



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**

**MONDAY, 2 MAY 2022
AT 10:00 AM**

DAY 26

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

Star Witness

MR HARRY JAMES THEODORE

Witness

MR MATTHIAS MICHAEL BEKIER

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

<THE HEARING RESUMED AT 10:01 AM

MR BELL SC: Mr Theodore, you remain bound by the affirmation you made on Friday.

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<HARRY JAMES THEODORE, ON FORMER AFFIRMATION

MR BELL SC: Yes, Ms Sharp.

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

MS SHARP SC: Mr Theodore, your account in your statement regarding your dealings with NAB and queries relating to CUP is very detailed, isn't it?

15 **MR THEODORE:** I'd say it's detailed to the extent that I can recall what happened at those points in time, yes, Ms Sharp.

MS SHARP SC: And so to the extent you could recall matters, may we take it you endeavoured to put those matters into your statement?

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MR THEODORE: I endeavoured to, yes.

MS SHARP SC: And in setting out your account, you considered all emails you regarded to be relevant?

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MR THEODORE: Those that I could find and had at my disposal at the time, yes, Ms Sharp.

MS SHARP SC: And did that include notes other than emails?

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MR THEODORE: The ones I was aware of and have been able to find, yes, Ms Sharp.

MS SHARP SC: And may we take it you did your best to set out any important conversations you recall having?

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MR THEODORE: Yes, I did my best to do that, Ms Sharp.

MS SHARP SC: And may we take it that your statement sets out your comprehensive account of your dealings?

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MR THEODORE: That was my intention to set that out, yes, Ms Sharp.

MS SHARP SC: In evidence on Friday, you referred to the CUP transaction process as being a two-stage process. Do you recall that?

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MR THEODORE: Yes, Ms Sharp.

MS SHARP SC: Now, it's correct, isn't it, that when a patron debited their CUP account, the funds went into an account held in the name of The Star Pty Ltd?

5 **MR THEODORE:** Could you repeat the question, Ms Sharp?

MS SHARP SC: It's correct, isn't it, that when a patron swiped their CUP card, the funds went into an account in the name of The Star Pty Ltd?

10 **MR THEODORE:** When the funds cleared, they went into that account, yes.

MS SHARP SC: And they were not further moved into a different account, were they?

15 **MR THEODORE:** They ultimately do get moved with a daily cash sweep into a corporate account. So the trading accounts of The Star where funds clear for patron transactions, I believe are swept daily into a corporate account. So they - they do get moved.

20 **MS SHARP SC:** I will just - I might need to put that proposition more clearly. For the purpose of making available to the patron front money, it is not necessary to move the cash debited from the CUP card to any other account, is it?

MR THEODORE: No, it wasn't, Ms Sharp.

25 **MS SHARP SC:** Because all that happened was that a ledger entry would be made indicating that front money was now available to the patron?

30 **MR THEODORE:** I believe that's correct, Ms Sharp. I would note, though, I - in my role, that was not something I was close to, given that was an operational function that was performed by the cage.

MS SHARP SC: But what we've just analysed means that at least so far as the movement of cash is concerned, there is no two-stage process; do you agree?

35 **MR THEODORE:** Yes, there's not a movement of cash at that point in time.

40 **MS SHARP SC:** If you considered to be the two stage - I withdraw that. Given that you say you considered the two-stage process to be compliant with NAB's rules regarding the use of CUP transactions, why did you not cause written responses to be given to NAB indicating that there was a two-stage process?

MR THEODORE: Can you please repeat the question, Ms Sharp?

45 **MS SHARP SC:** I will break it down for you. You said on Friday that you considered that the two-stage process associated with using CUP transactions did not transgress the UnionPay rules; correct?

MR THEODORE: Yes, that's correct, on the basis of that's what was described to me by Oliver White at the time I took on the treasury portfolio.

5 **MS SHARP SC:** If that is so, why did you not take any steps to disclose that two-step transaction to NAB?

10 **MR THEODORE:** Ms Sharp, my understanding was that there had been written communication at the time it was set up that demonstrated NAB understood that. And based on my conversations which I believe I've outlined, those that I can recall, in my witness statement, those conversations gave me the comfort at that point in time that our account manager at NAB understood the - the process. And so I didn't seek to have it confirmed in writing because it --

15 **MS SHARP SC:** So are you relying on an email, that you did not see at the time, dating from 2013?

20 **MR THEODORE:** Not solely, Ms Sharp. So I - I was aware of that communication. I was relying on the discussions I had with the account manager at the time at NAB. I was also - you know, having reflected on my state of mind at different times, I was seeing transaction values and volumes that I believed clearly demonstrated that they couldn't be hotel accommodation where patrons were transacting, you know, in the millions of dollars per day in some cases.

25 **MS SHARP SC:** It's clear, Mr Theodore, at no time in your conversations with an NAB account manager did you point out that there was a two-stage process; yes or no?

30 **MR THEODORE:** I believe I've provided in my statement that I recall a conversation in September 2016 with the account manager around the time the terminals were being set up in Queensland where it was clear in that conversation that the account manager at the time understood that there was a two-stage process and we had that discussion.

35 **MS SHARP SC:** Now can you attend to my question, please, Mr Theodore. At no time in your discussion with the account manager did you indicate expressly to the account manager that there was a two-stage process, did you?

MR THEODORE: I believe I did in that September 2016 timeframe, Ms Sharp.

40 **MS SHARP SC:** Is that evidence true, Mr Theodore?

MR THEODORE: Yes, Ms Sharp.

45 **MS SHARP SC:** Now, is it correct that you had conversations with Ms Martin in 2017 about NAB inquiries as to the purpose of CUP transactions?

MR THEODORE: Not that I recall now, Ms Sharp, no.

MS SHARP SC: So you don't recall any conversation whatsoever with Ms Martin?

5 **MR THEODORE:** Not in 2016, not - not at this time, no.

MS SHARP SC: I asked you about 2017.

MR THEODORE: Sorry. Not in 2017, no.

10 **MS SHARP SC:** Could I take you, please, to STA.3401.0003.1568. Now, what I'm going to show you is an email in the middle of that first page. If I could have that highlighted please, operator. There's an email from Oliver White dated 30 October 2019. Mr Bell, this is exhibit B1798. Now, you were aware in late 2019, weren't you, that NAB was making requests on behalf of UnionPay International
15 as to the purpose of the CUP transactions?

MR THEODORE: Yes, Ms Sharp.

20 **MS SHARP SC:** And you spoke with both Ms Dudek and Ms Scopel about these inquiries from time to time?

MR THEODORE: I don't recall any conversations with Ms Dudek, but I did have a number of conversations with Ms Scopel at the time.

25 **MS SHARP SC:** Now, I will take you to - and you knew that Mr White was involved in preparing answers to NAB's queries?

MR THEODORE: Yes, I did.

30 **MS SHARP SC:** And may we take it that you discussed these queries with Oliver White from time to time?

MR THEODORE: At a point in late 2019, I would have had some discussions with Mr White, yes.
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MS SHARP SC: Now, I'll take your attention to an email from Oliver White dated 30 October 2019 to Paulinka Dudek and others. Do you see that Mr White proposes a response to a question and then says:

40 "Please run this by Harry and make sure he is comfortable with this wording."?

MR THEODORE: Yes, I see that, Ms Sharp.

45 **MS SHARP SC:** May we take it that Ms Dudek did as she was told and ran this proposed response by you?

MR THEODORE: I don't recall her doing that, but it's probable she did, given she was asked to.

MS SHARP SC: I want to take you to the proposed response. Do you see it says:

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"Certain very high end premium guests at The Star Entertainment Group's integrated resorts incur expenses at the hotel, across a range of entertainment venues with the resort, as well as travel expenses (for example, limousine transfers, internal flights) and external expenses (for example, local tourism tour operator expenses) during their time in Australia and whilst staying at Star Entertainment Group's resorts. Such expenses are consolidated within the guest's personal account, which is linked to the guest's hotel accommodation, and cleared with a transfer from the hotel accommodation account, as noted in the receipt."?

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Now, you were aware that this response was provided to NAB on a number of occasions, aren't you - or weren't you?

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MR THEODORE: I wasn't aware at this time. My recollection is the first time I become aware of the responses is slightly later than this time, but not long after this time.

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MS SHARP SC: Well, I suggest to you you were made aware by Ms Dudek of this proposed response at about this time. Do you agree or disagree?

MR THEODORE: As I said, Ms Sharp, I can't recall. But I accept, given it's in this email, that I - I may have been.

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MS SHARP SC: Now, this proposed response makes absolutely no reference to the purpose of the CUP transactions being to purchase gaming chips, does it?

MR THEODORE: No, it doesn't.

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MS SHARP SC: In fact, this response suggests quite the opposite, which is that the transactions were used for expenses other than the purchase of gaming chips; do you agree?

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MR THEODORE: I - I believe it was intended that the range of entertainment venues included gambling, but --

MS SHARP SC: Well, why wasn't that said expressly, Mr Theodore, if that was the intent and that was the very purpose of the inquiry?

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MR THEODORE: I accept that it was using broad terminology to encompass gaming through the use of "entertainment" as a broad term.

MS SHARP SC: Mr Theodore, are you suggesting to this review today that your understanding was that this email implied in some way that the CUP transactions were, in fact, for the purpose of gaming?

5 **MR THEODORE:** Ms Sharp, my --

MS SHARP SC: What's your answer, Mr Theodore? Don't give a speech.

10 **MR THEODORE:** My answer is that the range of entertainment venues was intended to include gaming. But I accept that that is not clear and isn't an answer that should have been provided.

15 **MS SHARP SC:** Well, it shouldn't have been provided because it was quite misleading; do you agree?

20 **MR THEODORE:** In the context it was sent to NAB, who I believe understood the way the service was being used, I don't believe it's misleading because I am of the view that they were aware of how the service was used at the time. But I accept it was inappropriate and shouldn't have been sent.

25 **MS SHARP SC:** And so that's your answer you give today as a very senior member of the executive of Star Entertainment Group and as a close associate of the casino operator; is that right?

30 **MR THEODORE:** Yes, it is, Ms Sharp.

MS SHARP SC: Because your answer is quite untruthful at the moment, isn't it?

35 **MR THEODORE:** No, it's not, Ms Sharp.

MS SHARP SC: You were well aware that the intent of these responses provided in writing to NAB from late November 2019 was to mislead the reader of these emails as to the true purpose of the CUP transactions, weren't you?

40 **MR THEODORE:** No, I wasn't, Ms Sharp.

MS SHARP SC: That answer is just not true, is it?

45 **MR THEODORE:** No, Ms Sharp. I said, I believed at this time - and I don't remember this - reading this email, but I know there's a subsequent one that uses similar language. I believed at the time that NAB were aware of how the service was being used. And so there wasn't an intent to mislead NAB, but I accept that the responses are not fulsome and shouldn't have been sent.

MS SHARP SC: And to be clear, Mr Theodore, had you no basis at all at the time for concluding that UnionPay International knew what the CUP cards were being used for, did you?

MR THEODORE: As I said in my evidence on Friday, I - I believed they were aware based on it being a broad industry practice and the value of the transactions that were occurring. But I accept that I didn't know that as a fact and I wasn't certain of it.

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MS SHARP SC: Well, Mr Theodore, if UnionPay did know, it would make their repeated inquiries quite meaningless, wouldn't it?

MR THEODORE: My view at the time, Ms Sharp, was this had been a practice --

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MS SHARP SC: You haven't answered my question.

MR THEODORE: I believed that they were inquiring because the tacit acceptance that had been in place maybe no longer was, rather than that they were unaware that the service was being used for gaming.

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MS SHARP SC: So are you suggesting that UnionPay was making up inquiries that it did not genuinely have a concern about?

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MR THEODORE: I believe they were making the inquiries to demonstrate that what had been a tacit acceptance for a long period of time no longer was in place, potentially because of the - the value of the transactions, but also just the overall service at the time.

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MS SHARP SC: Mr Theodore, that answer is completely implausible, isn't it?

MR THEODORE: No, I don't believe it is, Ms Sharp.

MS SHARP SC: Now, could I take you to STA.3 --

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MR BELL SC: Sorry, before we go to that document. Mr Theodore, you told me that the email was inappropriate and should not have been sent. Why is that?

MR THEODORE: Because it doesn't provide a fulsome response, Mr Bell.

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MR BELL SC: What does that mean?

MR THEODORE: I think using a range of entertainment venues to encompass gaming is using industry jargon that could be interpreted in different ways. And so it's not a clear response. So it shouldn't have been sent.

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MS SHARP SC: Operator, can we go to STA.3401.0003.1566. This is exhibit B1797. Do you see, Mr Theodore, you're a recipient of this email from Oliver White dated 4 November 2019?

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MR THEODORE: Yes, Ms Sharp.

MS SHARP SC: Now, can I direct your attention to the email it forwards, please. You will see that Peter Humphreys sends an email to Oliver White of 4 November 2019, noting that a query has come through from China UnionPay?

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

MS SHARP SC: So you were aware by this time, weren't you, that UnionPay had started to make direct inquiries of The Star?

10 **MR THEODORE:** Yes.

MS SHARP SC: And that is exactly the point that Mr White makes to you in his email to you dated 4 November 2019?

15 **MR THEODORE:** Yes.

MS SHARP SC: By this time, you could have been in no doubt that UnionPay wished to confirm with The Star the true purpose of the CUP transactions; do you agree?

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

MS SHARP SC: And do you agree that it was important in providing an answer to the bank to provide a fulsome account to the bank in relation to that inquiry?

25 **MR THEODORE:** I accept that should have been the response, yes, Ms Sharp.

MS SHARP SC: And the approach that The Star ought to have taken was to provide a transparent account to CUP; do you agree?

30 **MR THEODORE:** Yes, I agree, Ms Sharp.

MS SHARP SC: And you were well aware that The Star did not adopt that approach, aren't you?

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

MS SHARP SC: And you certainly did not direct that The Star adopt a transparent approach, did you?

40 **MR THEODORE:** At the time we responded, which - I believe on 7 November, I believed we were responding in a way that had been agreed with NAB and some of the aspects of the response had been guided by NAB.

45 **MS SHARP SC:** And now could you answer my question, please, Mr Theodore.

MR THEODORE: I believed we were providing a factually correct response, but I accept we weren't directly answering the question. And - and that wasn't appropriate.

5 **MS SHARP SC:** The fact that you give that answer today reflects extremely poorly on your own ethical compass, doesn't it, that you continue to maintain that you gave an appropriate response?

10 **MR THEODORE:** I'm not maintaining we gave an appropriate response, Ms Sharp. I was reflecting on what I did at the time and I believed at the time. But having reflected on the responses, I accept they were inappropriate and should not have been sent.

15 **MS SHARP SC:** You just told me that you believed you were providing a factually correct response. That is patently incorrect, isn't it?

20 **MR THEODORE:** At the time, that was the intent. And I discussed that with Ms Scopel and Mr White, that we had to provide a factually correct response. But I accept --

MS SHARP SC: It was not an incorrect response because it did not disclose the true purpose of the transaction; do you agree or disagree?

25 **MR THEODORE:** I agree it was an inappropriate response because it didn't do that. I agree with that.

MS SHARP SC: And it was not a factually accurate response at all, was it?

30 **MR THEODORE:** I think the various components were correct, Ms Sharp. But when I sit back and read the response in total and reflect on it, I agree it was inappropriate and shouldn't have been sent.

MS SHARP SC: It was not a factually accurate response at all, was it?

35 **MR THEODORE:** It didn't answer the question, so it wasn't an appropriate response.

40 **MS SHARP SC:** Well, it didn't answer the question, so it was not a factually accurate response, was it?

MR THEODORE: On that basis, it wasn't factually accurate.

MS SHARP SC: And that, of course, means it was misleading, doesn't it?

45 **MR THEODORE:** Ms Sharp, I don't believe it was misleading, in the context it was sent, because it was being sent to NAB who had knowledge about how the service was being used and had requested us to respond particularly in relation to the invoices and examples of high-value transactions. So I didn't consider it to be

misleading at the time. But I accept it was an inappropriate response and should not have been sent.

5 **MS SHARP SC:** You were well aware at the time that NAB was passing these responses on to UnionPay, weren't you?

MR THEODORE: In - in some form, I knew NAB would prepare a response to UnionPay, yes.

10 **MS SHARP SC:** Could I take you to STA.3002.0010.0434. I'm showing you a response that Ms Dudek provided to Ms Arthur of NAB dated 4 November 2019. Do you see Ms Dudek says - or makes two points, number 1 and number 2?

15 **MR THEODORE:** I see the 1 and 2, yes.

MS SHARP SC: And do you see at number 2, Ms Dudek says:

20 "The merchant operates integrated resorts in Australia, consisting of hotels, restaurants and other entertainment facilities."

MR THEODORE: Yes, I do.

25 **MS SHARP SC:** Now, you agree, don't you, that no express reference is made anywhere there or in any other part of Ms Dudek's response that The Star operates a casino?

MR THEODORE: Ms Sharp, the term "integrated resort" --

30 **MS SHARP SC:** Is not the same word as "casino". Do you agree that there is no express reference there to the word "casino"?

35 **MR THEODORE:** I agree there's no express reference, but integrated resorts are synonymous with casino. So I'd say the term "integrated resort" includes a term that property that has a casino.

MS SHARP SC: And to be clear, you, with all your experience in the casino industry, make the assumption that an integrated resort is synonymous with a casino; is that correct?

40 **MR THEODORE:** My understanding is that's well understood, Ms Sharp, that integrated resorts are resorts that include a casino. But I accept that, you know, I'm a - I have a lot of experience in the industry. But my understanding is that an integrated resort is well-known to include a casino.

45 **MS SHARP SC:** If you have regard to point 2 at dot point 2, it says:

"The cardholder purchased hotel accommodation services with the transactions in question."

Now, that is factually incorrect, isn't it?

5 **MR THEODORE:** I think it's only factually correct at the point of sale, but it's not the ultimate purpose.

MS SHARP SC: In substance, it is factually incorrect, isn't it?

10 **MR THEODORE:** In substance? Yes, Ms Sharp.

MS SHARP SC: In substance, it is misleading, isn't it?

15 **MR THEODORE:** I think it has the potential to be misleading, depending on the context it's being sent. But as I --

MS SHARP SC: And is it correct that you approved this response being sent to NAB?

20 **MR THEODORE:** I don't think I approved this response, no, Ms Sharp.

MS SHARP SC: Well, you agree that I showed you an email where Mr White asked Ms Dudek to run a response past you first?

25 **MR THEODORE:** I saw that email, yes.

MS SHARP SC: Are you suggesting that Ms Dudek sent a response to the bank, for which you were the relationship manager, without clearing the entire response with you?

30 **MR THEODORE:** Yes, Ms Sharp, I - I don't believe I ever received this email.

MS SHARP SC: That would have been highly inappropriate, wouldn't it, for Ms Dudek to send an email to the bank without you first approving it?

35 **MR THEODORE:** At this time, I'm the CFO and Ms Scopel is the treasurer. So not all responses to the bank would go through me at this point in time. I would expect she would have had Sarah (indistinct).

40 **MS SHARP SC:** Well, you knew this was a very sensitive issue at the time, didn't you?

MR THEODORE: I knew it was becoming one, Ms Sharp.

45 **MS SHARP SC:** Well, surely you took care to authorise each of the responses that was being provided to the bank at this time?

MR THEODORE: Well, I wasn't aware of this response at the time, so - and I don't believe I received this query - and I obviously checked my emails around this time for all queries. So I - I don't recall authorising this response.

5 **MS SHARP SC:** Are you telling the truth here, Mr Theodore?

MR THEODORE: Yes, Ms Sharp.

10 **MS SHARP SC:** Could I take you, please, to exhibit B at tab 1813, STA.3401.0005.3084. Now, I'm taking you to an email - you're not a party, but you're referred to in it. If I can start at the bottom of the email chain. Do you see there's an email from Paulinka Dudek dated 5 November 2019?

15 **MR THEODORE:** Not yet, Ms Sharp, but I think I'm being taken to it. I can see the email from Paulinka on 5 November.

MS SHARP SC: Do you see Ms Dudek says:

20 "Just a note and for reference that Harry was fine with the below sentence, subject to taking out 'internal' from flights. We have sent the attached response back to NAB."

MR THEODORE: Yes, I see that, Ms Sharp.

25 **MS SHARP SC:** Well, Ms Dudek was seeking your authority before sending - I beg your pardon, Ms Dudek was seeking your authorisation before sending responses to NAB in answer to the CUP queries, wasn't she?

30 **MR THEODORE:** As I said, Ms Sharp, I don't recall seeing the response. I accept here that Ms Dudek is referring to some conversation, but I - I don't recall it and I didn't see the response at this point in time.

35 **MS SHARP SC:** Well, the conversation she is recording is one where you said you were okay with the response, and that is what, in fact, happened, wasn't it?

MR THEODORE: I think she is saying I'm okay with a sentence in the response, but I - I don't recall being sent the email and I don't have a copy.

40 **MS SHARP SC:** Well, if you saw a sentence in the response, surely you asked to see the entire response, Mr Theodore?

MR THEODORE: As I said, Ms Sharp, I don't recall being taken to a response at this point in time.

45 **MS SHARP SC:** Having seen this document, you don't dispute that you were, do you?

MR THEODORE: It may have been discussed with me. I do dispute that I ever received a draft response because I don't have an email with it.

5 **MS SHARP SC:** Can I take you to exhibit B at tab 181 - I withdraw that. The mere fact that you don't have an email doesn't mean you didn't authorise the response, does it?

10 **MR THEODORE:** Not necessarily. But I don't recall being taken through a response at this point in time, and not to the level of detail that is in the ultimate response.

MS SHARP SC: Could I take you, please, to exhibit B at tab 1814. Do you see this email is from Sarah Scopel to you directly dated 6 November 2019?

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

MS SHARP SC: And it's correct that on or about this day, Ms Scopel made you aware that further inquiries were being received from NAB?

20 **MR THEODORE:** I think it was the day prior, based on my recollection. So, yes.

MS SHARP SC: And it's right, isn't it, that she was discussing with you what communications ought to be sent to NAB?

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

MS SHARP SC: And you were providing her with guidance about what to write?

30 **MR THEODORE:** I don't believe at this time I was providing any guidance on what to write. But she - my recollection is Sarah was having a number of conversations with Ms Arthur, and she was reporting back on those conversations. And I had suggested at this point in time that we consider reducing the transaction limit, and I think this was in response to her having that conversation with Ms Arthur.

35 **MS SHARP SC:** And is the reason you suggested reducing the transaction limit to make CUP - or make UnionPay International stop with their inquiries?

40 **MR THEODORE:** I wouldn't say "stop", Ms Sharp. I think at this point in time, it had been - it had become clear that the tacit acceptance from UnionPay that had been in place no longer was. And the suggestion to reduce the transaction limit was to see whether, at a lower limit, UnionPay were still comfortable with providing the service.

45 **MS SHARP SC:** You didn't suggest, did you, that Sarah Scopel write to NAB explaining that, yes, in fact, the CUP transactions were for the purpose of purchasing gaming chips, did you?

MR THEODORE: I didn't, Ms Sharp. Not in writing. But I believe they were aware of that at the time.

MS SHARP SC: And you didn't suggest that orally to Ms Scopel either, did you?

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MR THEODORE: My recollection is that Sarah was having a number of discussions - sorry, Ms Scopel was having a number of discussions with Ms Arthur. And in those discussions, I recall that Ms Arthur had confirmed she understood we couldn't provide confirmation that it wasn't - that the transactions weren't used for gaming. And so I had a - I was working on the basis that that understanding of how the service was being used was in place. But I accept we didn't ask for it in writing and that was an error. We should have.

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MR BELL SC: Mr Theodore, this process will be much quicker for you if you answer the questions from counsel assisting. Now, Ms Sharp, would you ask the question again, please.

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MS SHARP SC: You didn't suggest orally to Ms Scopel that she make NAB aware that the CUP cards were being used to purchase gaming chips, did you?

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MR THEODORE: Not directly, no.

MS SHARP SC: Now, you've just said to us that Ms Arthur - I withdraw that. You just said that you recall that Ms Arthur confirmed that she understood we could not provide confirmation that the transactions were not used for gambling. Is that your evidence?

25

MR THEODORE: I - my evidence is I recall Sarah informing me of that, yes.

30

MS SHARP SC: And where do we find that in your statement, Mr Theodore?

MR THEODORE: Am I allowed to look at my statement, Ms Sharp?

MS SHARP SC: Yes, please.

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MR THEODORE: I'm not sure I reference it directly, Ms Sharp.

MS SHARP SC: That's because that conversation did not happen, isn't it?

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MR THEODORE: The conversation between myself and Ms Scopel?

MS SHARP SC: That's because the conversation did not happen, did it?

MR THEODORE: No, I don't agree, Ms Sharp.

45

MS SHARP SC: It's not in your statement.

MR THEODORE: No, I accept it's not in my statement.

5 **MS SHARP SC:** Now, let me take you to exhibit B at tab 1834 - pardon me. I withdraw that. I need to take you to exhibit B at tab 1834. Now, I'll start at the end of this email - well, I'll start at the beginning. Do you see that you're a party to the email from Ms Scopel in the middle of the page, 7 November 2019, sent to you and to Mr White?

MR THEODORE: Yes, Ms Sharp.

10 **MS SHARP SC:** And can you see that Ms Arthur has forwarded - I beg your pardon. Ms Scopel has forwarded an email from Ms Arthur. If I take you to pinpoint 1454. And Ms Arthur says in that email:

15 "As discussed, UnionPay has provided us with notice indicating they are considering issuing NAB a directive to cease provision of UnionPay card acceptance at The Star."

MR THEODORE: Yes.

20 **MS SHARP SC:** And a little further down, Ms Arthur advises:

25 "From our conversation with local UnionPay representatives, China's central bank, (i.e. People's Bank of China) is not satisfied with UnionPay's explanations received from The Star (via NAB) for previous irregular transaction investigation requests. People's Bank of China has observed individual cardholders spending more than \$20 million at The Star which they believe includes gambling and they are struggling to see how this level of expenditure could be made on non-gambling entertainment."

30 Now, we may take it that you read this email from Ms Scopel at the time it was sent to you?

MR THEODORE: I - I don't recall reading it at this exact time, but I accept it's in an email chain on an email sent to me at that time.

35 **MS SHARP SC:** So it's most likely you did read this at the time; do you agree?

MR THEODORE: At some point during that day, yes, Ms Sharp.

40 **MS SHARP SC:** And if I can take you a little further to that email at the top of point 1455, what this is Arthur says is:

"Could you please provide additional information as suggested below."

45 And the first dot point is:

"Example breakdown of typical expenditure."

(2):

"Copy of suppliers invoices."

5 And (3):

"Written confirmation that no transactions via the merchant facilities include a gambling component."

10 Now, Ms Arthur could not be clearer as to the confirmation she sought, could she?

MR THEODORE: In the last point, Ms Sharp?

MS SHARP SC: Yes, Mr Theodore.

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MR THEODORE: Could you repeat the question?

MS SHARP SC: Ms Arthur could not be clearer, could she, as to the nature of the written confirmation that she sought?

20

MR THEODORE: Yes, I believe it's clear.

MS SHARP SC: And you could have no comfort on the basis of that question that Ms Arthur had any understanding whatsoever that these transactions were, in fact, used for the purpose of gambling?

25

MR THEODORE: Not just from what's written there, no.

MS SHARP SC: Could I take you back to the email Ms Scopel sent to you on 7 November. If we can return to pinpoint 1453. Do you see that Ms Scopel provides to you a draft response to Ms Arthur's inquiries?

30

MR THEODORE: Yes.

MS SHARP SC: And if I could take you to the next page, please, to pinpoint 1454. Do you see that the suggested response includes:

35

"Nature of charges."?

40 **MR THEODORE:** Yes.

MS SHARP SC: And do you see that Ms Scopel proposes stating:

45

"We confirm the terminal is located in The Star Grand Hotel, outside of gaming related areas and gaming transactions are not conducted at the hotel. To provide further comfort around the nature of the transactions being non-gaming related, we could restrict the transaction size to 50K with no more than two charges of this value per day."

Now, the response that Ms Scopel proposes to send here is factually inaccurate, isn't it?

5 **MR THEODORE:** I believe the second sentence is factually inaccurate, yes.

MS SHARP SC: That being that the nature of the transactions are non-gaming related?

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

MS SHARP SC: In fact, that is false, isn't it?

MR THEODORE: Yes, it is, Ms Sharp.

15

MS SHARP SC: In fact, that is deceptive, isn't it?

MR THEODORE: Yes, it is, Ms Sharp.

20 **MS SHARP SC:** Now, if I can take you to the email at the top of the chain --

MR BELL SC: Sorry, just before we go to that. Operator, could we go to the start of that email, please, on the previous page. Do you see, Mr Theodore, that Ms Scopel has put in red and underlined "12 pm extension not granted by PBOC"?

25

MR THEODORE: I do.

MR BELL SC: That refers to the People's Bank of China, I take it; is that right?

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

MR BELL SC: So did you understand that from this point on that The Star's responses via NAB were not only going to UnionPay International, but also being conveyed to the People's Bank of China?

35

MR THEODORE: In some form, yes, Mr Bell.

MR BELL SC: Yes, Ms Sharp.

40 **MS SHARP SC:** Now, if I can take you to the top of this chain. This is an email - you're not a party to this one, but what Oliver White says in his 7 November 2019 email is:

45 "Paula, I believe that Harry has touched base with you on this already today."

And then:

"I have been liaising with Sarah and Harry on the proposed response."

It's right, isn't it, Mr Theodore, that you did liaise with Oliver White and Sarah Scopel that day about what response should be provided to NAB; correct?

5 **MR THEODORE:** I don't recall all the interactions, Ms Sharp, but I would say, yes, it's correct, I would have had some conversations with both Ms Scopel and Mr White.

10 **MS SHARP SC:** And it's right, isn't it, that you authorised the response that was eventually sent by Ms Scopel that day to NAB; correct?

MR THEODORE: Yes.

15 **MS SHARP SC:** I will take you now to the response that was sent. If we could go to exhibit B, tab 1828, which is STA.3105.0011.5300. And what I'm showing you, Mr Theodore, is an email from Sarah Scopel to Tanya Arthur. And do you see you're copied into it?

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

MS SHARP SC: And it's dated 7 November 2019?

MR THEODORE: Yes.

25 **MS SHARP SC:** Now, could I take your attention to the third paragraph, which commences, "As previously mentioned."?

MR THEODORE: Yes, Ms Sharp.

30 **MS SHARP SC:** And it states:

35 "As previously mentioned, certain very high end premium guests at The Star Entertainment Group's integrated resorts incur expenses at the hotel, across a range of entertainment venues within the resort, travel expenses (for example, limousine transfers, flights) and external expenses (for example, local tourism tour operator expenses, food and beverage, major events and entertainment) during their time in Australia and whilst staying at The Star Entertainment Group's resort. Such expenses are consolidated within the guest's personal account, which is linked to the guest's hotel accommodation, and cleared with
40 the transfer from the hotel accommodation account, as noted in the receipts provided previously."

Now, you agree that there is no reference there to a casino?

45 **MR THEODORE:** Not directly, Ms Sharp, but I made the point earlier that integrated resorts, from my perspective, are synonymous with casinos.

MS SHARP SC: And there is no reference to any part of that expenditure being for the purchase of gaming chips?

5 **MR THEODORE:** I agree with that. Again, as we discussed earlier, the reference to "entertainment" was intended to be broad enough to encompass gaming. But it's not directly referenced, I accept that.

MS SHARP SC: And you see it then goes on to say:

10 "Some examples of external services provided which may be charged to customer accounts are attached (jets, premium wines, jewellery, cars, cruises, travel experience, concert tickets and events for customers)."

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

MS SHARP SC: Now, you had no basis to believe that these CUP transactions were being used to purchase jet flights, premium wines, jewellery, car, cruises and travel expenses, did you?

20 **MR THEODORE:** I believe they're a component of the expenditure that - or the experiences that these very VIP customers engaged with whilst on the property. But I accept that, you know, the majority of their spend is gaming.

25 **MS SHARP SC:** All right. So you accept, don't you, that the majority of the expenditure on the CUP cards are not for the purposes stated in this email; correct?

MR THEODORE: Ms Sharp, typically a VIP customer will pay --

30 **MS SHARP SC:** Mr Theodore, just answer my question.

MR THEODORE: The majority is gaming, but obviously their gaming spend pays for the other expenses typically on a visit based on the rebate program.

35 **MS SHARP SC:** You accept, don't you, that the majority of the expenditure on the CUP cards are not used for the purposes stated in this email; correct?

MR THEODORE: Yes, Ms Sharp.

40 **MS SHARP SC:** So to the extent that this email conveys that the expenses are for these external services, it is not correct, is it?

MR THEODORE: No, that's not correct.

45 **MS SHARP SC:** And do you see further down the page - if we can go down there, please, operator - it states:

"We confirm the terminal is located in The Star Grand Hotel, outside of gaming related areas and gaming transactions are not conducted at the hotel."

Do you agree that there is nothing in here that says that the CUP cards are used to fund gaming transactions?

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

MS SHARP SC: And do you agree that, on the contrary, this email implies that the CUP cards were not used for gaming transactions?

10 **MR THEODORE:** It's - as I said earlier, the reference to "integrated resorts" are casinos, entertainment --

MS SHARP SC: I just want you to answer my question. Do you agree that there is nothing in this email that says that the CUP cards were used for gaming transactions?
15

MR THEODORE: Not directly, no, Ms Sharp.

MS SHARP SC: To your knowledge, the purpose of this email was to mislead as to the true nature of the CUP transactions, wasn't it?
20

MR THEODORE: As I - no, Ms Sharp, on the basis that it was going to NAB who I understood knew and were aware how the service was being used.

25 **MS SHARP SC:** This document does not provide an accurate explanation of the purpose of the CUP transactions, does it?

MR THEODORE: I believed at the time it was factually correct, but I accept it's not a fulsome response that is clear around the purpose.
30

MS SHARP SC: Mr Theodore, it omits the key fact, which is that CUP transactions were used for gaming purposes; do you agree?

MR THEODORE: I agree it doesn't state that, Ms Sharp, yes.
35

MS SHARP SC: You were a party to a response to NAB which was misleading, weren't you?

MR THEODORE: As I said earlier, Ms Sharp, I don't believe it was misleading, given their knowledge of how the service was being used. But I accept, having reflected on it, it was an inappropriate response that shouldn't have been sent and --
40

MS SHARP SC: And you intended that it be a misleading response, didn't you?
45

MR THEODORE: No, Ms Sharp, I didn't intend it to be misleading.

MS SHARP SC: You intended for it to convey an impression which was not true?

MR THEODORE: That was not my intention at the time, no.

MS SHARP SC: Well, that answer is not true.

5

MR THEODORE: I don't agree.

MS SHARP SC: In fact, this email is deceptive, to your knowledge?

10 **MR THEODORE:** Again, Ms Sharp, given it was being sent to NAB who I understood knew how the service was being used, I didn't consider it to be deceptive.

15 **MR BELL SC:** Mr Theodore, you had no reason to believe, did you, that the People's Bank of China knew at this time that the UnionPay cards were being used for gambling?

MR THEODORE: Mr Bell, I think we discussed this briefly on Friday --

20 **MR BELL SC:** Would you just answer my question, please.

MR THEODORE: I didn't know, Mr Bell, no.

25 **MR BELL SC:** Right. So you must have appreciated that this email had a very serious capacity to mislead the People's Bank of China; is that right?

30 **MR THEODORE:** With reflection and hindsight, I would accept that it potentially could. I didn't consider that at the time. And the context of this response was it was extremely rushed and it was a poor response, I accept, and was totally inappropriate. But I don't believe that we properly considered the implications of the response at the time.

35 **MR BELL SC:** But the reason it was rushed was because the People's Bank of China weren't granting you an extension of time to reply; correct?

40 **MR THEODORE:** That's correct. I also believe NAB had requested an extension and expected to get it, and then we got this email quite late with a very short period of time to respond. So it was a - it was a very rushed response, which contributed to a - a poor response being sent.

MR BELL SC: But it must have been front and centre in your mind that one of the parties who was likely to consider this response was the People's Bank of China?

45 **MR THEODORE:** I considered it to be CUP at the time, but I accept I should have also considered it to be the People's Bank of China.

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: The email was not so rushed that it did not contain extensive detail on non-gaming expenses; do you agree?

5 **MR THEODORE:** Yes, I agree, Ms Sharp. And that was a component that I had understood NAB had requested in earlier conversations. And so that was part of the response we had already begun to prepare before receiving the direct communication.

10 **MS SHARP SC:** In fact, this was a carefully considered response that was reviewed by you, by Mr White and by Ms Martin, wasn't it?

MR THEODORE: Yes, I agree, all three of us reviewed it. I would not say it was carefully considered and --

15

MS SHARP SC: And this email was not an isolated instance but, in fact, was part of a pattern from mid-2019 into early 2020 of providing factually incorrect responses to NAB's queries?

20 **MR THEODORE:** At the time this email was sent, I wasn't aware of the previous responses, Ms Sharp. As I said, the intent was to provide a factually correct response. But having reviewed it and with the benefit of hindsight, I accept it wasn't.

25 **MS SHARP SC:** Your intent was not to provide a factually incorrect - I withdraw that. Your intent was not to provide a factually correct response; your intent was to mislead as to the substance of these CUP transactions, wasn't it?

MR THEODORE: No, Ms Sharp.

30

MS SHARP SC: And if you thought NAB knew what the substance of the transaction was; why is it not expressly referred to here?

35 **MR THEODORE:** Again, Ms Sharp, I believed at the time that we were responding in the way that NAB had requested. And Ms Scopel was having a variety of conversations with Ms Arthur. The direction was that it needed to be a factually correct response, and that was the intent. But I accept, with hindsight, looking at it, you know, this response should not have been sent.

40 **MR BELL SC:** Did you believe at the time that officials at the National Australia Bank were cooperating with you to mislead the People's Bank of China?

45 **MR THEODORE:** Mr Bell, I didn't think it was misleading the People's Bank of China. This was a service that had been in place for six years. I understood it to be broad industry context. I believed that there was knowledge it was being used for gaming. What was starting to become clear is that that tacit acceptance was changing. And, you know, we should have acted a lot quicker to cease the service and not have been providing these responses.

MR BELL SC: Well, I'm sure you remember the previous emails that counsel assisting has taken you to as well as I do. But one of them said the People's Bank of China were struggling to understand how this level of expenditure could have been spent without being gaming related. Do you remember that?
5

MR THEODORE: Yes, Mr Bell. That was the email that prompted this response.

MR BELL SC: And they had also indicated they weren't prepared to grant an extension of time for a response; correct?
10

MR THEODORE: Yes, I became aware of that slightly before (indistinct).

MR BELL SC: So you must have appreciated that their suspicions were aroused as to whether or not these transactions were being used to fund gaming?
15

MR THEODORE: Probably more than suspicions, Mr Bell. I think the email said that they believed they were.

MR BELL SC: Well, I think they said they were struggling to understand how it could not be otherwise than gaming related. Is that the way you recall it?
20

MR THEODORE: I believe so, yes.

MR BELL SC: And you've told me that you had no reason to believe that People's Bank of China, in fact, knew that it was being used to fund gaming; correct?
25

MR THEODORE: That's correct, Mr Bell, yes.

MR BELL SC: So did you believe that officials at the National Australia Bank were cooperating with you to provide a response to the People's Bank of China which was not the truth?
30

MR THEODORE: Mr Bell, I think the intention was to provide a truthful response on our side, and I believe that was the intention on NAB's side. But clearly the response that was provided was not appropriate.
35

MR BELL SC: So does that mean that the answer to my question is, no, you didn't believe it was that the officials of the National Australia Bank were cooperating to provide a response to the People's Bank of China which was not the truth?
40

MR THEODORE: No. And it was both on our side and NAB's side, yes.
45

MR BELL SC: And sitting here now, what is your reflected view on the nature of the response that you authorised at this time?

MR THEODORE: As I say in my statement, Mr Bell, I think it was inappropriate and should not have been sent. And the only correct course of action at this time should have been to cease the service because it should have become clear to us at this point that that tacit acceptance that, you know, we believed was there was no longer there.

MR BELL SC: Have you heard the evidence to this review from staff junior to you, such as Ms Dudek and Ms Scopel, that they thought that the communications were wrong, but they didn't feel able to challenge more senior management?

MR THEODORE: I've heard some of the evidence, Mr Bell. I can't say I've heard all.

MR BELL SC: These communications reflect a failure of leadership; do you agree?

MR THEODORE: This one, yes, in particular. I - I agree with that.

MR BELL SC: Including, it must be said, a failure of leadership by you?

MR THEODORE: Yes, I accept that, Mr Bell.

MR BELL SC: So what went wrong?

MR THEODORE: I - particularly in this response, Mr Bell, it was rushed. It was poorly considered. And I think that just contributed to a bad result in terms of what was sent.

MR BELL SC: Was this a situation where the financial advantage to The Star was allowed to subsume all ethical considerations?

MR THEODORE: I don't believe so, Mr Bell. At this point in time, we're reducing the transaction size to a level that the financial benefit of this service would be very small and contribute an immaterial contribution financially. I think it reflects the fact that it was in place for a long period of time. And customers saw it as an important transaction service. And it was in place at a - in a variety of markets at the time. So I think financially, you know, with the change being made, would have - this would have very little benefit. It was just - it was poorly considered in terms of the action we took, and we should have ceased the service at this point in time.

MR BELL SC: I take it you do accept now that this communication was unethical?

MR THEODORE: With reflection, yes, Mr Bell.

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: What conversations, if any, did you have with Matt Bekier around this email at the time?

5 **MR THEODORE:** Ms Sharp, I don't specifically recall the conversations in detail. I recall, slightly before this email, sending a communication to Matt and others that we're getting more requests from CUP. But I don't recall at this time having any conversation with Mr Bekier around the content of this email.

10 **MS SHARP SC:** And what happened after this email was that a further round of misleading answers were provided to NAB queries; do you agree?

MR THEODORE: I don't recall seeing additional answers after this, Ms Sharp, but it may have been that we provided similar responses again after this.

15 **MS SHARP SC:** Well, surely you were consulted about further responses?

MR THEODORE: Not that I recall, no.

20 **MS SHARP SC:** Well, given your position as the relationship manager, it is most likely that you were consulted; do you agree?

MR THEODORE: I - I don't recall being consulted on responses after this.

25 **MS SHARP SC:** That wasn't my question. Do you agree it's most likely that you were, given that you were the relationship manager?

30 **MR THEODORE:** As the treasurer, Sarah was sort of the relationship manager day to day. So it's likely that Sarah would only consult me if she believed there was a requirement to. So it's not - not necessarily all communications I'm consulted on.

MS SHARP SC: Do you agree it's most likely you were consulted about further responses to NAB?

35 **MR THEODORE:** I don't recall being consulted. So it's not most likely, no.

40 **MS SHARP SC:** I will take you to STA.3002.0010.0115. Now, you're not on this email chain, but if I can show it to you. Ms Dudek is sending an email to Ms Arthur and copies Ms Scopel. It's dated 9 December 2019. And she states:

45 "Please see responses to the questions raised by CUP below: (1) the merchant operates integrated resorts in Australia, consisting of hotels, restaurants and other entertainment facilities; (2) the cardholder purchased hotel accommodation services with the transactions in question; (3) invoices for the relevant transactions are attached."

You would agree that this is a misleading response in relation to the question of what the transactions were for?

MR THEODORE: I believe we discussed the exact same response earlier, Ms Sharp. And I'd say giving - giving it to NAB who are aware, I don't think is misleading to NAB. But I accept it was not appropriate.

5

MS SHARP SC: The document, on its face, misleads, that is, does not correctly state, the true substance of the transactions, does it?

MR THEODORE: I accept it doesn't correctly state the true substance.

10

MS SHARP SC: And surely you were being kept well aware that NAB transaction inquiries continued?

MR THEODORE: I don't believe I was, Ms Sharp.

15

MS SHARP SC: And you took no steps to ensure that a truthful answer was provided to NAB's continuing inquiries, did you?

MR THEODORE: I - I didn't. But I wasn't aware that - on - on my recollection, I wasn't aware we were continuing to receive requests at this time.

20

MS SHARP SC: Well, in fact, UnionPay and NAB were closing in on their inquiries by this time, weren't they?

MR THEODORE: I'm not sure what that's in reference to, Ms Sharp.

25

MS SHARP SC: That's in relation to further inquiries by NAB on behalf of UnionPay International, Mr Theodore.

MR THEODORE: As I said, Ms Sharp, I wasn't aware of further inquiries at this time.

30

MS SHARP SC: Well, I'll take you to exhibit B at 2069. Do you see this is another response from Ms Dudek to Ms Arthur, copied to Ms Scopel, this time dated 16 December 2019?

35

MR THEODORE: Yes, I see that.

MS SHARP SC: And do you see this is a further misleading response in answer to NAB's queries?

40

MR THEODORE: I haven't read the whole response, but it appears to be similar to the previous one we looked at.

MS SHARP SC: And are you suggesting that Ms Dudek and Ms Scopel provided this response without consulting with you in any way?

45

MR THEODORE: Yes, Ms Sharp.

MS SHARP SC: Well, that's not right, is it?

5 **MR THEODORE:** I - I believe it's correct that I wasn't consulted. Given the nature of the response, I believe I should have been, yes.

MS SHARP SC: Well, I suggest you were consulted and that Ms Scopel kept you closely briefed.

10 **MR THEODORE:** No, that's not correct, Ms Sharp.

MS SHARP SC: And your answer now is an attempt to distance yourself from what was patently unethical behaviour; do you agree?

15 **MR THEODORE:** No, Ms Sharp.

MS SHARP SC: Can I take you to STA.3401.0003.8482, which is exhibit B, tab 2240. And here I'm showing you an email from Ms Scopel to you dated 3 March 2020?

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

MS SHARP SC: And what Ms Scopel is doing here is briefing you on the latest transaction inquiry from NAB; do you agree?

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

MS SHARP SC: And do you see at the top of that email chain is an email from you to Ms Martin dated 3 March 2020?

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

MS SHARP SC: And you attach some documents, including a warning letter to NAB?

35 **MR THEODORE:** I believe I forwarded the previous email, yes.

MS SHARP SC: So we may take it you read that warning letter at the time?

40 **MR THEODORE:** Yes.

MS SHARP SC: And what conversations did you have with Ms Martin about it?

45 **MR THEODORE:** I - I don't recall the detail of the conversations. But the best recollection I have is that I discussed that we had received the warning letter and our response would be to suggest to NAB that we cease using the service at this time.

MS SHARP SC: And is it right that you discussed this warning letter with Ms Scopel at the time?

5 **MR THEODORE:** I would have, yes. But I don't recall the details of that discussion either.

MS SHARP SC: And is it correct that Ms Scopel expressed concern to you that NAB had been misled?

10 **MR THEODORE:** Not - not that I recall, Ms Sharp, no.

MS SHARP SC: Can I take you to the warning letter that you say you read. It's STA.3105.0002.1408. Do you see the second paragraph says:

15 "As per your responses, the transactions were for 'accommodation services', and 'do not include any component for the purpose of gambling'."?

MR THEODORE: Yes, I see that.

20 **MS SHARP SC:** You could be in no doubt that UnionPay had been misled by this time, could you?

MR THEODORE: I don't believe at the time I thought they had been misled, Ms Sharp. But I could see from --

25 **MS SHARP SC:** I will put the question again. You could be in no doubt, reading that, that UnionPay had been misled by this time?

MR THEODORE: I did have doubt that they had been misled, Ms Sharp, because I believe the letter is saying that they didn't accept that position. So I don't believe that they had accepted that position.

MS SHARP SC: Well, Mr Theodore, it's clear that the position put to UnionPay International by this time was that the transactions did not include any component for the purpose of gambling; do you agree?

35

MR THEODORE: That's what appears to be the case from the letter, yes.

MS SHARP SC: And the only fair conclusion from reading this is that The Star had led them to that conclusion?

40

MR THEODORE: The Star or NAB, yes.

MS SHARP SC: And you took no steps at all to clarify with UnionPay that, yes, indeed, the CUP transactions had been for the purpose of gambling, did you?

45

MR THEODORE: No, I didn't.

MS SHARP SC: So you took no steps to clear up what was patently a misleading impression that UnionPay was labouring under?

MR THEODORE: No, I didn't, Ms Sharp.

5

MS SHARP SC: Can I take you to exhibit B, tab 2238, which is STA.3008.0009.0003. And do you see there's an email from you on 3 March 2020 to Mr Bekier?

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

MS SHARP SC: And do you see at item 2, you discuss CUP?

MR THEODORE: Yes.

15

MS SHARP SC: And you state:

"NAB have received a further request and demand for information from CUP on transactions. This one is an escalation on previous correspondence."

20

MR THEODORE: Yes, I see that.

MS SHARP SC: And you knew it was an escalation because you had kept abreast of the previous correspondence, hadn't you?

25

MR THEODORE: I was referring to the previous correspondence that we had previously talked about that I had seen, yes.

30 **MS SHARP SC:** And what did you discuss with Mr Bekier about the warning letter?

MR THEODORE: Again, Ms Sharp, I don't recall the detail of that discussion. The best recollection I have is that I discussed that we had received - well, that NAB had received a warning letter, which had been sent to us, and that the right course - the only course of action that was correct at that point in time was to inform NAB that we would cease using the terminals.

35

MS SHARP SC: And do you agree that in this period, November 2019 through to early 2020, you allowed The Star's responses to NAB's queries to avoid stating that the CUP funds were used to fund gambling at The Star and to imply that they were not used to fund gambling at The Star?

40

MR THEODORE: I - I agree that I allowed the response in November to exclude the fact that the CUP service was used to fund gambling at The Star. As I said earlier, I believed NAB were aware of how the service was being used at that point in time. I don't believe I saw other communications in the time period you referenced to - to NAB in between the 7 November response and this 3 March email.

45

5 **MS SHARP SC:** I'm just going to put this question to you once again directly, and can you please answer it this time. Is it right that in the period for which you were involved in preparing and authorising responses to queries from NAB, you allowed The Star's responses to these queries to avoid stating that the CUP funds were used to fund gambling at The Star and to imply that they were not used to fund gambling at The Star?

10 **MR THEODORE:** Yes, Ms Sharp, in relation to the 7 November email.

MS SHARP SC: Well, let me take you to paragraph 87(a) of your statement, Mr Theodore. The point I have just put to you is one that you state at paragraph 87(a) of your statement, yet you don't seem to agree with it?

15 **MR THEODORE:** Ms Sharp, I'm agreeing. I'm just not agreeing to the proposition on responses I never saw. So, yes, I agree - for the responses I saw and authorised, I am agreeing with the proposition.

20 **MS SHARP SC:** So when I put this to you a moment ago, you limited your concession to 7 November. Is it broader than that or not?

25 **MR THEODORE:** In the time period you referenced, I believe that's the only communication I saw and authorised in that time period. And so I accept and agree to the proposition for the correspondence that I saw and approved.

MS SHARP SC: Well, I suggest to you that in the period from October 2019 to early March 2020, you were well aware that The Star was providing misleading responses to NAB; do you agree?

30 **MR THEODORE:** No, Ms Sharp.

MS SHARP SC: And you authorised those misleading responses to be provided?

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

MS SHARP SC: And your intention in so authorising those responses was to deceive, firstly, NAB and, secondly, UnionPay as to the true purpose of the CUP transactions?

40 **MR THEODORE:** I don't - I don't agree with that, Ms Sharp.

MS SHARP SC: Now, your conduct in that regard was highly improper for a senior member of the executive of a casino operator, wasn't it?

45 **MR THEODORE:** I - I accept that allowing the communications which I approved to be sent was improper, yes.

MS SHARP SC: And it was unethical, as well as dishonest?

MR THEODORE: With reflection, as I stated earlier to Mr Bell, I accept it wasn't ethical conduct.

5 **MS SHARP SC:** And it was not a one-off instance of misconduct but, rather, a systemic attempt to mislead over a pattern of many months?

MR THEODORE: I don't agree with that, Ms Sharp.

10 **MS SHARP SC:** And your last answer is simply incorrect?

MR THEODORE: I don't agree.

15 **MS SHARP SC:** Now, it's correct, isn't it, that international financial transfer instructions were not lodged by The Star for any of the CUP swipes?

MR THEODORE: Yes.

20 **MS SHARP SC:** It's correct, isn't it, that after the initial AML risk assessment in 2013, there was never a further AML risk assessment on these CUP swipes?

25 **MR THEODORE:** I don't believe that's correct, Ms Sharp. My understanding was there was one done again in either 2015 or 2016 when the service was established in Queensland. But I wasn't responsible for the AML team, and I can't be certain of that.

MS SHARP SC: Did you tell Mr Hawkins about the requests that NAB was making in relation to the nature of the CUP inquiries?

30 **MR THEODORE:** I believe the email I referenced to Mr Bekier earlier was also sent to Mr Hawkins, that referenced requests or - or - I can't remember the exact words used, but that NAB were making inquiries.

35 **MS SHARP SC:** Well, that was an email of 3 March 2020. What about before that?

40 **MR THEODORE:** Sorry. The - the email I referred was slightly before the 7 November email. So there was an email in early November where I believe I did inform the - Mr Hawkins about the requests coming from NAB.

MS SHARP SC: And prior to that, had you informed Mr Hawkins about the requests coming from NAB?

45 **MR THEODORE:** I don't believe I had, Ms Sharp. But I also don't believe I was across the requests prior to that time.

MS SHARP SC: Can I take you to STA.3411.0015.5129. I don't think this is the right email. It's - yes. Sorry. It is the right email. Could I take you, please, to the

email from Mr Whytcross to yourself, copying Sarah Scopel, dated 7 November 2019?

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

MS SHARP SC: Is this the email you were referring to?

10 **MR THEODORE:** No. There was an email, I think a day or two before this, where I referred to The Star having received some queries from CUP and NAB. And it was an email to Matt Bekier, and Greg Hawkins was also on that email.

MS SHARP SC: And you will see this is another one into which Mr Hawkins is copied?

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

MS SHARP SC: And you see there's a reference - Mr Whytcross makes a reference to "off the back of our discussion yesterday"?

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

MS SHARP SC: And that's obviously a reference to a discussion with you?

25 **MR THEODORE:** Yes.

MS SHARP SC: And what this email is directed to is finding examples of high-value expenses that could be sent to NAB?

30 **MR THEODORE:** Yes.

MS SHARP SC: And what discussion, if any, did you have with Mr Hawkins about these examples of high-value expenses proposed to be sent to NAB?

35 **MR THEODORE:** I don't recall any specifically now, Ms Sharp.

MS SHARP SC: Can I take you to paragraph 95 of your statement. You say that you and Mr Bekier met with representatives of NAB on 22 June 2021?

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

MS SHARP SC: And you say there was a discussion of the CUP service?

MR THEODORE: Yes, Ms Sharp.

45 **MS SHARP SC:** Now, you don't recount anything in that paragraph about you or Mr Bekier telling the NAB representatives that the CUP cards had been used to purchase gaming chips, do you?

MR THEODORE: Ms Sharp, I make reference to the process being similar to that at Crown. That's where I would say I am making reference to the fact that they were used to purchase gaming chips.

5 **MS SHARP SC:** Now, could I take you - I withdraw this. You're aware, aren't you, that Anthony Seyfort from HWL Ebsworth prepared a paper on China UnionPay for presentation to the board?

MR THEODORE: Yes, I am.

10

MS SHARP SC: Were you involved in the preparation of that paper in any way?

MR THEODORE: Not the preparation of the paper, no.

15 **MS SHARP SC:** What was your involvement, if any, in relation to that paper?

MR THEODORE: I was briefly interviewed by Mr Seyfort as part of the preparation of his paper.

20 **MS SHARP SC:** Did you review a draft of that paper before it was presented to the board?

MR THEODORE: Not that I recall, no.

25 **MS SHARP SC:** You're aware that it was presented to the board?

MR THEODORE: Yes, I am.

30 **MS SHARP SC:** Are you aware as to the purpose for which it was presented to the board?

MR THEODORE: Yes, I am.

35 **MS SHARP SC:** And what was that purpose?

MR THEODORE: Management had committed to have an independent review done of the use of the service on - off the back of the Crown Royal Commission.

40 **MR BELL SC:** Ms Sharp, is that a convenient time for the morning adjournment?

MS SHARP SC: Yes, Mr Bell.

MR BELL SC: Yes. I will now adjourn for 15 minutes.

45 **<THE HEARING ADJOURNED AT 11:30 AM**

<THE HEARING RESUMED AT 11:49 AM

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** Operator, could we go, please, to exhibit B1806, which is STA.3006.0003.0358. Now, I'm showing you an email that you sent to Mr Bekier, and copied to Mr Hawkins and Ms Martin, on 5 November 2019. Can I have it enlarged please, operator. Do you see you state there:

10 "We have been getting more requests for details from CUP on the transactions going through our NAB terminals over recent weeks."?

MR THEODORE: Yes, I do.

MS SHARP SC: So obviously you were well aware of that matter at the time?

15 **MR THEODORE:** This was the email I referenced --

MS SHARP SC: Obviously you were well aware of that matter at the time?

20 **MR THEODORE:** I was aware of the matter, yes.

MS SHARP SC: And you were well aware that the requests were coming from UnionPay, weren't you?

25 **MR THEODORE:** Yes.

MS SHARP SC: And you were well aware that NAB was passing your responses through to UnionPay, weren't you?

30 **MR THEODORE:** In some form, Ms Sharp. I didn't think they were --

MS SHARP SC: Well, what you say is:

"We go back to NAB and they pass it through."

35 That was your understanding, wasn't it?

MR THEODORE: They're the words, but my understanding was in some form. I wasn't sure that they - whether they forwarded them or prepared a response.

40 **MS SHARP SC:** Well, you understood "we go back to NAB and they pass it through"; correct?

MR THEODORE: In some form, yes, Ms Sharp.

45 **MS SHARP SC:** You were also aware that the previous day, that is, 4 November 2019, UnionPay made a direct inquiry with The Star about the purpose of the CUP transactions; correct?

MR THEODORE: Yes, Ms Sharp.

MS SHARP SC: And what you explained to Mr Bekier is:

5 "When we last got focused questions, we reduced our limit and it seemed to
 assist."

Because it's right, isn't it, that that's the way you fobbed off the inquiries on the
last occasion; correct?

10

MR THEODORE: I wouldn't describe it as fobbing off, no, Ms Sharp.

MS SHARP SC: Well, that's what you did, isn't it?

15 **MR THEODORE:** We did, I believe back in 2017, reduce the limit from a much
 higher transaction value at the time to 100,000. And that was on the basis that we
 had an understanding, which I described on Friday, that there was a tacit
 acceptance from UnionPay. But there was also a view that that tacit acceptance
 was there provided that the service was used within permitted limits. So that was
20 one of the considerations we had at the time to --

MS SHARP SC: Now, Mr Theodore, you've referred repeatedly about your
tacit - the so-called tacit acceptance by NAB and CUP that the CUP cards could be
used for gambling?

25

MR THEODORE: In relation to CUP, yes, that was my understanding.

MS SHARP SC: And your evidence of a tacit acceptance is a load of rubbish,
isn't it?

30

MR THEODORE: No, Ms Sharp. It's based on, which I believe I discussed on
Friday, what I had observed in various international markets, that it was well
known that the cards were used in this way.

35 **MS SHARP SC:** And what you're trying to do in this email to Mr Bekier on 5
 November 2019 is suggest a way that UnionPay could be fobbed off once more by
 again proposing a reduction of the transaction limit?

MR THEODORE: No, I don't agree with that, Ms Sharp.

40

MS SHARP SC: And you certainly didn't suggest that you tell the truth to
UnionPay or NAB about the substance of the transactions, did you?

MR THEODORE: I'm not suggesting we don't tell the truth either.

45

MS SHARP SC: Well, you didn't suggest that the truth be told, did you?

MR THEODORE: As I said earlier, I believed when we were drafting the responses that they were factually accurate.

5 **MS SHARP SC:** Well, that's clearly not correct, is it, Mr Theodore?

MR THEODORE: That was the intent and - that - that I had at the time.

10 **MS SHARP SC:** And your continued maintenance of the proposition that the answers that you were a party to and authorised in November 2019 onwards shows a complete lack of judgment on your part that continues to this day, doesn't it?

15 **MR THEODORE:** I don't believe so, Ms Sharp. I've expressed that I, with reflection, accept that the responses were inappropriate and incorrect. But at the time, I did believe that we were providing factually accurate responses and that was the intent.

MR BELL SC: And your role in approving those responses was not appropriate for a close associate of the casino licensee, was it?

20 **MR THEODORE:** With reflection, Mr Bell, I accept my conduct was not appropriate.

MS SHARP SC: Now, in this email, you say at the end:

25 "I will work with Greg on best managing this."

Is that because you were keeping in close contact with Mr Hawkins about these inquiries from NAB?

30 **MR THEODORE:** This was the email - when you asked me the question earlier, Ms Sharp, this was the email I was referring to that I had sent to Greg. And I believe there was some discussion with Greg around the \$50,000 limit being implemented post this. But I don't recall detailed discussions at this point in time.

35 **MS SHARP SC:** Now, I asked you before the mid-morning adjournment about the review of CUP conducted to present to the board, and you referred to it as an independent review. What do you mean by "independent"?

40 **MR THEODORE:** Not conducted by Star management personnel.

MS SHARP SC: Can I take you to the CUP paper. You were present at the board meeting where it was presented, weren't you?

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

MS SHARP SC: I will take you, please, to exhibit B at tab 3103. And if I can take you - you recognise this as the China UnionPay review paper - I withdraw that.

You recognise this as the China UnionPay review paper prepared by Anthony Seyfort?

MR THEODORE: Yes.

5

MS SHARP SC: Can I take you to the last paragraph on that first page, which refers to the merchant agreement with NAB.

MR THEODORE: Could I have it enlarged, please?

10

MS SHARP SC: Operator, could we enlarge the last page - I beg your pardon, the last paragraph of the first page.

MR THEODORE: Yes. That's fine.

15

MS SHARP SC: And do you see it says in the middle of that paragraph:

"However, executives of The Star believed that NAB was acquiescent to the types of use that were planned and in fact occurred."

20

MR THEODORE: Yes, I see that.

MS SHARP SC: And that was the position you put to Mr Seyfort, was it?

25 **MR THEODORE:** I believe I put the position forward that I believed NAB were aware of how the service was being - not those words directly, but that - that position, yes.

30 **MS SHARP SC:** And did you tell Mr Seyfort that, in fact, you hadn't taken any steps in 2019 to check whether anybody from NAB, in fact, knew the true purpose of the transactions?

35 **MR THEODORE:** I believe he'd been provided all the communications, Ms Sharp.

35

MS SHARP SC: I'm just asking you for what you did. Did you tell Mr Seyfort that, in fact, you hadn't taken any steps in 2019 to check whether anybody from NAB knew the true purposes of the transactions?

40 **MR THEODORE:** (Indistinct) Ms Sharp.

MS SHARP SC: What was your answer?

MR THEODORE: Sorry. I said, "No, Ms Sharp." I didn't.

45

MS SHARP SC: Can I take you, please, to page 5 of this paper? Do you see there's a heading "Who Was Misled?"

MR THEODORE: Yes, I see that.

MS SHARP SC: And do you see it says:

5 "UPI -"

That's UnionPay International:

10 "And NAB might have been misled, but whether they were depends on what each actually knew or perceived about the use of CUP cards."

MR THEODORE: Yes, I see that.

15 **MS SHARP SC:** Is that what you told Mr Seyfort for the purpose of the review?

MR THEODORE: No, I believe that was his position.

MS SHARP SC: And do you see Mr Seyfort says at the bottom of that paragraph:

20 "In this context, it is possible that UPI and NAB knew but did not admit to knowing."

MR THEODORE: Could I have that enlarged, please? Yes, I see that.

25 **MS SHARP SC:** Isn't that an extraordinary proposition to put to the board of a publicly listed company?

MR THEODORE: I believe that was Mr Seyfort's view at that time.

30 **MS SHARP SC:** Is that a position you put to him?

MR THEODORE: I didn't directly put that to him, no, Ms Sharp.

35 **MS SHARP SC:** Do you agree that it is an extraordinary proposition to put to the board?

MR THEODORE: I don't agree it's extraordinary, no.

40 **MS SHARP SC:** Because what this is suggesting, isn't it, that UPI and NAB were involved in preparing sham requests for information about the true substance of the CUP transactions?

MR THEODORE: I'm not sure it suggests that.

45 **MS SHARP SC:** Well, how else can this be read?

MR THEODORE: As I think we discussed on Friday, we - we believed at the time that NAB were aware of how the service was being used, and based on there

being broad use of the service in other markets, that it was likely UPI also knew. That was my view. Andrew - Mr Seyfort had his own view here that he was putting forward. This was not my view.

5 **MS SHARP SC:** Of course, you accept that if, in fact, NAB did not know what the purpose of the transactions was, then The Star's representations to NAB were wholly inappropriate?

MR THEODORE: Yes, I accept that.

10

MS SHARP SC: And completely unethical?

MR THEODORE: Yes, I accept that.

15

MS SHARP SC: And deceptive?

MR THEODORE: If they didn't know, yes, that's correct.

MS SHARP SC: And the same position goes with respect to UPI?

20

MR THEODORE: Yes, I accept that.

MR BELL SC: And the People's Bank of China, Mr Theodore; would you agree?

25

MR THEODORE: Potentially, Mr Bell. I'm not sure what communications went to People's Bank of China.

MS SHARP SC: Now, could I take you to the minutes of this board meeting, which is exhibit B, tab 3349, STA.3002.0019.0034. Do you see there's minutes of the meeting of 22 September 2021?

30

MR THEODORE: Yes, I see that.

MS SHARP SC: And you will agree the minutes record you as being in attendance?

35

MR THEODORE: Yes.

MS SHARP SC: And could I take you to pinpoint 0038. And do you see that the document of Mr Seyfort is referred to at the top of the page?

40

MR THEODORE: Yes, I see that.

MS SHARP SC: Are you able to indicate why legal professional privilege is claimed in relation to this independent review?

45

MR THEODORE: No, Ms Sharp, I'm not.

MS SHARP SC: Now, it's correct, isn't it, that once this paper was presented to the board, the board directed that management provide a response to the report?

MR THEODORE: Yes.

5

MS SHARP SC: And did you assist in preparing that response?

MR THEODORE: In a minor way, yes, Ms Sharp.

10 **MS SHARP SC:** And how was that minor way?

MR THEODORE: I believe I provided some of the financial information that went into Mr Bekier's paper.

15 **MS SHARP SC:** And the paper of Mr Bekier, did you review it before it was presented to the board?

MR THEODORE: It was sent to me at the same time it was sent to the board, as a final version.

20

MS SHARP SC: So you didn't review a draft of the report?

MR THEODORE: I - I received a draft with a request that I provide the input on the financial information to go into the draft.

25

MS SHARP SC: So you did review a draft of the report?

MR THEODORE: For that purpose, yes.

30 **MS SHARP SC:** But you reviewed a draft of the report before it was presented to the board; correct?

MR THEODORE: I - I received - my answer, Ms Sharp, is I received a draft with a request to provide the financial information in a particular part of the draft paper.

35

MS SHARP SC: And my question to you, which I would like you to answer, is whether you reviewed that draft at the time.

MR THEODORE: I believe I read it, yes.

40

MS SHARP SC: So you reviewed it?

MR THEODORE: I read it and was asked to provide certain information for one part of it.

45

MS SHARP SC: And it was perfectly open to you to make suggestions to Mr Bekier in relation to that draft, wasn't it?

MR THEODORE: Yes, I accept that.

MS SHARP SC: And you were present at the board when Mr Bekier's report was presented?

5

MR THEODORE: Yes, I was.

MS SHARP SC: And it was presented as a management response?

10 **MR THEODORE:** Yes, it was.

MS SHARP SC: And you were part of management?

MR THEODORE: Yes, I was, Ms Sharp.

15

MS SHARP SC: So it was your response, in part; do you agree?

MR THEODORE: In part, yes, I agree.

20 **MS SHARP SC:** Well, what steps did you take to review this response that you were part of?

MR THEODORE: The draft paper - as - as I said earlier, the draft paper was sent to me with a particular purpose, to input some financial information, which I did, and the paper was sent out. I didn't provide further comments at that point in time.

25

MS SHARP SC: Well, did you agree with what you read in the draft?

MR THEODORE: I did at the time, yes.

30

MS SHARP SC: Could I take you to the paper presented to the board dated 1 October 2021. It's exhibit B at 3123. It's STA.5002.0007.4288. Now, can I take you to the heading Critical Failings at pinpoint 4289. And if I could show you the next page as well. It's right that the management response, to which you were party, identified only three critical failings?

35

MR THEODORE: Can you repeat the question, please, Ms Sharp?

MS SHARP SC: It's right, isn't it, that the management response, of which you were a part, identified only three critical failings?

40

MR THEODORE: Yes, I accept that.

MS SHARP SC: And, in fact, that very much understated the number of critical failings on behalf of management, didn't it?

45

MR THEODORE: I believe at the time these were the three that were highlighted from the review that we accepted and believed were critical failings.

MS SHARP SC: Well, this paper very seriously understated the shortcomings of management insofar as you were aware, didn't it?

5 **MR THEODORE:** Not at the time, Ms Sharp, no.

MS SHARP SC: Because it doesn't indicate anywhere that management misled NAB or UnionPay, does it?

10 **MR THEODORE:** No, it doesn't, Ms Sharp. But I also, as I provided in my evidence earlier, don't believe that we did.

MS SHARP SC: Well, Mr Theodore, you've accepted that the response was misleading, haven't you?

15

MR THEODORE: I don't believe I have, Ms Sharp. I've accepted that it was inappropriate and, having reflected on it, that it wasn't an ethical response. But as I said earlier, I believed at the time that NAB were aware of how the service was used. So I didn't believe it was misleading.

20

MS SHARP SC: And there's no mention here, is there, that these arrangements exposed The Star to a real risk that money swiped through the CUP process could be clawed back pursuant to indemnities with NAB?

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

MS SHARP SC: And there's no mention anywhere here about the complete lack of transparency with the regulator about the initial implementation of the CUP card, is there?

30

MR THEODORE: No, there isn't. But I'm not sure that that was management's view either.

MS SHARP SC: And there's no mention anywhere here that the adoption of the so-called temporary CCF process could well have put The Star into a breach of the Casino Control Act?

35

MR THEODORE: No. But equally, I don't believe that was management's view either.

40

MS SHARP SC: Because the reality is that even by 1 October 2021, management was not taking full responsibility for all that was wrong with the CUP process, was it?

45 **MR THEODORE:** I don't believe that's correct, Ms Sharp, no.

MR BELL SC: May I ask you this, Mr Theodore: how long did the board meeting consider and discuss this paper by management, in your recollection?

MR THEODORE: The 1 October board meeting, Mr Bell?

5 **MR BELL SC:** The board meeting that considered this paper that you've been taken to.

MR THEODORE: My recollection is this was the only agenda item for that meeting, and it had been set up specifically to discuss this paper. To the best of my recollection, I'm going to say it would have been 45 minutes or an hour, Mr Bell, but I - I could be wrong on that.

MR BELL SC: And the meeting actually took place on 1 October, did it?

15 **MR THEODORE:** Yes, it did.

MR BELL SC: And were you asked any questions by any members of the board about this paper or the CUP process?

20 **MR THEODORE:** I - I would have been. I can't recall specific questions right at this moment, though.

MR BELL SC: Can you recall who asked you questions?

25 **MR THEODORE:** I - I can't right now, Mr Bell, no.

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

30 **MS SHARP SC:** Is it correct that the board directed you to contact NAB following this meeting?

MR THEODORE: I wouldn't categorise it in that way, Ms Sharp. I believe one of our management action items that had been proposed was a discussion with NAB.

35 **MS SHARP SC:** And what was the purpose of that discussion?

MR THEODORE: It was framed as a relationship discussion to ensure that NAB understood that we had undertaken this review and what the conclusions were.

40 **MS SHARP SC:** Now, you say at paragraph 96 of your statement that on 7 October 2021, you called Tom Mazzaferro to inform him that The Star had been notified that it would be the subject of a story on the 60 Minutes news program and that the CUP services would be one of the topics covered?

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

MS SHARP SC: Can I take you, please, to - pardon me - STA.3009.0007.0606. Are these your talking points for that discussion?

MR THEODORE: Yes, Ms Sharp.

5 **MS SHARP SC:** And this is a document prepared by you, is it?

MR THEODORE: In advance of the discussion, yes.

MS SHARP SC: Is this your handwriting?

10 **MR THEODORE:** Yes, it is, Ms Sharp.

MS SHARP SC: And who participated in this conversation?

15 **MR THEODORE:** It was a call I made to Mr Mazzaferro.

MS SHARP SC: Were you two the only people on that call?

MR THEODORE: Yes, Ms Sharp.

20 **MS SHARP SC:** Is this your only note of that call?

MR THEODORE: Yes, it is, Ms Sharp.

25 **MS SHARP SC:** Can I take you to the note of that call prepared by Mr Mazzaferro, which is NAB.009.001.0002. I will direct your attention, please, to the email halfway down. You will see it's dated 7 October 2021 from Mr Mazzaferro?

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

MS SHARP SC: And I don't suggest that you're a party to this, but you will see that he recounts that:

35 "I just received a call from Harry Theodore."

MR THEODORE: Yes, I see that.

40 **MS SHARP SC:** And is it correct that you told him that the use of CUP merchant terminals in the hotel was to provide funds to hotel guests who then used those funds for gambling?

MR THEODORE: I don't recall making that statement specifically on this call.

45 **MS SHARP SC:** Well, is that what you said?

MR THEODORE: I don't believe I did, based on my talking notes.

MS SHARP SC: And did you say to him:

"The terminals were removed in 2020 after questioning from CUP via NAB revealed that allowing funds to be drawn through use of the terminals for gambling purposes was in breach of the scheme rules."

5

MR THEODORE: No, I don't believe I made that point either.

MS SHARP SC: So, what, are you suggesting that Mr Mazzaferro made this up in the email of the same day to all of his colleagues?

10

MR THEODORE: No, I'm not. But I - I can't say why Mr Mazzaferro put that. As I say in my statement, it's not the first time I had had a discussion with Mr Mazzaferro about the CUP process because we had had a discussion in June. So it may have been he was providing context based on the previous discussion as well.

15

MS SHARP SC: And it's right that what you told Mr Mazzaferro in your 7 October conversation was that:

20

"The point of concern for The Star, i.e. that they breached the scheme rules and in hindsight this practice was not the right thing to do."

MR THEODORE: Yes, I accept that.

25

MS SHARP SC: And it's right that you told Mr Mazzaferro that:

"The Star had sought legal advice in 2014 before allowing the funds to be drawn this way and while the practice was not permitted under the Casino Control Act, Star had engaged the casino regulator, added additional controls and received approval to use the terminals this way from the regulator."

30

MR THEODORE: I believe I would have used some slightly different words. Like, I - I think I would have used the ICMs were changed to - to allow it to be used.

35

MS SHARP SC: The substance of what you told Mr Mazzaferro was that the regulator had approved the terminals being used in that way, wasn't it?

MR THEODORE: Yes, it was, Ms Sharp.

40

MS SHARP SC: And you misled Mr Mazzaferro in suggesting that the regulator had approved the NAB terminal being used in that way, didn't you?

MR THEODORE: I don't believe I did, Ms Sharp. My understanding was that we had sought changes to the ICMs that were approved by the regulator.

45

MS SHARP SC: And it's right, isn't it, that you said nothing at all in your conversation to Mr Mazzaferro about believing that NAB or UnionPay knew the true purpose to which the CUP transactions were put?

5 **MR THEODORE:** I didn't, Ms Sharp. But my understanding was that that was a given in this conversation.

MS SHARP SC: Now, it's correct, isn't it, that you had a conversation with Ms Arthur on 11 October 2021, isn't it?

10

MR THEODORE: Not that I recall, Ms Sharp.

MS SHARP SC: Well, I'll show you a document. If I could call up NAB.010.003.5934. I will come back to that. Can I take you now to paragraph 97 of your statement? You say that you and others from The Star, including Mr Bekier and Ms Martin, had a telephone call with representatives of NAB?

15

MR THEODORE: Yes, Ms Sharp.

20 **MS SHARP SC:** Did you keep any notes at all of the contents of that telephone conversation?

MR THEODORE: No, I didn't, Ms Sharp.

25 **MS SHARP SC:** Is it correct that you did not discuss the CUP media allegations with NAB during this call?

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

30 **MS SHARP SC:** Even though at this time you were aware that serious allegations had been made that the CUP card had been used in breach of China UnionPay rules?

MR THEODORE: Yes, Ms Sharp.

35

MS SHARP SC: Can I take you now to STA.3009.0007.0480. This is an email that Danny Huang from The Star received from Ms Arthur dated 23 December 2021?

40 **MR THEODORE:** A letter, yes, Ms Sharp.

MS SHARP SC: And this was brought to your attention at the time?

MR THEODORE: Shortly after, yes.

45

MS SHARP SC: And you agree that it refers to the recent media allegations relating to the China UnionPay cards used at The Star?

MR THEODORE: Yes, I see that.

MS SHARP SC: And do you see in the very first paragraph, Ms Arthur says:

5 "In the past, we have queried with you certain transactions that occurred through The Star's CUP merchant terminals. In response to those queries, you have informed us that the relevant transactions were for purposes other than gambling, such as hotel accommodation, transport and food services."

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

MS SHARP SC: Now, it's right, isn't it, that Ms Arthur is quite clearly indicating here that The Star conveyed to NAB that the transactions were for purposes other than gambling?

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

MS SHARP SC: And you understood that's what she was saying at the time?

20 **MR THEODORE:** On 23 December? Yes.

MS SHARP SC: Yes.

25 **MR THEODORE:** Yes.

MS SHARP SC: You understood, didn't you, that she was saying that NAB had been misled by representations of The Star which you had authorised? Did you understand that or not?

30 **MR THEODORE:** I understood she was saying that in response to queries that she had been informed of those purposes, yes.

35 **MS SHARP SC:** I can read the letter too. I'm asking you about your understanding. You understood she was asserting that NAB had been misled, don't you?

MR THEODORE: At this point in time, she's saying that she had received those responses, yes.

40 **MR BELL SC:** Could you please answer counsel assisting's question, Mr Theodore?

45 **MR THEODORE:** I don't think she's saying misleading, but she is saying that that's the response she received.

MR BELL SC: I think counsel assisting is asking you about your understanding when you read this.

MR THEODORE: I'm not - I'm not sure I understood she's saying, "We're being misled," but she's saying there's inconsistencies with some of the things further down.

5 **MS SHARP SC:** Mr Theodore, you understood at the time of reading this letter that NAB was asserting that The Star had misled it; correct or incorrect?

MR THEODORE: Correct.

10 **MS SHARP SC:** Did you draw this letter to the attention of the board at that time you received it?

MR THEODORE: A copy was provided to the board, yes.

15 **MS SHARP SC:** And when was that?

MR THEODORE: Shortly after we received it. I can't - I can't recall the exact date, Ms Sharp.

20 **MS SHARP SC:** And you accept, don't you, that it is a very serious allegation for the bank to suggest that it had been misled by The Star?

MR THEODORE: Yes, I accept that.

25 **MS SHARP SC:** And do you see that the letter in the second paragraph records the conversation that NAB says occurred between you and Mr Mazzaferro on 7 October 2021?

MR THEODORE: Yes, I see that.

30

MS SHARP SC: And do you see it records that NAB had been told at that time that the regulator had approved using the terminals in that way?

MR THEODORE: Yes, I see that.

35

MS SHARP SC: And that was correct, wasn't it? That's what you did say?

MR THEODORE: Yes, that's correct.

40 **MR BELL SC:** And when you said that, were you referring to the Queensland regulator, the New South Wales regulator or both?

MR THEODORE: Both, Mr Bell. So my understanding was that we had sought changes to the ICMs in New South Wales that permitted the use of the service in line with those amended ICMs and that there had been a different process in
45 Queensland to approve the service.

MR BELL SC: And in saying that to the NAB, I take it you were relying on what others at The Star had told you; is that correct?

MR THEODORE: That's correct, Mr Bell, yes.

5

MS SHARP SC: And what you were seeking to do in telling NAB this was to provide some comfort that the regulator knew that the CUP transactions were being used to fund gambling?

10 **MR THEODORE:** Ms Sharp, you took me to the notes earlier. What I had sought to do on the call was provide the outcomes or the conclusions of the HWL review that we talked about earlier and that there were three sort of key conclusions, and that was one of them.

15 **MS SHARP SC:** Now, at the bottom of this first page, Ms Arthur says:

"So that NAB can better understand the circumstances surrounding this apparent disconnect, we would be grateful if you provide us with the following information."

20

Dot point:

"Explain what Star now knows about how CUP terminals may have been used for gambling related purposes."

25

So a request for further information was made from NAB at this time, wasn't it?

MR THEODORE: Yes.

30 **MS SHARP SC:** And it's the case, isn't it, that by March of this year, The Star had still not responded to this letter?

MR THEODORE: Yes, that's correct.

35 **MS SHARP SC:** Because this letter indicates that NAB have been seriously misled by The Star; do you agree?

MR THEODORE: That's not why we hadn't responded. I don't agree with that.

40 **MS SHARP SC:** Well, why hadn't you responded?

MR THEODORE: We hadn't responded, Ms Sharp, because we were responding to requests for information from this inquiry, and we sought - I sought legal advice around responding to the letter. And because a number of witnesses were involved in providing evidence, we just didn't think - we did not believe it was appropriate

45 in providing evidence, we just didn't think - we did not believe it was appropriate to be able to respond fulsomely at that point in time.

MS SHARP SC: Why --

MR BELL SC: Has The Star now provided a substantive response to this letter?

5 **MR THEODORE:** We - we are yet to do that, Mr Bell. We've provided a response, but not a substantive response, given the continuing nature of that challenge.

10 **MS SHARP SC:** Why on earth wasn't it appropriate to give the NAB a substantive response to its inquiry seeking an assurance that it had not been misled?

15 **MR THEODORE:** We obviously have a number of witnesses that are not permitted to talk to each other or share information. So we determined that it was not appropriate and difficult to be able to give a fulsome response at that point in time.

MS SHARP SC: Well, you didn't need to talk to anyone in order to provide a response, did you?

20 **MR THEODORE:** I did, Ms Sharp, because I - I don't, and have not had, the full picture of all the interactions.

25 **MS SHARP SC:** You are aware that NAB has written following up this request and asking for a substantive response?

MR THEODORE: I'm aware we got a subsequent response, which we replied to, yes.

30 **MS SHARP SC:** And your response was to give no response; is that right?

MR THEODORE: Not a substantive response, but to say we weren't able to respond in a substantive way at that point in time.

35 **MS SHARP SC:** Is NAB still The Star's banker?

MR THEODORE: Yes, Ms Sharp.

40 **MS SHARP SC:** Has there been any change in the relationship in the last few weeks?

MR THEODORE: Could you be a bit more specific, Ms Sharp, in terms of what you mean by "change in the relationship"?

45 **MS SHARP SC:** Well, has there been any indication from NAB that it's considering ceasing the relationship with The Star?

MR THEODORE: Not that I'm aware of.

MS SHARP SC: Have you - I withdraw that. Are you aware as to whether The Star has engaged in any communications with UnionPay in relation to the use of CUP cards?

5 **MR THEODORE:** Not that I'm aware of.

MS SHARP SC: So it's correct that no steps have been taken by The Star to clarify with UnionPay that, in fact, the CUP cards had been used to allow patrons to purchase gaming chips?

10

MR THEODORE: Not that I'm aware of, Ms Sharp.

MS SHARP SC: So, Mr Theodore, it's right, isn't it, that from the outset of your knowledge of CUP transactions at The Star, you knew that the CUP cards were a method of moving large amounts of money out of China despite tight capital controls in that country?

15

MR THEODORE: No, Ms Sharp. I was aware that the purpose was to permit patrons to pay for services at The Star, including gambling services.

20

MS SHARP SC: In answer to questions on Friday, you said that the China UnionPay card process was "sharp practice". What do you mean by "sharp practice"?

MR THEODORE: My reason for responding to Mr Bell's question in the affirmative on that was I acknowledge that we took an aggressive interpretation of the scheme rules, and that aggressive interpretation relied on the technicality of that two-stage process, which I describe as sharp commercial practice.

25

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

MR BELL SC: Yes.

MS SHARP SC: I'll move to a different topic now, Mr Theodore. I would like to ask you some questions now about patron bank accounts, and what I mean by that are accounts into which patrons can deposit funds either for the purpose of advancing front money or to pay cheque cashing facilities. Do you understand?

35

MR THEODORE: Yes, Ms Sharp.

40

MS SHARP SC: It's right, isn't it, that at all times, The Star has allowed third parties to deposit funds on behalf of patrons for those purposes?

MR THEODORE: I'm not sure if we have at all times. But I - I understand that The Star has, at times, accepted payments from remitters or - or, in some cases, other third parties.

45

MS SHARP SC: And do you see any problems from an anti-money laundering perspective of permitting deposits to be made by third parties?

5 **MR THEODORE:** I see that it comes with a higher risk profile, particularly around the source of funds.

MS SHARP SC: You're aware, aren't you, that in late 2017, the Bank of China in Macau closed bank accounts of The Star?

10 **MR THEODORE:** Yes, I am, Ms Sharp.

MS SHARP SC: And those bank accounts had previously been used by patrons to make large cash deposits?

15 **MR THEODORE:** I believe that's right in some cases, yes.

MS SHARP SC: And you understood, didn't you, that in response to the closure of those accounts, an arrangement was negotiated with Kuan Koi?

20 **MR THEODORE:** I - I had a very high level understanding of that at the time.

MS SHARP SC: And what was that understanding?

25 **MR THEODORE:** I was in a role that had no responsibility for credit and collections, but I received an understanding that we had that arrangement because I was a member of a working group for a project on EEIS, and there was a sort of - there was a summary of the Kuan Koi arrangement in one of the working group documents or meetings. So that was the full extent of my understanding of that arrangement.

30 **MS SHARP SC:** And what was your understanding of that arrangement?

35 **MR THEODORE:** That Mr Kuan Koi was acting effectively as a collection agent or something like that for The Star and would collect funds from patrons who owed The Star money, and there was a formal arrangement in place for him to do that.

MS SHARP SC: And how did you understand he collected those funds?

40 **MR THEODORE:** I didn't have an understanding at the time, Ms Sharp.

MS SHARP SC: Why not?

45 **MR THEODORE:** I had no responsibility for that part of the business at the time.

MS SHARP SC: But wasn't it a key concern to the business at that time that payment channels be opened up to facilitate payments from patrons in Macau through to The Star?

MR THEODORE: Yes, I understood that.

5 **MS SHARP SC:** Well, why didn't you make it your business to obtain a thorough understanding of that payment channel?

MR THEODORE: Because I had no responsibility for that part of the business.

10 **MS SHARP SC:** Now, it's correct, isn't it, that you are a director of EEI Services (Hong Kong) Limited?

MR THEODORE: Yes, I am.

15 **MS SHARP SC:** And you've been a director of that entity since 28 October 2019?

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

MS SHARP SC: The other director of that company is Matt Bekier?

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

MS SHARP SC: And you were involved in a steering committee in 2018 in relation to EEIS?

25 **MR THEODORE:** Steering committee and working group? Yes, Ms Sharp.

MS SHARP SC: You were involved in both a steering committee and a working group, were you?

30 **MR THEODORE:** I think I had a role on both, from - from my recollection.

MS SHARP SC: And one of the objectives of EEIS was to establish it as a money lender?

35 **MR THEODORE:** Yes.

40 **MS SHARP SC:** Now, could I take you to a document, please, which is exhibit C30 at STA.3402.0001.1078. Pardon me for a minute, Mr Bell. Could I take you, please - what I'm showing you now is the EEIS kick-off meeting of 24 January 2018?

MR THEODORE: Yes, Ms Sharp.

45 **MS SHARP SC:** And may we take it you've seen this document before?

MR THEODORE: I would have seen it at the time, yes.

MS SHARP SC: And that's because you were a member of the steering committee and the working group?

MR THEODORE: That's right, yes.

5

MS SHARP SC: Could I take you, please, to pinpoint 1080. And do you see the third dot point says:

10 "The current landscape of international marketing business remains fluid with management presently facing the following key issues (which pose both financial and operational risk to The Star moving forward)."

Dot point:

15 "Macau bank accounts (major issue)."

MR THEODORE: Yes, I see that.

20 **MS SHARP SC:** And you understood at the time that the closure of the Bank of China accounts in Macau was a major issue, didn't you?

MR THEODORE: For this part of the business, yes.

25 **MS SHARP SC:** Yes. And why was that a major issue, Mr Theodore?

MR THEODORE: I understood at the time the issue was patrons had funds available in Macau, and they wanted to transact in Macau to be able to clear CCFs or deposit funds for front money to play.

30 **MS SHARP SC:** And why was it a major issue that these bank accounts were closed?

35 **MR THEODORE:** Because without accounts in Macau, then those patrons may not have been able to use those funds to transact with The Star.

MS SHARP SC: Was the major issue the fact that these patrons wanted to make large cash deposits?

40 **MR THEODORE:** I believe that was one of the issues, or to do electronic funds transfers within Macau where - where they had accounts as well. I think it was both, Ms Sharp.

45 **MS SHARP SC:** So you understood that there were major issues with patrons not being able to move their money from Macau to The Star?

MR THEODORE: Well, I understood that patrons had access to funds in Macau and wanted to be able to transact in Macau. And as a result of that, some had issues with not being able to transact if they weren't able to transact in Macau.

MS SHARP SC: Now, could I take you to the last dot point on that page. It says:

5 "The current rationale does not relate to the provision of credit and the existing requirements to obtain a personal cheque will remain unchanged (i.e., no change to the credit risk of the business)."

What does that mean?

10 **MR THEODORE:** I believe we had an existing CCF process at the time, and there was a discussion on whether we would continue to require a cheque where a customer took an EEIS loan out. And the cheque was relevant because if we were to initiate legal proceedings if a customer didn't pay, the cheque had, in most cases, been the basis for those legal proceedings. But again, Ms Sharp, I was not
15 involved directly in this part of the business and so I only, at this point in time, had a high level of understanding of some of the issues.

MS SHARP SC: Can I take you, please, to pinpoint 1081. Do you see that it says there at the first dot point that:

20 "Between January and November 2017, the Bank of China accounts in Macau accepted HKD\$1.2 billion in cash as repayment for outstanding balances."?

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

MS SHARP SC: And do you see the second dot point says:

"We understand -"

30 I beg your pardon, the third dot point says:

35 "We understand the preference for cash redemption is driven by a combination of the following: customers seek to avoid electronic transfers in principle; customers being reluctant to transfer to a bank account which is in the name of a casino; and customers not operating a bank account in Macau and therefore unable to make an electronic transfer."

MR THEODORE: Yes, I see that.

40 **MS SHARP SC:** So this is an accurate statement of the challenges with which The Star was dealing at the time, is it?

MR THEODORE: I believe it was, yes.

45 **MS SHARP SC:** And could I take you to pinpoint 1082. Do you see it says in the first dot point:

"In the event that EEIS is not initiated, collections management have estimated that 50 per cent of the current volumes which are repaid in cash would not occur."?

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

MS SHARP SC: So this is why the closure of the Bank of China Macau accounts was a big problem, wasn't it?

10 **MR THEODORE:** For this part of the business, yes.

MS SHARP SC: Yes. And at pinpoint 1084, can you see the arrangement with Kuan Koi is described?

15 **MR THEODORE:** Yes.

MS SHARP SC: So you agree that you were aware of at least these details of the Kuan Koi arrangement at the time you read this document?

20 **MR THEODORE:** At a high level, yes, Ms Sharp. But it wasn't an area that I played particular focus on, given it had limited - or I had limited involvement in this part of the business.

25 **MS SHARP SC:** Could I take you, please, to pinpoint 1085. Do you see there's a diagram setting out the legal and operational structure for EEIS?

MR THEODORE: Yes, Ms Sharp.

30 **MS SHARP SC:** Can I take you to number 1 in the red circle. It says that:

"EEIS will have a cheque cashing facility with both The Star Pty Ltd and The Star Entertainment Queensland Limited."

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

MS SHARP SC: So you were aware of that proposal from the time of reading this document?

40 **MR THEODORE:** I would have been, Ms Sharp, but again, at a very high level at this time because I had limited involvement in this part of the business.

MS SHARP SC: Well, you were on the steering committee and the working group, weren't you?

45 **MR THEODORE:** I was, Ms Sharp. But there was a particular purpose for my involvement, which was really around the establishment of bank accounts and which banks we would approach to set up accounts, given my role in treasury at the time.

MS SHARP SC: So you were involved in the formulation of the scheme for EEIS?

5 **MR THEODORE:** I wouldn't say that's correct, no.

MS SHARP SC: Well, you participated in the steering committee and the working group, didn't you?

10 **MR THEODORE:** I did, but my particular purpose was on one of the workstreams. I didn't have a major role on this project.

MS SHARP SC: Well, we can take it, can't we, that given your position as a member of the senior executive, you took the steps to understand what the purpose of this structure was all about?

15 **MR THEODORE:** I - I wouldn't say I was a senior executive at the time. So I wasn't in my current role, and there were more senior members on this steering committee, my manager at the time, Mr Barton. But I had a high level
20 understanding based on participating in this project. But I wouldn't say it was a detailed understanding at this point in time.

MS SHARP SC: Just to be clear, you were the head of strategy at this time and the head of treasury, weren't you? Or were you chief commercial officer at this time?

25 **MR THEODORE:** I believe at this time, I was the head of strategy and treasury. Yes.

30 **MS SHARP SC:** And that's a senior position within the executive, isn't it?

MR THEODORE: It's not in the executive, but I'm the next level down from the executive in the corporate structure.

35 **MS SHARP SC:** And given that you were the head of strategy, we may take it that you took the trouble to understand the purpose of this arrangement?

MR THEODORE: I wouldn't say my role as head of strategy, Ms Sharp. So head of strategy was corporate strategy. So things like mergers, acquisitions were in my area of responsibility. This really was a credit and collections and IRB business project. But I - but I had a role, which I describe was primarily on the set-up of bank accounts.

40 **MS SHARP SC:** Your job title, according to paragraph 5 of your first statement at (a), is head of strategy and investor relations, right?

MR THEODORE: And treasury at this point in time, yes.

MS SHARP SC: Can I take you, please, to pinpoint 1086. You see this sets out the structure of the loan agreements proposed to be offered by EEIS at that time?

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

MS SHARP SC: So you agree that you were made aware, through reading this document, of what that loan agreement structure was?

10 **MR THEODORE:** Yes.

MS SHARP SC: And may we take it you endeavoured to understand why it was that EEIS was going to offer loans to patrons?

15 **MR THEODORE:** I had some understanding, yes.

MS SHARP SC: And if I can take you to point 3. It's right that where a patron arrived at one of the casinos, the patron would draw down from an EEIS cheque cashing facility to move money to their front money account?

20 **MR THEODORE:** Yes, I believe that's correct.

MS SHARP SC: So is it right that the structure was that EEIS would hold a cheque cashing facility with both of the casino operators?

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

MS SHARP SC: And when a loan was made to a patron, the way funds would be disbursed is via ledger entry moving funds into the front money accounts of the relevant patrons?

30 **MR THEODORE:** I believe that's correct, Ms Sharp, but I'm not close to the operational - the operational details of these credit facilities.

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

MR BELL SC: So if EEIS was lending money to a patron, in fact, no funds transfer would occur at all; it would simply be a credit entry made by The Star to the patron's front money account. Is that correct, as you understand it?

40 **MR THEODORE:** I understood it that they would sign a loan document, that loan document would give them a maximum amount of credit and that credit was supported by The Star through a CCF and a parent guarantee so that EEIS was getting the money for the loan from The Star.

45 **MR BELL SC:** Yes. But in terms of the movement of money, there would, in fact, be no movement of money when the loan was established; it would simply be a credit to the patron's front money account with The Star. Is that correct?

MR THEODORE: Yes. Or a CCF they could continue to draw down on. Yes, that's my understanding.

5 **MR BELL SC:** And in your capacity as a member of the EEIS working group, you had - you were aware, I take it, that there had been an approval in 2014 by the New South Wales regulator for some process of loans to be made by EEIS; is that correct?

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

MR BELL SC: And when this was reactivated in 2018/2019, did you give consideration to informing the regulator of these new developments?

15 **MR THEODORE:** Not me personally, Mr Bell. But as I said, there was quite a significant representation on the working group, and there would have been others who would have given that consideration, given their roles at the time.

20 **MR BELL SC:** And are you aware whether any notification was made to the regulator in 2018/2019 when EEIS was reactivated?

MR THEODORE: I'm not, Mr Bell.

MR BELL SC: Yes, Ms Sharp.

25 **MS SHARP SC:** Now, Mr Theodore, you do set out in your statement the EEIS loan process from paragraph 35, don't you?

MR THEODORE: I do, Ms Sharp, yes.

30 **MS SHARP SC:** So we may take it that you endeavoured to understand what that process was so you could explain it in your statement?

35 **MR THEODORE:** I did make inquiries with my team, who are directly responsible for it, to describe it in as much detail as I could.

MS SHARP SC: All right. So you do understand how the process worked, don't you?

40 **MR THEODORE:** At a high level, Ms Sharp, but I wouldn't say I'm an expert and intimately involved in the operational process.

MS SHARP SC: Now, if I could take you back to pinpoint 1086. Do you see there's an entry for point 4:

45 "Program close, player loss."?

MR THEODORE: Yes, I see that.

MS SHARP SC: And do you see that in the event the player loses, the player pays any outstanding loan amounts to EEIS?

5 **MR THEODORE:** I don't see it in point 4 specifically.

MS SHARP SC: Well, it says:

10 "Program close, player loss. Any remaining funds in the player's front money account combined with rebates owing from EEIS to the customer are applied against the outstanding loan with the remaining balance -"

I withdraw that question. Do you see it says:

15 "Program close, player win."?

MR THEODORE: Yes, I see that.

MS SHARP SC: And it's right, is it, that money that the player wins will be transferred to them via EEIS?

20 **MR THEODORE:** Can I just have a moment to read that again in more detail? I think it's saying that The Star property makes the payment on direction from EEIS, if I'm reading it correctly, Ms Sharp.

25 **MS SHARP SC:** Can I take you, please, to pinpoint 1089. Do you see it says AML Update and then, halfway down, there's a heading Proposal?

MR THEODORE: Yes, I see that.

30 **MS SHARP SC:** And it says:

"HWL Ebsworth (Anthony Seyfort) is conducting a review of designated services that EEIS will provide and will assist EEIS to prepare its own AML/CTF program."

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

MS SHARP SC: And you were aware that Mr Seyfort was providing some advice in relation to this arrangement?

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

MS SHARP SC: Now, any funds advanced to patrons pursuant to the EEIS loan came from the capital of The Star; is that right?

45 **MR THEODORE:** That's correct, Ms Sharp, yes.

MS SHARP SC: And it's correct, isn't it, that no interest was charged on these EEIS loans?

MR THEODORE: That's correct, yes.

5

MS SHARP SC: It's correct, isn't it, that in March 2018, the board was presented with the EEIS strategy update?

MR THEODORE: I'm not - I'm not sure whether that's correct, Ms Sharp.

10

MS SHARP SC: Well, I will take you to exhibit B701, if I can, STA.5002.0004.1094. I'm showing you some minutes of a board meeting dated 22 March 2018; do you agree?

15

MR THEODORE: Yes.

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

MR THEODORE: For part of the meeting, yes.

20

MS SHARP SC: Can I take you to pinpoint 1098. Do you see there's an entry for EEIS project report?

MR THEODORE: Yes, I see that.

25

MS SHARP SC: Were you present for that part of the meeting?

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

30

MS SHARP SC: Do you expect that you would have been, given you were a member of the working group and the steering committee?

MR THEODORE: Not necessarily because, as I said, at that time, I wasn't one of the more senior members and my manager, Mr Barton, was present. So it's unlikely I'd be present for this paper, given my role in - in EEIS.

35

MS SHARP SC: Do you expect that given you were a member of the working group and the steering committee, you would have been provided with the paper titled IRB EEIS Project Status Report?

40

MR THEODORE: The board paper? Unlikely, Ms Sharp.

MS SHARP SC: Why do you say it's unlikely you would have been provided with the board paper if you were a member of the working group and steering committee?

45

MR THEODORE: Typically the working group wouldn't get board papers, given there was very broad representation at the time.

5 **MS SHARP SC:** Can I show you a copy of that board paper, and you can tell me if you agree with what is stated there. Exhibit B, tab 699. If we can go to that. It's STA.5002.0004.0764. Now, I'm showing you the document that was presented to the board. And do you see there's a background section, which says that the EEIS project is intended to address the following key issues, and one of them is the closure of the Macau bank accounts used to remit funds?

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

MS SHARP SC: And you understood that, didn't you?

15 **MR THEODORE:** I understood that was one of the issues that was driving the consideration of the Macau marketing subsidiary at the time, yes.

MS SHARP SC: And do you see it says:

"The new structure will respond to these issues by -"

20 And the second dot point:

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

You understood that, didn't you?

30 **MR THEODORE:** I'm not sure I understood that point being a major driver at the time.

MS SHARP SC: Well, that was a key driver of the project at that time, wasn't it?

35 **MR THEODORE:** My recollection, Ms Sharp, was the first point there was the initial driver. So if I can give a bit of background or context --

40 **MS SHARP SC:** That won't be necessary, Mr Theodore. You understood, didn't you, that one of the key drivers of this project was changing the nature of the payments from customers to being repayments of loans in Hong Kong from repayment of gambling debts in Australia?

MR THEODORE: No. I didn't understand that to be a driver at - at the time, no.

45 **MS SHARP SC:** Well, didn't you understand that a key driver of this project was to change the appearance of payments made by patrons?

MR THEODORE: No, I didn't understand that at the time.

MS SHARP SC: Are you telling the truth there?

MR THEODORE: Yes, Ms Sharp.

5 **MS SHARP SC:** I see the time, Mr Bell.

MR BELL SC: Yes. I will adjourn for one hour.

<**THE HEARING ADJOURNED AT 1:02 PM**

10

<**THE HEARING RESUMED AT 2:02 PM**

MR BELL SC: Yes, Ms Sharp.

15 **MS SHARP SC:** Mr Bell, just before we get started, could I tender exhibit - what will become exhibit I. You should have an index to exhibit I which has 403 documents itemised in it. I tender that list, together with the underlying documents.

20 **MR BELL SC:** That will be exhibit I1 to exhibit I403.

MS SHARP SC: Mr Theodore, I will take you back to exhibit B699, which is STA.5002.0004.0764. And, operator, could we go to pinpoint 0770? Now, this was a paper setting out the structure of the EEIS loan arrangement. Do you see it says at the second dot point:

"The structure has the following key components."?

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

MS SHARP SC: And it says:

35 "EEIS money lender will provide loans to players in exchange for a personal cheque or prepaid collateral. These loans will be granted in place of a cheque cashing facility."

Why was it necessary to have a loan in place of a cheque cashing facility?

40 **MR THEODORE:** My understanding at the time was one of the key drivers of EEIS was to be able to offer credit terms that were different, particularly in terms of how long the player had to repay that were different to the existing CCF terms.

MS SHARP SC: Could you explain how the repayment terms were different?

45 **MR THEODORE:** So my understanding, Ms Sharp, was under the CCF, we were required to bank the cheque after 30 days. Whereas under the loan structure with

EEIS, there was flexibility to do that on different terms, so potentially longer than 30 days.

5 **MS SHARP SC:** Weren't the loans to be repaid within 30 days?

MR THEODORE: I think it depended on the terms of the loan at each time the loan was provided.

10 **MS SHARP SC:** Well, were the terms of the loans each 30 days?

MR THEODORE: No. I know the ones that I think we talked about on Friday for Mr Qin was a 90-day repayment term. So it was, I think, to be decided each time that the loan was entered into.

15 **MS SHARP SC:** Are you sure that was a purpose of the arrangements?

MR THEODORE: It was definitely a purpose that I was aware of, yes.

20 **MS SHARP SC:** Can you account for why that purpose is not identified in any way at all in the EEIS project document I'm taking you to now, which was shown to the board?

25 **MR THEODORE:** I don't know, Ms Sharp. I wasn't involved in preparing this document.

MS SHARP SC: Well, you were a member of the EEIS steering committee and the EEIS working group.

30 **MR THEODORE:** Yes, I understand that. But as I said earlier --

MS SHARP SC: But you can cast no light whatsoever on that matter?

35 **MR THEODORE:** As I think I said earlier, I - I had a relatively limited role at the time, but that - that was - that was definitely a purpose. I - I believe another purpose was even if there was the 30-day loan terms, we had more flexibility to not bank the cheque after 30 days if we had reached agreement with the customer on revised repayment terms. So one of the issues I recall at the time was that, you know, a customer who had a CCF may come to the credit and collections team slightly before that CCF was due and try and revise the arrangements to get an
40 extended period of time to repay the credit. But we were required to bank the cheque still, even if we had agreed to those terms. So I also understood that this - even if you initially had 30-day terms, this structure provided more flexibility to amend those if there was agreement with the customer.

45 **MR BELL SC:** Mr Theodore, could I ask you this: my understanding is that the structure was that the EEIS loan to the patron would be funded by a CCF between The Star and EEIS; is that correct?

MR THEODORE: That's correct, Mr Bell, because EEIS had no capital. So The Star was effectively guaranteeing the loan on behalf of EEIS.

5 **MR BELL SC:** So how would that work if the EEIS loan was longer than 30 days when the EEIS CCF was limited to 30 days?

10 **MR THEODORE:** I understand that there was a CCF but also a parent guarantee. So in that case, they would draw on the parent guarantee to repay the CCF and then get a new CCF to be able to have the capital for the longer credit term.

MR BELL SC: Yes. Thank you.

15 **MS SHARP SC:** Now, I think you've already answered Mr Bell in this, but just to confirm: it's correct that the way this loan arrangement would operate is that EEIS would provide a cheque to The Star and create its own cheque cashing facility?

MR THEODORE: That's my understanding, yes.

20 **MS SHARP SC:** And it's correct, isn't it, that the creditworthiness of patrons who were to become EEIS borrowers was exactly the same as the credit checks conducted on persons to whom The Star granted cheque cashing facilities?

25 **MR THEODORE:** I'm not sure exactly the same, Ms Sharp, but I would answer it to say they were substantively the same, yes.

MS SHARP SC: Why is it that the patrons to whom these EEIS loans were made were not simply offered a cheque cashing facility directly with The Star?

30 **MR THEODORE:** I can probably only answer it to the ones I approved, Ms Sharp. So once I became CFO and in my current role, I know that I approved two loans that were part of a trip, one of which was Mr Qin which we discussed yesterday. The process for that loan application was the marketing team had put it forward, and they had put it forward on the basis that they wanted to provide it to the customer because they wanted extended payment terms. And that was the key driver of the loan that we provided in that case. I'm not sure what the rationale was for other loans that were prior to me entering into my role.

40 **MS SHARP SC:** To your knowledge, was the key driver of the loan purpose simply that an EEIS loan facility would obfuscate the fact that the patron was transferring funds to the casino to discharge a debt or make front money available?

MR THEODORE: Not to my knowledge, no.

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

MR THEODORE: Yes, I am, Ms Sharp.

MS SHARP SC: Now, it's correct, isn't it, that in May of 2018, the board approved the establishment of a \$400 million cheque cashing facility to EEIS to facilitate the provisions of loans to certain patrons?

5 **MR THEODORE:** Again, Ms Sharp, I'm - I'm not sure that that's correct and don't believe I had any involvement at that point in time.

MS SHARP SC: Well, I will take you to - I mean, you are the director of EEIS now, aren't you?

10

MR THEODORE: I am now. I wasn't at that point in time.

MS SHARP SC: But you have been responsible for conducting investigations in relation to EEIS transactions in recent times, haven't you?

15

MR THEODORE: Not personally in detail. No, I haven't.

MS SHARP SC: Well, you've directed the conduct of those investigations, haven't you?

20

MR THEODORE: Some investigations in terms of some of the issues that have been identified in the bank accounts, yes, Ms Sharp.

MS SHARP SC: Well, you've endeavoured to familiarise yourself with how these transactions worked, haven't you?

25

MR THEODORE: At a high level, yes, Ms Sharp. I think there were only a small number of loans in EEIS over its life.

30 **MS SHARP SC:** All right. Well, if you could just attend to my question. You have endeavoured to familiarise yourself with how these transactions worked, haven't you?

MR THEODORE: Yes, at a high level, I have, Ms Sharp.

35

MS SHARP SC: All right. And you've done that because you were the one who directed investigations be conducted and also because you are a director of EEIS; correct?

40 **MR THEODORE:** I - I have, particularly in relation to the issues that we have identified in the bank accounts that we've been investigating, yes.

MS SHARP SC: Now, could I take you, please, to exhibit B822, which is STA.5002.0004.1038. And I'm showing you minutes of a directors' meeting on 24
45 May 2018. Do you agree that you're recorded as being in attendance for part of that meeting?

MR THEODORE: Yes.

MS SHARP SC: Do you see on pinpoint 1042, there's an entry that says "EEIS project update"?

5 **MR THEODORE:** Yes.

MS SHARP SC: And if I can direct your attention to the bottom of the page. Do you see it says:

10 "Following discussion, the board resolved to approve: (a) establishment of an internal CCF to EEI Services with a limited of \$400 million to facilitate the provision of loans to international rebate customers."

15 **MR THEODORE:** Yes, I see that, Ms Sharp.

MS SHARP SC: Well, given that you actually approved some of these EEIS loans, surely you were aware of that?

20 **MR THEODORE:** I knew there was a CCF in place, Ms Sharp. I didn't know that it had been approved for that amount on that date.

MS SHARP SC: Can I take you, please, to exhibit B1096. This is STA.3009.0007.0506. I'm showing you a standard operating procedure for EEIS loan facilities?

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

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

30 **MR THEODORE:** I have, as part of providing it for this inquiry.

MS SHARP SC: All right. And you've also seen it, haven't you, because you approved some of the loans that were granted by EEIS to particular patrons; is that right?

35 **MR THEODORE:** I - I did approve some loans, but the standard operating procedures that dictate the operational matters I'm not closely familiar with.

40 **MS SHARP SC:** Well, had you read this document before you provided it to the review?

MR THEODORE: No, I hadn't, Ms Sharp.

45 **MS SHARP SC:** Well, were you aware that EEIS provided loan facilities to customers exclusively for the purpose of funding play at one of The Star's casinos?

MR THEODORE: Yes, I was aware of that.

MS SHARP SC: And were you aware that the credit exposure approval process was the same as that used by The Star for the approval of a cheque cashing facility?

5 **MR THEODORE:** Substantively, yes, I was aware of that.

MS SHARP SC: And were you aware that, ordinarily, a borrower wishing to obtain a loan from EEIS would need to provide a signed personal cheque made payable to EEIS?

10

MR THEODORE: Yes, I was aware of that.

MS SHARP SC: And it was only the group CFO or above who could dispense with the requirement that a personal cheque be presented?

15

MR THEODORE: Yes, I was aware of that.

MS SHARP SC: And can I take you, please, to pinpoint 0508. And the point of this standard operating procedure was so that people involved in the establishment and administration of these loans knew what processes and procedures and rules to follow?

20

MR THEODORE: Yes, Ms Sharp.

25 **MS SHARP SC:** Can I direct your attention, please, to the second-last paragraph. Do you see it says:

"The loan is repayable to EEIS within 30 calendar days of program settlement."?

30

MR THEODORE: Yes, I see that.

MS SHARP SC: So it's right that a loan was repayable in the same period of time as was a CCF, isn't it?

35

MR THEODORE: My understanding, Ms Sharp, was that was the default. But each loan would be considered based on what the customer was requesting, and the credit profile of the customer, rather than it was limited to 30 days.

40 **MS SHARP SC:** It doesn't say anything about there being a discretion to extend the time for settlement there, does it?

MR THEODORE: I - I accept it doesn't.

45 **MS SHARP SC:** Can you point to anywhere else in this document where it says there's discretion to extend the time for settlement?

MR THEODORE: Ms Sharp, I'm not familiar with the document, so I - I wouldn't be able to point to anywhere else where it says that.

5 **MS SHARP SC:** Could I take you, please, to pinpoint 0529. And do you see there's appendix 1, "EEIS Board Approved Signatories?"

MR THEODORE: Yes, I can see that.

10 **MS SHARP SC:** Do you agree these are delegations by the board to certain office holders in order to conduct functions on behalf of EEIS?

MR THEODORE: Yes.

15 **MS SHARP SC:** And if I can direct your attention to tier 1 positions. Do you agree that the authority is provided to members of The Star's VIP credit and collection teams to execute EEIS loan documentation?

MR THEODORE: Yes.

20 **MS SHARP SC:** And do you agree that the tier 2 entry shows that, in New South Wales, EEIS has delegated its power to staff members of The Star Pty Ltd to execute documentation for the operation of EEIS's cheque cashing facility?

25 **MR THEODORE:** If you don't mind scrolling down, just so I can see. Yes, I can see that.

MS SHARP SC: Now, it's correct, isn't it, that EEIS made loans to five or six patrons?

30 **MR THEODORE:** Yes, I believe that's correct.

35 **MS SHARP SC:** Can I show you this document, exhibit B3414. It's a spreadsheet, operator, on Excel. And this is STA.3008.0002.0616. Now, I'm showing you the EEIS receivables control sheet master version 2019. Have you seen this document before?

MR THEODORE: I haven't, Ms Sharp, no.

40 **MS SHARP SC:** Well, let's see if you can assist with the following. Do you see one of the columns up the top next to Patron ID is Name?

MR THEODORE: Yes, I can see that.

45 **MS SHARP SC:** And that's the name of a junket operator, isn't it, in those cases you can see?

MR THEODORE: Or a patron, I believe.

MS SHARP SC: And you see, in most cases, there's a reference to a funder?

MR THEODORE: Yes, I can see that.

5 **MS SHARP SC:** And that's - where the reference of the name is to a junket operator, that's the junket funder, is it?

MR THEODORE: I understand the funder is either for the junket or for a patron, I would expect.

10

MS SHARP SC: Was the loan from EEIS in each case made out to the funder or to the junket operator?

MR THEODORE: I believe the funder, Ms Sharp, but I - I can't be certain.

15

MS SHARP SC: And if I could take you to the column that is entitled Patron ID. And I will just show you an example for Sixin Qin, if I might. If we can work from the numbers in the very left-hand side of this document and work from number 25 down, if I can have that shown to - that second half of the page. Do you see that for the entries line 25 through to line 44, the funder in each case is Sixin Qin?

20

MR THEODORE: Yes, I see that.

25 **MS SHARP SC:** But do you see that in each case, the - or in most of those cases, the patron ID number is different?

MR THEODORE: Yes, I can see that.

30 **MS SHARP SC:** Are you able to explain why so many different patron ID numbers are referred to?

MR THEODORE: I'm not, Ms Sharp, no.

35 **MS SHARP SC:** Is the explanation that while the borrower for the Minmin Shen junket was Sixin Qin, in fact, patron - funds under those loans were disbursed to a wide number of patron front money accounts?

MR THEODORE: I - I don't know the answer, Ms Sharp.

40

MS SHARP SC: Can I take you, please, to exhibit G727, which is STA.3023.0001.0515. This is an EEIS loan application form for Mr Sixin Qin; do you agree?

45 **MR THEODORE:** It appears to be, yes.

MS SHARP SC: And is this one that you approved?

MR THEODORE: I believe I approved the credit limit for this, yes.

MS SHARP SC: And do you see on the first page - if we can scroll down a little bit - this loan facility is for an amount of AUD\$166 million?

5

MR THEODORE: Yes, I see that.

MS SHARP SC: And can I take you to the pinpoint 0516. Do you see it says at clause 4 - there's a heading "Facility Disbursement and Purpose?"

10

MR THEODORE: Yes, I see that.

MS SHARP SC: And you see it says:

15

"The proceeds of each drawdown on the facility will be disbursed to an account held at The Star Entertainment Group properties as set down in the drawdown notice."

MR THEODORE: Yes, I see that.

20

MS SHARP SC: So is it right that there was never a transaction which moved in the bank accounts, from an EEIS bank account to the bank account of the borrower, in this case Mr Qin?

25

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

MS SHARP SC: And just while we're here, can you see at clause 6, it says that:

30

"Amounts owing under the facility do not accrue interest."

MR THEODORE: Yes.

MS SHARP SC: It's very unusual for a loan transaction not to incur interest, isn't it?

35

MR THEODORE: Again, Ms Sharp, this was a loan facility to provide funds for the purpose of gambling. And typically for VIP customers, under the CCF we don't charge interest. And our competitors, who also provide credit facilities for gambling, don't charge interest. So this was a loan for a particular purpose, and it was looking to be competitive with the terms that were offered by other properties where they were providing credit in a similar fashion.

40

MS SHARP SC: And it was a loan on behalf of the casino operator, wasn't it?

45

MR THEODORE: Yes, it was.

MS SHARP SC: Are you aware that until 1 July 2020, the casino operator and its agents were not permitted to provide credit to patrons for the purpose of gambling otherwise than through a cheque cashing facility?

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

MS SHARP SC: Well, isn't this EEIS loan arrangement completely contrary to that prohibition?

10 **MR THEODORE:** I understood, Ms Sharp, it was set up in a way to be compliant with the requirements around a CCF and provision of credit.

MS SHARP SC: Well, you've just said that your understanding was that the purpose of the loan was to provide funds for gambling; correct?

15 **MR THEODORE:** Yes.

MS SHARP SC: And you've just said that the loan was provided on behalf of the casino operator; correct?

20 **MR THEODORE:** I believe it was, yes, Ms Sharp, but I'm not close to the technicalities of exactly how the loan was provided. But I was on the understanding, from being in the working group, that it had been through a variety of legal advices that were looking to set this up as a legal and compliant way to
25 provide loans in this way.

MS SHARP SC: While you were a member of the steering committee and the working group, did anybody raise in discussions with you that there was a risk that these arrangements would contravene the relevant provisions of the Casino
30 Control Act?

MR THEODORE: Not that I recall, Ms Sharp, no.

MS SHARP SC: Now, the purpose of the EEIS loans were to enable credit to be
35 passed on to patrons of the casino?

MR THEODORE: Or to provide funds for patrons to be able to gamble, yes.

MS SHARP SC: And The Star personnel were heavily involved in the process of
40 preparing the loan documentation and undertaking the credit checks?

MR THEODORE: I believe so, Ms Sharp, yes.

MS SHARP SC: You say at - if I can take you to paragraph 37 of your statement,
45 please, the first one. Now, you can have regard to that paragraph, but would you agree with me that the statement of account from EEIS to the patron would convey the impression that when the patron made a payment to EEIS, it was for the

purpose of repaying a loan rather than for the purpose of funding gambling at the casino?

5 **MR THEODORE:** I'm not sure I've seen a statement of account, Ms Sharp, but - so I'm not sure I can answer that question.

MS SHARP SC: Well, Mr Theodore, you refer to a statement of account at paragraph 37 of your statement.

10 **MR THEODORE:** Yes.

MS SHARP SC: Well, what do you think the statement of account said?

15 **MR THEODORE:** I haven't seen one, but I assume it says what the amount owing is.

MS SHARP SC: And it would not indicate on its face, would it, that the true purpose of the transaction was to fund gambling at the casino?

20 **MR THEODORE:** I don't - I don't know what it says, Ms Sharp. I haven't seen one. So I'm not sure I can answer the question.

25 **MS SHARP SC:** Well, you would agree, wouldn't you, that looking at the loan account statement in isolation would not disclose to the viewer of that statement that there was a relationship with gambling?

MR THEODORE: Not from what I saw earlier, no.

30 **MS SHARP SC:** And it's right, isn't it, that no funds from EEIS were ever physically transferred to the borrower?

MR THEODORE: Can you repeat that question?

35 **MS SHARP SC:** It's right, isn't it, that in the context of an EEIS loan, no funds from an EEIS bank account were ever physically transferred to an account of the borrower?

40 **MR THEODORE:** That prior - when they draw down on the loan? Is - is that at the point in time you're --

MS SHARP SC: At any time, Mr Theodore.

45 **MR THEODORE:** If the player had won, I'm - I'm not sure whether there were any transfers made. But when they draw down on the loan, I don't believe there was a transfer from EEIS to the player, no.

MS SHARP SC: The only thing that happened was there were ledger entries in front money accounts; that's right, isn't it?

MR THEODORE: That's my understanding, yes.

5 **MS SHARP SC:** And the underlying substance of this transaction was simply a patron having funds transferred to Australia for the purpose of gambling, wasn't it?

MR THEODORE: I think the substance was to provide a loan which they could draw down on to gamble in Australia.

10 **MS SHARP SC:** Yes. So the substance of the transaction was simply making available to a patron funds for the purpose of gambling?

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

15 **MS SHARP SC:** And the reality is that the EEIS loan documentation was simply a method of obscuring this underlying substance of the transaction?

MR THEODORE: Not - I don't believe that's correct, Ms Sharp, no.

20 **MS SHARP SC:** It was just window-dressing, wasn't it?

MR THEODORE: That's not my understanding of it, no.

25 **MS SHARP SC:** Isn't it the fact that the EEIS loans were simply a way of obscuring, to people viewing those financial transactions, the fact that the casino was making money available to the patron to gamble on credit?

MR THEODORE: That's not my understanding, Ms Sharp, no.

30 **MS SHARP SC:** Is that right? Are you telling the truth there?

MR THEODORE: Yes, Ms Sharp.

35 **MS SHARP SC:** Would you just pardon me a moment, Mr Bell. Now, could I take you - I withdraw that. Are any steps being taken to wind up EEIS at the moment?

MR THEODORE: Yes, Ms Sharp.

40 **MS SHARP SC:** And what steps have been taken so far?

MR THEODORE: We've closed the bank accounts. And I believe we have deregistered the company, but it may not have happened yet. But that's in chain.

45 **MR BELL SC:** Mr Theodore, I think I was told at one point - and I may be wrong - that there was one outstanding loan that was preventing the liquidation of the company. Has that now been resolved?

MR THEODORE: It hasn't, Mr Bell, but we've taken the decision that we're going to wind it up. And in the unlikely event that that borrower pays, we'll just deal with how we can recover the money, or if, at that point in time.

5 **MR BELL SC:** And to your understanding, have lawyers been instructed to take steps to liquidate the company?

MR THEODORE: Yes.

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

MS SHARP SC: Could I go to your first statement, please, to page 11. Do you see there's a heading at the top Payments By Or On Behalf of the Patron?

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

MS SHARP SC: And in this part of your statement, you were endeavouring to respond to question 6 posed by those assisting this review?

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

MS SHARP SC: And you were assisting to provide answers in relation to a number of transactions in patron bank accounts?

25 **MR THEODORE:** Yes.

MS SHARP SC: And you say at paragraph 56(a) that you established a working group?

30 **MR THEODORE:** Yes.

MS SHARP SC: And the working group was to consider the issues raised in questions 6(a), (b) and (d)?

35 **MR THEODORE:** Yes.

MS SHARP SC: Now, what has your personal involvement been in this review that you established?

40 **MR THEODORE:** That working group has been meeting with regular frequency - sometimes once a week, sometimes not that frequently - and it's receiving updates on the investigations that are taking place on those three issues outlined, as well as then directing what the next steps are on those investigations.

45 **MS SHARP SC:** Do you agree that the working group has now had ample time to collect together all of the bank account statements in relation to these various patron bank accounts?

MR THEODORE: There has been ample time, Ms Sharp. We've made more progress on some than others, based on relying on the bank in some cases to provide us with information.

5 **MS SHARP SC:** Just so I can obtain an answer to my last question, do you agree that there has now been ample time to collect together all bank account statements of these relevant bank accounts?

10 **MR THEODORE:** Yes, provided that when we've made a request, we've received a response in a timely manner.

MS SHARP SC: Well, have you collected together all the bank statements now?

15 **MR THEODORE:** We haven't for the Bank of China Macau account, no.

MS SHARP SC: All right. But for the rest of them you have, have you?

MR THEODORE: Yes.

20 **MS SHARP SC:** And do you agree there has now been ample time to collect together all the ledger entries made by The Star in relation to transactions in these accounts?

25 **MR THEODORE:** Yes, there has been substantial time to (indistinct).

MS SHARP SC: Please just answer my question. Do you agree there has been ample time now to collect together all the ledger entries?

30 **MR THEODORE:** It - it depends on the issue and the challenges we've faced based on each issue, Ms Sharp.

MS SHARP SC: Well, they're the ledger entries of The Star, aren't they?

35 **MR THEODORE:** Yes.

MS SHARP SC: Well, surely there hasn't been any problem in collecting together the ledger entries of an entity which is controlled by the casino - well, it is the casino operator.

40 **MR THEODORE:** Yes.

MS SHARP SC: All right. So there has been ample time to collect together the ledger entries; don't you agree?

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

MS SHARP SC: And there has been ample time to collect together all of the correspondence of the casino operator in relation to these patron bank accounts, hasn't there?

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

MS SHARP SC: And there has been ample time by now to take advice from HWLE in relation to these accounts, hasn't there?

10 **MR THEODORE:** There has been a substantial amount of time, yes.

MS SHARP SC: Well, it has been ample, hasn't it?

15 **MR THEODORE:** I - I believe, Ms Sharp, we're still concluding advice in some areas, but we've received some initial advice in - in part.

MS SHARP SC: Why is it that it's taking so long to conclude these investigations?

20 **MR THEODORE:** I think the intention, Ms Sharp, is to do a very thorough review. And we're trying to review these matters at the same time that there's obviously a number of other information requests going on. But --

25 **MS SHARP SC:** Well, why haven't these investigations been finalised, given you directed their commencement back in November last year?

MR THEODORE: Because we're trying to get to a very thorough outcome and seeking to do it in as timely a fashion as possible.

30 **MS SHARP SC:** Well, I suggest that it has been anything but timely.

MR THEODORE: The intention is to conclude it as soon as we possibly can, Ms Sharp.

35 **MS SHARP SC:** It has been five months now. Are you able to indicate what the outcome of your inquiries is?

MR THEODORE: Would you like me to do it (indistinct).

40 **MS SHARP SC:** (Indistinct) take your statement down. Yes, if you could - we'll look at the - if we can actually pull that back up again. Could you please tell Mr Bell - we will go through each one of these in turn. What, at this stage, is the outcome of the inquiries you've directed into patrons making deposits of funds into an NAB account of EEIS Services (Hong Kong) Limited?

45 **MR THEODORE:** To the best of my recollection, Ms Sharp, that we've identified all the deposits made into that account now. It's approximately 20 deposits, with the last one being made in 2017. And I believe we've received some

initial advice on the basis that they're all CCFs that - or repayments of CCFs that there's not any additional reporting requirements that were missed in relation to those deposits.

5 **MS SHARP SC:** There were more than 20 transactions there, weren't there?

MR THEODORE: To the best of my recollection, Ms Sharp, not having the update in front of me, for EEIS (Hong Kong), I - I believe that's the number of transactions that took place in that account.

10

MR BELL SC: Isn't that question 6(a) referring to deposits into an NAB account in Australia of EEI Services (Hong Kong)?

15 **MR THEODORE:** I apologise. I had the wrong one there. Sorry. For the NAB EEIS accounts, there's approximately 800 transactions that took place in that account, and approximately 10 per cent of the transactions - I think it's 70 - have been identified as front money transactions. But there's still another 80 transactions that we want to do further work on. So it's potentially some of those 80 as well that will end up being front money transactions in that account.

20

MR BELL SC: Mr Theodore, can I try and understand. Although EEIS was set up as a lender, you've told me there were only five or six loans that were ever entered into; correct?

25 **MR THEODORE:** That's right.

MR BELL SC: And I also understand it was licensed as a remittance agent, but I think I've been told that it never, in fact, acted as a remitter; is that also correct?

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

MR BELL SC: So is it the case that the vast bulk of these 800 transactions were simply payments by or on behalf of patrons using the account of EEIS effectively as a proxy for payment to The Star?

35

40 **MR THEODORE:** Yes, Mr Bell. So there was a decision made, I believe in 2018, that EEIS could accept repayments of CCFs - or the accounts for EEIS could also accept repayments of CCFs. It wasn't permitted to accept deposits of front money at the time, but we've discovered since that there were some deposits for front money. And you're correct that it had got a remittance licence to be able to provide remittance services but was never set up to provide those services. So the risk of accepting front money transactions was that it was acting as a remitter in those circumstances.

45 **MR BELL SC:** Right. And it's the case that a number of these 800 transactions were payments by remittance agents in Hong Kong and Macau?

MR THEODORE: Some of them would have been, yes.

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** In fact, 11 different money service businesses were making payments into the NAB EEIS accounts, weren't they?

MR THEODORE: I'm not sure on the exact number, Ms Sharp.

10 **MS SHARP SC:** Are you aware that Ms Robyn McKern from McGrathNichol has conducted some analysis into that matter?

MR THEODORE: Yes, I am.

15 **MS SHARP SC:** Have you reviewed her supplementary report dated 26 April 2022?

MR THEODORE: Not in detail yet, Ms Sharp, no.

20 **MS SHARP SC:** But you're aware that she identifies a number of transactions from 1 January 2018 onwards by money service businesses into those accounts?

MR THEODORE: At a high level, I'm aware of that, yes.

25 **MS SHARP SC:** And you have no basis to dispute the accuracy of her analysis, do you?

MR THEODORE: Not having reviewed it, no, I don't.

30 **MS SHARP SC:** Well, you have reviewed her report in some level of detail, haven't you?

MR THEODORE: Not - not sufficient to be able to answer that question.

35 **MS SHARP SC:** And you agree, do you, that deposits by a third-party remitter enhance money laundering risks?

MR THEODORE: I believe I answered that earlier. I agree that it increases the risk, particularly around understanding the source of funds.

40 **MS SHARP SC:** Do you agree that accepting deposits from remittance service providers is inherently high risk from an anti-money laundering and counter-terrorism finance perspective because the underlying methodology involves a disconnection between the moneys deposited by the payer and the moneys received by the beneficiary?

45

MR THEODORE: I - not being an AML expert, I understand that it has a higher risk, particularly around that issue around where the source of funds are and understanding the source of funds.

MS SHARP SC: You provide some evidence in your statement about transaction monitoring conducted by The Star of bank accounts during the relevant period?

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

MS SHARP SC: Do you agree that there were some shortcomings in terms of the transaction monitoring of bank accounts during the relevant period?

10 **MR THEODORE:** I do, Ms Sharp. I would note, though, that I've never been responsible for the areas that do transaction monitoring. So I'm - whilst I understand there have been some shortcomings at different times, I wouldn't say that I'm expert on those matters.

15 **MS SHARP SC:** What are those shortcomings?

MR THEODORE: I'm aware that the transaction monitoring The Star was doing was identified as an area of improvement in 2018. And since that time, there has been a substantial piece of work to implement automated transaction monitoring, which has been led by the AML team, that has been implemented now. I --

MS SHARP SC: I'm sorry. I was asking you to identify what the shortcomings were.

25 **MR THEODORE:** Sure. So I think the shortcomings were we didn't have adequate automated transaction monitoring in place from twenty - that was identified in 2018, so in the relevant period, not automated transaction monitoring that was fit for purpose. I also understand at some points in time, the AML team weren't monitoring some accounts, and the EEIS one is the one that has been brought to my attention prior to 2019.

MS SHARP SC: Do you agree that a way of effectively monitoring transactions in patron bank accounts would be for The Star to have only one patron bank account in Australia in which patrons could deposit funds?

35 **MR THEODORE:** Do you mind repeating the question, Ms Sharp, just so I make sure I --

MS SHARP SC: Do you agree that a way of ensuring that transaction monitoring was effectively conducted would be for The Star simply to have one patron bank account into which patrons could deposit funds?

40 **MR THEODORE:** I don't think it has to be one account. But obviously the more accounts you have, and the more complexity you have, the more risk that's attached to it.

45 **MS SHARP SC:** Would you just pardon me for one moment, please, Mr Bell.

MR BELL SC: Yes.

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

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

MS RICHARDSON SC: No questions. Thank you.

10 **MR BELL SC:** Thank you for your evidence, Mr Theodore. The direction that I will make is that your examination is adjourned, which means that you won't be required to attend to give any further evidence unless you receive some notification from those assisting the review.

15 **MR THEODORE:** Thank you.

<THE WITNESS WAS RELEASED

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

20 **MS SHARP SC:** The next witness I will call is Matt Bekier. Would it be convenient to have the mid-afternoon adjournment at this time?

MR BELL SC: Yes. I will adjourn for 15 minutes.

25 **<THE HEARING ADJOURNED AT 2:54 PM**

<THE HEARING RESUMED AT 3:14 PM

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

MS SHARP SC: I call Mr Bekier.

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

35 **MR BEKIER:** I will take an oath, please.

<MATTHIAS MICHAEL BEKIER, SWORN

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

<EXAMINATION BY MS SHARP SC:

MS SHARP SC: Mr Bekier, could you please tell the review your full name?

45 **MR BEKIER:** My name is Matthias Michael Bekier.

MS SHARP SC: And your work address is known to those assisting?

MR BEKIER: Yes, it is.

MS SHARP SC: It's correct that you've prepared two statements for the purpose of this review?

5

MR BEKIER: Yes, I have.

MS SHARP SC: The first of those statements is dated 4 February 2022?

10 **MR BEKIER:** Yes.

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

MR BEKIER: Yes, they are. Except for the - sorry.

15

MS SHARP SC: Sorry.

MR BEKIER: Except for the second statement.

20 **MS SHARP SC:** And subject to that revision, are the contents of that statement true and correct?

MR BEKIER: Yes, they are.

25 **MS SHARP SC:** And the second statement is dated 29 April 2022?

MR BEKIER: Yes.

MS SHARP SC: And the contents of that statement are true and correct?

30

MR BEKIER: Yes, it is.

MS SHARP SC: Until recently, you were the chief executive officer and managing director of The Star Entertainment Group?

35

MR BEKIER: That's correct.

MS SHARP SC: And you - could I just trace your career history with The Star Entertainment Group, please.

40

MR BEKIER: So I am - have been the CEO of The Star Entertainment Group since April 2014. Prior to that, I was the director of finance for The Star Entertainment or Echo Entertainment as it was known at that time.

45 **MS SHARP SC:** When you say you were the director of finance, does that also mean that you were the chief financial officer?

MR BEKIER: Yes, I was also the chief financial officer. But I was on the board. So I was a director of finance.

5 **MS SHARP SC:** And that was in the period June 2011 to April 2014, was it?

MR BEKIER: Correct.

10 **MS SHARP SC:** And prior to that, from January 2006 to June 2011, were you the CFO for Tabcorp Holdings Limited?

MR BEKIER: Yes, I was.

15 **MS SHARP SC:** And prior to that, it's correct, isn't it, that you held various roles with consulting firm McKinsey from January 1991 to December 2005?

MR BEKIER: Yes, that's correct. Thank you.

20 **MS SHARP SC:** And in terms of your tertiary qualifications, it's right, isn't it, that you hold a Master of Economics and Commerce and a PhD in finance?

MR BEKIER: Yes, that's correct.

25 **MS SHARP SC:** Until April 2018, were you in charge of the VIP team at The Star?

MR BEKIER: Not directly.

30 **MS SHARP SC:** When you say "not directly", is it the case that the VIP team ultimately reported to you?

MR BEKIER: Yes. I had an executive leading the VIP sales team, and the executive was reporting to me.

35 **MS SHARP SC:** And who was the executive - the leader of the executive reporting to you?

MR BEKIER: That was John Chong.

40 **MS SHARP SC:** So given that he was reporting to you, doesn't it follow that you were ultimately in charge of the VIP team?

MR BEKIER: Yes, Ms Sharp. Ultimately, as I'm in charge of the whole company - or was in charge of the whole company, yes.

45 **MS SHARP SC:** Well, things changed in April 2018 because the VIP team commenced to report to Mr Hawkins; is that right?

MR BEKIER: That's right.

MS SHARP SC: Now, when was it that you resigned?

5 **MR BEKIER:** I resigned - I'd need to check my calendar - last week of March of this year on a Sunday. I think it was the 27th.

MS SHARP SC: Did anybody ask you to resign?

10 **MR BEKIER:** No.

MS SHARP SC: You made that decision yourself?

MR BEKIER: Yes, I did.

15 **MS SHARP SC:** Did you consult with any people from The Star before you made the decision to resign?

MR BEKIER: I spoke to the chairman.

20 **MS SHARP SC:** And what conversations did you have with the chairman?

MR BEKIER: I had a series of conversations, starting on the Saturday and then on the Sunday, where I was playing back my increasingly strong conviction that I should resign. Those conversations happened on Saturday and Sunday in late
25 March.

MS SHARP SC: When did you first form the view that you should resign?

30 **MR BEKIER:** On Sunday, the 27th.

MS SHARP SC: And why did you resign?

MR BEKIER: It was a very difficult decision for me, Ms Sharp. I was very proud of what we had achieved. And I had come to understand, through this review and
35 some of my own inquiries that that had triggered, that it was what I perceived to be a subculture around the VIP business that behaved differently from the rest of the organisation. And I felt that it would be best for the company to signal that you need to take accountability for things that weren't good, and as CEO I was responsible and accountable for all parts of the company.

40 **MS SHARP SC:** Could I ask you for your assessment of what went wrong with the VIP section of the business?

45 **MR BEKIER:** I think we were too guided by the practices of others. We didn't challenge ourselves to meet the standards we would meet in other parts of the business. And we didn't flow information the way it should have flown up to the top.

MS SHARP SC: When you say "we", who are you referring to?

MR BEKIER: We, the company.

5 **MS SHARP SC:** Do you mean the senior management, or do you mean the board of directors?

MR BEKIER: The senior management. Sorry. Can I correct that, Ms Sharp? The senior management and middle management.

10

MS SHARP SC: Now, you're aware that this review is looking at issues concerning the use of China UnionPay debit cards at The Star in the period 2013 to March 2020?

15 **MR BEKIER:** Yes.

MS SHARP SC: Do you perceive that there were shortcomings on the part of management in relation to CUP?

20 **MR BEKIER:** Is your question directed at my knowledge today or my knowledge during the period?

MS SHARP SC: Well, I'll start with your knowledge today.

25 **MR BEKIER:** My knowledge today, I would agree with you, that the behaviour was not right.

MS SHARP SC: And why was that?

30 **MR BEKIER:** I have learned about communication to the bank - to the banks that were fundamentally misleading.

MS SHARP SC: And what way were they misleading?

35 **MR BEKIER:** I'm particularly thinking of the provision of expenses to illustrate the nature of the expenditure, that is - is very problematic. And the assurance that the funds were not being used for gaming to a direct question is very problematic.

40 **MS SHARP SC:** And you take the view, do you, that The Star was involved in providing assurances to NAB which were misleading?

MR BEKIER: Based on what I'm seeing now, yes.

45 **MS SHARP SC:** Do you perceive any other problems with the CUP process?

MR BEKIER: Well, the fundamental problem, as I understand it now, is that we agreed to engage in this process back in 2013 because everybody else was doing it, even though we probably knew that it was a very sharp practice.

MS SHARP SC: Can I just break that down. What do you mean by "sharp practice"?

5 **MR BEKIER:** So if I - I was involved in 2013 - in late 2013/2014. And I think
back in 2013/14, it was very clear to everybody that the money will be used for
gaming. I think it was also pretty clear to most of us that the - that we
probably - the terms and conditions - although I have never seen them myself, but
10 that the government - Chinese Government didn't want the cards to be used for
gaming, and we did it regardless.

MS SHARP SC: You said that everybody else was doing it too. Who were you referring to?

15 **MR BEKIER:** Every - major casinos in Australia, in Asia.

MS SHARP SC: And, sorry, which major casinos in Australia were doing it?

20 **MR BEKIER:** Crown.

MS SHARP SC: So one other casino was doing it?

MR BEKIER: Sorry. That's more precise, yes.

25 **MS SHARP SC:** To your - well, I withdraw that. Did you know that Crown
ceased using the CUP transactions in 2016?

MR BEKIER: I know that now.

30 **MS SHARP SC:** Nobody made you aware of that at the time?

MR BEKIER: No, not to my knowledge.

35 **MS SHARP SC:** Do you see that there were any problems in the way that The
Star dealt with Salon 95, and later Salon 82, with respect to the Suncity junket?

MR BEKIER: Yes.

40 **MS SHARP SC:** And could you explain what you perceive those problems to be.

MR BEKIER: With Salon 95, we - as I understand it now, we let a number
of - we let a behaviour persist that was in contravention of all rules and regulations
that we operate under.

45 **MS SHARP SC:** And what do you mean by "in contravention of all rules and
regulations" you operate under?

MR BEKIER: Well, we - you know, we - we only have one main cage. All financial transactions should have gone through the main cage. Any cash exchange for chips should have been happening at The Star main cage. And, you know, it appears from what I'm - I've read since that, you know, there has been a series of
5 contraventions on that.

MS SHARP SC: Do you agree that this presented an unacceptable risk of money laundering at The Star?

10 **MR BEKIER:** Unmitigated, yes.

MS SHARP SC: In your view, were there shortcomings in the way that The Star dealt with junket operators in terms of assessing the suitability of those junket operators?
15

MR BEKIER: At the time, Ms Sharp, I felt comfortable and I was assured that we were doing the appropriate due diligence on all junket operators. What I've had to learn over the last few months was that there were significant gaps in our assessment.
20

MS SHARP SC: How did you come to learn there were significant gaps in your assessment?

25 **MR BEKIER:** I was able to see the reports that Angus Buchanan had written, which I had not seen previously. I was able to see the Hong Kong Jockey Club report, which I had been hoping to read for a while, and I only saw it in the court papers.

30 **MS SHARP SC:** Do you agree that The Star did not adequately consider the question of suitability when it came to evaluate its relationships with junket operators during the period from November 2016 to the present?

35 **MR BEKIER:** At the time, I felt I had good reason to think that we were doing our job properly. I think at the time, there was a view that we needed quite substantive evidence of wrongdoing to form the view that somebody was of bad character. I think I've learned since then that the test should have been a more positive test of good character.

40 **MS SHARP SC:** Do you consider that there was appropriate supervision of the international VIP team in the period November 2016 to the present?

MR BEKIER: Can you clarify, please, what you mean by "appropriate supervision"?

45 **MS SHARP SC:** That the activities of the VIP international team were appropriately monitored.

MR BEKIER: I believe they were.

MS SHARP SC: Do you have any concerns in terms of The Star's dealings with the New South Wales casino regulator?

5 **MR BEKIER:** At the time, during the period, I never had any concerns about that. I was convinced that we were behaving appropriately, transparently, as required.

MS SHARP SC: What's your view now?

10

MR BEKIER: I think the review has highlighted communication that is contrary to that.

15 **MS SHARP SC:** And what is your view about the appropriateness of the payment channels for international VIP customers in terms of depositing funds to be made available for front money or repaying cheque cashing facilities?

MR BEKIER: In what way, Ms Sharp, sorry?

20 **MS SHARP SC:** Do you consider that the payment channels which The Star made available to VIP patrons were appropriate, having concern to anti-money laundering and counter-terrorism financing risks?

25 **MR WILLIAMS SC:** I object, only in this sense, Mr Bell: it would be helpful for Mr Bekier if those payment arrangements could be identified so that there's no risk that they're answering a different question.

MR BELL SC: Yes, Ms Sharp. I think that's probably right.

30 **MS SHARP SC:** Yes. I will come back to that question a little later. Why have these matters only come to light in recent times for you, Mr Bekier?

35 **MR BEKIER:** That's probably one of the most difficult questions for me to answer. I - I had total confidence in my team, and I have learned a lot of things that are contrary to what I have been told.

MS SHARP SC: Do you feel let down by your team?

40 **MR BEKIER:** By some people, yes.

MS SHARP SC: Who do you feel let down by?

MR BEKIER: I feel let down by people in the risk team and people in the VIP team.

45

MS SHARP SC: When you say, "people in the risk team", do you mean Ms Paula Martin?

MR BEKIER: I do feel let down, yes.

MS SHARP SC: And in what way?

5 **MR BEKIER:** In the way that Paula is an extremely talented person with huge work ethic, who assumed a lot of the problems of the company and tried - as I understand it, tried to solve them herself instead of escalating them. And that, unfortunately, has led to subsequent problems for the company.

10 **MS SHARP SC:** Do you feel let down by Andrew Power?

MR BEKIER: I have no specific reason to be personally let down by Andrew Power.

15 **MS SHARP SC:** Do you feel let down by Oliver White?

MR BEKIER: I am very sad that - to learn - to learn about some of the things that Oliver talked about, yes.

20 **MS SHARP SC:** So you do feel let down by him?

MR BEKIER: Yes.

MS SHARP SC: And why is that?

25

MR BEKIER: Oliver had a lot of - I had a lot of confidence in Oliver. He - Oliver, you know, early on in his career, did some phenomenal work for us in the refinancing of the company, and I trusted him. And he would have had the currency to come to me and escalate any problem to me, and I would have
30 listened.

MS SHARP SC: Do you feel let down by Kevin Houlihan?

35 **MR BEKIER:** I don't know that I have any specific reasons for feeling let down by Kevin.

MS SHARP SC: What about --

40 **MR BEKIER:** I may not have - I may not have seen all parts of his testimony, but - no.

MS SHARP SC: What about Skye Arnott?

45 **MR BEKIER:** Same. I have nothing specifically to say about her.

MS SHARP SC: Angus Buchanan?

MR BEKIER: I'm not close enough to Angus and his work.

MS SHARP SC: What about Harry Theodore?

5 **MR BEKIER:** Harry showed - Harry has been my closest colleague, and he showed a moment of really bad judgment in allowing the communication to the bank.

10 **MS SHARP SC:** Is it right to describe it as a mere moment of bad communication?

MR BEKIER: I'm referring to the invoices that were sent to the bank and - you know, purporting to explain the expenses, you know. That's what I was referring to, Ms Sharp.

15 **MS SHARP SC:** That extended for a considerable period of time rather than a mere moment, though, didn't it?

MR BEKIER: Yes.

20 **MS SHARP SC:** And you'd agree that that's not a one-off instance of poor judgment?

MR BEKIER: It's poor judgment on a matter, yes.

25 **MS SHARP SC:** It's a systemic failing, isn't it?

MR BEKIER: When it comes to this matter, yes.

30 **MS SHARP SC:** And do you feel let down by Greg Hawkins?

MR BEKIER: Yes.

MS SHARP SC: And why do you feel let down by Greg Hawkins?

35 **MR BEKIER:** Greg - specifically, I'm disappointed in Salon 95. I thought Salon 95 - the risks were identified. He raised the risk with me. And beyond that, I thought the issues had been resolved. And I represented to the board and outside investors that the things that we learned about Crown could never happen at Star on the back of his - on the back of his assurances.

40 **MS SHARP SC:** Do you agree you've been let down by a number of people involved in senior management at The Star?

MR BEKIER: Yes.

45 **MS SHARP SC:** What has gone wrong here, in your view?

MR BEKIER: My role as CEO was to set the strategy, implement the strategy and establish a system of structures, processes, procedures to keep the company within the risk appetite. And I think that worked well in many respects. But when it came to the VIP - the later matters, you know, I had a failure of the first and the second line of defence.

MS SHARP SC: And what do you think caused this failure?

MR BEKIER: I think - I think there's a number of contributing factors that - that caused this failure. On one hand, the VIP business was about 12 per cent of our earnings. It was important. But - and - and, you know, we understood that it was a risky part of the business, but it was always seen as a very specialist area. And I was quite comfortable letting people with a lot of experience deal with that part of the business. And - and, unfortunately, it looks like, you know, the systems and standards and expectations that we have for everything else in the company somehow weren't applied. And - and we had a failure in the second line of defence to pick that up.

MS SHARP SC: And who are the people you identified as having this experience in the VIP area?

MR BEKIER: Well, in particular, Greg, who's the most experienced person, having run casinos in Macau. I also, you know, relied on people like Michael - or expected people like Michael Whytcross to help guide us through this space. I expected the risk function to contribute to keep us within the risk appetite.

MS SHARP SC: Do you agree that there is a very serious problem with the culture of the organisation in view of these failures that have occurred in the VIP related business?

MR BEKIER: No, Ms Sharp. I think the culture of the company at large - I still believe the culture of the company at large is a very good culture. I - I believe it is a subculture that has let us down.

MS SHARP SC: And what is the subculture?

MR BEKIER: Well, it's - it's - it's the way and the norms people follow in that isolated - in that relatively small part of the company that deals with the VIP business. That's what I tried to describe, sorry.

MS SHARP SC: What is the subculture that you've identified as problematic?

MR BEKIER: It's essentially dealing with VIP customers like, you know, the way they've been dealt with for the last - or 10 years ago in other parts of the world. And I believe that Star has made a lot of progress in evolving into a very modern company with - with good values at large. But somehow this part of the business didn't move with it and accepted a very different standard of behaviour from guests, from our own staff, to occur in that area.

MS SHARP SC: And what is your reflection on why this problematic subculture emerged?

5 **MR BEKIER:** I - I think what has served us well everywhere else is to bring
outsiders into the organisation that looked at the things we were doing with fresh
eyes. And that has served us really well. We have not done that in that part of the
business. We've relied on people with a lot of experience to do what they do. And
10 because it seemed like a bit of a dark art, we didn't challenge them. I didn't
challenge them.

MS SHARP SC: And what do you mean "the dark art"?

15 **MR BEKIER:** The dark art of acquiring customers, you know, to convince them
to fly long-range and gamble in our casinos, and then finding a way to entertain
them and collect, you know - and then, you know, settle and collect the money.
That's very different from the rest of our business.

20 **MS SHARP SC:** Do you agree that the culture of an organisation is set from the
top of the organisation?

MR BEKIER: Yes.

25 **MS SHARP SC:** What role - or what responsibility, if any, do you see that the
board of directors bears for this problematic culture that has emerged at The Star?

30 **MR BEKIER:** Ms Sharp, if the board of directors had known about any of these
things, they would have supported me in shutting down that business a long time
ago.

MS SHARP SC: Weren't there sufficient indications for the board for many of
these problems, Mr Bekier?

35 **MR BEKIER:** I'm not sure. I don't think so. I think it was very hard for the board
to form that view. I didn't think the business was out of control. And if I didn't see
those problems, I'm not sure the board could have seen them.

40 **MS SHARP SC:** What responsibility, if any, do you accept for this problematic
culture that emerged at The Star?

45 **MR BEKIER:** I've taken accountability. I've - you know, I've - I've resigned, Ms
Sharp, because I picked the people and I established the processes and structures
and policies. And while I don't think I was personally engaged in anything, it was
happening under my leadership.

MS SHARP SC: Now, I'm sure you've had some time to reflect on this, but how
is this culture to be fixed, Mr Bekier?

MR BEKIER: I've got a long list of names, if that helps you.

MS SHARP SC: Well, if you could just tell me what you think about how it could be fixed.

5

MR BEKIER: I think there - I think there needs to be a full revamp and - and, you know, I mean, reorganisation of that business under fresh leadership. I think we need to bring in somebody - or we - the company needs to bring in somebody who's got a fresh pair of eyes and is unshackled by historical traditions and ways of doing things to - to show how we want to operate in that business. We had started down a path to refocus the business away from the high rollers on to premium mass. I think that's the right direction strategically. I think that needs a very different way of dealing with customers. It needs different structures, processes and people.

10
15

MS SHARP SC: Do you agree that senior management in relation to the VIP business was rotten to the core?

20

MR BEKIER: No, I don't agree with that.

MS SHARP SC: It's right, isn't it, that the VIP area of the business presented the greatest risks to the business in terms of money laundering and terrorism financing?

25

MR BEKIER: Yes, Ms Sharp.

MS SHARP SC: And it's right, isn't it, that just at the point where the AML and CTF risks were most acute is where the business most fundamentally dropped the ball?

30

MR BEKIER: I'm afraid that's right, Ms Sharp.

MS SHARP SC: Now, you have known for at least the period 2016 to the present that junkets present a high risk in terms of money laundering and terrorism financing, haven't you?

35

MR BEKIER: Yes.

MS SHARP SC: And you've been aware that one reason for that is because of the mainland Chinese Government tight restrictions on capital flight from that jurisdiction?

40

MR BEKIER: Yes, that's one of the - I was aware of that, yes.

MS SHARP SC: And you're aware, aren't you, that junkets are at risk of being involved in unsavoury practices in terms of debt collection?

45

MR BEKIER: I'm aware of that.

MS SHARP SC: And in terms of making funds available to junket participants?

5 **MR BEKIER:** I'm not sure what you mean by that, Ms Sharp. I think it's in the nature of the junket to make funds available to junket participants.

MS SHARP SC: And that there can be questionable sources of those funds?

10 **MR BEKIER:** Yes, there can be.

MS SHARP SC: And that's a matter that you've been aware of at all times since November 2016?

15 **MR BEKIER:** Yes.

MS SHARP SC: Can I ask you, Mr Bekier, what, if any, anti-money laundering and counter-terrorism financing training you have had?

20 **MR BEKIER:** I have done all the training - the online training that is compulsory for all staff. I've had the benefit of the additional training with the board. And then probably most meaningfully, I've been able to spend time with real experts in the space to explain to me the real risks in this business.

25 **MS SHARP SC:** And when were these real risks explained to you?

MR BEKIER: I think I built up the knowledge gradually over my tenure.

30 **MS SHARP SC:** What anti-money laundering training has the board undertaken, to your knowledge?

MR BEKIER: As part of the board education program, we will bring in the appropriate experts to, you know, brief the board on our AML program, how it operated, the risks in - in - involved in our business and their roles - their role and responsibility as part of the program. And that - that happened every - every - every second year, I think.

MS SHARP SC: And what form did that training take?

40 **MR BEKIER:** It's essentially a presentation from an outsider - outside party.

MS SHARP SC: Is that a presentation at a meeting of the board?

MR BEKIER: Yes.

45 **MS SHARP SC:** And at all times since 2016, have you understood that it is important to establish the source of funds of casino patrons?

MR BEKIER: Yes, I have. I've understood that.

MS SHARP SC: Do you understand - I withdraw that. Have you at all times since November 2016 understood that Australia's anti-money laundering framework is a risk-based framework?

5

MR BEKIER: Yes.

MS SHARP SC: And have you understood since 2016 that it is necessary to attach risk management strategies which are commensurate with the level of risk presented in terms of a money laundering or counter-terrorism financing risk?

10

MR BEKIER: Yes.

MS SHARP SC: Is it correct that in your capacity as CEO and managing director of The Star, you had a general - or you have a general familiarity with the objects of the New South Wales Casino Control Act?

15

MR BEKIER: Yes.

MS SHARP SC: And you're aware that one of the primary objects of the Act, as stated in section 4, is to ensure that the management and operation of the casino remain free from criminal influence or exploitation?

20

MR BEKIER: Yes.

25

MS SHARP SC: Why, to your understanding, is that an object of the Act?

MR BEKIER: I understand that it's there because casinos, given that they're large cash-based businesses, represent an attractive target for, you know, criminals.

30

MS SHARP SC: And have you, therefore, understood that it's necessary for the casino operator to be vigilant to ensure that there is not criminal influence or exploitation of the casino?

35

MR BEKIER: Yes.

MS SHARP SC: And that it is necessary to be vigilant to ensure that money laundering does not take place at the casino?

40

MR BEKIER: Yes.

MS SHARP SC: Under your watch, has the casino been sufficiently vigilant to ensure that money laundering has not taken place at the casino?

45

MR BEKIER: I think we have taken appropriate steps to mitigate that risk. I think we've made a lot of progress in recent years. But overall, I do think we have taken the appropriate steps to mitigate that risk.

MS SHARP SC: What about in relation to the VIP business?

5 **MR BEKIER:** The AML program covers the VIP business as well. So I do think we've taken the appropriate steps under the AML program. I'm not saying that we didn't make any mistakes, and I think every report that we received from outside parties have shown us that there's more to do and that we can do better. But I think we - we performed appropriately.

10 **MS SHARP SC:** I'll come back to that. Do you agree that for the casino licensee to remain a suitable person, it must take care to ensure that it only has business associations with those of good repute?

MR BEKIER: Yes.

15 **MS SHARP SC:** Have you appreciated that at all times since November 2016?

20 **MR BEKIER:** Ms Sharp, I have appreciated it. I think I have been - I have become a lot more aware of the test that one might want to apply to what good repute means.

MS SHARP SC: And when did you become more aware of that test, Mr Bekier?

25 **MR BEKIER:** I would say from 2018 onwards when, in the lead-up to the Bergin Inquiry, there were more - more questions being asked about junkets and their behaviours. I think that started to sharpen my focus on that.

MS SHARP SC: And once your focus was sharpened, did you take any steps to ensure that those whom you led sharpened their focus?

30 **MR BEKIER:** I think so, Ms Sharp. We - we increased the resourcing in our investigations department. We increased our resourcing and committed significant money to our AML program. Yes, I - I hope I did sharpen their focus.

35 **MS SHARP SC:** Now, is it correct that in the period from 2014 until the time of the arrests of Crown employees in mainland China in October 2016 that The Star had employees who were engaged in marketing in mainland China?

MR BEKIER: Yes.

40 **MS SHARP SC:** And how were they engaged in marketing?

45 **MR BEKIER:** We had a team that would fly in and visit high rollers, or potential high rollers, and maintain a relationship with them. We did that under a prescribed protocol of what types of conversations were allowed to happen in China. It was a fly-in fly-out sort of sales force.

MS SHARP SC: And when was that protocol put in place?

MR BEKIER: There was always a protocol in place. We continued to tighten it throughout the period.

MS SHARP SC: Did The Star have an office in mainland China?

5

MR BEKIER: No. Not to my knowledge. But I'm finding out new stuff every day.

MS SHARP SC: Can I ask you some questions now about the KPMG report in 2018. You know what I'm talking about there?

10

MR BEKIER: Yes.

MS SHARP SC: It's correct, isn't it, that KPMG prepared a part A and a part B report in around May of 2018?

15

MR BEKIER: Yes.

MS SHARP SC: And they were provided to you in about May of 2018?

20

MR BEKIER: Yes.

MS SHARP SC: Do you agree that the part A compliance report identified a series of very substantial shortcomings in Star's then AML/CTF program?

25

MR BEKIER: I'm - I'm aware that the report identified high-risk areas - problems - in our program. I thought that these were all problems that we could rectify very quickly.

MS SHARP SC: These were problems that were identified with respect to the VIP aspect of the business, were they?

30

MR BEKIER: Particularly in respect of the VIP business. But I think there were some general observations as well around our transaction monitoring capabilities, our training, our resourcing.

35

MS SHARP SC: And would you agree that one of the findings in the May 2018 report was that The Star had no documented risk assessment or methodology for junkets?

40

MR BEKIER: Yes.

MS SHARP SC: So you were on notice from that time, weren't you, that there were difficulties in terms of assessing the risks associated with junkets?

45

MR BEKIER: Yes. And I think we agreed to rectify that within, I believe, 12 months.

MS SHARP SC: And this was at a time when, in rough terms, the revenue stream from junkets constituted about 12 per cent of Star Entertainment's gross revenue?

5 **MR BEKIER:** Which year are you referring to, Ms Sharp?

MS SHARP SC: The financial year ending June 2019.

10 **MR BEKIER:** From memory, the gross revenue for the VIP business was about 20 per cent of the group's revenue. Within the VIP business, junkets represented about 70 per cent. So that would give you about 14 per cent of gross revenues, which then would have translated to about eight per cent of EBITDA for the group of earnings.

15 **MS SHARP SC:** And do you agree that KPMG identified some serious shortcomings in terms of the due diligence that at that time The Star was conducting of its junkets?

MR BEKIER: Yes, they identified problems. Yes.

20 **MS SHARP SC:** And you say at paragraph 22 of your statement that the findings of the KPMG report came as a surprise to you. Why was it that this was a surprise to you?

25 **MR BEKIER:** Ms Sharp, until that point, we'd had a series of other external independent reviews, as they are required for us to be undertaken every two years, and - and some of these issues had never been raised before. And it was a surprise to me. And I - I took great personal interest in the topic. I wanted to understand what - you know, what was going on here. And I think if you look at what happened subsequently, you know, we - we - we did everything that KPMG
30 suggested, but we then really started to put some serious resourcing into our AML capability because I - I thought it was a bit of a wake-up call.

MS SHARP SC: Do you agree that it was at the very point that KPMG identified shortcomings in the management of junkets at The Star that Star was giving access
35 to Suncity to Salon 95?

MR BEKIER: Those - those events occurred at the same time, yes.

40 **MS SHARP SC:** Is it correct that notwithstanding the findings of the KPMG report, you were not alerted to be more vigilant in terms of activities engaged in by Suncity in Salon 95?

45 **MR BEKIER:** I was alerted of activities in Salon 95 in May by Greg, who raised it with me, and subsequently, I think, sent me an email from Andrew Power. And - and that - that raised issues that were, as I understood them at the time, risks that needed to be mitigated. And the risks occurred because we had given them a service desk in Salon 95. From my point of view, those risks would be managed by the first line of defence, which was Greg. And I relied on the second line of

defence, which would have been Paul McWilliams, to raise the alarm if - if those risks persisted. So I was - I was aware of the initial shortcomings, I was aware of a plan to fix it and then I assumed it had been done.

5 **MS SHARP SC:** Mr Bell, could I just request a five-minute adjournment, please?

MR BELL SC: I will adjourn for five minutes.

<THE HEARING ADJOURNED AT 4:07 PM

10

<THE HEARING RESUMED AT 4:14 PM

MR BELL SC: Yes, Ms Sharp.

15 **MS SHARP SC:** How soon before the audit committee were you provided with a copy of KPMG's part A report, Mr Bekier?

MR BEKIER: I'm not sure precisely how much time. It would have been a couple of days.

20

MS SHARP SC: Did you read it carefully at the time it was provided to you?

MR BEKIER: I read it, yes.

25 **MS SHARP SC:** Did you read it carefully?

MR BEKIER: I don't have any recollection of what level of detail I went in to. But it - it was an important report, so I would have paid appropriate attention.

30 **MS SHARP SC:** Is it fair to say that you were angry at the findings set out in the KPMG part A report?

MR BEKIER: No, Ms Sharp.

35 **MS SHARP SC:** What was your perception when you read that report?

MR BEKIER: I thought it was a big surprise and - and very different from previous reports. So substantively, I wanted to understand how we had arrived at this position and what we needed to do to fix it.

40

MS SHARP SC: Did you consider that the KPMG report contained errors?

MR BEKIER: At what point, Ms Sharp?

45 **MS SHARP SC:** At the point you first read it.

MR BEKIER: At the point I first read it, I wasn't sure whether it contained errors. I wasn't sure it was 100 per cent correct.

MS SHARP SC: As the CEO, were you concerned that these - this report of KPMG warranted consideration for disclosure to the ASX in accordance with Star Entertainment's continuous disclosure obligations?

5

MR BEKIER: I - I don't think that I thought that this was something that had to be disclosed. But I would have relied on our company secretary and our legal team to advise on that.

10 **MS SHARP SC:** Well, didn't these reports, to your understanding, identify some fairly fundamental deficiencies in the management of The Star's AML and CTF risks?

15 **MR BEKIER:** They - they highlighted some significant deficiencies, as you state. But my view was that that was in the normal course of these independent reports where we needed to continuously lift the bar in AML. So I didn't think that this was a report that, in isolation, had to be disclosed.

20 **MS SHARP SC:** Did you consult with the company secretary or anyone else in reaching that view?

MR BEKIER: No, I didn't discuss it with anybody.

25 **MS SHARP SC:** Was there some reason why you didn't discuss it with the company secretary?

30 **MR BEKIER:** At the end of every board meeting, there is an agenda item or a point of discussion about whether anything had to be disclosed. And so that discussion normally happens at that point. So I - I don't recall whether that discussion occurred at the board meeting. But by the nature of the fact that we didn't disclose it, I can only presume that it either wasn't discussed or we decided that it didn't have to be disclosed.

35 **MS SHARP SC:** It's correct, isn't it, that the KPMG report was discussed at an audit committee meeting on 23 May 2018?

MR BEKIER: That's correct.

40 **MS SHARP SC:** Could I take you to the minutes of that meeting, please. These are exhibit B811 at STA.5001.0003.0818. Now, did you understand that two partners from KPMG were requested to attend this meeting and waited outside the room where this meeting was held?

45 **MR BEKIER:** I'm not sure, Ms Sharp.

MS SHARP SC: Well, do you recall that they were there or not?

MR BEKIER: I don't recall.

5 **MS SHARP SC:** Do you see - if I can take you to pinpoint 0819. And, in fact, to be fair, I need to take you back to the first page, if I can, so point 0818. Do you see there's a heading at the bottom of that page, Mr Bekier, AML/CTF Implementation Compliance Review?

MR BEKIER: Yes, I can see that.

10 **MS SHARP SC:** And it's recorded that Mr McWilliams and Ms Martin spoke to the background for this review?

MR BEKIER: Yes.

15 **MS SHARP:** And do you see the minutes record that:

"In particular, it was noted."

MR BEKIER: Yes, I see that.

20 **MS SHARP SC:** Can I draw your attention to the final dot point. It says:

"Under the Act, the company is required to have an AML/CTF program and to have that program independently reviewed."

25 And then over the page, it said:

"This can be done through internal audit or external reviewers with expertise in AML/CTF compliance."

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

MS SHARP SC: And then a little further down, at the third dot point on that page, it says:

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

40 Do you recall those words being said at the meeting, Mr Bekier, that is, that this report was prepared for the purpose of legal advice being provided?

MR BEKIER: I have no independent recollection of that conversation.

45 **MS SHARP SC:** Had you requested that the KPMG report be obtained for the purpose of providing legal advice?

MR BEKIER: No.

MS SHARP SC: And, in fact, you didn't know that the KPMG report was being obtained, did you, until it was provided to you?

5 **MR BEKIER:** I - I was aware that it was on the internal audit plan.

MS SHARP SC: But it was a surprise to you, was it, that the KPMG report had been obtained for the purpose of providing legal advice?

10 **MR BEKIER:** I can't really say that I turned my mind to that. I was aware of the fact that the company secretary and chief legal counsel held the view that there should be privilege over the report. But I don't remember the discussion around that.

15 **MS SHARP SC:** When did the company secretary, that is, Ms Martin, articulate that view to you?

20 **MR BEKIER:** We had a pre-meeting with Paul and - Paul McWilliams and Paula Martin, I want to say on 11 July, before we were going to meet with KPMG to go through the report. And that's - that's certainly the time that I recall that being a point of discussion.

MS SHARP SC: Is it correct that Ms Martin had not articulated that point to you before the 11 July meeting?

25 **MR BEKIER:** I don't recall.

MS SHARP SC: Further down on this page, Mr Bekier, if I can take your attention to it, there's a paragraph which says:

30 "It was noted that the detailed reports have only just been received by management and are undergoing review. There are aspects of the content and bases for some opinions that may be contested by management."

35 Was that a view that you expressed at the meeting?

MR BEKIER: I am not sure, but it's - it's possible.

40 **MS SHARP SC:** Do you see there's an entry a little further down that says:

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

45 **MR BEKIER:** Yes.

MS SHARP SC: Was the full report that KPMG had prepared presented to this meeting, Mr Bekier?

MR BEKIER: I don't recall. But as far - as far as I've seen from the papers, only the executive summary was provided.

5 **MS SHARP SC:** Is there some reason why only the executive summary was provided when a full report was available?

MR BEKIER: It shouldn't. It's not normal practice.

10 **MS SHARP SC:** Well, are you able to explain why normal practice was not followed here?

MR BEKIER: Ms Sharp, there's a lot of things in the process here that weren't normal practice. Do you want me to elaborate?

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

MR BEKIER: As I understand it, the - the internal audit team received a draft version of the report in late April. And then normal practice will be to take that
20 report to management to - management that would have to deal with the implementation of the rectification actions so we can start - when the report gets presented to the board, we have a management response to the findings of the auditor. This report, unfortunately, was not syndicated by our own team as it should have been. And that's why I think there was a bit of surprise when only the
25 executive summary was presented. And senior management, including me, hadn't really had time to provide the board a perspective on what we were going to do about it.

MS SHARP SC: Did you direct that only the executive summary be made
30 available to the audit meeting?

MR BEKIER: No.

MS SHARP SC: Wasn't it the case that KPMG had finalised its report by the time
35 of this meeting, Mr Bekier?

MR BEKIER: I believe they had.

MS SHARP SC: Was there some reason why - I withdraw that. Is it correct that
40 the audit meeting was not told at this meeting that KPMG had, in fact, finalised its report?

MR BEKIER: I don't recall, Ms Sharp.

45 **MS SHARP SC:** Well, in fact, the minutes say that:

"Management however is continuing to work with KPMG."

MR BEKIER: That's correct.

MS SHARP SC: Well, was it suggested to the audit meeting that, in fact, the KPMG review process had not been concluded?

5

MR BEKIER: I - I have no recollection, but I don't - I don't think that was the case, Ms Sharp. I think this is more a reference to the point that if we're asked to come up with an implementation plan, we need to understand the recommendations better. And management working with KPMG, in my view, and my reinterpretation of the minutes, meant that we would engage with KPMG to create that understanding.

10

MS SHARP SC: Can I take you to your first statement, please, Mr Bekier. Can I direct your attention, please, to paragraph 11 of your statement?

15

MR BEKIER: Yes.

MS SHARP SC: You say that your recollection of the audit committee meeting discussion was about the importance of embracing the recommendations made in the executive summaries of part A and part B of the KPMG reports and ensuring that the recommendations were implemented promptly and efficiently. Are you sure that discussion took place at the meeting?

20

MR BEKIER: It's my recollection of what I took out of the meeting, what we had to do.

25

MS SHARP SC: Do you recall any discussion at that meeting with anybody expressing disagreement with the content of the KPMG reports?

30

MR BEKIER: No, I don't.

MS SHARP SC: Do you recall any discussions where anybody at that meeting expressed disagreement with the tone of the KPMG reports?

35

MR BEKIER: I have no original recollection of that.

MS SHARP SC: It's right, isn't it, that you met with KPMG after this audit meeting to discuss the reports, isn't it?

40

MR BEKIER: Yes.

MS SHARP SC: Is it right that you were rude to the KPMG partners at that meeting?

45

MR BEKIER: No.

MS SHARP SC: Is it right that you were aggressive towards the KPMG partners at that meeting?

MR BEKIER: No.

5 **MS SHARP SC:** That you refused to make eye contact with the partners at that meeting?

MR BEKIER: No, I don't think so.

10 **MS SHARP SC:** That it was a very uncomfortable meeting?

MR BEKIER: That I can probably agree with.

MS SHARP SC: And why was that?

15 **MR BEKIER:** So I was - I got involved in this meeting because AML is important, as we've discussed earlier, and the report highlighted some significant problems, differently from what we had previously been told. I wanted to understand why that was the case. And I wanted to get some colour and some understanding whether the legislation had changed, whether we had dropped our performance, whether - you know, what was happening that gave this very different read. I wanted to understand some of the reasoning behind some of the recommendations so I could make sure we can implement this effectively. And I was probably getting a bit frustrated with what I perceived to be poor client service from KPMG.

25 **MS SHARP SC:** Well, what do you say was problematic with the client service that KPMG provided?

30 **MR BEKIER:** I didn't get very many answers other than, "I'm the expert and that's my opinion," and I expected to hear more.

MS SHARP SC: Is it correct that you, at the meeting, turned through the pages of the report and pointed out what you considered to be wrong with the report?

35 **MR BEKIER:** I don't recall directly, but it is possible.

MS SHARP SC: Well, in the meeting, did you seek to persuade KPMG that there were errors in the report?

40 **MR BEKIER:** No.

MS SHARP SC: Did you press the objection that Star's client was the junket operator and not the junket participant and that KPMG had it wrong to the extent it suggested otherwise?

45 **MR BEKIER:** No, I didn't press the point. I wanted to understand why KPMG had arrived at that conclusion, which was different from the way we had dealt with

it in the past and would have some significant impact on our program. I wanted to understand it.

5 **MS SHARP SC:** And did you press the objection that simply because patrons walk in to the casino with large amounts of cash should not mean they are considered to be at higher risk of being involved with the facilitation of money laundering or terrorism financing?

10 **MR BEKIER:** I wanted to understand why, in isolation, the amount of wealth or money was an indicator of a greater risk, yes.

MS SHARP SC: Well, couldn't you see why that was for yourself?

15 **MR BEKIER:** We have very well credentialled guests that show up with a lot of cash. The - the amount of cash, in isolation, I wanted to test whether that was really going to be one of the main drivers.

20 **MS SHARP SC:** Well, do you think that people turning up with very large amounts of cash, say hundreds of thousands of dollars, is in itself a red flag for money laundering?

MR BEKIER: It's a - it's a risk factor, absolutely.

25 **MS SHARP SC:** Well, it's a red flag, isn't it?

MR BEKIER: Not if we understand where the money comes from.

MS SHARP SC: But in and of itself, it's a red flag for money laundering, isn't it?

30 **MR BEKIER:** It can be.

MS SHARP SC: So it's a risk factor?

35 **MR BEKIER:** I agree with that.

MS SHARP SC: And isn't it correct that you worked with Paula Martin to communicate 19 specific complaints you had about the KPMG report?

40 **MR BEKIER:** No, I don't think so.

MS SHARP SC: Could I show you a document, please. If I can call up KPMG.001.001.7871. Now, firstly, have you seen this document before, Mr Bekier?

45 **MR BEKIER:** I've only seen it in the papers.

MS SHARP SC: Is it right that this document records particular concerns you had about KPMG's report as at around 12 July 2018?

MR BEKIER: No, that's not how I would characterise it.

MS SHARP SC: Well, how do you characterise this?

5

MR BEKIER: Well, this is not my document. I'm not sure - I'm not sure, you know, how we got to this document. I'm - I'm aware of the fact that we had a pre-meeting on 11 July, prior to the KPMG meeting. These may be Paula's notes out of the pre-meeting where Paul McWilliams, Paula Martin and I got together to talk about the next day's meeting. But I wouldn't describe that as my list of concerns. My list of concerns were not definitional points. My points of concern were around understanding some of the material positions taken by KPMG.

10

MS SHARP SC: Well, did you work through the report and communicate to Ms Martin a specific list of concerns that you had about the report?

15

MR BEKIER: I would have highlighted the four, five things that I wanted to discuss. Not more.

20

MS SHARP SC: It's right, isn't it, that after you met with KPMG, KPMG wrote to The Star and confirmed the findings that it made in the May 2018 version of its part A report?

MR BEKIER: That's correct.

25

MS SHARP SC: And it's correct that in that 6 August 2018 letter, KPMG pointed out that it had sought input from the outset from the chief risk officer, the general manager of compliance and responsible gambling, and the compliance manager at The Star?

30

MR BEKIER: Yes.

MS SHARP SC: And it pointed out it had identified - I beg your pardon. It had interviewed 37 employees across the three casinos in preparing its report?

35

MR BEKIER: Yes, I remember that.

MS SHARP SC: And it had reviewed over 400 documents and files provided for the purpose of preparing its report?

40

MR BEKIER: Yes.

MS SHARP SC: And KPMG also informed The Star in that letter that it validated each and every finding in the draft report with the chief risk officer at the time?

45

MR BEKIER: Yes.

MS SHARP SC: Could I take you to that document, please. It's KPMG.001.001.1779. I take it you've read this letter before, have you, Mr Bekier?

MR BEKIER: Yes, I have.

5

MS SHARP SC: Can I take you to the second page, which is pinpoint 1780. Do you see under the two dot points, there's a paragraph beginning, "After the reports"?

10 **MR BEKIER:** Yes.

MS SHARP SC: And it says:

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

MR BEKIER: Yes.

20 **MS SHARP SC:** So you were aware, weren't you, that a large number of objections were made to the report by KPMG?

MR BEKIER: I'm not sure I would necessarily classify all of them as objections. For me, the main aspects were clarifications.

25

MS SHARP SC: In any event, you agree that following your consultations with KPMG, KPMG confirmed all aspects of its May 2018 report?

MR BEKIER: Yes.

30

MS SHARP SC: And you're aware, aren't you, that subsequently, The Star claimed legal professional privilege over these KPMG reports?

MR BEKIER: Yes.

35

MS SHARP SC: And in particular, The Star relied on a claim of legal professional privilege to resist providing copies of these reports to a regulator?

MR BEKIER: I'm not sure that that was the purpose of claiming privilege.

40

MS SHARP SC: Well, you're aware, aren't you, that The Star relied on claims of privilege to resist providing copies of this report to a regulator, aren't you?

MR BEKIER: Yes, I was.

45

MS SHARP SC: Did you take any steps to satisfy yourself that a claim of privilege was properly taken?

MR BEKIER: No.

MS SHARP SC: Is it the case that a claim of privilege was relied upon to resist providing a copy of this report to the regulator?

5

MR BEKIER: Not to my knowledge, Ms Sharp. Certainly not - certainly not something I would have condoned.

MS SHARP SC: Was there a practice, while you were the CEO and managing director of The Star, claiming privilege over documents to resist providing those documents to the regulators?

10

MR BEKIER: I'm not aware of such a practice.

MS SHARP SC: Do you agree that if there was no basis for a claim of privilege, it would be quite inappropriate to assert the privilege to resist providing documents to the regulators?

15

MR BEKIER: I agree, Ms Sharp.

20

MR BELL SC: Does it concern you, Mr Bekier, that Ms Martin has given evidence to this review conceding that the claims for legal professional privilege over the KPMG reports were incorrect?

MR BEKIER: Yes.

25

MR BELL SC: And were you aware of a practice of making claims of legal professional privilege on a routine basis by the legal department?

MR BEKIER: No, I was not aware of a practice. And I'm not a lawyer to, you know - so - so I was not in a position to challenge any of those. But my view on the provision of any of those reports to the regulator was always that the regulator could request anything anyway. [Redacted]

30

MS SHARP SC: Have you ever had cause, during your time as CEO, to consider whether The Star was inappropriately claiming privilege in relation to independent reports provided to the board?

35

MR BELL SC: [Redacted]

40

MR BEKIER: Okay. I'm sorry.

MR BELL SC: [Redacted] Yes, Ms Sharp.

MS SHARP SC: I will ask my question again, Mr Bekier. Have you ever had cause, during your time as the CEO, to consider whether The Star was inappropriately asserting that independent reports provided to the board were privileged?

45

MR BEKIER: No, I never had reason to do that.

5 **MS SHARP SC:** Could I show you exhibit B, tab 2841, which is
STA.3002.0001.1248. Now, I'm showing you the front page of a report dated May
2021 by BDO, being the phase 1 interim report on the review of part A of The
Star's anti-money laundering and counter-terrorism financing program?

10 **MR BEKIER:** Yes, I can see that.

MS SHARP SC: And do you see it's marked as "privileged"?

MR BEKIER: Yes, I can see that.

15 **MS SHARP SC:** Have you ever sought legal advice from BDO in relation to The
Star's AML/CTF program?

20 **MR WILLIAMS SC:** Could I ask for clarification whether that's a question
directed to whether Mr Bekier personally sought advice or whether the company
sought advice.

MS SHARP SC: Yes. Thank you. I'm happy to clarify that. Have you personally
sought legal advice?

25 **MR BEKIER:** No, never. No. Sorry.

MS SHARP SC: Are you in a position to explain why it is that privilege has been
claimed over this part A report?

30 **MR BEKIER:** No, I'm not, Ms Sharp.

MS SHARP SC: Does it strike you as odd in any way that privilege has been
claimed over this report?

35 **MR BEKIER:** I'm not sure, Ms Sharp, that I know exactly the context of the
instructions that HWL had from our own lawyers. So I'm not sure I can answer
that question.

40 **MS SHARP SC:** To your knowledge, had the board ever requested legal advice
from BDO as to its part A AML/CTF program?

MR BEKIER: No.

45 **MS SHARP SC:** Can I take you, please, to STA.5002.0007.2441. I am showing
you minutes of a meeting of the board of directors dated 28 July 2021?

MR BEKIER: Yes, I can see that.

MS SHARP SC: Do you agree that the minutes record you as being present?

MR BEKIER: Yes.

5 **MS SHARP SC:** And you were present, weren't you?

MR BEKIER: Yes.

10 **MS SHARP SC:** Could I take you, please, to pinpoint 2449. Do you see there's an entry there for Ebsworth Lawyers and BDO?

MR BEKIER: Would you mind just enlarging that a bit? Thank you. Thank you.

15 **MS SHARP SC:** Do you see there's a reference to Mr Anthony Seyfort from HWL Ebsworth addressing the board in relation to a report of BDO?

MR BEKIER: Yes, I can see that.

20 **MS SHARP SC:** Now, the minutes record that:

"Mr Seyfort noted that both phases of the review are being subjected to legal professional privilege."

25 **MR BEKIER:** I can see that.

MS SHARP SC: Is it correct that you personally had not given any instructions to Mr Seyfort to provide advice on compliance - I withdraw that - to provide advice in relation to The Star's AML/CTF program?

30 **MR BEKIER:** That's correct.

MS SHARP SC: And to your knowledge, the board had not instructed that Mr Seyfort provide legal advice in relation to BDO's assessment of the AML/CTF program?

35

MR BEKIER: That's correct.

MS SHARP SC: So you're not in a position to explain why it may have been that Mr Seyfort was suggesting that legal professional privilege applied?

40

MR BEKIER: Yes, I don't know.

45 **MS SHARP SC:** You're not aware of any general practice, are you, or - I withdraw that. Are you aware of any general practice where independent reports are provided to the board and it is asserted that legal professional privilege applies to them in order to resist their production to regulators?

MR BEKIER: I'm not aware of such a practice.

5 **MS SHARP SC:** Could I take you, please, to exhibit B at tab 3370. This is STA.3402.0008.4551. Do you see this is another report from BDO? It's expressed as being a draft report, and it's dated August/September 2021. And it's in relation to phase 2 reporting transaction monitoring?

MR BEKIER: Yes, I can see that.

10 **MS SHARP SC:** Have you ever seen a final version of this report?

MR BEKIER: I can't be sure. I thought I had.

MS SHARP SC: When did you see the final version of the report?

15 **MR WILLIAMS SC:** I object to that question.

MR BELL SC: What's the objection?

20 **MR WILLIAMS SC:** He hasn't agreed that he saw it. He can't be sure. If it's appropriately qualified - so the question ought to be appropriately qualified having regard to his previous answer.

MR BELL SC: Ms Sharp?

25 **MS SHARP SC:** Well, Mr Bell, he said, "I can't be sure. I thought I had."

MR BELL SC: Yes, I will allow the question.

30 **MR BEKIER:** I thought that I was reviewing these papers late in the year, and I thought I was looking at a final report. But I may have confused it with looking at the draft report.

35 **MS SHARP SC:** Mr Bell, I'm about to move to a different topic. I wonder whether we might adjourn for the day?

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

MR BEKIER: Thank you.

40 **<THE HEARING ADJOURNED AT 4:52 PM**