MR THEODORE:** I believe it's approximately a year to 18 months, Ms Sharp, that we've used that terminology.

**MS SHARP SC:** Does it mean that one should adhere to the spirit as well as the letter of the law?  
45

**MR THEODORE:** I think it can, you know, in terms of asking that question, should we act a certain way.

**MS SHARP SC:** As an employee of Star Entertainment Group, have you at all times been aware of Star Entertainment's code of conduct?

**MR THEODORE:** Yes, I have.

5

**MS SHARP SC:** Have you read the code of conduct?

**MR THEODORE:** I have at various times, yes.

10 **MS SHARP SC:** Do you agree that one of the rules of the code of conduct is that "we comply with the law"?

**MR THEODORE:** Yes, I do.

15 **MS SHARP SC:** Do you agree that one of the rules of the code of conduct is that "we are ethical"?

**MR THEODORE:** Yes.

20 **MS SHARP SC:** Do you agree that one component of being ethical is being honest?

**MR THEODORE:** Yes.

25 **MS SHARP SC:** And not being dishonest?

**MR THEODORE:** Yes.

30 **MS SHARP SC:** Do you agree that under the code of conduct, employees are expected to refrain from behaviours that bring Star Entertainment Group into disrepute?

**MR THEODORE:** Yes.

35 **MS SHARP SC:** And do you agree that under the code of conduct, employees are expected to challenge and report unethical behaviours and practices?

**MR THEODORE:** Yes, I do.

40 **MS SHARP SC:** And do you agree that under the code of conduct, employees are expected to provide complete, honest and accurate information to any regulator who lawfully requests that information?

**MR THEODORE:** Yes, I do.

45

**MS SHARP SC:** And do you agree that in your dealings with others as the CFO, it is important to be honest and transparent at all times?

**MR THEODORE:** Yes, I do.

**MS SHARP SC:** Do you agree that casinos, of their very nature, are vulnerable to money laundering?

5

**MR THEODORE:** I understand that money laundering is a risk in our business, yes.

**MS SHARP SC:** And one of the reasons why that is so is because the casinos are large cash businesses; do you agree?

10

**MR THEODORE:** Yes, I agree.

**MS SHARP SC:** Another reason why casinos are vulnerable to money laundering is because there can be large transfers of funds from out of the jurisdiction into the jurisdiction?

15

**MR THEODORE:** Yes, I agree with that.

**MS SHARP SC:** And vice versa: there can be large transfers of funds out of Australia into foreign jurisdictions?

20

**MR THEODORE:** Yes.

**MS SHARP SC:** Do you agree that junkets in particular present a high risk of money laundering?

25

**MR THEODORE:** I understand they present a risk of money laundering, and it can be high. Yes.

30

**MS SHARP SC:** Do you recall that in 2016, Dr Jonathan Horton QC conducted a suitability review of The Star Sydney for the purpose of its casino licence?

**MR THEODORE:** I have a high level understanding of that, yes.

35

**MS SHARP SC:** Did you read that report at the time?

**MR THEODORE:** I didn't, Ms Sharp, no.

**MS SHARP SC:** Are you aware that he concluded that junkets present a risk to the integrity of the casino by reason of the large amounts of money involved and the potentially illicit source of funds and issues relating to junket promoters and their business?

40

**MR THEODORE:** I wasn't directly aware of that, no.

45

**MS SHARP SC:** But that accords with your understanding of the risk, does it not?

**MR THEODORE:** I understand the risk of junkets at a high level, yes.

**MS SHARP SC:** Have you ever undertaken any training in relation to anti-money laundering and counter-terrorism financing?

5

**MR THEODORE:** In my time at Star, I've done the mandatory AML training throughout the period I've been employed. I think that takes place at least once a year, if not twice a year. Since I became CFO, I also did some additional role-specific training, which the AML team did for me some time in late 2019. I had organised that for both myself and the credit and collections team. So that training was an in-person session that was focused on sort of AML for the credit and collections team, which - which I participated in.

10

I also did some role-specific training with the credit and collections team and the sales team, I'm going to say in the second half of 2020, after the business reopened, which was a bit more focused on sort of source of funds at the time, because that - that had come up in some of the credit committee meetings and wanted to get a bit more of a detailed review for the broader team around the requirements. And I've sat in some sort of board training sessions as well over the last couple of years. So, you know, I have done training throughout my - my period or time with The Star, but obviously the level of understanding has increased, particularly as I've come into this new role since the second half of '19.

15

20

**MS SHARP SC:** In late 2019 and then again in late 2020, who was it that gave you the AML training?

25

**MR THEODORE:** It was the internal AML team. I believe it was a combination of Kevin Houlihan, Skye Arnott, maybe Andrew Power participated in it as well, but I can't remember exactly which of the AML team members were in attendance.

30

**MS SHARP SC:** So how would you describe your present level of understanding of Australia's AML and CTF framework?

**MR THEODORE:** I'm - I'm not an expert in AML, but I have a reasonable understanding of the - the Act and the requirements for The Star.

35

**MS SHARP SC:** And are you familiar with the concept of reporting entities?

**MR THEODORE:** Yes, I am.

40

**MS SHARP SC:** Are you familiar with the concept of designated services?

**MR THEODORE:** Yes, I am.

**MS SHARP SC:** Are you familiar with the concept of know your customer?

45

**MR THEODORE:** Yes.

**MS SHARP SC:** With source of wealth or source of funds?

**MR THEODORE:** Yes.

5 **MS SHARP SC:** Are you familiar with the requirement to conduct enhanced customer due diligence in certain circumstances?

**MR THEODORE:** Yes, I am.

10 **MS SHARP SC:** And ongoing customer due diligence in certain circumstances?

**MR THEODORE:** Yes.

15 **MS SHARP SC:** And are you familiar, in broad terms, with requirements of transaction monitoring?

**MR THEODORE:** In broad terms, yes.

20 **MS SHARP SC:** And do you understand that the Australian anti-money laundering counter-terrorism financing framework is a risk-based system?

**MR THEODORE:** I do understand that, yes.

25 **MS SHARP SC:** And that means, doesn't it, that it is important to accurately identify and then evaluate risks?

**MR THEODORE:** In terms of the services we offer, yes, to accurately identify and have appropriate controls in the AML program to manage those risks.

30 **MS SHARP SC:** And do you agree that it is important to have controls which are commensurate with the level of risk presented?

**MR THEODORE:** Yes, I do.

35 **MS SHARP SC:** Has that always been your understanding while you have worked at The Star, or is that something you've more recently developed an understanding of?

40 **MR THEODORE:** At a high level, Ms Sharp, I'd say the overall framework and the various requirements has been my general understanding, and that is included in the mandatory training that's done. So the various components of the program, whether it's know your customer, enhanced or ongoing customer due diligence, transaction monitoring and the potential types of money laundering activity are all part of that mandatory training. So I've had that understanding throughout my time  
45 at The Star. But the depth of the understanding has obviously increased as my role has changed, and the requirement to have a deeper understanding has changed. And it's changed more significantly since the second half of '19 when I moved into my CFO role.

**MS SHARP SC:** Do you understand that in recent years, there has been a tightening of anti-money laundering regulation in Macau?

5 **MR THEODORE:** I'm not familiar with the regulations from an AML perspective in other jurisdictions, no.

**MS SHARP SC:** But are you familiar in general terms with the fact that there has been a tightening of those regulations in Macau?

10

**MR THEODORE:** Not the regulations, no. I'm not - I'm not familiar with the specific regulations in Macau, no.

15 **MS SHARP SC:** Well, do you agree it has become more difficult since, say, mid-2017 for The Star to collect funds in Macau and Hong Kong from patrons?

**MR THEODORE:** Yes, I was aware of that.

**MS SHARP SC:** And why has that become more difficult?

20

**MR THEODORE:** I think some of the policy measures that have been implemented in Macau meant it's more difficult for international operators like The Star to maintain accounts in Macau which were experienced with the closure of accounts in late 2017.

25

**MS SHARP SC:** And --

**MR THEODORE:** So --

30 **MS SHARP SC:** Sorry, I cut across you.

**MR THEODORE:** So I understood there had been some policy initiatives implemented at various times. But I'm not familiar with the regulations in Macau, no.

35

**MS SHARP SC:** Leaving aside the specific regulations, what in general terms do you understand those policy initiatives to be?

40 **MR THEODORE:** So I understood at the time that our accounts were closed in 2017 in Macau and our bank accounts - that the Bank of China had informed us that that had been part of a policy directive not to maintain transactional accounts unless you had a licensed or operating business in Macau. So there appeared to be, from my perspective, an effort to prioritise the Macau casinos as the main jurisdiction for gambling and restrict, from a policy perspective, some of the  
45 international operators at that point in time.

**MS SHARP SC:** Did you become aware that there were increased policy restrictions in Macau around international casinos trying to settle casino debts in Macau?

5 **MR THEODORE:** I understood that through the policy on bank accounts. I'm not sure I understood it further than that, Ms Sharp.

**MS SHARP SC:** But did you realise that made it harder for patrons of The Star to settle their gambling debts with The Star?

10

**MR THEODORE:** In 2017?

**MS SHARP SC:** Yes.

15 **MR THEODORE:** I had a general understanding of that. I wouldn't say a detailed understanding. My role at the time was sort of more limited around having any real involvement or understanding of credit and collections at that point in time.

20 **MS SHARP SC:** Well, wasn't your involvement an involvement about advising on the opening up of new payment channels in response to the tightening of regulations in Macau?

25 **MR THEODORE:** I had a role around understanding which banks and having conversations about banks around maintaining or opening accounts. I wouldn't say there was broader discussion around payment channels than that.

30 **MS SHARP SC:** Well, you understood, didn't you, that it was becoming increasingly challenging to have patrons of The Star's casinos transfer their funds to Australia to either make front money available or to repay cheque cashing facilities?

**MR THEODORE:** I had a high level or general understanding of that.

35 **MS SHARP SC:** And you were involved, weren't you, in developing strategies to open up new payment pathways for these patrons so that they could repay cheque cashing facilities or make front money available in the Australian casinos?

40 **MR THEODORE:** I had a limited involvement at that point in time, and my involvement was linked to my role or function heading up the treasury function. So administration or opening or closing of bank accounts were performed by the treasury team. So to the extent the payment channels involved that, that was my main function at that point in time.

45 **MS SHARP SC:** But didn't you have a strategic and advisory role in relation to those matters, Mr Theodore?

**MR THEODORE:** Not - not those matters, no.



**MS SHARP SC:** You were a member of the EEIS working group in late 2017/early 2018, weren't you?

**MR THEODORE:** Yes, I was.

5

**MS SHARP SC:** What was your role in that working group?

**MR THEODORE:** I was the treasury representative. So my recollection is that working group had representatives from a range of functions from the business. And one of the requirements at the time we were establishing EEIS was to establish bank accounts to support that business. And so my role and function on the working group really related to that part of the workstream.

10

**MS SHARP SC:** Wasn't the very purpose of the EEIS proposals in late 2017/early 2019, to open up new payment channels for patrons so they could move their money for repaying CCFs and front money into Australia?

15

**MR THEODORE:** My recollection, Ms Sharp, was EEIS had already been established but wasn't operating. The establishment of EEIS was to provide credit to customers to be able to gamble at the properties and credit on terms that were more competitive with what other casinos in the region were offering, particularly the payment terms of the credit. And that was the purpose of EEIS. And the working group included a range of functional representatives that were about establishing that - that business or function to support The Star.

20

**MS SHARP SC:** But weren't you aware that one of the key purposes of the EEIS working group in 2017 and 2018 was to open up new payment channels?

**MR THEODORE:** I'm not sure I would describe it as a new payment channel, but it was to be able to issue credit to the customers who wanted to come to gamble at The Star and support that part of the business.

25

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

**MR BELL SC:** Yes.

30

**MS SHARP SC:** Are you familiar in general terms with the objects of the Casino Control Act, Mr Theodore?

**MR THEODORE:** In general terms, yes.

35

**MS SHARP SC:** Are you familiar with the fact that one of those objects in section 4 is to ensure that the management and operation of the casino remain free from criminal influence or exploitation?

40

**MR THEODORE:** Yes, I'm aware of that.

45

**MS SHARP SC:** Do you accept that one of the reasons for that being a primary object is because there is a real risk that management and operation of the casino may be exposed to criminal influence and exploitation?

5 **MR THEODORE:** Yes, I accept that.

**MS SHARP SC:** And do you accept that this means that at all times, the casino licensee must be vigilant to ensure that those risks are not realised?

10 **MR THEODORE:** Yes, I accept that.

**MS SHARP SC:** Can I ask you some more questions now about the credit committee. You've indicated it meets about once every three months. Does it have any oversight of the due diligence process that is conducted on patrons?

15

**MR THEODORE:** No, it doesn't.

**MS SHARP SC:** Can I take you to paragraph 15(e) of your first statement, please. You will see you there speak of the functions of the credit committee, and you say:

20

"The responsibilities of the credit committee include: (e) managing the overall credit risk exposure of The Star Entertainment Group in the context of the board's risk appetite statement."

25 Where do we find the board's risk appetite statement?

**MR THEODORE:** Can you maybe provide a bit more information on what you mean by "where we find it"?

30 **MS SHARP SC:** Well, what document do I need to look at to understand what the board's risk appetite statement is?

**MR THEODORE:** I think it's the group's risk appetite statement.

35 **MS SHARP SC:** And can you tell us what the board's risk appetite is in relation to managing overall credit risk exposure?

**MR THEODORE:** It would relate to sort of the gearing metrics from a financial perspective that we're seeking to maintain and - and tolerant in those gearing metrics relative to where covenant levels are. So this is a volatile part of the business, and bad debt provisions can obviously have a big financial impact in - in any particular period. And so, you know, some of the financial impacts, or potential financial impacts, based on credit risk exposure need to be assessed relative to financial tolerance levels for the group's overall gearing.

45

**MS SHARP SC:** And so what are those tolerance levels in qualitative terms? Are they low, medium, high - what?

**MR THEODORE:** Ms Sharp, they're more - we look at net debt to EBITDA as a gearing metric or interest coverage ratio as a gearing metric. We have certain limits in our banking documents, which we don't publicly disclose, and then we have target limits that give us buffer relative to the limits in the banking documents. And those are set each year in terms of where we're seeking the group to maintain levels from a financial risk perspective.

**MS SHARP SC:** Well, I imagine not all of that is said in the board's risk appetite statement. Do you know what the board's risk appetite statement says about the tolerance for credit risk exposure?

**MR THEODORE:** I think it's more part of the overall financial risk exposure, and I believe we have a low tolerance on financial risk.

**MS SHARP SC:** Could I take you, please, to exhibit B, tab 1087, which is STA.3410.0017.1974. I've said the wrong number. It's exhibit B, tab 1085. I'm going to show you a chain of emails, and you're the author of some of them. Can I start at the back of this document, please, at pinpoint 1975. Operator, could you please enlarge the email from Mr Theodore of 10 September. Now, Mr Theodore, I'm showing you an email dated 10 September 2018 that you sent to Mr Bekier, Mr Barton, Mr Huang, Mr Whytcross, Mr Hornsby, and Mr Hawkins?

**MR THEODORE:** Yes.

**MS SHARP SC:** And what you're doing in that email is relaying some feedback you've received from somebody about the Macau VIP market?

**MR THEODORE:** Yes.

**MS SHARP SC:** What does "CS" stand for, by the way?

**MR THEODORE:** Credit Suisse.

**MS SHARP SC:** And can I take you over the page, please. Now, do you see you say:

"Also expects there will be more noise on cracking down on outflows to scare people from taking money out of China."

40 And:

"Rate differential with the US, trade balance, CPI higher than expected, inability to print money and the China de-leveraging focus all means limiting capital outflows is high on the agenda so expect it to continue to get harder to get money out of China."

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** So you were well aware, as at the time of this email, that it was getting increasingly difficult to get money out of China?

5 **MR THEODORE:** Ms Sharp, I think I'm just relaying - that's not my view, but that's this analyst's view, and I'm relaying it. And this was his expectation that the economic conditions at the time meant, from a policy perspective, the Chinese Government was going to be more focused on maintaining as much capital as possible in China and limiting flows outside of China.

10 **MS SHARP SC:** Well, you obviously thought the information you had received was significant enough that you passed it on to the CEO and a number of your very senior executive colleagues, didn't you?

15 **MR THEODORE:** I - I did it in the sense that I'd had a meeting and it was feedback on an analyst's view on some of the market conditions, and that's why I passed it on.

20 **MS SHARP SC:** So tell me yes or no: did you appreciate by 2018 that it was getting harder to get money out of China?

**MR THEODORE:** Yes.

25 **MS SHARP SC:** And if I could go back to the start of this email chain now, Mr Theodore. Could I direct your attention now to the email from Adrian Hornsby sent on 11 September 2018 at 12.48 pm. Do you see you're one of the recipients? And I will have that enlarged for you. And perhaps, operator, we can show Mr Theodore the balance of that email on that first page. And you agree that Mr Hornsby is passing on to you and others feedback he had received from various sources in North Asia?

30 **MR THEODORE:** Yes.

35 **MS SHARP SC:** And you agree he's reporting to you on the liquidity of some of the major junkets that you understood that The Star was dealing with at that time?

**MR THEODORE:** I'm not - I'm not sure he was reporting to me, Ms Sharp. I think he's - I'm on the email because he's replied all. But I can see he's reporting to the group some of those matters.

40 **MS SHARP SC:** Well, let's put it more neutrally. He is providing you and others with some information on the outcome of his research?

**MR THEODORE:** That's right, yes.

45 **MS SHARP SC:** And do you see he says:

"We are still received -"

That's probably "receiving":

5 "Very strong patronage in the CUP service with large amounts of patrons utilising this (222 last month). The volume amounts are consistent totalling AUD10 to 20 million per month range, mainly given our daily swipe at 100K times 5 (500K). We have not received any noise from the banks regarding particular transactions for a period of six months or more."

10 **MR THEODORE:** Yes.

**MS SHARP SC:** Now, you were aware at this time that CUP represented a way of moving large amounts of money out of China?

15 **MR THEODORE:** I was aware that CUP, as an EFTPOS and debit card, was a way customers transacted - or Chinese customers transacted internationally.

20 **MS SHARP SC:** And you were aware, weren't you, that the CUP debit cards that were used at Star were used so as to circumvent currency restrictions in mainland China?

**MR THEODORE:** I didn't believe that they were used to circumvent currency restrictions, but I understood that they were being used to transact in Australia, yes.

25 **MS SHARP SC:** And Mr Hornsby says:

"We have not received any noise from the banks regarding particular transactions for a period of six months or more."

30 As a recipient of that email, what did you understand that statement to mean?

**MR THEODORE:** I'm not sure I read it at the time, Ms Sharp, and don't - don't recall at this point reading it at the time.

35 **MS SHARP SC:** Well, it was a reply to an email you sent?

**MR THEODORE:** Yes, I understand that.

40 **MS SHARP SC:** Well, doesn't that make it likely that you read it?

**MR THEODORE:** I may have read it. I don't recall reading it at the time.

45 **MS SHARP SC:** Because what happened is you passed on information available to you about the state of the VIP market and, in return, Mr Hornsby passed on information he had about the state of the VIP market. In those circumstances, it's most likely you did read what Mr Hornsby did say in his email to you; do you agree?

**MR THEODORE:** I may have read it, Ms Sharp. I don't recall reading it. I think the information was more relevant to Mr Hornsby, given he was responsible for credit and collections. Generally, in my role as investor relations, I would talk to industry participants and send it on to other people in the organisation that that information might be relevant to. So I don't recall reading it. I acknowledge I may have, but --

**MS SHARP SC:** Well --

10 **MR BELL SC:** Mr Theodore, was it your practice to read emails - business emails sent to you by colleagues which are also copied in to the CEO?

15 **MR THEODORE:** Generally, Mr Bell, yes. I think this one - I had been in Hong Kong. I had met with an analyst. I thought there was just some market feedback that's interesting. I wasn't necessarily going to - if someone is then replying to the whole group, I wasn't necessarily going to follow the whole email chain. So I don't recall reading this email, but I acknowledge I may have.

20 **MR BELL SC:** But that was your practice, was it?

**MR THEODORE:** Depends on the circumstances. But generally my practice would be to read emails, yes.

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

**MS SHARP SC:** Well, can you help us now. What do you understand this sentence to mean:

30 "We have not received any noise from the banks regarding particular transactions for a period of six months or more."

**MR THEODORE:** Maybe any queries. I'm not sure, Ms Sharp.

35 **MS SHARP SC:** What do you think it means, Mr Theodore?

**MR THEODORE:** I think it probably means that we haven't received any queries from banks regarding the transactions.

40 **MS SHARP SC:** And is that the CUP transactions?

**MR THEODORE:** Yes. That's the context in which he's making that statement.

45 **MS SHARP SC:** And what kind of transactions had The Star - I beg your pardon. What kinds of queries on transactions had The Star been receiving from banks at around the time of this email or the six months preceding it?

**MR THEODORE:** I don't recall any at this point of time. I do recall there were some transaction queries, I think in 2017.

**MS SHARP SC:** Well, we will come back to that. Mr Hornsby says:

5            "We have been hearing noise regarding Chinese capital control measures for  
a long period of time, but the major actions taken thus far has been the  
closure of all foreign casino accounts by the Bank of China, and some Macau  
and Hong Kong banks refusing to take casino winnings wires for us. On top  
of that we are noticing many clients from the north regions are having trouble  
wiring Star directly and require the use of alternative methods such as EEIS  
10          local NAB (marker payments only) or the KK contract structure."

Now, you were acutely aware at this time, weren't you, that The Star was  
encountering these difficulties in its patrons directly transferring funds to Star  
bank accounts, weren't you?

15          **MR THEODORE:** Again, Ms Sharp, I don't remember reading the email. But  
generally I had an awareness that there was some difficulty in this area, yes.

**MS SHARP SC:** And you were acutely aware of that, weren't you?

20          **MR THEODORE:** I don't believe I was acutely aware at this time because it  
wasn't an area that I was particularly responsible for. But I had an awareness, yes.

**MS SHARP SC:** And you were aware, weren't you, that The Star was trying to  
25          devise new payment channels to assist its patrons move funds into Australia for  
the purpose of front money or repaying cheque cashing facilities?

**MR THEODORE:** I'm not sure what you mean by "new payment channels", but  
we were looking to have appropriate channels that customers could transact with  
us. I would agree with that.

**MS SHARP SC:** Well, what's confusing to you when I use the expression  
"payment channels"?

35          **MR THEODORE:** When you say "new" - "new payment channels" - I'm not sure  
what you mean by "new payment channels".

**MS SHARP SC:** What I mean by that, Mr Theodore, is payment channels that  
you have made available that The Star did not previously offer. Do you understand  
40          that?

**MR THEODORE:** Yes. And I'm not sure there were payment channels that we  
didn't previously offer. So I understood we were looking to have bank accounts  
that customers could transact in. But, you know, I understood we had existing  
45          accounts. So I'm not sure there were payment channels that we hadn't offered, but  
we were looking to make sure we had established payment channels that  
customers could transact with us through.

**MS SHARP SC:** Did you know that the KK contract structure that was the Kuan Koi arrangement?

5 **MR THEODORE:** I knew at a high level of Kuan Koi. If we could return to the date of the email.

**MS SHARP SC:** Operator, could you show Mr Theodore a little bit higher on that document? Do you see the date is 11 September 2018?

10 **MR THEODORE:** Yes, I see that. I believe from my role on the EEIS working group, I had a very high level understanding of that arrangement.

15 **MS SHARP SC:** Now, I want to return to your role on the credit committee, if I could. Can I take you to the minutes for the credit committee at exhibit B, tab 2855. This is STA.3009.0007.0539. Now, showing you the first page of the minutes, you would agree that these minutes are from 11 May 2021, and this document records you as attending?

20 **MR THEODORE:** Yes.

**MS SHARP SC:** And could I take you, please, to pinpoint 0540. If we can have that page - now, could you look about midway down the page. Do you see there's a reference to Sixin Qin?

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

**MS SHARP SC:** Is it right that at this time, there were difficulties in having Mr Qin repay debts he owed to The Star?

30 **MR THEODORE:** I believe he had an outstanding loan that we were seeking to have repaid by him at this point in time.

**MS SHARP SC:** And how big was that outstanding loan?

35 **MR THEODORE:** I believe it's about a \$12 million outstanding, Ms Sharp.

**MS SHARP SC:** And do you see this document says:

40 "IM advise that there has been minimal progress since Qin agreed to the 4 million proposal with him stating he has or will not remit in a manner proposed by AML."

45 Now, is "AML" a reference to the AML team, that is, the anti-money laundering team?

**MR THEODORE:** I believe so. Yes.



**MS SHARP SC:** And so what was the problem here that you discussed at this meeting?

5 **MR THEODORE:** I believe he, at this point in time, from the best recollection I have now, had agreed to make a payment. And then there was some disagreement around how he would make that payment. And he was offering to make it in a way that we were unwilling to accept the funds.

10 **MS SHARP SC:** And what way was he offering to make the payment?

**MR THEODORE:** I don't recall at this point in time, Ms Sharp, the exact proposal he - he had. But it wasn't consistent with acceptable forms of payment for us. And so we had rejected the proposal, but I can't recall what his proposal was.

15 **MS SHARP SC:** Was this a concern to you at all, that one of the patrons of The Star was not prepared to remit funds to The Star in a way that had been proposed by the AML team?

20 **MR THEODORE:** I'd say, yes, it was a concern. And we were very focused to ensure that the form of payment was consistent with what was acceptable forms of payment for The Star. And so we were unwilling to accept any payment unless he was transferring the funds in a way that was consistent with how we would accept them.

25 **MS SHARP SC:** And is it correct that at this time, Mr Qin was refusing to provide source of funds details?

**MR THEODORE:** I don't recall, Ms Sharp.

30 **MS SHARP SC:** Well, he was one of - he had one of the largest cheque cashing facilities on issue by The Star, didn't he?

**MR THEODORE:** He's one of the larger debtors, yes.

35 **MS SHARP SC:** Yes. Well, he had at this time about a \$50 million cheque cashing facility, didn't he?

40 **MR THEODORE:** I think he was approved for up to \$50 million. He had obviously drawn down a portion of that and had a \$12 million outstanding loan to us.

**MS SHARP SC:** He had also been granted a loan by EEI Services of \$166 million, hadn't he?

45 **MR THEODORE:** I think, Ms Sharp, that's a gross amount. So the maximum net exposure was that \$50 million limit you referenced. I think the loan that he was granted had reflected that the patron he was funding and his play was on a revenue share deal. And so - and it was a 70 per cent/30 per cent revenue share deal. So

that \$166 million loan reflected a maximum credit outstanding of the \$50 million that he was approved for that you referenced.

5 **MS SHARP SC:** I will cut to the chase. You knew at this time that Mr Qin was one of The Star's largest junket funders by way of turnover?

**MR THEODORE:** I think at this time, Ms Sharp, the business wasn't operating --

10 **MS SHARP SC:** I'm just asking for what you knew, Mr Theodore.

**MR THEODORE:** At this time, I knew he was a material customer - or had been a material customer historically for the group, and he had a significant outstanding that we were seeking to collect.

15 **MS SHARP SC:** All right. Now, at this time, he wasn't prepared to disclose his source of funds; is that right?

20 **MR THEODORE:** Look, I can't recall what the issue was in terms of how he wanted to pay, but that may have been the issue. I accept that.

**MS SHARP SC:** Are you really saying that you can't recall this issue at all, Mr Theodore?

25 **MR THEODORE:** I can't recall what the issue was with the \$4 million payment proposal. No, I can't.

**MS SHARP SC:** Well, no, my --

30 **MR THEODORE:** But It may have been that we weren't satisfied with the source of funds for that \$4 million that he was proposing to pay. I accept that that was a likely scenario.

35 **MS SHARP SC:** Well, I want to understand exactly what it is you do recall about Mr Qin and any source of funds issues. What is that?

**MR THEODORE:** From this document, I can see that he had a proposal to pay \$4 million. I do --

40 **MS SHARP SC:** I'm not asking you about this document; I'm asking you about your recollection.

45 **MR THEODORE:** I do recall he had agreed to repay the loan in increments over a period of time. I do recall at one of those increments, there was a discussion about how he would repay the loan. I can't recall the details or that increment of the loan. I can't recall the details of how he paid, but I do recall that it wasn't - he wasn't providing sufficient information to us to make us comfortable to accept those funds at that point in time.

**MS SHARP SC:** Can I take you to exhibit B2918, which is STA.3009.0007.0368.

5 **MR BELL SC:** Just before we do that. Mr Theodore, I understand you to be telling me that the gross exposure of \$166 million was, in fact, only a \$50 million exposure for Mr Qin because he was only responsible for 30 per cent of the debt; is that correct?

10 **MR THEODORE:** The arrangement he was on, Mr Bell, was what we call a revenue share agreement.

**MR BELL SC:** Yes.

15 **MR THEODORE:** So if the group was willing to offer a maximum credit exposure of \$50 million, that meant the group he was either playing on or funding - if they lost \$166 million, the commission - once you offset the commission, the maximum potential exposure would be \$50 million.

**MR BELL SC:** Yes, I see. Yes. Thank you.

20 **MS SHARP SC:** Now, I'm showing you the minutes for the 24 June 2021 meeting of the credit committee. The minutes record you as being present. You will agree that you were present at that meeting?

25 **MR THEODORE:** Yes, Ms Sharp.

**MS SHARP SC:** Can I take your attention, please, to pinpoint 0369. You will see in the middle of that page, there's another reference to Sixin Qin. Do you see it states:

30 "IM confirms that Qin continues to be unwilling to provide necessary SOF details for Star Entertainment to consider accepting any repayments."

Now, "SOF" stands for source of funds, doesn't it?

35 **MR THEODORE:** Yes, I understand that.

**MS SHARP SC:** So what's going on here? What had Mr Qin said about not being prepared to provide source of funds details?

40 **MR THEODORE:** I'm not sure we had a sufficient explanation, Ms Sharp. I think this was recording that the discussions said we won't be accepting any payments unless we had sufficient evidence of the source of funds. And "IM" is international marketing. I think the update was that he was at that point not providing what we required and so we weren't accepting any payments.

45

**MS SHARP SC:** Well, isn't it a matter of considerable concern if one of your largest patrons is not prepared to provide the source of funds evidence you require?

**MR THEODORE:** Yes, I accept that.

5 **MS SHARP SC:** Well, doesn't that mean you should not deal with that patron any further?

10 **MR THEODORE:** Yes, I accept that. At - at this time, Ms Sharp, as I said, the business was closed and our consideration wasn't with dealing with this patron. It was to see whether - well, it was to seek to have his loan repaid because he owed the business money. And this would be a concern that should be factored in if he ever sought to deal with the company again in the future, as is the fact that he owes us \$12 million and hasn't repaid us.

15 **MS SHARP SC:** Do you agree that it is a very concerning matter if a patron won't provide source of funds evidence when requested to do so?

**MR THEODORE:** Yes, I accept it's concerning. And the position we had here is unless he provided it, we wouldn't accept the funds.

20 **MS SHARP SC:** To your knowledge, has he ever provided the source of funds evidence that was requested by The Star?

25 **MR THEODORE:** I'm not sure whether this issue had come up in previous repayments, Ms Sharp.

**MS SHARP SC:** Well, it's right, isn't it, that the outstanding loan, that was about 7 - I beg your pardon - \$11 million, was not repaid?

30 **MR THEODORE:** That's correct, yes. He's - he hasn't repaid.

**MS SHARP SC:** So we may take it, can't we, that he wasn't prepared to provide source of funds evidence?

35 **MR THEODORE:** Or make the payment in a way that's satisfactory to The Star. That's correct.

40 **MS SHARP SC:** If you assume for a moment that he was not prepared to provide source of funds evidence when requested, would it surprise you to learn that the AML compliance officer decided earlier this year that he was an appropriate patron to continue to deal with?

45 **MR THEODORE:** I'd have to understand the full details around this customer, Ms Sharp. That should have been factored into that assessment. I would say at this time, just to provide some context, we had a number of customers who had a receivable that were not paying The Star and using various excuses on why they couldn't pay. So I would say it's relevant information that should have gone in to the decision, but I'm not sure what other information was held on the customer at that point in time.

**MS SHARP SC:** But in any event, you agree that it is highly relevant information in terms of making a decision about whether it's appropriate to continue dealing with this customer?

5

**MR THEODORE:** Yes, as is - as is the fact that he's got a very significant outstanding as well, from my perspective.

**MS SHARP SC:** Could I take you, please, to paragraph 92 of your first statement. Operator, if we could go to paragraph 92, please. It's from this point in your statement that you outline your dealings with what I will call the China UnionPay issue at Star?

10

**MR THEODORE:** Yes.

15

**MS SHARP SC:** Now, when did you first become aware that China UnionPay cards were being debited at the hotels in - or at the hotel at The Star in Sydney?

**MR THEODORE:** I first became aware in early 2016.

20

**MS SHARP SC:** And how did you become aware of that matter?

25

**MR THEODORE:** At that time, the responsibility for the treasury function transitioned to me, which we discussed earlier. And as part of that transition, I had discussions with Mr Oliver White; Mr Chad Barton, who was my manager at the time; and Mr Damon Colbert, who was the previous lead of the treasury function. And I became aware of it through those discussions.

30

**MS SHARP SC:** And what did they tell you about the CUP process at that time?

35

**MR THEODORE:** I recall, which I believe I put in my statement at another point, a discussion with Mr White and through that discussion, the process, which was a two-stage process, where the card would be transacted at the hotel and the funds for the transaction would clear in the patron's hotel account, and subsequent to that, as a second step, those funds could be made available to the patron to gamble through their front money or patron account or to clear a CCF. I was also informed that we had set it up, I believe in late 2013. That had been - it had been set up with external legal advice at the time, that we had got regulator approvals for the use of the service prior to establishing it, that NAB were aware of the process and their awareness had been recorded in an email at the time it was set up. And I believe that Oliver also informed me that it was set up in that way so that we could perform the transactions in light of the CUP scheme rules, which I understood restricted gambling transactions.

40

**MS SHARP SC:** So that information you've just recounted, did Oliver White tell all of that to you?

45

**MR THEODORE:** He was the main source of that, and I recall that - I have also recollections of discussions with Mr Barton and Mr Colbert that confirmed those details as well.

5 **MS SHARP SC:** So you were aware from that time, were you, that UnionPay International prohibited the use of China UnionPay cards for purchasing gaming chips?

**MR THEODORE:** I had a general awareness, yes.

10

**MS SHARP SC:** Wasn't it a concern to you that, in substance, The Star was doing precisely what UnionPay prohibited the card being used for?

15 **MR THEODORE:** I - yes, Ms Sharp. The context, though, is I understood also at the time that it was a pretty common and broad industry practice for the cards to be used in a similar way. So I wasn't, at that time, surprised given my previous roles and visiting international markets, that whilst there was a restriction, there seemed to be common workarounds for that restriction as well.

20 **MS SHARP SC:** Did you raise your concerns with anybody at the time?

**MR THEODORE:** I think in the discussion - from my perspective, in the discussion with Mr White and Mr Barton in particular, that awareness that we had done a legal review, that our counterparty in NAB were aware of how it was being used and had endorsed the - the fact that it was a broad industry practice meant, I thought, that, you know, was a transaction service that The Star could use at the time.

25 **MS SHARP SC:** So I asked you whether you raised your concerns about the process with anyone at the time. Is the answer "no"?

**MR THEODORE:** Not a concern, because those discussions - I left without a concern at that point in time.

30 **MS SHARP SC:** Did you take any steps at that time to confirm the accuracy of what Mr White conveyed to you?

**MR THEODORE:** Look, I - the accuracy, through discussions with Mr Barton at the same time, particularly around NAB's knowledge, I took away the fact that Mr Barton also informed me that NAB were aware of how the service was being used. That was the sort of confirmation on that point. I guess on the legal point and the regulatory approval, I had - Mr White was general counsel, so I relied on his position at that point in time.

40 **MS SHARP SC:** So is the answer to my question that aside from speaking with Chad Barton, you did not take any steps to confirm the accuracy of what Mr White had said to you?

**MR THEODORE:** Not at that point in time, no.

**MS SHARP SC:** But of course, you knew at that point in time that the CUP cards were being used to purchase gambling chips or to repay cheque cashing facilities?

5

**MR THEODORE:** Not directly, Ms Sharp, but ultimately yes.

**MS SHARP SC:** Well, you knew that was the substance of the transaction, didn't you?

10

**MR THEODORE:** As I said, I understood that there was a transaction that happened at the hotel, that the customer would transact at a NAB terminal at the hotel, and once the funds cleared, the customer could transfer those funds to a patron account and use those funds to game or pay for other services across the property.

15

**MS SHARP SC:** All right. I might test it another way. You knew that those transactions would not have happened at all had the patron not wished to participate in gaming at the casino?

20

**MR THEODORE:** In this terminal, yes.

**MS SHARP SC:** Yes. So you perfectly well understood that the substance of this transaction was to permit the patron to pay for gaming?

25

**MR THEODORE:** Ultimately yes, but not directly.

**MS SHARP SC:** Well, ultimately - it could happen within a matter of hours, couldn't it, after the transaction had been undertaken at the hotel EFTPOS facility?

30

**MR THEODORE:** I understood the funds had to clear. But once the funds were cleared, I understood that they could use those funds for that purpose, yes.

**MR BELL SC:** Whatever procedural steps were required, you understood that the whole purpose for the use of these CUP cards was to permit patrons to have funds for gambling, didn't you?

35

**MR THEODORE:** Yes, I did, Mr Bell.

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

40

**MS SHARP SC:** Now, you were aware, weren't you, that the hotel issued invoices for these CUP swipes, weren't you?

**MR THEODORE:** I'm not sure I was aware of that at this point in time.

45

**MS SHARP SC:** Well, you did see those from time to time, didn't you?

**MR THEODORE:** I believe I first saw them in 2017.

5 **MS SHARP SC:** All right. Well, let me take you to an example of an invoice. Could I call up STA.3104.0010.1658. Now, I'm showing you an invoice issued on The Star Grand Hotel letterhead. That's what is now called The Astral Hotel, is it, or - is that still the name of the hotel?

10 **MR THEODORE:** I think it's the other way around, Ms Sharp. It was called Astral and then was rebranded to The Star.

**MS SHARP SC:** And, Mr Bell, this is exhibit B1371. Now, you'd agree that this invoice conveys that this particular patron stayed in a room at the hotel?

15 **MR THEODORE:** I'm not sure, Ms Sharp, it would describe it as an invoice. It's probably more of a statement. But, yes, I agree it refers to an arrival and departure date.

**MS SHARP SC:** And it refers to a room number as well?

20 **MR THEODORE:** Yes, it does.

**MS SHARP SC:** And what it reasonably conveys is that in the period 12 May to 14 May 2019, this particular patron was staying in room 0954?

25 **MR THEODORE:** Yes, it does.

30 **MS SHARP SC:** And there is nothing at all on the face of this document which in any way conveys that the reason those amounts of money were swiped was for this patron to fund gambling at the casino?

**MR THEODORE:** No, I accept that.

35 **MS SHARP SC:** So you agree, don't you, that this invoice conveys a misleading impression as to the substance of this transaction?

**MR THEODORE:** I think, Ms Sharp, I would not accept it's misleading. I believe what it shows is the first step of the process where the customer is transacting to deposit --

40 **MS SHARP SC:** I want to stop you there. Are you seriously saying now, today, that you don't see that there's anything misleading on the face of this invoice or document or whatever you want to call it?

45 **MR THEODORE:** I would say it's not misleading in that it only describes the first stage of the process. But it does describe that where there's a transfer into the customer's account and then out, which is what the process was for the transaction at the point of sale.



**MS SHARP SC:** Well, assume for me for the moment that somebody wanted to understand the substance of the transaction and this was the only document provided to that person. Do you then agree that this document misleads as to the substance of the transaction?

5

**MR THEODORE:** It doesn't provide the substance of the transaction.

**MS SHARP SC:** So you agree --

10 **MR BELL SC:** It's both misleading and deceptive, is it not?

**MR THEODORE:** Mr Bell, I don't believe it's misleading and deceptive. I believe it only describes a portion of the transaction.

15 **MR BELL SC:** And if this document were produced to a third party as the document describing the transaction which was taking place involving use of CUP cards, that would be misleading and deceptive, would it not, because it would not convey the true transaction?

20 **MR THEODORE:** I don't believe it's misleading and deceptive. I believe it's a statement for the customer that shows the transaction at the point of sale.

**MR BELL SC:** So sitting here now as the CFO of Star Entertainment, you see nothing misleading or deceptive in this document being provided to explain the transactions which were occurring; is that correct?

25

**MR THEODORE:** I think it depends on the context that it's being provided, Mr Bell, to be able to answer that question.

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

**MS SHARP SC:** Well, I will give you an assumption about context. Assume that a bank has said, "Provide evidence to show us what the purpose of the CUP transaction was," and this is the document provided. Is it misleading?

35

**MS RICHARDSON SC:** Well, I object to that question. Perhaps I should do it in the absence of the witness.

**MR BELL SC:** Yes. Operator, can you please take us to private mode in the absence of Mr Theodore.

40

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 12:44 PM**

**<THE HEARING IN PRIVATE SESSION RESUMED AT 12:44 PM**

45

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 12:45 PM**

**<THE HEARING IN PUBLIC SESSION RESUMED AT 12:45 PM**

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

5 **MS SHARP SC:** Could you make an assumption for me, please, Mr Theodore. If somebody had sought evidence to demonstrate the purpose of the CUP transaction and if the patron referred to here had not, in fact, stayed at the hotel on the dates nominated here, do you accept that this document would be a misleading answer?

10 **MR THEODORE:** Yes, I accept that.

**MS SHARP SC:** You, at all times from 2016, were aware that sham documentation was being prepared when CUP cards were being swiped at the hotel, weren't you?

15 **MR THEODORE:** No, I wasn't, Ms Sharp.

**MS SHARP SC:** Is that really your truthful evidence, Mr Theodore?

20 **MR THEODORE:** Yes, it is, Ms Sharp.

**MS SHARP SC:** You were aware, weren't you, in 2016, that on occasion, invoices or documents were being issued by the hotel for CUP transactions that staff referred to as dummy invoices?

25 **MR THEODORE:** I believe I was copied on some emails in 2017 that referred to some instances that were identified by the legal team where we weren't complying with the procedures. I don't believe I was aware of it in 2016, no.

30 **MS SHARP SC:** All right. Well, you were aware in 2017 that the legal team were referring to a practice of issuing dummy invoices?

**MR THEODORE:** I understood at a point in time in 2017 that that practice had been discovered, yes.

35 **MS SHARP SC:** And do you agree that that process involved sham documentation?

40 **MR THEODORE:** To the extent there was an invoice issued to a customer who never had a room allocated, yes, I agree that documentation was incorrect.

**MS SHARP SC:** Can I take you to paragraph 75 of your statement, please. You here say that Mr White told you that the CUP service had been set up in accordance with external legal advice, that the use of the service had been approved by the New South Wales regulator; is that right?  
45

**MR THEODORE:** That's correct, yes.

**MS SHARP SC:** But you never took steps to check for yourself that this process had, in fact, been approved by the New South Wales regulator?

5 **MR THEODORE:** No, I took that from Oliver as being correct. At the time, I think it had also just recently been approved in Queensland, Ms Sharp. So I had an understanding that the Queensland regulator had also recently approved the service. And one of the reasons I was getting a brief at this point in time was that that had recently occurred and the business was looking to set up the CUP service in Queensland as well.

10 **MS SHARP SC:** Did it strike you as odd in any way that the casino regulator had apparently approved a process whereby hotels were swiping CUP cards for the purpose of making funds available for gambling?

15 **MR THEODORE:** On the basis that both regulators had approved it, it didn't strike me as odd at the time, no.

20 **MS SHARP SC:** Did it strike you as odd in any way that the casino regulator had apparently approved a process of swiping the CUP cards at the hotel when you knew that UnionPay International prohibited its cards being used to purchase gaming chips?

25 **MR THEODORE:** No, Ms Sharp. And the context to that was I understood we had legal advice at the time, which Oliver had told me. I also understood that this was a pretty broad and common industry practice. So that had - from my perspective, gave some context to the fact that I thought that, you know, this had - this practice had been used in a variety of markets in a similar way.

30 **MS SHARP SC:** Can I show you, please, exhibit B29, which is STA.3008.0004.0869. Now, I'm showing you a letter dated 5 June 2013 from the Independent Liquor and Gaming Authority to The Star. Have you seen this letter before?

35 **MR THEODORE:** No, I haven't, Ms Sharp.

**MS SHARP SC:** Well, if I can take your attention to it. Do you see that item 2 refers to:

40 "Amending control 15 to make a specific reference for patron funds that are transferred via electronic funds transfer to The Star account."

**MR THEODORE:** Yes, I can see that.

45 **MS SHARP SC:** And do you see that ILGA says that is approved?

**MR THEODORE:** I see the - the bottom paragraph that says:

"Has approved the amendments to the cheque cashing/deposit facilities ICM."

5 **MS SHARP SC:** Do you see any reference there anywhere to CUP?

**MR THEODORE:** Not in this letter, no.

**MS SHARP SC:** And do you see any reference anywhere to any sort of card being swiped at the hotel?

10

**MR THEODORE:** Not in this letter, no.

**MS SHARP SC:** So if this were the approval document, it is certainly not clear that the regulator has approved CUP cards being swiped at the hotel to use to fund gambling, is it?

15

**MR THEODORE:** Not just on this document, no.

**MS SHARP SC:** Have you ever looked at the UnionPay rules for yourself?

20

**MR THEODORE:** No, I haven't, Ms Sharp.

**MS SHARP SC:** Can I take you, please, to paragraph 87(a) of your statement. And here at 87, you say:

25

"In response to The Star's responses to queries from CUP and NAB about the use of the service, I observed the following."

Now, can we understand this: you understood at all relevant times that, in fact, it was UnionPay making the inquiries, but it was doing that through NAB?

30

**MR THEODORE:** Or to NAB, yes.

**MS SHARP SC:** Yes. And NAB was asking The Star to respond so that NAB could pass that response back to UnionPay. You knew that, didn't you?

35

**MR THEODORE:** I'd say I knew NAB were either responding directly to China UnionPay at times, without making any requests to us, or at times had made requests to The Star in order for NAB to prepare a response to CUP.

40

**MS SHARP SC:** So it was your understanding and expectation at all relevant times that when NAB made requests to The Star, the information that Star provided in response would be conveyed to UnionPay International?

45 **MR THEODORE:** In some form, yes.

**MS SHARP SC:** Now, returning to subparagraph (a), you say that:

"In the period in which I was directly involved in preparing and responsible for authorising responses -"

You allowed:

5

"Star's responses to these queries to avoid stating that CUP funds were used to fund gambling -"

For a number of reasons. And one of the reasons you give is that in (iii), that:

10

"The Star Entertainment Group had no direct contractual relationship with CUP and was not subject to the CUP terms and conditions as the relationship was handled through NAB."

15 Now, what made you think that The Star was not subject to the CUP terms and conditions?

**MR THEODORE:** My understanding, from discussions with Oliver White, was that NAB signs up to the CUP terms and conditions and that The Star hadn't done so as part of the merchant agreement with NAB.

20

**MS SHARP SC:** Now, as CFO, you would be aware that banks like Visa and Mastercard also make cards available for use to certain merchants?

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

**MS SHARP SC:** And they do that through banks, and banks, in turn, entering into merchant agreements with their - I withdraw that. They do that - that is, the banks make those cards available to merchants via merchant agreements?

30

**MR THEODORE:** Yes, I understand that.

**MS SHARP SC:** So insofar as The Star has EFTPOS machines from which Visa cards can be debited, do you say that The Star is not bound by Visa's rules around the use of Visa cards?

35

**MR THEODORE:** As I understood it, Ms Sharp, it depends what's in the merchant agreement. My understanding from the merchant agreement in relation to this service was it didn't provide The Star committing to the CUP merchant scheme rules. That - that was my --

40

**MS SHARP SC:** Well, assume for me that the one merchant agreement, to which NAB and The Star were party, permitted the merchant terminal to be used to swipe Mastercards, Visa cards and CUP cards. Is it your evidence to Mr Bell that in that circumstance, you don't consider that The Star is bound by Visa's rules and conditions?

45

**MS RICHARDSON SC:** I object to this questioning, and I'm happy to do it in the absence of the witness.

5 **MR BELL SC:** Well, I think you should. Operator, can we go to private mode, please, in the absence of Mr Theodore.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 12:58 PM**

10 **<THE HEARING IN PRIVATE SESSION RESUMED AT 12:58 PM**

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 12:59 PM**

**<THE HEARING IN PUBLIC SESSION RESUMED AT 1:00 PM**

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

**MS SHARP SC:** Mr Theodore, as the chief financial officer of a large publicly listed company, is it your general understanding that to the extent that The Star permits patrons to swipe their Visa cards, they're not bound by Visa card's terms and conditions?  
20

**MR THEODORE:** Generally, I'd say we would be in the merchant agreement. My understanding in this case, from my discussion with Oliver, was that it wasn't specifically a term of the merchant agreement, with NAB in this case.  
25

**MS SHARP SC:** Did you ever check the merchant agreement for yourself?

**MR THEODORE:** No, I didn't, Ms Sharp.

30 **MS SHARP SC:** And you're a lawyer by training, aren't you?

**MR THEODORE:** I studied law and I practised for a short period of time, yes.

**MS SHARP SC:** You practised as a lawyer for a couple of years at a very large corporate law firm, didn't you?  
35

**MR THEODORE:** I practised as a qualified lawyer for a short period of time, but I did a clerkship and was a graduate lawyer for a year as well. Yes.

40 **MS SHARP SC:** So you're capable of reading a contract?

**MR THEODORE:** Yes, I am.

**MS SHARP SC:** And no doubt you do have to read contracts from time to time in your present position?  
45

**MR THEODORE:** I do. At - at the point that I became involved in this in 2016, I was relying on the general counsel to inform me around what the key terms of the merchant agreement were.

5 **MS SHARP SC:** Well, wasn't it an important matter for you to confirm for yourself?

**MR THEODORE:** I had relied on the group's general counsel on - on a legal or contractual matter.

10

**MS SHARP SC:** Well, let me take you to the merchant agreement now, if I can. In fact, I might do that after lunch, Mr Bell. I see the time.

**MR BELL SC:** I will now adjourn for one hour.

15

**<THE HEARING ADJOURNED AT 1:02 PM**

**<THE HEARING RESUMED AT 2:00 PM**

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

**MS SHARP SC:** Now, Mr Theodore, it's correct, isn't it, that when a patron used a CUP card at the hotel and it was debited and then transferred over to the front money account, the benefit to The Star was turnover?

25

**MR THEODORE:** When you say "turnover", Ms Sharp, the player's gaming activity?

**MS SHARP SC:** Yes.

30

**MR THEODORE:** When you say "benefit", that was the purpose of the transaction, was to fund the customer's gaming activity, yes.

35 **MS SHARP SC:** Yes. And that was the purpose of the transaction because the benefit to The Star was having turnover move through the casino?

**MR THEODORE:** Yes, in the end. But, you know, the customer could transact in other ways as well. But, you know, with the proceeds of the transaction, the customer would gamble and - and generate gambling turnover, yes.

40

**MS SHARP SC:** Yes. And the idea, so far as Star was concerned - the aim and the idea was to maximise the amount of turnover through the casino because that would increase the revenue to the casino?

45 **MR THEODORE:** Generally, yes, we were looking to provide customers with the opportunity to gamble. I'd say yes to that.

**MS SHARP SC:** Yes. And that's what the very idea of theoretical win is about, isn't it?

5 **MR THEODORE:** I'd say actual win is what we care about, Ms Sharp, because that's the real revenue and earnings that the property generates. But we have a concept of theoretical win to look at what the true underlying earnings of the business are, given there's inherent volatility in that part of the business.

10 **MS SHARP SC:** All right. And it's right to say the greater the turnover, the higher the theoretical win?

**MR THEODORE:** Over time, yes.

15 **MS SHARP SC:** Yes, over time. And the CUP card was being used at a time when China was - that is, mainland China, was clamping down on capital flight; do you agree?

20 **MR THEODORE:** At - at parts of the time the card was used, there were measures to limit capital outflow out of China. Yes, I agree with that.

25 **MS SHARP SC:** And so one of the advantages to Star of making the China UnionPay channel available to patrons was to ensure that those patrons could move large sums of money from mainland China but avoid the restrictions on capital flight from mainland China?

30 **MR THEODORE:** For me, it's slightly different to that, Ms Sharp. It was that they could use funds in China to transact to pay for goods and services in Australia, not to move large sums of money. But there was a transaction to pay for goods and services here, yes.

35 **MS SHARP SC:** Well, you obviously perceived that there was some advantage to Star in having the CUP facility available, didn't you?

**MR THEODORE:** I saw it as a transaction service that can be used by customers - customers of The Star to pay for the services at The Star.

**MS SHARP SC:** All right. And what advantage did you see obtained for The Star?

40 **MR THEODORE:** That customers had a - what I saw as a legitimate way to pay for our services.

45 **MS SHARP SC:** And was an advantage that it was in all likelihood going to increase The Star's turnover?

**MR THEODORE:** I think you've got to consider it against the counterfactual, whether the customer could have transacted in some other way. But potentially, if that - if that customer had no other way to transact, yes, it would be incremental.



**MS SHARP SC:** And wasn't that the very problem that The Star was experiencing from about late 2017, that it was becoming increasingly difficult for overseas customers to transact with The Star?

5

**MR THEODORE:** It was becoming difficult for some customers, yes.

**MS SHARP SC:** All right. So an advantage to The Star in keeping the CUP payment channel open was in continuing to ensure turnover through the casino?

10

**MR THEODORE:** Yes.

**MS SHARP SC:** Now, could I return to the merchant agreement, please, which is exhibit B, tab 2925, STA.3401.0003.6907. And what I'm showing you is the merchant agreement that did apply as between Star and NAB at the relevant time in relation to CUP. Could I take you, please, to pinpoint 6931. Do you see there's a definition in the middle of the page, "card schemes"?

15

**MR THEODORE:** If I could have it enlarged a little bit.

20

**MS SHARP SC:** I will have it enlarged for you.

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And relevantly, do you see it includes China UnionPay?

25

**MR THEODORE:** Yes, I do.

**MS SHARP SC:** And do you see how "card scheme rules" is defined?

30

**MR THEODORE:** Yes, I do.

**MS SHARP SC:** So you'd agree that card scheme rules include the China UnionPay rules?

35

**MR THEODORE:** It appears so here, Ms Sharp. It's the first time I've seen the document, but it appears so.

**MS SHARP SC:** Could I take you to pinpoint 6935. Do you see at the top of the page, the expression "relevant law" is defined?

40

**MR THEODORE:** Do you mind enlarging that again for me, please? Yes.

**MS SHARP SC:** Do you see in subparagraph (c) that "relevant law" includes:

45

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

**MR THEODORE:** Yes, I see that.

5 **MS SHARP SC:** Can I take you, please, to pinpoint 6938. Do you see there's a heading UnionPay Card Terms and Conditions?

**MR THEODORE:** Yes. Can I get that enlarged again? Thank you.

10 **MS SHARP SC:** And you will see that there are specific terms that apply in relation to the use of UnionPay cards?

**MR THEODORE:** I can see there's a number of points there. Would you like me to read them, Ms Sharp?

15 **MS SHARP SC:** No, that's not necessary. And I will take you to pinpoint 6950. Do you see there's a heading, clause 7, Processing Transactions?

**MR THEODORE:** Yes, I do.

20 **MS SHARP SC:** Then I'll take you over the page to pinpoint 6951. And I will have that enlarged for you. Do you see clause 7.3 provides:

25 "In giving us information on a transaction or otherwise for the purpose of this agreement, you warrant that: (a) all the particulars are true; and (b) the transaction is valid and acceptable."

**MR THEODORE:** Yes.

30 **MS SHARP SC:** Now, you understand, don't you, that these are warranties that The Star is giving to NAB pursuant to this contract?

**MR THEODORE:** I see it says that we warrant those things, yes.

35 **MS SHARP SC:** Can I take you, please, to pinpoint 6956. And you will note there's a clause 13, Costs, Fees and Other Payments?

**MR THEODORE:** Yes, I see that.

40 **MS SHARP SC:** And do you see that clause 13.1 says:

"You must pay us the amount listed in clause 13.2."

**MR THEODORE:** Yes, I see that.

45 **MS SHARP SC:** And you understand that the "you" in this context is The Star?

**MR THEODORE:** I assume so.

**MS SHARP SC:** And then if you look at clause 13.2, it provides:

"You authorise us to withdraw, without notice, the following amounts from any account you have with us."

5

And if I could take you over the page, it says:

"(h) all fines, penalties and similar costs (however described) imposed on us under card scheme rules because of your conduct."

10

**MR THEODORE:** Yes, I would - if - if it could be enlarged a bit. But I - I can see that, yes.

**MS SHARP SC:** All right. Now, you understand, as a person with your legal training, that what's happening here is that the contract between NAB and Star is picking up and applying the UnionPay scheme rules?

15

**MR THEODORE:** Look, I'd have to read it in more detail, Ms Sharp, to answer that question definitively.

20

**MS SHARP SC:** Can I take you to pinpoint 6963. Do you see that clause 17.1 provides:

"You agree to indemnify us for all losses and liabilities we incur because of."

25

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And you understand here that in this provision, The Star is giving an indemnification to NAB?

30

**MR THEODORE:** I understand that, yes.

**MS SHARP SC:** And do you see at (a), it says:

35

"You breach an obligation that you have under this agreement."

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** So you understand, don't you, that The Star is indemnifying the NAB for its losses and liabilities which occur because The Star breaches an obligation under this agreement?

40

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And at 17.1 (e), that indemnity also implies in respect of:

45

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

You understand that that's another indemnity that The Star gives to NAB?

**MR THEODORE:** Yes, I understand that.

5

**MS SHARP SC:** Then I'll take you to pinpoint 6966. Can you see there's a clause entitled Representations and Warranties?

**MR THEODORE:** Yes, I see that.

10

**MS SHARP SC:** At clause 21.1, it provides:

15                    "You represent and warrant to us that: (a) in having received and receiving the merchant services, you have not been and will not be in breach of any relevant law."

**MR THEODORE:** I can see it, but could you please enlarge it if you're going to continue. But I see that, yes.

20 **MS SHARP SC:** Now, do you recall I took you to the definition of "relevant law", and it included the scheme rules?

**MR THEODORE:** I - I believe you did, Ms Sharp, yes.

25 **MS SHARP SC:** So you'd agree that now I've taken you to the provision of this contract, what has happened is that Star has represented and warranted to NAB that it will not be in breach of the China UnionPay scheme rules?

**MR THEODORE:** I assume that relevant law term is a defined term --

30

**MS SHARP SC:** Well, I took you to it.

**MR THEODORE:** It's - it's not in capitals, but I accept that that's the case, based on what I've seen.

35

**MS SHARP SC:** All right. Does it make a difference whether it's in capitals if it's a defined term?

40 **MR THEODORE:** I - I just didn't - I - I didn't understand - well, I believe The Star's position was the scheme rules weren't a relevant law, and we believed we were complying with relevant laws. But if it's a defined term in law --

45 **MS SHARP SC:** Is it rather concerning to you, as the CFO of the organisation, if it turns out that, in fact, you'd - that is, The Star, had warranted to NAB that it would not breach the UnionPay scheme rules?

**MR THEODORE:** Yes, I didn't understand we had done that.

**MS SHARP SC:** Because the fact that this warranty has been given exposes Star Entertainment to a very significant financial liability, doesn't it, if it breaches the scheme rules?

5 **MS RICHARDSON SC:** I object to that question. It's hypothetical. And it has not - the premise of it hasn't been established. I'm happy to deal with it in the absence of the witness.

**MR BELL SC:** Yes. Operator, please take us to private mode.

10

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 2:16 PM**

**<THE HEARING IN PRIVATE SESSION RESUMED AT 2:16 PM**

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**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 2:19 PM**

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

20

**MS SHARP SC:** I am going to take you to another document, Mr Theodore. Could I go to exhibit B at tab 333, which is STA.302.0007.2472. Now, what I'm showing you are the operating regulations dated October 2012 for China UnionPay. Have you seen this document before?

25

**MR THEODORE:** No, I haven't, Ms Sharp.

**MS SHARP SC:** Did you understand that it was available at The Star?

30

**MR THEODORE:** I don't believe so.

**MS SHARP SC:** Did you understand that you would have been able to take steps to obtain it from NAB should you have wished to do so?

35

**MR THEODORE:** I wasn't aware of that.

**MS SHARP SC:** Well, I'm asking you in your capacity as the head of treasury and then as the CFO of the organisation. You could ask the bank for the contractual terms that your organisation was bound by, couldn't you?

40

**MR THEODORE:** I accept we could, yes.

45 **MS SHARP SC:** Now, could I take you, please, to pinpoint 2502. I'm sorry. I seem to have a different version of the document numbers. I might bring up a different - the documents are the same. It just has a - well, actually, I will do it by the pagination. Could I go to page 24 of the paginated document, please, operator. Do you see there's a clause there, 3.3.4 Merchant Agreement?

**MR THEODORE:** Yes, I do.

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

5 "An acquirer must sign a merchant agreement with the merchant before it commences the service of accepting UnionPay card."

**MR THEODORE:** Yes, I see that.

10 **MS SHARP SC:** And in this context, you can take it from me that the acquirer is NAB.

**MR THEODORE:** Okay.

15 **MS SHARP SC:** And you can take it from me that the merchant is The Star.

**MR THEODORE:** Okay.

20 **MS SHARP SC:** Now, can I take you, please, to page - sorry, there's another provision I need to take you to. Can I take you to page 25 of the document, which is the next page. Can you see there's a heading 3.3.5.2 Format of Merchant ID?

**MR THEODORE:** Yes. Could I have it enlarged, please.

25 **MS SHARP SC:** Yes. And if we could enlarge the last point. Do you understand that "MCC" stands for merchant category code?

**MR THEODORE:** Yes, I do.

30 **MS SHARP SC:** So:

"The MCC in merchant ID for merchants inside mainland China is based on Specification of Merchant Category Code for UnionPay merchant, which shall be consistent with the principal business of the merchant."

35

**MR THEODORE:** Sorry, I don't see those words. Could you just show me where they are, Ms Sharp?

**MS SHARP SC:** Yes. If you look under the last dot point.

40

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** So you understand there's a reference to a merchant category code there?

45

**MR THEODORE:** Yes.

**MS SHARP SC:** Now, could I take you, please, to --

**MS RICHARDSON SC:** Sorry. I think, in fairness to the witness, it should be drawn to his attention - sorry, the second last bullet point talks about merchants inside mainland China.

5

**MS SHARP SC:** I think I did draw that to his attention in the context of the last dot point.

**MS RICHARDSON SC:** I apologise.

10

**MS SHARP SC:** Now, can I take you to clause 3.3.2. Do you see there's a heading right at the bottom of that page - the heading is 3.3.2 Restrictions on Merchants?

15 **MR THEODORE:** Yes.

**MS SHARP SC:** And do you see it says on the next page:

20 "An acquirer must not contract with a merchant that is prohibited by local laws and regulation or relative rules of UnionPay regulations."

**MR THEODORE:** Yes, I see that.

25 **MS SHARP SC:** And can you see there's clause 3.3.3, Merchant Qualifications? If we can have that enlarged. It's just underneath, operator. And do you see it says:

"Prior to entering into a merchant agreement, an acquirer must ensure the merchant will meet the following requirements."

30 And the third dot point is:

"Will comply with requirements for merchants in UnionPay regulations."

**MR THEODORE:** Yes, I see that.

35

**MS SHARP SC:** Now, can I take you to page 105. And do you see there's appendix C, Merchant Category List?

**MR THEODORE:** Yes, I see that.

40

**MS SHARP SC:** Now, I will continue a little further through this. If I can go to page 115. And do you see there's a reference in the left-hand column to MCC?

**MR THEODORE:** Yes, I see that.

45

**MS SHARP SC:** You understand, don't you, that that stands for merchant category code?

**MR THEODORE:** Yes, I do.

**MS SHARP SC:** And you know from your experience in the financial industry that every merchant terminal is assigned a merchant category code?

5

**MR THEODORE:** Look, I understand that at a high level, Ms Sharp. I've never had a lot of experience in transactional banking, so I wouldn't say that's an area that I'm particularly experienced in. But I understand there is a merchant category code assigned to a terminal.

10

**MS SHARP SC:** And were you aware that a merchant category code was assigned to The Astral terminal?

**MR THEODORE:** Yes, I - I think all terminals have a category code. Yes.

15

**MS SHARP SC:** And could I draw your attention to the category code here, which is 7011?

**MR THEODORE:** Yes.

20

**MS SHARP SC:** And do you see it's for lodging, hotels, motels and resorts?

**MR THEODORE:** Yes, I see that.

25

**MS SHARP SC:** And that code is imposed on the basis that that is an accurate statement of the principal business of the operator of the merchant terminal?

**MS RICHARDSON SC:** I think, in fairness to the witness, the source of that obligation should be pointed out to him.

30

**MR BELL SC:** Can we just - operator, can we please go into private mode in the absence of the witness.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 2:29 PM**

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**<THE HEARING IN PRIVATE SESSION RESUMED AT 2:29 PM**

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 2:35 PM**

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**<THE HEARING IN PUBLIC SESSION RESUMED AT 2:36 PM**

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

45

**MS SHARP SC:** Now, could I return the witness, please, to the China UnionPay rules, which were exhibit B at tab 333. And now - I've taken your attention to merchant category code 7011.

**MR THEODORE:** Yes, Ms Sharp.



**MS SHARP SC:** And you've seen that definition:

"Lodging, hotels, motels and resorts."

5

And now can you read across to the third column that's entitled Fully Prohibited?

**MR THEODORE:** Yes.

10 **MS SHARP SC:** And do you see nothing is stated there about that merchant category code being fully prohibited?

**MR THEODORE:** Yes, I can see that.

15 **MS SHARP SC:** Now could I take you, please, to page 120. Can I now draw your attention to merchant category code 7995, which is the fourth row down.

**MR THEODORE:** Yes.

20 **MS SHARP SC:** Do you see in the second column, it says:

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

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

**MS SHARP SC:** And do you see in the Fully Prohibited column, it's red and it has a tick?

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

**MS SHARP SC:** And you understand, don't you, that the UnionPay scheme rules prohibit China UnionPay cards being used to purchase casino gaming chips, don't you?

35

**MS RICHARDSON SC:** I object to that question.

**MR BELL SC:** What's the objection, Ms Richardson?

40 **MS RICHARDSON SC:** Well, what is prohibited is an MCC code of 7995, which is defined as betting, lottery tickets, casino gaming chips and so on.

**MR BELL SC:** So it's Star's position, is it, that irrespective of what the transactions actually were, as long as a different MCC code was used, the transaction was permitted?

45

**MS RICHARDSON SC:** Could I deal with this in the absence of the witness, Mr Bell, please?

**MR BELL SC:** Yes. Please go to private mode, operator.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 2:38 PM**

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**<THE HEARING IN PRIVATE SESSION RESUMED AT 2:38 PM**

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 2:44 PM**

10 **<THE HEARING IN PUBLIC SESSION RESUMED AT 2:44 PM**

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

15 **MS SHARP SC:** Mr Theodore, could I take you, please, to pinpoint - I beg your pardon, page 14 of this document. Do you see chapter 2 is entitled Acquiring Rules?

**MR THEODORE:** Yes.

20 **MS SHARP SC:** Do you see clause 2.2.1 is called Terminal Requirements?

**MR THEODORE:** Yes, I can see that.

25 **MS SHARP SC:** Do you see the second dot point says:

"Acquirers outside mainland China shall comply with UnionPay regulations."

Yes, I can see that.

30 **MS SHARP SC:** And you understand that the document I'm taking you to now is the UnionPay - or are the UnionPay regulations?

**MR THEODORE:** Yes.

35 **MS SHARP SC:** And can I take you over the page, please, to page 15. Do you see there's a heading 2.4 Merchant Requirements?

**MR THEODORE:** Yes.

40 **MS SHARP SC:** And do you see it says:

"For detailed information, please refer to chapter 3 of this volume."

45 **MR THEODORE:** Yes, I can.

**MS SHARP SC:** Now I will take you to the start of chapter 3. If we go to - sorry, Mr Bell. Do you see chapter 3 is at page 23?

**MR THEODORE:** I can't see the page number, but I - I see a page that's headed Chapter 3 Merchant --

5 **MS SHARP SC:** And do you see that it says:

"Introduction. The purpose of this chapter is to enhance the merchant management, improve the risk control ability and provide a secure and convenient environment for UnionPay cardholders."

10 **MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And do you see further down, it says:

15 "This chapter applies to UnionPay participants and UnionPay."

**MR THEODORE:** Yes.

**MS SHARP SC:** And do you see at clause 3.2, it sets out general requirements?

20 **MR THEODORE:** I can only see the heading on this screen at the moment. Yes, I can see that.

**MS SHARP SC:** And down the bottom of the page, which is where I started you a little earlier, can you see there's clause 3.3.2 that I previously took you to?  
25

**MR THEODORE:** Yes.

**MS SHARP SC:** Now, could I take you back, please, to page 120. And you recall that I took you to the entry for merchant category code 7995?  
30

**MR THEODORE:** Yes.

**MS SHARP SC:** And if I could take you over the page at page 122. Sorry. That's at page 122, operator. Do you see there are two notes at the bottom of this document?  
35

**MR THEODORE:** Yes.

**MS SHARP SC:** Do you see the second note is:  
40

"A merchant with a prohibited merchant category code should not be recruited by an acquirer for the acceptance of UnionPay cards."

45 **MR THEODORE:** Yes.

**MS SHARP SC:** I'm suggesting to you that a rule of this UnionPay agreement is that an acquirer, that is, NAB, should not set up a merchant with a prohibited merchant category code.

**MS RICHARDSON SC:** Well, I object to that question.

5 **MS SHARP SC:** I will withdraw it. Can I take you now to paragraph 87(a) of your statement.

**MR THEODORE:** Yes.

10 **MS SHARP SC:** And take you to (iii). You assert there, unequivocally, that The Star had no direct contractual relationship with CUP and was not subject to the CUP terms and conditions. Now, you simply relied on Mr White's advice in forming that view, did you?

15 **MR THEODORE:** That Mr White gave me that advice that formed that view, yes.

**MS SHARP SC:** And if Mr White was wrong about that, it follows that you're wrong about that, doesn't it?

20 **MR THEODORE:** Potentially, Ms Sharp, it probably does. But at - what I'm trying to say in my statement at this point is that was my understanding at the time.

25 **MS SHARP SC:** Well, you don't express it that way in your statement, do you? What you're doing is telling Mr Bell in unequivocal terms that this is the context in which he should assess your behaviour?

30 **MR THEODORE:** Well, if I was - yes, I should have said that based on my understanding, that was the case.

**MS SHARP SC:** Because if, in fact, the UnionPay rules did apply in the contractual relationship between Star and NAB, that would very much change the context; do you agree?

35 **MR THEODORE:** I still think the other points are relevant, Ms Sharp. But if they did, it - it removes that point (indistinct) context for the - you know, for - for the - for the position. But that's what I understood at the time.

40 **MS SHARP SC:** Because if the UnionPay rules did apply and NAB breached them, it would - I beg your pardon. If the UnionPay rules did apply and The Star breached those rules, it might expose The Star to a significant financial risk in its contractual relations with NAB; do you agree?

45 **MR THEODORE:** Potentially could. I'd have to understand more about how the damage would be assessed or what the potential issue would be.

**MS SHARP SC:** And despite the fact that queries were, to your knowledge, made to The Star over a number of years regarding the true purpose of the CUP

transactions, it did not occur to you to consider for yourself whether the scheme rules may have applied?

5 **MR THEODORE:** As I said, Ms Sharp, I was relying on the general counsel, who I trusted to form the right view. I also - I think some of the other points there are relevant because, you know --

10 **MS SHARP SC:** Well, let's go now to those other points. If can I take you to paragraph 87(a)(v). And I will have that enlarged for you. That's (v). You say that:

15 "Given the financial relationship between NAB and The Star, and the knowledge that NAB representatives who dealt with The Star had acquired about the nature of its business and revenue, I did not believe that any NAB representative could reasonably believe that the funds deposited by patrons using the CUP service were used for non-gaming expenditure only."

So is it right - you say that your understanding is NAB knew the true purpose of the CUP swipes?

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

**MS SHARP SC:** And now can I take you to paragraph 75 of your statement - I beg your pardon. I've taken you to the wrong paragraph. Could I take you to 87(a)(iv). You say:

25 "I believed, based on my conversations with Oliver White and NAB representatives, that NAB understood the purpose and operation of the CUP service and was content to allow the CUP service to be used at The Star on this basis."

30 **MR THEODORE:** Yes.

**MS SHARP SC:** Now, you don't say anything in your statement about a view that UnionPay International knew that the CUP cards were being swiped to purchase gaming chips, do you?

**MR THEODORE:** Other than point (ii), which refers to the fact that I understood it to be a prevalent practice across a number of properties in the region.

40 **MS SHARP SC:** Well, that's quite a different thing from saying, "I thought that UnionPay International representatives knew the CUP card was being used at The Star to purchase gaming chips", isn't it?

45 **MR THEODORE:** I think an extension of that point, Ms Sharp, is that from my perspective, there had appeared to be tacit acceptance of cards being used over a long period of time across a number of properties. And I think I referenced it earlier in one of my answers, that the prevalence of the use of cards - of CUP cards

to fund gambling in other properties and markets in similar ways sort of formed part of the thinking around the use of the service.

5 **MR BELL SC:** Can I just be clear about that evidence, Mr Theodore. Are you asking me to accept that you believed that UnionPay International knew that you were using the CUP cards to fund gambling?

10 **MR THEODORE:** Mr Bell, my - my evidence is that we had no direct communications with CUP.

**MR BELL SC:** That wasn't my question. Would you mind answering my question?

15 **MR THEODORE:** But I understood that this was a broad industry practice and --

**MR BELL SC:** That doesn't answer my question either, Mr Theodore.

20 **MR THEODORE:** And as a result of that, I understood that there was tacit acceptance of the use of the cards in this way.

**MR BELL SC:** That's still not an answer to my question, Mr Theodore. Let me put it again. Are you asking me to accept that you believed that UnionPay International knew that The Star was using the CUP cards to fund gambling?

25 **MR THEODORE:** I believe they likely knew.

**MR BELL SC:** And what's the premise on which you formed that belief?

30 **MR THEODORE:** Just the widespread use of these cards in a variety of markets. That - that appeared to be well understood across a number of industry participants.

**MR BELL SC:** I see. Thank you.

35 **MS SHARP SC:** Did you talk to a single representative from UnionPay about how the CUP cards were used at The Star?

**MR THEODORE:** I didn't, Ms Sharp.

40 **MS SHARP SC:** And you didn't talk to anybody from NAB about the discussions they'd had with UnionPay representatives, did you?

45 **MR THEODORE:** Not - not a detailed discussion where an NAB representative that I can recall detailed the discussions they were having with UnionPay. I think in my statement, I referenced at some point discussions I had with an account manager - or our account manager at NAB where they referenced that they were getting queries from CUP and responding. But I didn't have a detailed outline of what that response was, no.

**MS SHARP SC:** So is it your evidence to Mr Bell that notwithstanding that UnionPay made numerous inquiries to NAB which were passed on to Star over a period of years about the true purpose to which the CUP cards were put, in fact,  
5 UnionPay understood that they were being used to purchase gaming chips?

**MR THEODORE:** I thought they likely understood based on the industry context of these cards being used in this fashion across a number of properties, across a number of markets, and the view that I had that there had been a tacit acceptance  
10 of the use of the cards.

**MR BELL SC:** That's pretty serious evidence, Mr Theodore. Can I ask you why you didn't put it in your statement?

15 **MR THEODORE:** I thought I was referring to that in point (ii), Mr Bell.

**MR BELL SC:** What, the fact that the use of the CUP cards was to fund gambling was prevalent in other casinos in Australia and overseas?

20 **MR THEODORE:** Yes, that's - that's the point. I - I believe that, as a result of that, this had been a very broad and common industry practice.

**MR BELL SC:** But why didn't you say in your statement that you understood that UnionPay International likely knew that The Star was using these cards in order to  
25 fund gambling?

**MR THEODORE:** I thought that was the point I was making there.

30 **MR BELL SC:** I'm struggling to see how that's got anything to do with the point you're making in paragraph 67(a)(ii). Can you help me with that?

**MR THEODORE:** Just the fact that it is widely used across a number of properties and across a number of markets. I think the extension of that is that it had been an accepted practice.  
35

**MR BELL SC:** And I just want to be clear - I'm sure you will be taken in due course to a number of communications. But is it your evidence to me that throughout the entire period up until CUP cards ceased to be used at The Star in March 2020, you believed that UnionPay International likely knew that the cards  
40 were being used to fund gambling?

**MR THEODORE:** I think when we go to the communications, Mr Bell, I will answer that question at each time. But over a large course of the time, I was operating under the understanding, based on the broad industry practice, that they  
45 likely knew but I didn't have confirmation.

**MR BELL SC:** Could you answer my question, though. Is it the case that right up until The Star ceased using the UnionPay cards in March 2020, you believed that

UnionPay International likely knew that the cards were being used at The Star to fund gambling? Could I have an answer to that, please?

5 **MR THEODORE:** I would say maybe not potentially till the very end in March because I think some of the communications in November start to suggest that maybe that position is shifting. But maybe I - I would answer your question up until November '19, yes.

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

**MS SHARP SC:** Did it occur to you, Mr Theodore, that it was really very odd that UnionPay International was taking the trouble to write to NAB to get some answers about what the use of the cards was if it already knew what the use of the cards was?

15 **MR THEODORE:** When are you referring to, Ms Sharp? If - if you could be a bit more specific at a point in time.

20 **MS SHARP SC:** No, I don't think I need to be. Could you answer my question, please?

**MR THEODORE:** Could you repeat the question?

25 **MS SHARP SC:** Did it occur to you, Mr Theodore, that it was really very odd that UnionPay International was taking the trouble to write to NAB over a period of years to get some answers about the use to which the CUP cards were put at Star if it already knew?

30 **MR THEODORE:** In 2017 when the inquiries were coming through, I believe they were just transactional inquiries, not specific inquiries about the use. And at that point in time, there were a variety of reasons on why the transactional inquiries were coming through, but they appeared to be mainly cardholder initiated. In 2019, I accept that the inquiry in November '19, which is the first time I've seen an inquiry from China UnionPay, that's - that's more specific about the use.

**MS SHARP SC:** Now, you've had many months - at least many months to reflect upon your own conduct in relation to this China UnionPay matter, haven't you?

40 **MR THEODORE:** Yes, I have, Ms Sharp.

**MS SHARP SC:** And is it your genuine evidence to Mr Bell that you believed that representatives from UnionPay well understood that the CUP cards were being swiped at The Star hotel for the purpose of funding gambling?

45 **MR THEODORE:** I think my evidence was that I believed, based on the broad industry practice, that they likely understood that there was a connection to gambling.



5 **MS SHARP SC:** My question was slightly different. Is it your genuine evidence that at the time of your dealings with NAB, you genuinely understood that CUP representatives were aware of the true purpose to which the UnionPay transactions were directed?

**MR THEODORE:** I wasn't certain, Ms Sharp, but I believed there was a likelihood that they were aware.

10 **MS SHARP SC:** So you didn't know one way or the other; is that the correct position?

**MR THEODORE:** I think that's a fair assessment.

15 **MS SHARP SC:** Right. So the correct --

**MR BELL SC:** I thought you told me earlier, Mr Theodore, that that was only your understanding until November 2019; is that correct?

20 **MR THEODORE:** I think at that point, Mr Bell, having reflected on the questions properly, there had been a shift in the questioning and language that suggested that that - that that possibly wasn't correct.

25 **MS SHARP SC:** Well, I want to be crystal clear before we move any further, Mr Theodore. Is the correct position that you did not know one way or the other whether UnionPay representatives knew that the CUP cards were being used to purchase gaming chips?

30 **MR THEODORE:** Ms Sharp, I didn't know one way or the other, but I thought it was likely based on how prevalent the use of the cards were and how widely known it was around industry participants that the cards were used in this way.

**MS SHARP SC:** So were you unsure?

35 **MR THEODORE:** I - I wasn't certain one way or the other.

**MS SHARP SC:** So you had some doubt?

40 **MR THEODORE:** I think it's reasonable to say I had some doubt, yes.

**MS SHARP SC:** Well, then, even if the NAB knew the correct position with respect to the purpose of the CUP transactions, you had no confidence, did you, that UnionPay knew the correct position?

45 **MR THEODORE:** No, I couldn't have been certain of that.

**MS SHARP SC:** Pardon me for a moment. Could I take you, please, to exhibit B93, STA.3412.0151.0082. Now, I appreciate this is not your email, but I want to

ask you some questions about it. Could we start, please, at the end of the email chain. This is an email from Deborah Waterson dated 22 October 2015 to Andrew Power, copied to Paula Martin?

5 **MR THEODORE:** Yes. Could I have it enlarged? Thank you.

**MS SHARP SC:** And do you see in the middle of it, it says that:

"Neil -"

10

That's 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 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 the matter."

15

20

Now, if I can take your attention back up the email chain, please. Do you see that email is forwarded from Paula Martin to Oliver White? And do you see Ms Martin says:

25

"Oliver, could I please get you to stay across this and discuss with Andrew as needed."

Do you see that?

30

**MR THEODORE:** Yes.

**MS SHARP SC:** Now, I will take you to Mr White's reply. And what he states to Paula Martin and Andrew Power is:

35

"NAB's approach appears to be changing with a change in personnel (it was NAB who recommended the charge code that is used at The Star)."

Now, did Mr White ever make you aware that it appeared that NAB's approach was changing with a change in personnel?

40

**MR THEODORE:** No, he didn't.

**MS SHARP SC:** All right. Now, you say it was in 2016 that Mr White first alerted you to the use of CUP cards at The Star; is that right?

45

**MR THEODORE:** That's when I first became aware and had a discussion with Mr White, yes.

**MS SHARP SC:** Can I take you, please, to exhibit B96, which is STA.3412.0151.0084. And could I take you, please, Mr Theodore, to Oliver White's email at the start of this email chain. This is an email of a few days later,  
5 28 October 2015. And he says:

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. I see that the person we are dealing with in this chain is not particularly senior and will check the position of the person raising questions in Queensland. We can then assess whether this will be a problem or not."

15 And in fairness, let me take you to what Mr White is forwarding. Operator, if we can go to the bottom of this email, please. Do you see at the bottom of this, there's an email from Graeme Stevens dated 9 April 2014?

20 **MR THEODORE:** Yes, that part has been enlarged on the screen.

**MS SHARP SC:** Yes. And then if we go to the next page, you will see that, in turn, Mr Stevens is forwarding an email from Andrew Haberley at NAB dated 19 March 2013?

25 **MR THEODORE:** Yes.

**MS SHARP SC:** And can you see that Mr Haberley at NAB says:

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

35 Now, did Mr White make you aware of any of this at the time that he first spoke to you about UnionPay cards and them being understood by NAB to have been used to purchase gaming chips?

40 **MR THEODORE:** Not the concerns that you referenced earlier, if that's what you mean by this.

**MS SHARP SC:** So he didn't make you aware of this?

45 **MR THEODORE:** He made me aware of emails we had at the time it was set up that demonstrated NAB's knowledge around how the service would be used.

**MS SHARP SC:** And I take it you didn't look at those emails for yourself?

**MR THEODORE:** No, Ms Sharp, I didn't. I didn't get a copy of those emails.

5 **MS SHARP SC:** Now could I take you, please, to exhibit B92. This is STA.3412.0151.0080. Sorry, I think I've taken you to the wrong email here. Is it possible, Mr Bell, I could take the - we could take the mid-afternoon adjournment now so I can locate the right document?

10 **MR BELL SC:** Yes. I will adjourn now for 15 minutes.

**<THE HEARING ADJOURNED AT 3:14 PM**

**<THE HEARING RESUMED AT 3:30 PM**

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

**MS SHARP SC:** Operator, could we go to exhibit B100, which is STA.3412.0151.0091. Again, this is not your email, but let me show you an email from Deborah Waterson dated 5 November 2015 to Oliver White, copied to Paula Martin and Andrew Power. Could I enlarge the second page, please, operator. Now, what Ms Waterson conveys to Mr White in this email is that she has received another phone call from Neil Williams at NAB:

25 "He was inquiring in regards to how we were coming along with the revision of expected volumes and values of China UnionPay transactions for Treasury and Jupiters. Neil went on to advise that unless we were able to provide revised figures, the project may be cancelled by NAB. This cancellation would be based on the risk that the service would be used for gambling services as per the figures already provided."

30

Now, did Mr White let you know that NAB was making inquiries about the purpose to which the CUP cards were being put in 2015?

35 **MR THEODORE:** Not that I recall, Ms Sharp.

**MS SHARP SC:** Can I take you, please, to paragraph 77 of your statement, the first one. You're there referring to some discussions with Damon Colbert and Chad Barton. You say that you don't recall the details of those discussions, but you recall the substance was that they confirmed the understanding that Oliver White had given to you. And what that - that was the understanding that NAB knew that the CUP cards were being used by patrons to purchase gaming chips, was it?

45 **MR THEODORE:** Yes, in addition to some of the other points around how it was established.

**MS SHARP SC:** Now could I take you, please, to exhibit B113 at STA.3008.0004.0893. Can you see this is an email - there are two emails on the

page. The first one - the one in the middle of the page is from Andrew Bowen at NAB to you dated 2 March 2016?

5 **MR THEODORE:** Yes.

**MS SHARP SC:** Now, can we take it that by this time, you had been briefed on the UnionPay cards by Mr White?

10 **MR THEODORE:** Yes, I had.

**MS SHARP SC:** And also by Mr Barton?

**MR THEODORE:** Yes, I had.

15 **MS SHARP:** And what's happening here is that Mr Bowen is wanting to set up a time to have a teleconference to discuss China UnionPay?

**MR THEODORE:** Yes.

20 **MS SHARP SC:** And he states:

25 "The reason for the call is that we have been contacted by China UnionPay re some transactions that we processed over January for you and they are wanting to confirm that the transactions are compliant with their scheme rules."

**MR THEODORE:** Yes.

30 **MS SHARP SC:** So you agree that you were aware, in March 2016, that NAB was making inquiries on behalf of UnionPay?

**MR THEODORE:** Yes.

35 **MS SHARP SC:** And you agree, don't you, that you were aware, in March of 2016, that UnionPay was concerned to confirm that the transactions were compliant with its scheme rules?

**MR THEODORE:** Yes, I understand that.

40 **MS SHARP SC:** And is it right that you, in fact, knew that the transactions were not compliant with the UnionPay scheme rules at this time?

45 **MR THEODORE:** At this time, Ms Sharp, I understood that we had set up the two-stage process, where the transaction happened at the hotel and cleared at the hotel, to seek to comply with the scheme rules.

**MS SHARP SC:** Well, I just want to ask my question again and have you answer it this time. Was it your understanding at this time that the transactions were not compliant with the UnionPay scheme rules?

5 **MR THEODORE:** No, I understood the transactions in the way they transacted, being at the hotel initially, that that was set up in a way to be compliant with the scheme rules.

10 **MS SHARP SC:** So what was your understanding of the scheme rules at that time?

**MR THEODORE:** I understood that there was a prohibition around the direct purchase of gambling chips or funding of gambling.

15 **MS SHARP SC:** Okay. So you did understand that was a component of the scheme rules, did you?

**MR THEODORE:** I - I understood that there was a restriction on gambling, yes.

20 **MS SHARP SC:** And do you see in this second paragraph, Mr Bowen says:

25 "We are obviously keen to continue to support you with this business and the purpose of the call would be to understand what the transactions relate to, confirm that the transactions are within the China UnionPay scheme rules and then agree how we will respond to China UnionPay."

**MR THEODORE:** Yes, I see that.

30 **MS SHARP SC:** So you couldn't draw the conclusion from this email alone that Mr Bowen understood that the China UnionPay cards were being used to purchase gambling chips, could you?

**MR THEODORE:** Not from this email alone, no.

35 **MS SHARP SC:** Now, he wanted to organise a meeting with you. Did that meeting happen?

**MR THEODORE:** I can't recall the meeting, Ms Sharp.

40 **MS SHARP SC:** You've checked your diary notes, have you?

**MR THEODORE:** Yes, I have.

45 **MS SHARP SC:** And there's nothing there to indicate that the meeting happened?

**MR THEODORE:** Not - not that I can confirm whether it did or didn't, no.

**MS SHARP SC:** And you've checked emails around the time, have you?

**MR THEODORE:** I - I believe I have. The - the meeting - I expect there was a meeting, but I can't recall the meeting at this point in time.

5 **MS SHARP SC:** So it follows that if there was a meeting, you have no recollection at all of what was discussed?

**MR THEODORE:** Not at this meeting, no.

10 **MS SHARP SC:** Can I take you to STA.3009.0009.0058. Were you ever shown this document at about this time, that is, 11 May 2016?

**MR THEODORE:** I don't believe so, Ms Sharp. Not that I recall.

15 **MS SHARP SC:** You see it's entitled Memo of Legal Advice Re Key Risks?

**MR THEODORE:** Yes, I do.

20 **MS SHARP SC:** Can I just draw your attention to the fact that China UnionPay is referred to in that first row?

**MR THEODORE:** If I could get it enlarged.

25 **MS SHARP SC:** Yes. Do you see it says:

"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."

30

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** Now, did any of the lawyers at The Star let you know in this first part of 2016 that they considered that to be a risk?

35

**MR THEODORE:** Not that I recall, Ms Sharp, no.

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

40 "More specifically, (a) whether CUP policy supporting practice of converting CUP credit through the SR lounge by swiping CUP card on NAB EFTPOS (and attributing an amount to a hotel room and creating a temporary CCF for gambling) is permitted or known."

45 Did any of the lawyers make you aware of this risk in around May of 2016?

**MR THEODORE:** Not that I recall, Ms Sharp, no.

**MS SHARP SC:** And do you see at paragraph (b) is:

5 "Issue is whether The Star is circumventing China laws and creating a reputational risk and taking active steps to conceal this practice (noting NAB email)."

Did any of the lawyers make you aware of this risk at about the time?

10 **MR THEODORE:** Not that I recall, Ms Sharp, no.

**MS SHARP SC:** At this time, were you involved in managing the relationship with NAB?

15 **MR THEODORE:** From - from early 2016, I became involved, yes.

**MS SHARP SC:** Do you know what the reference to the NAB email is there?

**MR THEODORE:** No, I don't.

20 **MS SHARP SC:** Is the NAB email a reference to that email from Andrew Bowen dated 9 March 2016 that I just showed to you?

25 **MS RICHARDSON SC:** Well, I object to that question. The witness has indicated he doesn't know and he hasn't seen this document before. It's not his document.

**MR BELL SC:** Ms Sharp.

30 **MS SHARP SC:** Well, he manages the relationship with NAB at this time. So I'm just trying to understand if he knows what the email is.

**MR THEODORE:** No, I don't know, Ms Sharp.

35 **MS SHARP SC:** Can I take you, please, to paragraph 89 of your statement, Mr Theodore. There you say:

40 "It is my understanding that employees at NAB were aware of the purpose of the CUP service and the fact that the funds could ultimately be used for gambling purposes once cleared as hotel transactions."

And you say:

45 "This understanding was based on the following conversations."

And could I direct you to paragraph (b).

**MR THEODORE:** Yes.



**MS SHARP SC:** And you say that in September 2016, you had discussions with Andrew Bowen from NAB?

**MR THEODORE:** Yes.

5

**MS SHARP SC:** And is that your best recollection of the discussions that occurred with Mr Bowen?

**MR THEODORE:** Yes, it is, Ms Sharp.

10

**MS SHARP SC:** Did you have any notes available to you to assist in recalling that discussion?

**MR THEODORE:** No, I don't, Ms Sharp. It was a long time ago now, so I don't have notes of that discussion.

15

**MS SHARP SC:** Did you have any emails that confirmed that discussion?

**MR THEODORE:** No, I don't, Ms Sharp.

20

**MS SHARP SC:** Surely it was an extremely important matter for you to confirm that NAB understood the true purpose of the transactions?

**MR THEODORE:** I believed at the time that that wasn't in question, Ms Sharp, that from my perspective, the conversations I'd had with Mr White earlier and all of my interactions with NAB at that point in time, I wasn't of the view that I had a particular concern that they weren't aware of how the process was being used.

25

**MS SHARP SC:** Is it possible the recollection you recount here is incorrect, given the time that has elapsed since that conversation took place and that you have no notes of it?

30

**MR THEODORE:** This was at a particularly important milestone because it was right at the establishment of this service in Queensland. So whilst I would've had other discussions with Mr Bowen, it's sort of this one and the other one I recall later in my statement that - because they're at important milestones, I have a better recollection of them.

35

**MS SHARP SC:** Now, you did send an email to Mr Bowen on 30 September, didn't you?

40

**MR THEODORE:** Yes, I did.

**MS SHARP SC:** And you annex a copy of that email to your statement?

45

**MR THEODORE:** I believe I did, yes.

**MS SHARP SC:** Can I just take you to that email, please. It's STA.3008.0004.0898. And we can assume that you've seen it before because you were a party to it and you've chosen to annex it to your statement. There's nothing at all in this document which indicates that the purpose of the CUP transactions was discussed, is there?

**MR THEODORE:** I don't believe there is, Ms Sharp. But as I say in my statement, I recall having a discussion in advance of this email.

**MS SHARP SC:** All right. But there's nothing in this email about that matter, is there?

**MR THEODORE:** Other than the set-up is going to be consistent with what was done in Sydney and that I understood that there was a worked example that had been described to me from Mr White in Sydney and this would be a consistent process to that.

**MS SHARP SC:** Sorry. What's that worked example? Because you don't refer to that in your statement.

**MR THEODORE:** I understood in my - it's 89(a), my conversation with Mr White. He - when he described the communications with NAB, when it was set up to me, he did describe to me that one of the communications had a worked example.

**MS SHARP SC:** I'm sorry. You don't say that anywhere in your statement, do you?

**MR THEODORE:** I - I think it was the reference to Mr White telling me that we had written communications that NAB knew. It was in - in regard to that point.

**MS SHARP SC:** All right. But you don't say anything about there being a worked example in writing or otherwise in your statement, do you?

**MS RICHARDSON SC:** I object to that, and I'm happy to do it in the absence of the witness.

**MR BELL SC:** Yes. Operator, please take us to private mode.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 3:47 PM**

**<THE HEARING IN PRIVATE SESSION RESUMED AT 3:47 PM**

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 3:50 PM**

**<THE HEARING IN PUBLIC SESSION RESUMED AT 3:50 PM**

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

**MS SHARP SC:** Mr Theodore, can I just take you to paragraphs 74 and 76 of your statement. And please take the time to read them. The question is: you don't say anything in your statement about a worked example there, do you?

5

**MR THEODORE:** Ms Sharp, in 76, I refer to the conversation with Oliver White where he references that it could be used for gaming, and that acknowledgement was in an email. And that's the - whilst I don't make a direct reference to the worked example, when read together with 74, the understanding I had at the time was that that acknowledgement referenced that two-step process.

10

**MS SHARP SC:** All right. But there's nothing in paragraph 76 where you say there was a worked example, is there?

15

**MR THEODORE:** Not directly, but it's the reference to the acknowledgement recorded in an email from NAB.

**MS SHARP SC:** Now, you say, if I can take you, please, to - I will come back to that. Can I take you now to exhibit B at tab 147, which is STA.3401.006.7347.

20

Now, again, it's not your email, but I want to understand if Mr White spoke to you about this. Do you see he's sending an email to other members of The Star on 28 November 2016, and he says:

25

"As you may be aware, VIP use of China UnionPay credit cards is a sensitive area and we need to ensure that the relevant documentation is drafted to minimise potential risk to the business. Accordingly, if at all possible, I would like to amend the standard wording produced for these transactions in the relevant billing system with the following: 'transfer to customer's The Star account'."

30

Did he make you aware of that instruction at the time?

**MR THEODORE:** Not that I recall, Ms Sharp, no.

35

**MS SHARP SC:** Did he tell you at the time that the use of China UnionPay cards was a sensitive area?

**MR THEODORE:** I don't believe him using those words.

40

**MS SHARP SC:** Did he tell you there was a risk to the business associated with using China UnionPay cards?

45

**MR THEODORE:** I - I understood he - I understood that there was a prohibition from gambling in the scheme rules and so we had to ensure that the set-up was appropriate so that we still complied with that. I believe that was the risk he's calling out.

**MS SHARP SC:** And did you understand there was a risk at that time?

**MR THEODORE:** Yes, I understood there was a risk that if we hadn't set it up properly, that we may not comply.

5 **MS SHARP SC:** Now, could I take you, please, to exhibit B167, which is STA.3401.0003.6859. This is an email that Mr White sent to you and others on 16 January 2017; do you agree?

**MR THEODORE:** Yes, I agree.

10

**MS SHARP SC:** And you will see that this is sent to many senior members of the organisation?

**MR THEODORE:** Yes, I see that.

15

**MS SHARP SC:** And it's about China UnionPay news and potential impacts?

**MR THEODORE:** Yes, I see that.

20 **MS SHARP SC:** May we take it that you read this at the time?

**MR THEODORE:** I don't recall reading it at the time, Ms Sharp, but it's likely I did.

25 **MS SHARP SC:** And what he says here is:

"Please find below links to articles released in the media in December/over the holiday period relating to China UnionPay and tightening of use, both relating to casinos, one about Macau, the other about Singapore."

30

And do you see further into the second paragraph, it says:

"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 and considering our potential exposure should CUP be shut down as a payment method for The Star Entertainment Group or CUP is both shut down as a payment method and CUP refuses to clear one or more of the approved transactions."

35

40 **MR THEODORE:** Yes, I see that.

**MS SHARP SC:** You understood by this time, didn't you, that there was a real risk to The Star in relation to using the China UnionPay debit cards the way that Star was?

45

**MR THEODORE:** Yes, I understood there was a risk.

**MS SHARP SC:** And you understood that one of those risks was that the Chinese Government may clamp down on capital outflows?

5 **MR THEODORE:** That's what's referred to there, yes.

**MS SHARP SC:** And you understood, didn't you, that there was a risk by this time that China UnionPay might refuse to clear one of the transactions?

10 **MR THEODORE:** Yes, I see it's calling out that.

**MS SHARP SC:** And you understood that at the time, didn't you?

**MR THEODORE:** Yes, I understood that.

15 **MS SHARP SC:** Surely by this time you appreciated there was a real risk that China UnionPay representatives did not know that The Star was using these cards to permit its patrons to purchase gaming chips?

20 **MR THEODORE:** Ms Sharp, I - this is connected to a point I made earlier. I understood that this was a broad and common industry practice and that there had been what I viewed as tacit acceptance from CUP over a long period of time. I think this article is calling out the risk that, you know, there may be a change to that, and I was aware that there's the potential risk that that tacit acceptance may change with time.

25 **MS SHARP SC:** Now, this email says at the end:

"Please consider whether we need to meet to discuss further monitoring of the CUP exposures and/or proposals about use."

30 Did you have that meeting?

**MR THEODORE:** Not that I recall.

35 **MS SHARP SC:** I beg your pardon?

**MR THEODORE:** I don't recall a meeting on the back of this email but there may have been one that I didn't attend.

40 **MS SHARP SC:** Now could I go to paragraph 89(d) of your statement, Mr Theodore. You refer to a meeting you attended with Andrew Bowen on 27 March 2017?

45 **MR THEODORE:** Yes.

**MS SHARP SC:** And this was a general catch-up?

**MR THEODORE:** Yes, I was in Melbourne - Mr Bowen is based in Melbourne and so I was in Melbourne for the day and we'd organised a meeting as a - as a broad catch-up, yes.

5 **MS SHARP SC:** And did you take any notes of that meeting, Mr Theodore?

**MR THEODORE:** I may have at the time, Ms Sharp, but I haven't been able to locate them, given it's a long time ago.

10 **MS SHARP SC:** Have you looked for notes?

**MR THEODORE:** Yes, I did look for notes.

15 **MS SHARP SC:** Have you looked for any other records that might confirm the contents of the discussion you had with Mr Bowen five years ago?

**MR THEODORE:** Yes, I have. I haven't been able to locate any.

20 **MS SHARP SC:** So this is based purely on your recollection of one conversation five years ago, is it?

**MR THEODORE:** Yes, it's based on my recollection of the conversation.

25 **MS SHARP SC:** You don't state anywhere here that you told Mr Bowen that CUP cards were being used by patrons to purchase gaming chips, do you?

**MR THEODORE:** Do you mean in my statement, or are you --

30 **MS SHARP SC:** In your statement.

**MR THEODORE:** I don't believe I do, Ms Sharp, but the context is I had had previous conversations with Mr Bowen. So I believed he was aware of how the service operated.

35 **MS SHARP SC:** Well, you don't recall at this point in time that you stated to Mr Bowen at that meeting that patrons were using these cards to purchase gaming chips?

40 **MR THEODORE:** I don't specifically recall that at this meeting. But based on the previous discussions I had had with Mr Bowen, I had assumed he was aware of that.

**MS SHARP SC:** So you made an assumption?

45 **MR THEODORE:** Based on a previous discussion where he confirmed that in September '16.

**MS SHARP SC:** Now, could I take you to an email from Mr Bowen to you shortly after that meeting, exhibit B254, which is STA.3103.0001.0285.

**MR THEODORE:** Yes.

5

**MS SHARP SC:** And you will see it's addressed to you?

**MR THEODORE:** Yes.

10 **MS SHARP SC:** Well, there's no doubt that you read it at the time?

**MR THEODORE:** I read it at the time, yes.

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

15

"I have been asked to forward the following to remind The Star Entertainment Group of China UnionPay's terms and conditions. As Star Entertainment Group's acquiring bank, NAB are committed to protecting our customer's 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 The 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."

20

25

Well, isn't Mr Bowen instructing you to ensure that The Astral terminal is not made available to patrons to purchase gaming chips?

30 **MR THEODORE:** As I say in my statement, Ms Sharp, I'd had a discussion with him prior to receiving this email, and I understood the position to be directly through the terminals in terms of the restriction that was being referred to.

35 **MR BELL SC:** And, Mr Theodore, now would you answer counsel assisting's question, please.

**MS SHARP SC:** And I will put it again. Isn't Mr Bowen instructing you to ensure that The Astral terminal is not made available to patrons to purchase gaming chips?

40

**MR THEODORE:** On the face of the email, yes, but I read it to mean directly purchase gaming chips.

45 **MS SHARP SC:** But what Mr Bowen clearly sets out in his email in an instruction to you is completely contrary to what you say his understanding was?

**MR THEODORE:** Ms Sharp, as I said, I - I read it to mean directly through the terminals at that point in time, based on the previous discussions.

**MS SHARP SC:** Well, where do we see those words directly in this email?

5 **MR THEODORE:** It's not stated in the email, but that was my understanding at the time.

**MS SHARP SC:** Well, in fact, quite the contrary is stated, which is this:

10 "Please ensure strict controls are in place to avoid any gambling credits being placed through the terminals."

You agree, don't you, that this express statement is completely contrary to what you say Mr Bowen understood?

15 **MR THEODORE:** As I say in my statement, I had had a discussion with him prior to this. And the position we had, which we understood was supported by NAB, was at the point of sale, the transaction wasn't a gaming transaction and that the subsequent transfer from the customer was a separate transaction. And this I read to refer to deposits being placed at the terminal, which there weren't deposits for gaming at the terminal.  
20

**MR BELL SC:** Mr Theodore, do you have your statement there with you - in the room with you, have you?

25 **MR THEODORE:** I do, Mr Bell.

**MR BELL SC:** I think you should put it away unless counsel assisting is asking you to look at it, please.

30 **MR THEODORE:** Sorry, Mr Bell. Yes.

**MS RICHARDSON SC:** Would it assist if we obtained that statement so that it's clear what the witness has in the room?

35 **MR BELL SC:** No, no. As long as Mr Theodore closes it off. If he is being asked to look at it, no doubt he will.

**MR THEODORE:** Okay. Yes, Mr Bell.

40 **MS SHARP SC:** There is nothing anywhere in this email that distinguishes between direct and indirect transactions, is there?

**MR THEODORE:** I accept it's not clearly stating directly through the terminal, but --  
45

**MS SHARP SC:** It doesn't state it at all, Mr Theodore.



**MR THEODORE:** I understand that, Ms Sharp, but the premise on which this was set up was a two-stage process.

5 **MS SHARP SC:** Well, are you saying that Mr Bowen wrote an instruction to you that was completely contrary to his actual understanding of how the CUP cards were used?

10 **MR THEODORE:** I understood at this point in time the working understanding was when we talk about deposits through the terminal, it was a reference to at the terminal, which is that first step of the process.

**MR BELL SC:** Mr Theodore, did you understand that he was raising that this involved a reputational issue for The Star?

15 **MR THEODORE:** I can see that, Mr Bell.

**MR BELL SC:** Did you give that any consideration at the time?

20 **MR THEODORE:** I don't recall specifically considering that point at the time.

**MR BELL SC:** Well, plainly, if there was a reputational issue, would you agree that Mr Bowen was asking you to consider the substance of the transactions that were occurring?

25 **MR THEODORE:** I didn't read it as providing that connection at the point in time. I accept that you - you could read that into that now.

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

30 **MS SHARP SC:** Well, you didn't respond to this email and say, "Hey, that's completely contrary to what we discussed"?

35 **MR THEODORE:** I didn't. At - at this point in time, I recall I was on parental leave. But I did call Chad Barton - I believe I forwarded it to Mr Barton and potentially some others. And I recall having a conversation with Mr Barton at that point in time that we - that I recounted my previous conversation in Melbourne with Mr Bowen. And I believe either Mr Barton or Mrs Lowe, who's - who is my senior treasury manager, reconfirmed the position with Mr Bowen that they were comfortable to continue to provide the service under that two-stage process,  
40 provided the transactions aren't directly through the terminals.

**MS SHARP SC:** Well, you didn't forward this to Chad Barton and say, "Whoa, this is completely contrary to what I've discussed with Mr Bowen," did you?

45 **MR THEODORE:** I didn't, Ms Sharp, because, again, I - I read it as, based on the previous conversation I had, that there was this reliance on a distinction of the first step in the process.

**MS SHARP SC:** Now, I will take you to the email you sent to Mr Barton. It's STA.3103.0002.1914. You make no effort here at all to tell Mr Barton that what Mr Bowen has set out in his email is quite contrary to what you say you discussed with Mr Bowen, do you?

5

**MR THEODORE:** I don't, Ms Sharp, but I believe I spoke to him on the phone.

**MS SHARP SC:** Well, why didn't you say in writing, "What Mr Bowen is saying here is completely contrary to the conversation I recently had with him"?

10

**MR THEODORE:** I believe because I said it to him over the phone.

**MS SHARP SC:** Well, are you just making this up at the moment?

15

**MR THEODORE:** No, I'm not, Ms Sharp.

**MS SHARP SC:** So you're having us understand, are you, that a senior representative of NAB is writing an email instruction to you that is completely contrary to the understanding that he and you shared?

20

**MR THEODORE:** Again, I understood this email to continue to maintain the position that it's not gaming transactions at the point of sale.

**MS SHARP SC:** It says:

25

"Please ensure strict controls are in place to avoid any gambling credits being placed through the terminals."

There is no ambiguity here, is there, Mr Theodore?

30

**MR THEODORE:** I think that the transaction being placed through the terminal refers to the first stage of the transaction at the point of sale, and that's how I read it at the time and that was the basis on which the service was established and being operated.

35

**MS SHARP SC:** In fact, to your knowledge, this email from Andrew Bowen caused considerable concern at The Star, didn't it?

**MR THEODORE:** We needed to consider the position whether NAB's position had changed as a result of this, yes.

40

**MR BELL SC:** Would you please answer counsel assisting's question now, Mr Theodore. Did this cause considerable concern at The Star?

45

**MR THEODORE:** It - it caused concern to consider whether NAB's position had changed from what we previously understood.

**MR BELL SC:** Thank you.

**MS SHARP SC:** Because the concern by this time was that The Star was in breach of the UnionPay rules and, therefore, in breach of arrangements with NAB, wasn't it?

5

**MR THEODORE:** I believed our position on the UnionPay rules hadn't changed at this point, but we were operating on an agreed basis with NAB, in our view, around how the service would be operated, and we were required to confirm that that position hadn't changed.

10

**MS SHARP SC:** Well, there doesn't seem to be much of an agreement coming out of this email, does there, Mr Theodore?

**MR THEODORE:** Not from the email alone, Ms Sharp.

15

**MS SHARP SC:** And you certainly didn't write to NAB and say, "By the way, what Andrew Bowen said to me in his 30 March 2017 email is completely contrary to the understanding I have with him," did you?

20

**MR THEODORE:** No, I didn't write to him.

**MS SHARP SC:** And you're not aware of anyone else at The Star doing that, are you?

25

**MR THEODORE:** I haven't seen any communication.

**MR BELL SC:** Mr Theodore, Mr Hawkins has described the CUP process at The Star as a sharp practice. Would you agree with that?

30

**MR THEODORE:** Yes, I would, Mr Bell.

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

**MS SHARP SC:** Can I take you now to exhibit B at tab 287.

35

**MS RICHARDSON SC:** Sorry. Could a solicitor go in and assist putting the blinds down in Mr Theodore's room? I can see the sun is in his eyes.

40

**MR BELL SC:** I think what we might do is adjourn for a couple of minutes to enable that to occur.

**MR THEODORE:** Thank you.

**MS RICHARDSON SC:** Well, I don't need that, but obviously we'll do that.

45

**MR BELL SC:** All right.

**MS RICHARDSON SC:** It will only take a second.

**MS SHARP SC:** All right. Could the operator take down this document in the meantime, please. Thank you.

5 <**THE HEARING ADJOURNED AT 4:14 PM**

<**THE HEARING RESUMED AT 4:16 PM**

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

10

**MS SHARP SC:** In fact, I need to go to another document. Can I take you, please, to exhibit B120, STA.3008.0004.0913. Now, you see you're copied into these documents - these emails?

15 **MR THEODORE:** Yes, Ms Sharp.

**MS SHARP SC:** And if I can direct your attention to the top of these - or the second top of this email chain. Do you see there's an email from Andrew Bowen to Nanette Lowe, copied to you, on 28 April 2016 - I withdraw that. This is the  
20 wrong document. I withdraw this question. Can I go back, please, to exhibit B at tab 287, which is STA.3401.0001.4063. And you see this is an email from Oliver White?

**MR THEODORE:** Yes, I see that.

25

**MS SHARP SC:** And you're copied into it?

**MR THEODORE:** Yes.

30 **MS SHARP SC:** And it's called CUP Recent Developments, New Limits, Processing and Documentation?

**MR THEODORE:** Yes, I see that.

35 **MS SHARP SC:** And at this time, you're the relationship manager with NAB?

**MR THEODORE:** On a day-to-day basis, yes.

**MS SHARP SC:** So it's most likely you read this email at the time?

40

**MR THEODORE:** Likely, yes.

**MS SHARP SC:** It's dated 1 May 2017?

45 **MR THEODORE:** Yes. Could I get it enlarged, please? Thank you.

**MS SHARP SC:** And do you see Mr White says:

"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 chips."

5 **MR THEODORE:** Yes.

**MS SHARP SC:** And it continues:

10 "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) in relation to four large transactions from March."

15 **MR THEODORE:** Yes.

**MS SHARP SC:** Surely you appreciated at this time that there was a real risk that UnionPay did not understand that The Star was permitting patrons to swipe these cards to purchase gaming chips?

20 **MR THEODORE:** I'd describe my understanding at this point in time, Ms Sharp, as UnionPay making inquiries. I didn't understand the nature of the inquiries at this point in time.

25 **MS SHARP SC:** Is that your real truthful evidence, Mr Theodore?

**MR THEODORE:** Yes, Ms Sharp.

**MS SHARP SC:** And then Mr White continues:

30 "The details in the information provided can be extremely sensitive, particularly when the relevant documentation does not support the charge as a credit to the relevant patron's hotel room, which is the basis for the relevant transaction."

35 **MR BELL SC:** Ms Sharp, the operator will need to scroll down for Mr Theodore to see that.

**MS SHARP SC:** Can you see that?

40 **MR THEODORE:** Yes, I see that, Ms Sharp.

**MS SHARP SC:** Now, you knew by this time that sham documentation was being created around these transactions, didn't you?

45 **MS RICHARDSON SC:** I object to that.

**MR BELL SC:** What's the objection, Ms Richardson?

**MS RICHARDSON SC:** Well, I think I should do it in the absence of the witness.

**MR BELL SC:** Yes. All right. Can we go to private mode please, operator.

5

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 4:20 PM**

**<THE HEARING IN PRIVATE SESSION RESUMED AT 4:21 PM**

10

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 4:22 PM**

**<THE HEARING IN PUBLIC SESSION RESUMED AT 4:22 PM**

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

15

**MS SHARP SC:** Just taking you to this part of Mr White's email, he says:

20

"The details in the information provided can be extremely sensitive, particularly when the relevant documentation does not support the charge as a credit to the relevant patron's hotel room, which is the basis for the relevant transaction."

Now, you knew, didn't you, that The Star was treading a pretty fine line here?

25

**MR THEODORE:** In terms of the way the CUP service had been set up, Ms Sharp, or --

**MS SHARP SC:** In terms of the way it was being documented and set up, yes.

30

**MR THEODORE:** I understood it was important that we maintained that two-step process to remain compliant with the way the service could be operated.

**MS SHARP SC:** Well, what did you understand Mr White to mean in his email to you when he said:

35

"Particularly where the relevant documentation does not support the charge as a credit to the relevant patron's hotel room."

40

**MR THEODORE:** I understood that the service was only to be used where there was a patron who had a hotel room.

**MS SHARP SC:** Well, it wasn't being used to pay for the hotel in those circumstances, was it?

45

**MR THEODORE:** I accept it couldn't be if they don't have a room.

**MS SHARP SC:** And it wasn't when it was a swipe for hundreds of thousands of dollars being put through the hotel invoice either, was it?

**MR THEODORE:** Ms Sharp, I understood that part of the process was the patron needed to stay in the hotel.

5 **MS SHARP SC:** But you're aware that there were examples where the patron didn't stay in the hotel, aren't you?

**MR THEODORE:** I think at this point, I became aware that - through Oliver's email that there had been some instances where we didn't follow our process, and  
10 Oliver is calling it out here that we need to ensure that we do.

**MS SHARP SC:** Well, did you understand by this time that Phillip Dong Fang Lee was a big user of the CUP card?

15 **MR THEODORE:** I don't believe at this time I had any specific sort of patron details around users and didn't have involvement sort of around specific customers.

**MS SHARP SC:** Well, did you understand he was the biggest user of the CUP  
20 card?

**MR THEODORE:** I don't recall if I knew that at this point in time, Ms Sharp.

**MS SHARP SC:** Because you understand he's a local patron, don't you?  
25

**MR THEODORE:** I do now. At this point in time, I didn't have any real role or responsibility associated with any patrons in particular. So I'm not sure I knew that at this point in time.

30 **MS SHARP SC:** I just want to be clear with you about your views of the documentation. Every single time a document was issued by the hotel which conveyed that the money had been swiped for the purposes of the hotel was a document that conveyed a false impression; do you agree?

35 **MR THEODORE:** Are you referring to the hotel statements that you showed me earlier, Ms Sharp?

**MS SHARP SC:** Yes.

40 **MR THEODORE:** I don't agree that those documents created a false impression. I understood those documents to reflect the crediting of the patron's hotel account, which was the first step of the process.

**MS SHARP SC:** But the patron wasn't paying money to stay at the hotel, was the  
45 patron?

**MR THEODORE:** Part of the proceeds may have been to fund the stay. But as I understand the statement, it's a deposit in and a deposit out. So it's a credit to the

patron's accounts and a debit to the patron's account. And that was, in fact, what was happening.

5 **MS SHARP SC:** Isn't the only reason why the hotel was interposed at all to put distance between the swipe of the card and the fact that the funds were being made available for gambling?

10 **MR THEODORE:** As I described earlier, Ms Sharp, it was an established process that had two steps, and that was --

**MS SHARP SC:** That's not my question. If you could answer my question. Isn't the only reason why the hotel was interposed at all to put distance between the swipe of the card and the fact that the funds were used for gambling?

15 **MR THEODORE:** I'm - I'm not sure about the word "distance", but it was to establish a separate transaction upfront to be able to transact in line with the scheme rules, is my understanding.

20 **MR BELL SC:** That's one of the reasons why it was a sharp practice, wasn't it?

**MR THEODORE:** Yes, I agree with that, Mr Bell.

25 **MS SHARP SC:** The only reason the hotel was interposed into this process at all was to obscure the true purpose of these transactions, wasn't it?

**MR THEODORE:** I - I wouldn't use the word "obscure", Ms Sharp, but it was - as I understood, was set up in a way to be able to comply with the rules at that point in time.

30 **MS SHARP SC:** Well, I'm putting to you that to your understanding, the purpose was to obscure; do you agree or disagree?

**MR THEODORE:** I don't believe it was obscuring, no.

35 **MS SHARP SC:** The purpose of interposing the hotel here at all was to mislead, wasn't it?

**MR THEODORE:** I don't believe it was to mislead either.

40 **MS SHARP SC:** In fact, it was to deceive as to the true purpose of the transaction, wasn't it?

**MR THEODORE:** No, it wasn't to deceive either.

45 **MS SHARP SC:** And the reason that was done was because you and all of your colleagues at The Star, to your knowledge, understood perfectly well that UnionPay prevented China UnionPay cards being used to purchase gaming chips?



**MR THEODORE:** I have the same answer, Ms Sharp, that I understood the process has been set up in those two stages to be able to process the transactions as they were.

5 **MS SHARP SC:** And you and all of your colleagues permitted this sham documentation process to continue for years, didn't you?

**MR THEODORE:** Again, Ms Sharp, I don't agree with "sham documentation".

10 **MS SHARP SC:** Can I take you, please, to exhibit B at tab 1085, which is STA.3410.0017.1974. I've taken you to this document before, but I will take you here again. This is Adrian Hornsby's reply to an email you had earlier sent. This reply is on 11 September 2018, and you are one of the recipients; do you see?

15 **MR THEODORE:** Yes, I see that, Ms Sharp.

**MS SHARP SC:** And if I can draw your attention, please, to the second-last paragraph. It says:

20 "We are still receiving very strong patronage in the CUP service with large amounts of patrons utilising this (222 last month). The volume amounts are consistent totalling in the AUD10 to 20 million per month range, mainly given our daily swipe at 10K times 5 (500K)."

25 Now, at this time, you knew perfectly well that The Star was receiving a financial advantage from permitting patrons to use their CUP cards because it was bringing in AUD\$10 to 20 million per month?

30 **MR THEODORE:** I think you asked me about that earlier, Ms Sharp. So, yes, I understood the transaction volumes and that patrons were transacting at that level, and I think I've also referred earlier to this being a broad industry practice and that --

35 **MS SHARP SC:** That's not my question, so I will ask it again and perhaps this time you would do me the courtesy of answering it. You understood at this time that making the CUP facility available to your patrons brought in a financial advantage to The Star in the vicinity of AUD10 to 20 million per month; correct?

40 **MR THEODORE:** That's not earnings, Ms Sharp, but that's the transaction volume. But, yes, that was the level of transaction volume that was coming through.

**MS SHARP SC:** And that was a financial advantage to The Star because transaction volume formed the basis of revenue?

45 **MR THEODORE:** It - it did, Ms Sharp, yes.

**MS SHARP SC:** And there Mr Hornsby states:

"We have not received any noise from the banks regarding particular transactions for a period of six months or more."

5 And that "noise", to your understanding, was when the banks inquired as to the real purpose of the transactions; correct?

**MR THEODORE:** Again, Ms Sharp, I have answered that question before. I'm not - I don't know what he meant by "noise".

10

**MS SHARP SC:** Well, what do you think he meant?

**MR THEODORE:** I - I don't think we generally got inquiries from various banks, so I'm - I'm not sure what - what he's referring to.

15

**MS SHARP SC:** Well, you had inquiries from NAB, didn't you?

**MR THEODORE:** We only had one bank here, which was NAB, which was the merchant provider.

20

**MS SHARP SC:** And NAB was making inquiries on behalf of CUP - sorry, on behalf of UnionPay, to your knowledge, about the purpose of these transactions; correct?

25 **MR THEODORE:** There had been some inquiries to - around specific transactions prior to this email, yes.

**MS SHARP SC:** Now could I take you, please, to paragraph 93 of your statement. And here at 93, you say:

30

"Between early 2016 and October 2018, I was involved in the following communications that related to dealing with requests for information by NAB and/or UnionPay concerning the use of the CUP cards."

35 **MR THEODORE:** Yes.

**MS SHARP SC:** And in particular, can I take you to paragraph (d). And do you see that you refer from receiving an email from Andrew Bowen on 1 May 2017?

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

**MS SHARP SC:** And we'll go to that email. It's STA.3401.0001.4085. And we will start at the bottom of this email chain, if we may. Now, Mr Bowen says to you:

45

"Harry, as discussed earlier my merchant team have been contacted this afternoon by UnionPay to confirm details surrounding some recent

transactions processed through The Astral VIP terminal. UnionPay have requested a copy of transaction details and sales receipts."

5 So you knew perfectly well, upon receiving this email, that UnionPay wanted to understand what the purpose of these transactions was; correct?

**MR THEODORE:** Can you repeat the question, please, Ms Sharp?

10 **MS SHARP SC:** You knew perfectly well, at the time of receiving this email, that UnionPay wanted to know what the purpose of these transactions was?

**MR THEODORE:** I believe they're asking for sales receipts for the transactions.

15 **MS SHARP SC:** Now could you answer my question.

**MR THEODORE:** I didn't understand what the request related to at that point in time.

20 **MS SHARP SC:** Come on, Mr Theodore. Is that your real answer?

**MR THEODORE:** Yes, it is, Ms Sharp.

25 **MS SHARP SC:** Well, I suggest you're not making a genuine effort to assist Mr Bell at the moment; that's right, isn't it?

**MR THEODORE:** No, it's not, Ms Sharp.

30 **MS SHARP SC:** Now, we will go up to the next email up the chain. Do you see Mr White sends an email to people, and copies you, that same day?

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And he says:

35 "As foreshadowed in my email earlier this evening, we have received requests for more information in relation to certain transactions from CUP. As I am sure you are aware, this is sensitive and we do not wish to take steps (or fail to take steps) or provide (or fail to provide) information which results in a dispute with CUP in relation to the relevant transactions."

40 Now, you were well aware by this time that UnionPay wanted to know what the purpose of the transaction was; correct?

45 **MR THEODORE:** As I said before, all I knew from the email was they were requesting receipts for specific transactions.

**MS SHARP SC:** And why do you think they were requesting receipts?

**MR THEODORE:** I don't think we knew at this point in time, Ms Sharp.

**MS SHARP SC:** Is that your genuine answer, that you simply did not know why UnionPay was wanting --

5

**MR THEODORE:** I genuinely didn't know at this point in time, yes.

**MS SHARP SC:** Well, if you genuinely didn't know, why did you feel the need to make this information available to Mr White?

10

**MR THEODORE:** I think at this point in time, Mr White was tasked with collating the responses from --

**MS SHARP SC:** Are you giving candid evidence to Mr Bell at the moment?

15

**MR THEODORE:** Yes, I am, Ms Sharp.

**MS SHARP SC:** Isn't the real situation that you knew that CUP was trying to understand what the purpose of these transactions was?

20

**MR THEODORE:** I genuinely didn't know what the request related to at this point in time.

**MS SHARP SC:** Well, that's the logical reason for why they would be requesting receipts, isn't it?

25

**MR THEODORE:** Look, there could have been many reasons. I - I believe --

**MS SHARP SC:** Can you think of any others?

30

**MR THEODORE:** Yes, Ms Sharp. I believe at the end of this process, that NAB confirmed that it was actually a cardholder-initiated dispute on these transactions, rather than initiated by CUP. But I didn't know that at this point in time.

**MS SHARP SC:** Now, could I take you to STA.3401.0001.4063. And this is an email I've taken you to before. It's another email this day. This is exhibit B287. And do you see that Mr White is there saying that:

35

40

"The use of China UnionPay direct debit cards at our properties is a sensitive area, particularly as China UnionPay cards are not to be used directly for acquiring gaming chips."

**MR THEODORE:** Yes, Ms Sharp.

**MS SHARP SC:** And he says:

45

"The potential for issues has been highlighted over the last three working days with requests for detailed documentation on CUP transactions from China UnionPay."

5 **MR THEODORE:** Yes, Ms Sharp.

**MS SHARP SC:** All right. And then there are other questions referred to underneath that?

10 **MR THEODORE:** Sorry. Where are you referring to, in terms of the other questions?

**MS SHARP SC:** The three hyphens that appear under the words "China UnionPay".

15

**MR THEODORE:** Yes. Would you like me to read those?

**MS SHARP SC:** Well, all I want you to tell us is whether you understood at that time that China UnionPay wanted to know what the real purpose of these transactions was.

20

**MR THEODORE:** No. Again, at this point in time, we had received requests for - I - I can't remember the exact terminology in the previous email, but we had received a request for documents. We didn't know where the request had been initiated. My recollection is in collating the documents to provide in response to that request, Oliver had identified this issue around the rooms and was, therefore, taking that up with the business to make sure that they followed the processes. I think, subsequently, we were informed by NAB that the requests were initiated by cardholders rather than CUP, that the cardholder-initiated request came through CUP. I believe that was ultimately the driver of the inquiry at this point in time. But initially, I can genuinely say we didn't know what was driving the initial request.

25

30

**MS SHARP SC:** Can I take you now to STA.3002.0012.0479. Now, if I could highlight the middle email in the chain there. Do you see that's an email from Andrew Bowen at NAB dated 2 May 2017 to Mr White, copied to you?

35

**MR THEODORE:** Yes, I see that.

40 **MS SHARP SC:** And Mr Bowen says:

45

"I have also engaged our cards team to seek further information from CUP as to why they are after this information and what they require it for and once we have further clarity on such I will arrange for a teleconference between us and you to give you further insights."

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And can I then take your attention up the page to the next email in the chain. Now, did you have that further conversation with Mr Bowen?

5 **MR THEODORE:** I can't remember if it was a conversation or it was email correspondence. But as I said earlier, I believe Mr Bowen confirms that it wasn't CUP initiated but cardholder initiated in terms of the request.

**MS SHARP SC:** Can I take you, please, to STA.3002.0012.0956.

10 **MR BELL SC:** What's the exhibit number for that document, Ms Sharp?

**MS SHARP SC:** I'm just having it pulled up, Mr Bell.

15 **MR BELL SC:** Thank you.

**MS SHARP SC:** It's exhibit B, tab 344.

**MR BELL SC:** Thank you.

20 **MS SHARP SC:** And you will agree that what happens here is Mr White sends Mr Bowen a number of receipts on 8 May 2017?

**MR THEODORE:** Yes, I accept that.

25 **MS SHARP SC:** And then it's right, isn't it, that Andrew Bowen responded on 10 May requesting more information?

30 **MR THEODORE:** I don't recall, Ms Sharp. But if there's an email with that, I accept that.

**MS SHARP SC:** Well, that's what you say in your statement.

**MR THEODORE:** Yes, I accept that.

35 **MS SHARP SC:** And this is all happening in early May of 2017; do you agree?

**MR THEODORE:** Yes, I agree, Ms Sharp.

40 **MS SHARP SC:** Now could I take you, please, to exhibit B at tab 325. If we could just have the top email enlarged, please. Sorry, I think I've already taken you to this document. I will take that down. Could I take you now to exhibit B at 3095, which is STA.3401.0006.6254. Now, this is not your email, but did you know that in early May, Mr White sought advice from KWM about these CUP transactions?

45 **MR THEODORE:** I don't recall being made aware of that, Ms Sharp.

**MS SHARP SC:** So you may have been?

**MR THEODORE:** I - I don't recall it.

**MS SHARP SC:** Well, you were the relationship manager with NAB at the time. Do you think you were made aware?

5

**MR THEODORE:** I don't think I was. But he may have made Mr Barton aware, who was my manager at the time.

**MS SHARP SC:** Well, if we could - operator, could we go to the next page of this document, please. Do you see Mr White is emailing some lawyers from KWM on 3 May 2017?

10

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And do you see he provides some - the merchant agreement with NAB?

15

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** And do you see he attaches the latest set of China UnionPay rules?

20

**MR THEODORE:** Yes, I see that.

**MS SHARP SC:** Then he states:

25

"As I'm sure Ken conveyed, the most material question on which we need advice here is whether transactions which have been 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."

30

Now, you were aware of that concern at the time, weren't you?

**MR THEODORE:** I'd have to look at the timing, Ms Sharp. I think this relates to the issue Mr White raised around identifying that there were customers who weren't provided a hotel room, and he was potentially considering that exposure. But again, I don't recall having a conversation with Mr White at this time.

35

**MS SHARP SC:** Well, surely you and Mr White discussed the risk that China UnionPay might unwind the transactions were it to discover that a merchant facility was being operated in breach of its rules, given that you were the relationship manager at NAB at the time and NAB was making inquiries with you about the CUP transactions?

40

**MR THEODORE:** Again, Ms Sharp, I don't recall having that discussion with Mr White at this time.

45

**MS SHARP SC:** Well, is it most likely you did discuss this matter with Mr White at the time, given that you were the relationship manager with NAB and given that NAB was making the inquiries to you?

5 **MR THEODORE:** It's possible, Ms Sharp, but I don't recall receiving the advice or being told about the advice. So I don't believe I had a conversation with Mr White at this time.

10 **MS SHARP SC:** Well, given you were the relationship manager with NAB, didn't you expect that if Mr White was taking advice from Mallesons about the CUP transactions, he would make you aware of what that advice was?

15 **MR THEODORE:** It depends what the advice ultimately came up with, Ms Sharp. But I don't recall him sharing this with me, no.

**MS SHARP SC:** Well, let me take you to the Mallesons response. Do you see Mallesons state, number 1:

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

**MR THEODORE:** Yes, I see that.

25 **MS SHARP SC:** Did Mr White make you aware of that advice that he had received?

**MR THEODORE:** Not that I recall, no.

30 **MS SHARP SC:** And do you see at number 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."

35 **MR THEODORE:** Yes, I can see that.

**MS SHARP SC:** Did Mr White tell you that?

40 **MR THEODORE:** Not that I recall, no.

**MS SHARP SC:** And can I show you number 4:

45 "It is not clear based solely on the documents 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'."



Did Mr White tell you he had received that advice from Mallesons?

**MR THEODORE:** Not that I recall, Ms Sharp, no.

5

**MS SHARP SC:** Now, can I take you to exhibit B at tab 397, which is STA.3402.0008.1057. Now, you can see this is an email from Andrew Power to Paula Martin dated 28 July 2017?

10 **MR THEODORE:** Yes.

**MS SHARP SC:** And do you see there's an entry - I will have it enlarged for you - number 2:

15 "China UnionPay."

And it says:

20 "The risks associated with CUP are well known and a risk assessment and legal advice has been given in this regard. However, earlier in the year an instruction has been given to hotel staff to start issuing 'dummy' rooms to international guests (for example, by issuing them with an uninhabitable room or a dirty room, or a room that had not been cleaned, in the knowledge that the guest would not be occupying the room). This instruction was  
25 corrected, but it highlights a risk that the use of CUP for international guests may well have exceeded the extended scope of this service, which may call into question the arrangement we have in place with The Star's bank (NAB)."

30 Now, did any one of the three lawyers, that is, Oliver White, Andrew Power or Paula Martin, make you aware at the time that they considered there were risks associated with using the CUP card in terms of the arrangements that existed with NAB?

35 **MR THEODORE:** I recall being made aware of the concern around not following the processes around rooms, Ms Sharp. So I was made aware of that. But I also understood that that was being communicated to ensure that there was compliance with the process. I don't recall any broader risk discussion over and above that.

40 **MS SHARP SC:** Well, at this time, at mid-July 2017, what did you understand the risks to be with using the CUP cards in this way?

**MR THEODORE:** Can you clarify what you mean by "in this way", Ms Sharp?

45 **MS SHARP SC:** By swiping the CUP cards at the hotel in order to make funds available to patrons to purchase gaming chips.

**MR THEODORE:** As I - I believe I said earlier, my understanding was it was legally compliant and had been approved by the regulator at this point in time, that NAB were aware and supported the use of the service in the way it was provided. I was aware of a risk around China UnionPay's scheme rules, and we had clearly  
5 taken a view around the first transaction being compliant because that's at the point of sale. I understood that there was a risk around that interpretation. As I said earlier, though, I also understood that that was a general and broad industry practice at the time.

10 **MS SHARP SC:** You didn't have any confidence at this time that UnionPay did know the real reason that the CUP cards were being swiped, did you?

**MR THEODORE:** That they were being swiped at - can you repeat the question, please?

15 **MS SHARP SC:** You didn't have any confidence at this time that UnionPay knew that the CUP cards were being swiped at the hotel in order to purchase gaming chips, did you?

20 **MR THEODORE:** As I said earlier, I - I believed that it was likely they knew, but I wasn't certain, no.

**MS SHARP SC:** And do you see any problem with this process?

25 **MR THEODORE:** As I think I mentioned in response to Mr Bell's question, I see that it was a sharp practice and we'd taken a pretty aggressive interpretation of the scheme rules.

**MS SHARP SC:** And did you appreciate that at the time?

30 **MR THEODORE:** I appreciated we had taken a particular interpretation that may be challenged, yes.

**MS SHARP SC:** So you did appreciate that you had taken a pretty aggressive interpretation of the scheme rules and had adopted a sharp practice?

**MR THEODORE:** I did, Ms Sharp. But I also had the context of it being a pretty broad and common industry practice. So I understood that that had been taken in a range of cases.

40 **MS SHARP SC:** Well, it was common for casinos in Macau to deal with triads, wasn't it?

**MS RICHARDSON SC:** I object to that question.

45 **MR BELL SC:** What's the objection?

**MS RICHARDSON SC:** Could I deal with that without the presence of the witness, please.

5 **MR BELL SC:** Yes. Go to private mode, please, operator.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 4:58 PM**

**<THE HEARING IN PRIVATE SESSION RESUMED AT 4:58 PM**

10 **<THE HEARING IN PRIVATE SESSION ADJOURNED AT 5:00 PM**

**<THE HEARING IN PUBLIC SESSION RESUMED AT 5:00 PM**

15 **MR BELL SC:** Yes. I will now adjourn until 10 am on Monday.

**<THE HEARING ADJOURNED AT 5:00 PM**