



**INDEPENDENT LIQUOR AND GAMING AUTHORITY OF NSW**

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

**PUBLIC HEARING  
SYDNEY**

**WEDNESDAY, 4 MAY 2022  
AT 10:00 AM**

**DAY 28**

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

**Star Witness  
MR MATTHIAS MICHAEL BEKIER**

**Expert Witness  
MS ROBYN BEVERLEY MCKERN**

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

**<THE HEARING RESUMED AT 10:03 AM**

**MR BELL SC:** Mr Bekier, you remain bound by the oath you took on Monday.

5 **<MATTHIAS MICHAEL BEKIER, ON FORMER OATH**

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

**<EXAMINATION BY MS SHARP SC:**

10

**MS SHARP SC:** Mr Bekier, is it correct that at some point yesterday you located a calendar entry that has relevance to some evidence you gave yesterday?

**MR BEKIER:** The email arrived this morning, yes.

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**MS SHARP SC:** And what was that calendar entry, please?

**MR BEKIER:** The calendar entry shows, contrary to my statement yesterday, and the analysis provided to me previously, that there was a meeting on 11 May between Paula Martin, Andrew Power and myself on the subject of the licence review.

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**MS SHARP SC:** And is it correct that the title of the entry for the meeting in your calendar was Casino Licence Review Meeting?

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**MR BEKIER:** Yes, Ms Sharp.

**MS SHARP SC:** And it was scheduled to go from 4.30 to 5 pm on 11 May 2016?

30

**MR BEKIER:** Yes.

**MS SHARP SC:** And according to that calendar entry, you, Ms Martin, Mr Power and possibly Graeme Stevens attended?

35

**MR BEKIER:** Correct.

**MS SHARP SC:** Do you accept now it is most likely that you read that schedule of advice prepared by Mr Power and dated 11 May 2016?

40

**MR BEKIER:** I accept that that paper was most likely discussed in that meeting.

**MS SHARP SC:** And is it most likely you read it?

**MR BEKIER:** During that meeting, yes.

45

**MS SHARP SC:** I will return now to some questions I asked yesterday regarding Marcus Lim. Now, it's correct that he commenced employment at Star Entertainment Group in March of 2016, isn't it?

**MR BEKIER:** I think that's about right, but I can't be sure about the precise date.

5 **MS SHARP SC:** And is it right that from April 2018 until 24 January 2021, he was the president of international VIP sales?

**MR BEKIER:** Yes, I believe so.

10 **MS SHARP SC:** And you do agree that that is a very senior position within the organisation?

**MR BEKIER:** I agree.

15 **MS SHARP SC:** Now, could I take you to the first statement Mr Kevin Houlihan gave to this inquiry. It is exhibit A at 627, INQ.002.004.0174. And, operator, could you take us, please, to paragraphs 185 to 188. Now, can you see in these paragraphs, that is, 185 to 187, Mr Houlihan gives some evidence about conducting certain investigations in March 2018, principally in relation to Mr Lim's spending and credit card expenses?

20

**MR BEKIER:** Yes.

**MS SHARP SC:** Is this the matter about which you recall being told it had been finalised?

25

**MR BEKIER:** I - I can't be sure, Ms Sharp. I thought that the matter that had been brought to my attention was revolving more around kickbacks that Mr Lim was receiving, was alleged to have received and how that, you know, was evident in his lifestyle in Singapore.

30

**MS SHARP SC:** Could I take you to a different document, please, which is exhibit G690, STA.3004.0006.0003. Now, I'm not suggesting that you're a recipient of this document. But you can see, can't you, that it's an information note prepared by Kevin Houlihan dated 19 July 2019?

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**MR BEKIER:** Yes, I can see that.

**MS SHARP SC:** And do you see it's marked to the attention of Paula Martin?

40 **MR BEKIER:** Would you mind just enlarging that a little bit, please? Yes, I can see that. Thank you.

**MS SHARP SC:** Do you see it's entitled Operation Great Wall?

45 **MR BEKIER:** Yes.

**MS SHARP SC:** And could I take you to the Summary box, please. Do you see it says that:

5 "The group investigations manager spoke with several witnesses in July of 2019. During this interview, several areas of concern were raised with respect to the president of international VIP sales, Marcus Lim, including allegations of inappropriate conduct and potential conflicts of interest."

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

10 **MS SHARP SC:** Now, could I take you - if you will just pardon me one moment. Could I take you to the bottom of the first page, please. Now, do you see there's - towards the bottom, it says:

"The areas of concern that have been raised include."

15 Now, I was wondering if I could show you that and also what appears on the next page at the same time. And the dot points on the next page, operator. Now, could I just ask you to read those matters to yourself, please, Mr Bekier.

20 **MR BEKIER:** Yes, I've read it.

**MS SHARP SC:** You would agree, firstly, that there are a large number of allegations against Mr Lim?

25 **MR BEKIER:** Yes.

**MS SHARP SC:** You would agree that they are serious allegations?

**MR BEKIER:** Yes.

30 **MS SHARP SC:** Were you made aware of these allegations in 2019?

**MR BEKIER:** Not in detail.

35 **MS SHARP SC:** Does this document that I'm showing you reveal many more allegations against Mr Lim as compared with what you knew?

**MR BEKIER:** Yes.

40 **MS SHARP SC:** Could I take you, please, to the bottom of that page under the heading Areas of Potential Misconduct. Now, you see one of the areas is:

"Conflicts/personal advantage."

45 Were you aware of that general allegation?

**MR BEKIER:** Yes.

**MS SHARP SC:** And do you see that there is:

"(2) corrupt payments; (3) financial mismanagement; (4) abuse of complimentary; (5) association/affiliation with illegal and undesirable elements."

5

Were you aware of those aspects of the allegations?

**MR BEKIER:** No.

10 **MS SHARP SC:** Can I take you now to exhibit G718, which is  
STA.3402.0008.1342. And what I'm showing you is an email exchange between  
Paula Martin and Kevin Houlihan of 14 November 2019, so some months after  
that document I've shown to you. Now, I might start with the email from Mr  
15 Houlihan that appears at the bottom of that page. Do you see he advises Ms Martin  
that he says there is a need for him to interview a number of staff members who  
resided overseas, specifically Singapore, Macau and Hong Kong?

**MR BEKIER:** Do you mind just enlarging that email - thank you.

20 **MS SHARP SC:** So you see he says there's a need for him to interview staff  
members overseas?

**MR BEKIER:** Yes, I can see that.

25 **MS SHARP SC:** And under that, he states:

"As you are aware, we currently have two investigations on foot that require  
my attention, including: Kuan Koi, allegation of misappropriation of funds on  
deposit."

30

Were you aware of that allegation in relation to Kuan Koi?

**MR BEKIER:** I'm not sure how to interpret that line. I was aware of the  
allegation that Kuan Koi had made against Adrian Hornsby, I believe, that he had,  
35 without authorisation, moved Kuan Koi's funds around.

**MS SHARP SC:** And can you tell us any more about that allegation?

40 **MR BEKIER:** That's pretty much the extent that I was aware of. I was aware that  
there was an investigation that was undertaken into that.

**MS SHARP SC:** Was there any suggestion that Adrian Hornsby had acted  
inappropriately?

45 **MR BEKIER:** To the best of my knowledge, that was not proven. My  
understanding was that the - the finding indicated poor paperwork and  
documentation of agreements and agreed actions, but no wrongdoing for Adrian  
Hornsby.

**MS SHARP SC:** And when was that finding notified to you?

5 **MR BEKIER:** At about the time that we did a settlement with Kuan Koi around his claims.

**MS SHARP SC:** And who communicated that finding to you?

10 **MR BEKIER:** I can't be sure, Ms Sharp. It was either Ms Martin or Greg Hawkins.

**MS SHARP SC:** And was anything communicated to you in writing about that matter?

15 **MR BEKIER:** No. I - I had to sign off on the financial settlement. That's the only thing.

**MS SHARP SC:** Were you provided with a briefing paper in order to sign off on the financial settlement?

20 **MR BEKIER:** No, I - I got a verbal briefing.

**MS SHARP SC:** Now, could I take your attention, please, to the next paragraph, which is pinpoint 1343. Do you see the last dot point there is:

25 "The second issue as discussed relates to further progression of recent information for China Wall."

30 Now, you understand from the document I previously showed you, don't you, that Operation China Wall was related to allegations against Marcus Lim?

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

35 **MS SHARP SC:** Is it your evidence that you weren't provided with any information at all as at November 2019 that investigations into allegations against Mr Lim were continuing?

40 **MR BEKIER:** Yes, Ms Sharp. My recollection is that I asked about the status of the investigation. I was told that it had been concluded at about this time, without any evidence supporting the allegations.

**MS SHARP SC:** And who told you that?

45 **MR BEKIER:** That was a conversation I had with the chief risk officer.

**MS SHARP SC:** That's Ms Martin, is it?

**MR BEKIER:** Yes.

**MS SHARP SC:** But so far as you're concerned, that related to allegations in 2018?

5 **MR BEKIER:** I'm - I may have muddled these two things. If I understand the documents you have shown me correctly, the 2018 allegations were relating to expenses. I was not aware of those. The only thing I was aware of was an investigation into alleged kickbacks, which relates, I think, more to this investigation in 2019.

10

**MS SHARP SC:** But you certainly did not comprehend that there existed all of the allegations that I took you to in that information note dated 19 July 2019?

**MR BEKIER:** No, I did not.

15

**MS SHARP SC:** Could I take you to another document, please, which is exhibit B, tab 2063, STA.3402.0003.8648. Now, I will ask you not to refer to the identity of the due diligence service provider here, please, Mr Bekier. Could you treat that information confidentially. I will ask you to assume that the author of this email, dated 16 December 2019, is a due diligence provider. And do you see it's to Oliver White, and it's dated 16 December 2019?

20

**MR BEKIER:** Yes.

25 **MS SHARP SC:** And you agree, don't you, that it relates to Marcus Lim?

**MR BEKIER:** Would you mind enlarging the email, please?

**MS SHARP SC:** Do you agree it relates to Marcus Lim?

30

**MR BEKIER:** Yes. Sorry. Yes, it does.

**MS SHARP SC:** Yes. And do you see the author of this document says that he is attaching an interim report on Marcus Lim?

35

**MR BEKIER:** Yes.

**MS SHARP SC:** And if you have regard to the second paragraph, he states:

40 "Given that Alpha Group provides junket support services and is controlled by a brother/relative of Marcus, this would appear to be a very serious conflict of interest at least if he has failed to declare it."

Now, was that finding of the due diligence provider made known to you?

45

**MR BEKIER:** No, it wasn't.

**MS SHARP SC:** Would it surprise you to learn that Mr Houlihan and Ms Martin both gave evidence that their investigation - or Mr Houlihan's investigations continued in relation to Marcus Lim in 2020?

5 **MR BEKIER:** Yes, it would surprise me.

**MS SHARP SC:** And would it surprise you to learn that Mr Houlihan's evidence was that he never reached a conclusion in relation to these investigations?

10 **MR BEKIER:** Yes, that would surprise me.

**MS SHARP SC:** Would you agree that there appears to be an incredible delay between these allegations surfacing in July 2019 and they remaining unresolved by June of 2020?

15 **MR BEKIER:** Yes.

**MS SHARP SC:** Now, shouldn't this matter have been notified to you, Mr Bekier?

20 **MR BEKIER:** It should have been. I - I would normally be kept abreast against any allegations against managers of Marcus's seniority or above.

**MS SHARP SC:** And they're very serious allegations, aren't they?

25 **MR BEKIER:** Yes.

**MS SHARP SC:** And, in fact, they are numerous allegations, rather than merely one allegation of impropriety?

30 **MR BEKIER:** Yes.

**MS SHARP SC:** Can I take you to exhibit B2487, which is STA.3008.0006.4571. I'm showing you a letter from Star to Mr Lim dated 21 July 2020. And do you see the letter says that his position has been made redundant due to COVID?

35 **MR BEKIER:** Yes.

**MS SHARP SC:** And you were aware that that action was taking place at the time, weren't you?

40 **MR BEKIER:** Yes.

**MS SHARP SC:** Do you have any comment on the appropriateness of making him redundant and permitting him to stay on gardening leave for the next six months on full pay when a series of serious allegations against him remained outstanding?

45



**MR BEKIER:** It's - it's surprising that we chose that avenue. But I think, as you pointed out, Ms Sharp, the investigation took too long. It should have been concluded prior to making this decision.

5 **MS SHARP SC:** Well, was this a case of simply shuffling off Marcus Lim quietly so as to avoid making any disclosures of seriously inappropriate conduct of a senior manager at Star Entertainment Group?

10 **MR BEKIER:** I'm not sure, Ms - Ms Sharp, because, you know, back in July 2020, we were, you know, through a concerted effort, reducing costs across the group. So the decision to downsize the international team may have been taken by Greg, and I'm not sure that - that he was aware of the allegations.

15 **MS SHARP SC:** Because the reality is you weren't kept briefed on the matter, so you really don't know whether this was a case of shuffling Marcus Lim off quietly so as to make - well, avoid making any disclosures that he had engaged in seriously inappropriate conduct, do you?

20 **MR BEKIER:** I don't know.

**MS SHARP SC:** And this, of course, means the board doesn't know; do you agree?

25 **MR BEKIER:** I - I agree.

**MS SHARP SC:** But you would accept, wouldn't you, that the regulator would be very interested in knowing whether one of the very senior officers of Star, and indeed the officer who was the head of the international VIP team, had been found to have engaged in seriously inappropriate conduct?

30 **MR BEKIER:** Yes, I believe we have an obligation to report these sort of findings.

35 **MS SHARP SC:** Do you know if these - and to be clear, there's no evidence that any findings were ever made. Do you understand that?

**MR BEKIER:** I do. Thank you.

40 **MS SHARP SC:** At the moment, these remain allegations that have been investigated to some degree, without any conclusions being reached. Do you understand?

**MR BEKIER:** Yes.

45 **MS SHARP SC:** Should the regulator of the casino in New South Wales have been made aware of these allegations?

**MR WILLIAMS SC:** I object to the question.

**MR BELL SC:** What's the objection, Mr Williams?

5 **MR WILLIAMS SC:** Mr Bekier is being asked to express a normative opinion at large about matters of which he wasn't aware at the time.

10 **MR BELL SC:** Well, he has been made aware of them now and I think he's in a particularly good position to express a view on that, Mr Williams. I will allow the question.

**MR WILLIAMS SC:** If it please.

15 **MR BEKIER:** Ms Sharp, if we had a good relationship with the regulator, this would have been one of the things we would have made them aware of, even if there was no statutory requirement to make them aware of that. And I'm not - I'm not sure there is such a requirement.

20 **MS SHARP SC:** Are you aware, Mr Bekier, that until 13 June 2020, Mr Hwa Ryong (Simon) Kim was the senior vice president of international marketing at Star Entertainment Group?

**MR BEKIER:** I'm not sure.

25 **MS SHARP SC:** I think he is commonly referred to as Simon Kim within your organisation.

**MR BEKIER:** I - I - I may have heard the name. I'm - I'm not familiar with the person.

30 **MS SHARP SC:** Did you know he was based in Macau?

**MR BEKIER:** I - I didn't know the people in Macau that well.

35 **MS SHARP SC:** Well, in the period from 18 September 2017, he was based in Macau and reported to John Chong who, in turn, reported to you; do you agree?

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

40 **MS SHARP SC:** And are you aware that various allegations were made that Simon Kim misappropriated funds while working at Star Entertainment?

**MR BEKIER:** Yes. Thank you for jogging my memory. Yes, I'm aware of the allegations against Simon.

45 **MS SHARP SC:** Were you aware that it was alleged by patron Guoyi Su that Simon Kim had defrauded him of winnings when he played on the Suncity junket?

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

**MS SHARP SC:** And were you aware of an allegation that Mr Kim issued a \$13.3 million false transfer instruction to Suncity, and instead of money being paid over to The Star, it was paid into an account controlled by Simon Kim?

5

**MR BEKIER:** Yes, I was aware of that allegation.

**MS SHARP SC:** When were you made aware of these allegations?

10 **MR BEKIER:** I think I was made aware of this when Simon Kim disappeared.

**MS SHARP SC:** And it's right, isn't it, that he disappeared and was thereafter sent a termination letter in July of 2020?

15 **MR BEKIER:** I'm not sure about the termination letter. I - I thought he had - he had disappeared some time before that.

**MS SHARP SC:** Well, I'll show you the letter, exhibit B2536, which is STA.3402.0001.3504. Do you see I'm showing you a letter on a Star letterhead to  
20 Simon Kim dated 13 July 2020?

**MR BEKIER:** Yes.

**MS SHARP SC:** And do you see that he is advised that a decision has been made  
25 to terminate his employment?

**MR BEKIER:** Yes.

**MS SHARP SC:** Was it made known to the board that there were these serious  
30 allegations that a senior member of the VIP team had misappropriated money?

**MR BEKIER:** I'm not sure whether that was raised in the risk report. I don't recall it being raised in the risk report.

35 **MS SHARP SC:** Do you know whether this matter was made known to the New South Wales casino regulator?

**MR BEKIER:** No, I'm not. I'm not aware of that.

40 **MS SHARP SC:** Now, are you aware of an allegation that Star staff members in Macau were providing letters to representatives of the Bank of China in Macau which provided a false explanation as to the source of funds which were being deposited by patrons at the Bank of China in Macau?

45 **MR BEKIER:** I became aware of that in October 2021.

**MS SHARP SC:** And in what circumstances did you come to be aware of this matter?

**MR BEKIER:** I think I was made aware of the matter the night before we finalised the first set of documents that we were providing to the inquiry - to the review.

5

**MS SHARP SC:** And it's right that this conduct was occurring at least in 2017?

**MR BEKIER:** I'm not sure I've got the exact window over which that practice was occurring, but 2017 sounds likely.

10

**MS SHARP SC:** And this was at a time where the VIP team reported to John Chong who, in turn, reported to you?

**MR BEKIER:** Yes.

15

**MS SHARP SC:** And we may take it that you had absolutely no idea at the relevant time that Star staff members had been involved in handing over fake source of funds documents to a bank?

20

**MR BEKIER:** No.

**MS SHARP SC:** You do agree that it is an extremely serious allegation?

**MR BEKIER:** I do agree with that.

25

**MS SHARP SC:** You do now understand that The Star has in its possession the template letters which are the fake source of funds letters?

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

30

**MS SHARP SC:** I'll show you exhibit B3393, which is STA.3008.0002.2801. Do you see there's an email from Mr White to Ms Martin and Mr Power, and copied to Skye Arnott?

35

**MR BEKIER:** Yes.

**MS SHARP SC:** Dated 29 November 2021?

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

40

**MS SHARP SC:** And do you see there are a number of attachments to that email?

**MR BEKIER:** Yes.

45

**MS SHARP SC:** And I will take you just to a sample of them, if I can. I'll take you to exhibit B at 3396, which is STA.3008.0002.2815. Now, I'm showing you a template letter which has the name Gabriela Soares at the bottom, who was the assistant vice president of VIP credit and collections?

**MR BEKIER:** Yes.

**MS SHARP SC:** And do you see that this template letter says:

5

"The purpose of this letter is to provide proof of payment deposit remit into The Star NAB bank as below."

**MR BEKIER:** Yes.

10

**MS SHARP SC:** And do you understand that Ms Soares has admitted that she did provide documents like this to Bank of China officials in Macau?

**MR BEKIER:** Yes.

15

**MS SHARP SC:** Have you caused a full investigation to be done into the circumstances surrounding the provision of these fake source of funds letters to the bank in Macau?

20 **MR BEKIER:** Yes. We started that --

**MS SHARP SC:** And --

**MR BEKIER:** Sorry.

25

**MS SHARP SC:** You did? Sorry, I cut across you.

**MR BEKIER:** Yes, we did, Ms Sharp.

30 **MS SHARP SC:** And I cut across you. I'm sorry. Did you have anything to add?

**MR BEKIER:** Yes, I was just going to add that as soon as this - this matter as well as the other irregularities in the other international bank accounts came up, we - I asked, you know, for a full investigation into all of these allegations to be made straightaway.

35

**MS SHARP SC:** And is it correct that there is still no conclusion to that investigation?

40 **MR BEKIER:** I made inquiries during my last week - so - so I would get weekly updates on the various inquiries here. I believe it was difficult at some point to get documents out of the banks. We didn't seem to have statements to verify certain things. But my impression was by the end of March, we were pretty close, and that on this matter here, there was consensus that, you know, these letters had been provided.

45

**MS SHARP SC:** Are you in a position to explain to Mr Bell why the investigation has not yet been finalised?

**MR BEKIER:** I can only presume that the challenges of travel, the fact that it would have been difficult to interview people in Hong Kong and Macau, the fact that we had closed our offices and we were trying to repatriate all the documents. I think there were just some logistical challenges as well as, you know, the range of inquiries that were absorbing capacity. But other than that, I have got no other reason. My impression was that we were making good progress on these inquiries.

**MS SHARP SC:** To your knowledge, was any decision made or instruction given to go slow on this investigation and avoid bringing it to finality?

**MR BEKIER:** No, Ms Sharp. Not to my knowledge.

**MS SHARP SC:** What is your reflection on the fact that the casino has given fake source of funds letters to a bank?

**MR BEKIER:** Terrible. And, Ms Sharp, one of the reasons why I pushed for the closure of international offices was, you know, I just didn't think the business in the future would warrant our presence and that there was too much risk in having, you know, lightly supervised team members in remote offices.

**MS SHARP SC:** You agree, don't you, that the VIP team was an area of the business responsible for bringing a massive turnover into the casinos in Australia?

**MR BEKIER:** Yes.

**MS SHARP SC:** And at all times while you have been the CEO at The Star, you have understood that there are integrity risks presented by junkets, haven't you?

**MR BEKIER:** Yes.

**MS SHARP SC:** And you have at all times understood that there are money laundering and counter-terrorism financing risks associated with junkets, haven't you?

**MR BEKIER:** Yes.

**MS SHARP SC:** And that is at least in part because of the opacity of the funds?

**MR BEKIER:** The opacity of funds and the - the fact that the junket is interposed between the player and the property - the casino. Yes.

**MS SHARP SC:** And you agree now, don't you, that in the period of at least November 2016 on, the VIP team was not properly supervised by the executive at The Star?

**MR BEKIER:** I don't think I can agree with that, Ms Sharp. Certainly not at the time. I felt that the team was well supervised. It was being trained, that we

provided compliance training to the team. I - I felt the team was appropriately led at the time.

5 **MS SHARP SC:** Well, let me put this to you: you agree that staff members of the VIP team gave fake source of funds letters to a bank, don't you?

**MR BEKIER:** I do.

10 **MS SHARP SC:** And you agree that there are very serious and multiple allegations against the head of the VIP team, Mr Lim, which at this stage have not been finalised?

**MR BEKIER:** Yes.

15 **MS SHARP SC:** And you agree that a senior member of the VIP team, Mr Simon Kim, absconded when allegations were made that he misappropriated funds from junkets?

20 **MR BEKIER:** Yes.

**MS SHARP SC:** And you agree that Kuan Koi alleged that payments from his accounts had been moved in an unauthorised way and that allegation involved Adrian Hornsby?

25 **MR BEKIER:** Yes.

**MS SHARP SC:** Wasn't the VIP team simply out of control?

30 **MR BEKIER:** I don't - I don't agree with that, Ms - Ms Sharp. The - the collections team was obviously reporting to the financial team. To my knowledge, the allegations against Adrian Hornsby were never substantiated. As for the other allegations, you know, yes, they are very unfortunate events.

35 **MS SHARP SC:** You see, just at the point in the business where the flow of money was at its highest and where the AML risks were the greatest and where the integrity risks to the casino were the greatest, senior management completely dropped the ball with the management of the VIP business, didn't it?

40 **MR BEKIER:** I - I wouldn't agree with the characterisation that we completely dropped the ball.

**MS SHARP SC:** Well --

45 **MR BEKIER:** But there were clearly shortcomings.

**MS SHARP SC:** What responsibility do you personally accept for these shortcomings, Mr Bekier?

**MR BEKIER:** My responsibility lies in the establishment of the structures, the processes, the policies and the controls that were put in place. And to the extent that our risk management framework was not effective, I'm accountable for that. On the specific instances, I - I cannot take any responsibility for the individual wrongdoings.

**MS SHARP SC:** Well, the VIP team reported directly to you until April 2018, didn't it?

**MR BEKIER:** Through John Chong, yes.

**MS SHARP SC:** Well, surely you must take some responsibility for failings occurring prior to that date?

**MR BEKIER:** Well, Ms Sharp, you know, when - when I became aware of concerns around the leadership of John Chong, concerns that were raised, you know, through - internally, we moved very quickly to address those concerns. And so I've - I felt that we were doing the right things and that we responded to every indication of any wrongdoing in that space.

**MS SHARP SC:** And what were the concerns in relation to John Chong?

**MR BEKIER:** The concerns in relation to John Chong were that it was not clear where he was for extended periods of time, that his team could not find him and that he wasn't providing the appropriate leadership over his people.

**MS SHARP SC:** And what conclusion was reached in relation to those concerns?

**MR BEKIER:** We terminated employment.

**MS SHARP SC:** And when was it you terminated his employment?

**MR BEKIER:** April 2018.

**MS SHARP SC:** I gather that took the form of a written termination letter?

**MR BEKIER:** Yes.

**MS SHARP SC:** And it followed the outcome of an investigation, did it?

**MR BEKIER:** Yes. I was made aware by the chief risk officer and the chief people officer, who jointly came to see me and - and raised these concerns with me, and I made it clear that these were not unsubstantiated allegations.

**MS SHARP SC:** And who was the chief risk officer at that time?

**MR BEKIER:** That was Paula Martin.



**MS SHARP SC:** I call for the termination letter to John Chong and any record setting out the results of the investigation into John Chong.

**MS RICHARDSON SC:** I will make inquiries.

5

**MR BEKIER:** Sorry, Ms Sharp. I may - may have been wrong. I think Paula Martin may have come - may have - and - and - and the chief people officer. Paula Martin at that time may have come in her role as chief legal officer who had purview over the investigators. I think that's why she was there.

10

**MS SHARP SC:** Could I take you, please, to paragraph 33 of your first statement, Mr Bekier, where you discuss junket relationships. You say at paragraph 33 that you made a decision in consultation with chairman John O'Neill. And was that decision not to deal with junkets?

15

**MR BEKIER:** Yes.

**MS SHARP SC:** So what exactly was the decision that you made at that time?

20

**MR BEKIER:** The decision was that we would no longer engage in business with junkets. We would stop taking new - new business from junkets and unwind any existing relationships.

25

**MS SHARP SC:** Was that a decision with permanent effect, or was it more in the nature of a suspension pending a decision by the regulator about what should be done about junkets?

**MR BEKIER:** From my point of view, it was a permanent decision.

30

**MS SHARP SC:** Why is it that the board - that you made this decision rather than the board?

35

**MR BEKIER:** I think at December 2020, you know, we - the borders were shut. There was no business around. There were some real concerns. You know, it was a relatively appropriate time for us to make that decision. And then I think - or I'm pretty certain we notified the board down the track that that's the decision we had taken. And if - if at that point the board had disagreed, we would have, you know, reviewed the decision further.

40

**MS SHARP SC:** Is it possible that you had not completely ruled out dealing with junkets in the future?

**MR BEKIER:** Me, personally?

45

**MS SHARP SC:** Yes.

**MR BEKIER:** I - no, I had - in my mind, I was resolved to not accept any more junket business.

**MS SHARP SC:** To your knowledge, had the board permanently ruled out dealing with junkets in the future?

5 **MR BEKIER:** I don't think we've had a formal resolution on that.

**MS SHARP SC:** Could I take you, please, to exhibit B2847, which is STA.3433.0023.0480. Now, when I have this enlarged for you, Mr Bekier, you will see this is an email from you to Stephen Parbery. He is part of the ILGA board, isn't he?  
10

**MR BEKIER:** Yes.

**MS SHARP:** And Philip Crawford is the chair of ILGA, isn't he?  
15

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

**MS SHARP SC:** And email is copied to him, as well as to John O'Neill. Do you see that?  
20

**MR BEKIER:** Yes.

**MS SHARP SC:** It's dated 6 May 2021?

25 **MR BEKIER:** Yes.

**MS SHARP SC:** And this is where you set out a timeline of activities and public announcements regarding The Star's cessation with junkets?

30 **MR BEKIER:** Yes.

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

35 "May 2021: No formal regulatory direction as yet in relation to international group junket business. We have written to Liquor and Gaming and we understand that you are close to announcing a decision. As we said at the meeting, should your decision be to ban this type of business, we will be supportive in our internal and external messaging."

40 **MR BEKIER:** Yes.

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

45 "So our junket group business is closed since October 2020 and we have no intention of reopening until we have heard from ILGA."

**MR BEKIER:** Yes.

**MS SHARP SC:** Well, isn't it right that you hadn't, in fact, ruled out dealing with junkets in the future?

**MR BEKIER:** At that point in time, yes.

5

**MS SHARP SC:** Well, that point in time was 6 May 2021.

**MR BEKIER:** Correct.

10 **MS SHARP SC:** And you're saying the position has changed since then, are you?

**MR BEKIER:** I was - I was conveying to you, Ms Sharp, that in my mind, I was not going to advocate for a reopening of the junket business.

15 **MS SHARP SC:** Did you discuss that matter with Mr O'Neill subsequent to 6 May 2021?

**MR BEKIER:** I can't be sure. I don't think we really had reason to discuss that because, as far as I was concerned, the business was shut and would remain shut.

20

**MS SHARP SC:** Isn't the correct position that as far as you know, Star is simply waiting to see what the regulator decides, and if the regulator says junkets are okay, The Star will continue to deal with them?

25 **MR BEKIER:** No, I think our position is - is broader. So, you know, we made a decision in September that we would, you know, stop junket business across the country, even though Queensland hadn't announced the moratorium on junkets. So in my mind, we had adopted a strong position on junkets.

30 **MS SHARP SC:** Well, isn't it correct that due diligence assessments continued to be conducted with respect to junket funders all the way up to late 2021?

**MS RICHARDSON SC:** I object to that question.

35 **MR BELL SC:** What's the objection, Ms Richardson?

**MS RICHARDSON SC:** Perhaps I should do this in the absence of the witness.

40 **MR BELL SC:** Yes. Thank you, operator. Can you move us into private mode, please, in the absence of Mr Bekier.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 10:51 AM**

**<THE HEARING IN PRIVATE SESSION RESUMED AT 10:51 AM**

45

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 10:53 AM**

**<THE HEARING IN PUBLIC SESSION RESUMED AT 10:54 AM**

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

5 **MS SHARP SC:** Isn't it correct that due diligence assessments continued to be conducted of Alvin Chau all the way up to late 2021?

**MR BEKIER:** I've - I've learnt that now through this review. I was not aware of that.

10 **MS SHARP SC:** And you understand that he is the funder of the Suncity junket?

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

15 **MS SHARP SC:** And isn't it correct that due diligence assessments were conducted of Mr Sixin Qin up until late 2021?

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

20 **MS SHARP SC:** And you're aware, though, that he's a junket funder?

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

25 **MS SHARP SC:** So are you able to explain why, if The Star decided in September or October 2020 not to deal with junkets, staff members at The Star bothered to conduct due diligence assessments of these two gentlemen?

30 **MR BEKIER:** No, Ms Sharp, I can't explain it. It's - it is - you know, I cannot understand it because, you know, it was clear that we had made a commitment - a public commitment to pull out of the junket business, and it was clear that there was going to be a multi-year hiatus anyway. So I don't know why we would have done that work.

35 **MS SHARP SC:** And if it was the case that Mr Houlihan, Mr Buchanan and Mr Power met together to decide the propriety or otherwise of a number of persons associated with the operations of junkets in August 2021, you simply cannot understand why they came together to make decisions at that time; is that right?

40 **MR BEKIER:** That's right.

**MS SHARP SC:** And you simply cannot explain why Ms Martin and Mr Hawkins may have attended at least part of the meeting where those gentlemen came together in order to make those decisions?

45 **MR BEKIER:** I cannot explain that.

**MS RICHARDSON SC:** Well, I object to that question. The premise of what decisions they were making has not been put to this witness.

**MR BELL SC:** Ms Sharp.

5 **MS SHARP SC:** I will approach the questioning slightly differently. Are you aware that in August 2021, Mr Buchanan, Mr Power and Mr Houlihan met together in an out-of-round JRAM meeting to consider recommendations about whether to deal with certain people who were associated with the operations of junkets?

10 **MR BEKIER:** I've only become aware through this review of - of that meeting.

**MS SHARP SC:** And I take it you were not aware at the time that Ms Martin and Mr Hawkins attended at least part of that meeting where those recommendations were discussed?

15 **MR BEKIER:** I was not aware at the time, no.

20 **MS SHARP SC:** And you were not aware that subsequent to that meeting, Mr Houlihan and Mr Power, who were then the joint AML/CTF compliance officers, made decisions that it was appropriate to continue dealing with some of these people as customers, including Alvin Chau?

25 **MR BEKIER:** I've seen it in the papers since. I was not aware of that meeting or any decisions that were taken.

**MS SHARP SC:** Does that surprise you, that you were not made aware of those matters in view of the decision you said you had made to cease dealing with junkets in September of 2020?

30 **MR BEKIER:** I'm surprised that the work was undertaken in the first place, Ms Sharp.

35 **MS SHARP SC:** And it was never brought to your attention, that work that was being undertaken?

40 **MR BEKIER:** I was aware of work that was being undertaken to, you know, make sure we had all the details and all of the various players that had been named in the various inquiries and that we could learn from that. I was aware of work that was being undertaken, I think with external help, to give the company better - a better framework for assessing when somebody was of good repute as opposed to merely had the absence of bad repute. But I was not aware of the fact that we were revisiting these junket operators.

45 **MS SHARP SC:** Now, I'm moving to a different topic, Mr Bekier, relating to a company called EEI Services (Hong Kong) Pty Ltd, which I will call EEIS, okay?

**MR BEKIER:** Yes.

**MS SHARP SC:** You are a director of EEIS?

**MR BEKIER:** Yes.

5 **MS SHARP SC:** And you have been since 14 November 2013?

**MR BEKIER:** Yes.

10 **MS SHARP SC:** Your co-director at this point in time is Harry Theodore?

**MR BEKIER:** That sounds right, yes.

15 **MS SHARP SC:** It is the case that, ultimately, EEIS is 100 per cent owned by The Star Entertainment Group?

**MR BEKIER:** Yes.

20 **MS SHARP SC:** And you will agree, won't you, that on its face, the name of EEIS Services (Hong Kong) Limited discloses no connection at all with Star Entertainment Group or a casino?

25 **MR BEKIER:** I agree that on its face, it doesn't, Ms Sharp. If I - if I can just go back, I think the name was given in 2013 when we were Echo Entertainment, and that's where the EE comes from.

**MS SHARP SC:** Now, you were on a steering committee in relation to the EEIS project in 2018, weren't you?

30 **MR BEKIER:** Yes.

**MS SHARP SC:** Could I show you a document relating to what is described as the "kick-off" of that project. If I can have brought up for you exhibit C30, which is STA.3402.0001.1078.

35 **MR BEKIER:** Yes, I see it.

40 **MS SHARP SC:** And if I could take you, please, to pinpoint 1087. There's a description of the project team. Does that accord with who you understood to be on the project team?

**MR BEKIER:** Yes.

**MS SHARP SC:** And is it right that the project sponsor was Michael Whytcross?

45 **MR BEKIER:** I believe so, yes.

**MS SHARP SC:** And is it right that the project leads were Michael Whytcross and Oliver White?

**MR BEKIER:** Yes.

5 **MS SHARP SC:** Now, is it the case that there was, in fact, an EEIS working group and an EEIS steering team?

10 **MR BEKIER:** Yes, I'm not - I'm not sure how the working group fit in to this structure. I was really just being kept abreast of progress through the steering committee.

**MS SHARP SC:** And you attended meetings of the steering committee?

**MR BEKIER:** Yes.

15 **MS SHARP SC:** And you were kept generally up to date in the work of the steering committee and the progression of this project?

**MR BEKIER:** Yes.

20 **MS SHARP SC:** And may we take it that you read documents relating to this project at the time they were provided to you?

**MR BEKIER:** Yes.

25 **MS SHARP SC:** And did you read this document at the time, that is, around 24 January 2018?

**MR BEKIER:** I don't have an original recollection, but I would have.

30 **MS SHARP SC:** Could I take you to pinpoint 1083 - I beg your pardon, 1080. And do you see there's an Overview/Historical Context provided for the project?

**MR BEKIER:** Yes.

35 **MS SHARP SC:** And do you see the third dot point refers to the current landscape? Yes?

**MR BEKIER:** Yes, I can see that.

40 **MS SHARP SC:** And do you see it identifies the first key issue as:

"The Macau bank accounts (major issue)."

45 **MR BEKIER:** Yes.

**MS SHARP SC:**

"All Bank of China accounts in Macau (which were used to remit funds) were closed on 31 December 2017."

5 **MR BEKIER:** I can see that.

**MS SHARP SC:** And if I can take you to pinpoint 1082. Do you see it's entitled Financial Implications, Scenario 1 (No Account) and says:

10 "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 (ie, if there was no method to repay the visit would not take place)."

15 **MR BEKIER:** I see that.

**MS SHARP SC:** And so there was modelling conducted on what effect the closure of the Macau bank accounts would have on The Star's turnover, wasn't there?

20 **MR BEKIER:** It's an estimate, yes.

**MS SHARP SC:** And can I then take you to pinpoint 1081 - I beg your pardon, 1083. And you will see this is entitled Financial Implications, Scenario 2 (EFT Only)?

25 **MR BEKIER:** Yes.

**MS SHARP SC:** And do you see the scenario here stated is:

30 "In the event that EEIS is initiated and a bank account is established (but does not allow cash), collections management have estimated that 25 per cent of the current volumes which are repaid in cash would not occur."

35 So you will agree that modelling was done on the premise that EEIS could accept electronic transfers but could not accept cash?

**MR BEKIER:** Yes.

40 **MS SHARP SC:** And you will agree that the modelling showed that the turnover for Star would be decreased by 25 per cent?

**MR BEKIER:** That's what the modelling here shows, yes.

45 **MS SHARP SC:** And I should be more clear about that. The turnover from the IRB business?

**MR BEKIER:** Yes.



**MS SHARP SC:** So the concern here was that without the introduction of some new payment channels, The Star's turnover was set to decrease significantly; do you agree?

5 **MR BEKIER:** That was one of the concerns, yes.

**MS SHARP SC:** And that is why, isn't it, that an interim arrangement was negotiated with Kuan Koi, a junket operator, so that he could accept cash payments on behalf of The Star and then use his own front money account - I beg  
10 your pardon - his own bank account to remit funds to his Star front money account; correct?

**MR BEKIER:** Yes, that was the arrangement.

15 **MS SHARP SC:** So the net result of that was that Star could still collect large cash deposits from its patrons or from people acting on behalf of his patrons; do you agree?

**MR BEKIER:** Yes.

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

**MR BEKIER:** I was.

25 **MS SHARP SC:** And we see that interim arrangement described at pinpoint 1084. Now - you agree?

**MR BEKIER:** Yes.

30 **MS SHARP SC:** It is fairly obvious, isn't it, that some enhanced anti-money laundering risks attend this interim arrangement; do you agree?

**MR BEKIER:** Inherently, yes.

35 **MS SHARP SC:** And do you agree that this chain of transactions makes it inherently more difficult to ascertain what the source of funds was in the first place?

**MR BEKIER:** I would say it depends on the processes that we established to  
40 make sure that our source of funds requirements are being met and that the quality of that information is appropriate. But the fact that a third-party is conducting some of that work instead of our own people or a bank, you know, inherently increases the risk.

45 **MS SHARP SC:** Now, you are also aware that it was proposed to create a structure whereby EEIS could make loans to patrons?

**MR BEKIER:** That was the original purpose of EEIS, yes.

**MS SHARP SC:** So that was the original purpose, rather than having EEIS simply accept payments for transfer into front money accounts; do you agree?

5 **MR BEKIER:** Yes. The original purpose was to be able to provide credit on flexible credit terms. Then, in the context of the changes in the banking landscape, the scope was expanded. I don't think there was ever initially any intention of accepting any front money; it was always a loan arrangement.

10 **MS SHARP SC:** And, in fact, as it transpired, EEIS only granted five or six loans?

**MR BEKIER:** I believe that's right, yes.

15 **MS SHARP SC:** And do you - I withdraw that. What, in fact, happened was that EEIS established its own front money account with the casino operator, right?

**MR BEKIER:** Yes.

20 **MS SHARP SC:** And EEIS gave its own cheque to the casino operator in order to establish that front money account; correct?

**MR BEKIER:** That was part of the process, yes.

25 **MS SHARP SC:** And, in turn, when EEIS made a loan to a patron, ordinarily that patron was required to provide a cheque to EEIS as collateral for that loan?

**MR BEKIER:** That - that was my understanding, yes.

30 **MS SHARP SC:** Yes. And just to be clear, the CFO could waive that requirement, but that was the ordinary requirement. Do you understand?

**MR BEKIER:** Yes.

35 **MS SHARP SC:** So it was a cheque that the patron made out that was made not to the casino operator but was made to a company called EEI Services Pty Ltd?

**MR BEKIER:** Yes.

40 **MS SHARP SC:** And do you agree - and it follows obviously - that when a patron paid back the loan, the bank accounts of that patron would record that that patron paid money to EEI Services (Hong Kong) Limited?

**MR BEKIER:** That would follow, yes.

45

**MS SHARP SC:** And so a person looking only at the patron's bank account statements and with no other information would not, in any way, be alerted to the

fact that these payments were ultimately for the purpose of making front money available to a casino?

5 **MR BEKIER:** If that's the only information an observer would have, you are correct, yes.

**MS SHARP SC:** And you knew that at the time, did you not?

10 **MR BEKIER:** Yes.

**MS SHARP SC:** And you understood at the time that the reason - I withdraw that. Your expectation was that these EEIS loans would be attractive to the patrons because the paperwork associated with them would obscure the fact that, in substance, the payments were to fund front money accounts in the casino?

15 **MR BEKIER:** No, Ms Sharp. I - I don't think we - at least I never contemplated the obscuring of the payment as a benefit.

20 **MS SHARP SC:** Are you sure you didn't contemplate that, Mr Bekier?

**MR BEKIER:** Yes.

25 **MS SHARP SC:** You never turned your mind to the fact that the true purpose of the payments would be obscured by this EEIS loan arrangement?

**MR BEKIER:** I understand that that's a consequence, but that was not the purpose of EEIS.

30 **MS SHARP SC:** And is it your evidence that with all your experience in the casino industry, it never occurred to you that overseas patrons, who were having so much trouble moving their gambling funds out of Macau and Hong Kong, might be attracted to a process where the documentation did not indicate, on its face, that the payments they were making ultimately ended up as front money in a casino account?

35 **MR BEKIER:** Ms Sharp, the - the purpose of this - of - of EEIS was to provide loans. That was the fundamental purpose. And from an AML point of view, the provision of loans and then the repayment of the balance is a much more attractive proposition than accepting front money and then issuing winning cheques at the end. So --

40 **MS SHARP SC:** But there was no - let me - I withdraw that. No interest was payable on these loans; do you agree?

45 **MR BEKIER:** Yes.

**MS SHARP SC:** No collateral was offered for these loans other than a cheque made out to EEIS?

**MR BEKIER:** Yes. Those were the same conditions as for the cheque cashing facility, I think.

5 **MS SHARP SC:** And according to the EEIS standard operating procedure, the ordinary term of repayment was 30 days; do you agree?

**MR BEKIER:** Yes.

10 **MS SHARP SC:** And that is exactly the same term of repayment as a cheque cashing facility where the cheque is on an international bank account?

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

15 **MS SHARP SC:** And the credit and collections team assessed the credit of the patron in exactly the same way as they assessed the credit of a patron for the purpose of granting a front money - sorry, a cheque cashing facility?

**MR BEKIER:** Yes.

20 **MS SHARP SC:** And the cage team was responsible for causing the movements in the ledger accounts so that front money was available where a loan had been granted to a patron?

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

**MS SHARP SC:** And, in fact, it is the case, isn't it, that no funds physically were transferred from an EEIS bank account to a Star bank account in relation to these loans?

30

**MR BEKIER:** I don't think so.

**MS SHARP SC:** So it's right, isn't it, that, in substance, the loans were no different to the cheque cashing facilities except that the documentation said they were loans?

35

**MR BEKIER:** They were - they were different in the - to the extent that we would be able to change the repayment terms.

40 **MS SHARP SC:** Well, isn't the true position that these loan agreements were merely elaborate window-dressing to disguise a fairly simple transaction, being that an overseas patron was making money available in their front money account in a casino?

45 **MR BEKIER:** No, Ms Sharp.

**MS SHARP SC:** And isn't it right that the very purpose of creating these EEIS loans was to obscure the nature of the transactions in order to encourage the patrons to continue to move their money into the casinos?

5 **MR BEKIER:** No, I disagree, Ms Sharp.

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

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

**MS SHARP SC:** Your evidence is that you never turned your mind to that possibility, is it?

15 **MR BEKIER:** My evidence is that from where I was sitting, the intention of EEIS was never to obscure the - the origin of the funds.

**MS SHARP SC:** So it's your evidence that it was never ever your intention to change the appearance of the transactions, is it?

20 **MR BEKIER:** Yes.

**MS SHARP SC:** Can I take you to exhibit B at tab 699. I'm showing you - this is STA.5002.0004.0764. This is a board paper from John Chong, the president of the international marketing team, dated 22 March 2018?

25 **MR BEKIER:** Yes.

**MS SHARP SC:** And do you see that it attaches a project document, which I will take you to, pinpoint 0766? And do you see your name is on the front of that project?

30 **MR BEKIER:** Yes, I can see that.

**MS SHARP SC:** And this is for the board meeting of 22 March 2018?

35 **MR BEKIER:** Yes.

**MS SHARP SC:** And you were involved in the preparation of this document, were you?

40 **MR BEKIER:** I would have reviewed the material, yes.

**MS SHARP SC:** And you would have reviewed the material to ensure, firstly, that you understood it all?

45 **MR BEKIER:** Yes.

**MS SHARP SC:** And, secondly, that you considered it to be correct?

**MR BEKIER:** Yes.

5 **MS SHARP SC:** And may we take it that you also reviewed the cover document, the board paper of Mr Chong I've just taken you to?

**MR BEKIER:** Yes.

10 **MS SHARP SC:** And you reviewed it to ensure you understood it; correct?

**MR BEKIER:** Yes.

**MS SHARP SC:** And that it was accurate so far as you were aware?

15 **MR BEKIER:** Yes.

**MS SHARP SC:** Now, could I take you back to that first - that cover page at 0764. Do you see that under the heading Background, the paper references the potential closure of the Macau bank account to remit funds?

20

**MR BEKIER:** Yes.

**MS SHARP SC:** And do you see it states:

25 "Although management have implemented an interim solution, the closure of the Macau accounts is estimated to have a \$21.5 million annual EBITDA impact unless rectified."

30 **MR BEKIER:** Yes, I can see that.

**MS SHARP SC:** And that interim solution is, of course, the arrangement with Kuan Koi?

35 **MR BEKIER:** Yes, I can see that.

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

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

40 **MR BEKIER:** Yes.

**MS SHARP SC:** And the second dot point states:

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

Now, that was your understanding of the purpose of these EEIS arrangements, wasn't it?

5 **MR BEKIER:** No, this - this, in my mind, describes the change in the nature of the payments. It doesn't say that we're establishing EEIS to achieve that.

10 **MS SHARP SC:** Well, that's not correct, Mr Bekier. What this clearly says is that it changes the nature of the payments from the customer being repayment of loans in Hong Kong from repayment of gambling debts in Australia.

**MR BEKIER:** That's - that's factually correct.

15 **MS SHARP SC:** And the reason that was important - the only reason that was important was because it obscured the real nature of the transaction; that's right, isn't it?

**MR BEKIER:** I disagree, Ms Sharp.

20 **MS SHARP SC:** And you knew that at the time, didn't you, Mr Bekier?

**MR BEKIER:** I disagree, Ms Sharp.

25 **MS SHARP SC:** To the extent you're disagreeing now, that is not truthful evidence, is it?

**MR BEKIER:** No, it's - it's my truthful understanding of the purpose of EEIS.

30 **MS SHARP SC:** And as it happened, and to your understanding, EEIS NAB bank accounts, in fact, received many, many deposits from third-party money remitting businesses, didn't they?

**MR BEKIER:** I understand that's true, yes.

35 **MS SHARP SC:** And were you aware that when deposits were made by those third-party remitters, The Star relied on those third-party remitters to conduct source of funds checks?

40 **MR BEKIER:** I'm not sure I was aware how we had implemented our AML requirements.

**MS SHARP SC:** Well, if that was correct, you accept, don't you, that that was a wholesale delegation of The Star's know your customer - I withdraw that - source of funds obligation to a third-party remitter?

45 **MR BEKIER:** It was using a third-party remitter to complete steps in our AML program, yes.

**MS SHARP SC:** And it was delegating the source of funds checking function to the remitter, wasn't it?

**MR BEKIER:** Yes.

5

**MS SHARP SC:** And so instead of doing the job for itself, The Star relied upon third parties based in Macau and in Hong Kong to do that job for them?

**MS RICHARDSON SC:** I object to that question.

10

**MR BELL SC:** What's the objection, Ms Richardson?

**MS RICHARDSON SC:** I should do this in the absence of the witness.

15

**MR BELL SC:** Yes. Operator, can we move into private mode in the absence of Mr Bekier, please.

<THE HEARING IN PUBLIC SESSION ADJOURNED AT 11:23 AM

20

<THE HEARING IN PRIVATE SESSION RESUMED AT 11:23 AM

<THE HEARING IN PRIVATE SESSION ADJOURNED AT 11:26 AM

<THE HEARING IN PUBLIC SESSION RESUMED AT 11:26 AM

25

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

<THE HEARING ADJOURNED AT 11:26 AM

30

<THE HEARING RESUMED AT 11:49 AM

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

35

**MS SHARP SC:** Operator, could you please call up exhibit B at tab 1570. Mr Bekier, I'm showing you a memorandum from Oliver White to Greg Hawkins and Paula Martin dated 20 August 2019. Once we review it, I will ask you whether you were made aware of the information in this document, okay?

**MR BEKIER:** Yes.

40

**MS SHARP SC:** And do you see the subject of this memo is Overseas Payment Channels?

**MR BEKIER:** I can see that.

45

**MS SHARP SC:** And do you see in the second paragraph, reference is made to the arrangement with Kuan Koi?



**MR BEKIER:** Would you mind enlarging that, please? Thank you. Yes, I see that.

5 **MS SHARP SC:** And then do you see there's a heading Current Arrangements?

**MR BEKIER:** Yes.

**MS SHARP SC:** And underneath that, it says:

10 "Although EEIS has been established and has provided its initial loans to patrons, the remittance services that EEIS can offer have not been utilised to date. In the absence of this, patrons generally use the following methods."

15 And then do you see there's an (a), (b) and (c)?

**MR BEKIER:** Yes.

**MS SHARP SC:** And (a) is:

20 "Electronic transfer of funds from a bank account to The Star's bank account."

**MR BEKIER:** Yes.

25 **MS SHARP SC:** (b) is:

"Using a licensed remitter provider in their home jurisdiction."

30 **MR BEKIER:** Yes.

**MS SHARP SC:** And (c) is:

35 "In some instances, in particular for patrons based in Macau, who can only pay The Star with cash, The Star provides an introduction to one of the following channels."

And do you see there's a (i), Regal Crown Trading Limited?

40 **MR BEKIER:** Would you mind just scrolling down a bit? Yes. Thank you.

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

45 "Regal Crown is a licensed money service operator in Hong Kong. Regal Crown also offers services in relation to remittance and FX -"

Which is currency transfer:

"For cash payments received in Macau."

And then on the next page, the document says:

5 "We have not been able to verify the lawfulness of the process used by Regal Crown in Macau."

Now, was that a matter that you were aware of at the time, Mr Bekier?

10 **MR BEKIER:** I think the use of other remittance providers was being discussed at the EEIS steering committees, yes.

**MS SHARP SC:** And were you aware that by the time of August 2019, despite the fact that The Star was accepting payments from Regal Crown, it had not been able to verify the lawfulness of the process used by Regal Crown in Macau?

15 **MR BEKIER:** I don't think I was aware of that.

**MS SHARP SC:** And then if we go a little further down this document, there's a (ii). And that says:

20 "KK/Silver Express."

And it says:

25 "After [May] 2018, the arrangement with KK -"

And that's Kuan Koi:

30 "Appears to have continued in an amended form, with the assistance of licensed money service operators in Hong Kong. This process has not been subject to review by the legal or compliance teams."

35 Now, did you know that in around May of 2018, the arrangement with Kuan Koi morphed and he was no longer depositing money into his account in Macau but, rather, he was organising for Silver Express and other remitters to deposit money through to The Star's accounts to make front money available in his account?

40 **MR BEKIER:** I'm not sure when I became aware of that, whether this is in the review of the papers or at the time.

**MS SHARP SC:** So you just don't know?

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

45 **MS SHARP SC:** So you just don't know whether that process had been reviewed by the legal or compliance teams?

**MR BEKIER:** I don't know whether it was reviewed by the legal and compliance teams. This paper says it wasn't. I'm not sure whether I knew that at the time.

**MS SHARP SC:** So you have read this paper before, have you?

5

**MR BEKIER:** I think I've seen this document in the - in the papers that have been provided.

**MS SHARP SC:** And is that for the purpose of getting ready for giving your evidence in this review?

10

**MR BEKIER:** Yes, Ms Sharp.

**MS SHARP SC:** Were you shown a copy of this paper at around the time it was produced, that is, August of 2019?

15

**MR BEKIER:** No.

**MS SHARP SC:** Were the matters that are set out in this paper made known to you at about that time?

20

**MR BEKIER:** I only dealt with these arrangements, really, through the EEIS steering committee.

**MS SHARP SC:** Now, can I take your attention - and I will have this part of the page highlighted, everything under the heading Associated Risks. And here, Mr White says:

25

30 "A formal risk assessment of the process in subsection (c) of the current arrangements above has not been undertaken."

Now, you can take it from me, Mr Bekier, that that reference to subsection (c) was a reference to (i) Regal Crown and (ii) Kuan Koi/Silver Express, okay?

**MR BEKIER:** Okay.

35

**MS SHARP SC:** So here is Mr White, a senior lawyer, advising the chief risk officer and group general counsel that a formal risk assessment of those processes has not been undertaken. Was that made known to you at the time?

40

**MR BEKIER:** No.

**MS SHARP SC:** It should have been, shouldn't it?

**MR BEKIER:** Through the EEIS steering committee, I think I'm on the record of asking every time about the compliance with our AML/CTF obligations. I would have expected that in compliance with those obligations, we would have undertaken the appropriate reviews.

45

**MS SHARP SC:** Well, you agree it doesn't sound like that review had been undertaken by the time of this memo, don't you?

5 **MR BEKIER:** It doesn't sound like that.

**MS SHARP SC:** And what Mr White then says is that:

10 "The following legal and other risks should be considered, together with the recent external changes noted in the following section: (a) the arrangements outlined above intrinsically carry a higher AML/CTF risk, as the funds being used to pay the amounts owing to The Star are originating from our patrons as cash. Whilst this cash is being transferred to The Star through the banking system electronically (through licensed remittance channels), any  
15 involvement by The Star in the process in relation to the cash increases the level of risk for The Star, which will need to be addressed through the introduction of appropriate controls; (b), the arrangements outlined in subsection (c)(ii) -"

20 That's the bit relating to Kuan Koi and Silver Express:

"Have further risk incorporated because (i) we have no visibility of where the payments to Kuan Koi are going, including whether these are paid to Silver Express; and, (ii) there is increased commercial risk, as The Star has no  
25 visibility of costs actually incurred by patrons using Silver Express and whether the deal is a good value to The Star with the involvement of Kuan Koi."

30 Now, these are incredibly serious money laundering risks being raised here, aren't they, Mr Bekier?

**MR BEKIER:** The first one, yes.

35 **MS SHARP SC:** And the second one, don't you agree, that the payments - there's no visibility of where payments to Kuan Koi are going?

**MR BEKIER:** Sorry. I was referring to the commercial risk, yes. The - the - the lack of visibility is also a significant risk.

40 **MS SHARP SC:** But the fact is that The Star was relying on the third-party remitters to conduct the due diligence of the payees, wasn't it?

**MR BEKIER:** Yes.

45 **MS SHARP SC:** And can I take you to exhibit B2077, which is STA.3105.0012.2775. This is an email from Skye Arnott to Ms Arthur at NAB Bank dated 19 December 2019, so it's some months after the memorandum I've just taken you to, okay?

**MR BEKIER:** Yes.

5 **MS SHARP SC:** And what Ms Arnott is doing here is responding to some queries of NAB. And you will see, if I have the email enlarged, the second dot point is a question from NAB that says:

10 "Could EEIS please provide an explanation as to why most funds transfers to its accounts with NAB originate from overseas money service businesses?"

Now, to put the matter in context, Ms Arnott is answering an inquiry from NAB Bank about how the NAB accounts in the name of EEIS are being administered. Do you understand?

15 **MR BEKIER:** I understand.

**MS SHARP SC:** And the first proposition - and I will ask you whether you agree - is that most fund transfers into the NAB EEIS accounts were in the latter part of 2019 from overseas money service businesses. Did you know that at the time?

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

25 **MS SHARP SC:** And do you see that Ms Arnott answers in purple text that:

"The majority of funds that are transferred into the EEIS account relate to payment of debts for The Star."

And a little further down, she says:

30 "The Star conducts due diligence on the customer who is responsible for paying the debt but does rely on the money service business to conduct the required due diligence on the payee. The Star (and EEIS by proxy) request that our customers only deal with licensed remitters so that we are able to rely on the due diligence conducted by the MSB."

Did you know that at the time?

40 **MR BEKIER:** No.

**MS SHARP SC:** You see, what, in fact, happened, Mr Bekier, was that instead of doing the due diligence itself in relation to the payees, The Star relied on third parties based in Hong Kong and Macau to do that job for them.

45 **MR BEKIER:** I understand that.

**MS SHARP SC:** And that represents an abdication of The Star's obligations in relation to minimising the risks of money laundering; do you agree?

**MR BEKIER:** I don't agree, if we have established processes to make sure that the money - money services business conducts appropriate due diligence to our standards within compliance of our program.

5

**MS SHARP SC:** And you have absolutely no idea, as you sit here now, whether those matters had been established by anyone at The Star, do you?

**MR BEKIER:** I was convinced, based on the reports I got through the steering committee, that AML/CTF issues were an integral part of the arrangements that were being put in place.

10

**MS SHARP SC:** But the memorandum that I have just shown you from Mr White suggests quite to the contrary; do you agree?

15

**MR BEKIER:** I agree.

**MS SHARP SC:** Something has gone seriously wrong here in terms of money laundering risk and overseas payment channels, hasn't it?

20

**MR BEKIER:** It appears like the obligations of our AML program have not been fully implemented on these MSBs.

**MS SHARP SC:** Is what has gone wrong the fact that The Star prioritised increasing turnover even if that meant overlooking obvious money laundering risks?

25

**MR BEKIER:** I - I don't think that that was The Star's intention and certainly not a direction or a strategy of the company. I - I personally interpret this as failures of individuals.

30

**MS SHARP SC:** And what, if any, personal responsibility do you take for this, Mr Bekier?

**MR BEKIER:** I take responsibility ultimately for the structure, the processes and policies and the risk management framework and the individuals at the senior levels that I appoint. And I have taken responsibility because I have recognised that, in parts, that framework may not have been as effective as it should have been.

40

**MS SHARP SC:** Now, moving to a different topic, Mr Bekier --

**MR BELL SC:** Just before we do, Ms Sharp. I just wanted to clarify something you said earlier, Mr Bekier, and make sure I understand what was occurring in the EEIS NAB account. You told me that the purpose of reactivating EEIS was to permit more flexible loans to be made to patrons; correct?

45

**MR BEKIER:** That was the primary purpose, yes.

**MR BELL SC:** Yes. And, in fact, only five or six such loans were made; correct?

**MR BEKIER:** I believe so.

5

**MR BELL SC:** Yes. And then you said that in the context of a change in the banking landscape, the scope expanded. Do you remember saying that?

**MR BEKIER:** Yes.

10

**MR BELL SC:** From what I've been told about the NAB account of EEIS, there were many hundreds of deposits into that account in the period in which it operated, most of which had nothing to do with the making of loans or repayment of loans by EEIS. Is that correct, as you understand it?

15

**MR BEKIER:** I - I understand that now, Mr Bell.

**MR BELL SC:** Right. And it's the case, is it, that it became a popular payment channel with patrons in China and Macau to pay to EEIS rather than directly to The Star; is that correct?

20

**MR BEKIER:** I'm not sure about that, Mr Bell. It - I understand now that front money transactions were conducted through that account --

25

**MR BELL SC:** Yes.

**MR BEKIER:** -- even though it was set up for loan repayments.

**MR BELL SC:** Yes.

30

**MR BEKIER:** So, yes, it would seem that, you know, customers used it.

**MR BELL SC:** And do you understand that the reason that customers used it irrespective of any loan transaction was because it permitted patrons in China and Macau to make payments to The Star without it being apparent to the Chinese and Macau authorities that they were making payments to a casino?

35

**MR BEKIER:** I can't exclude that that was part of the reason, yes.

40

**MR BELL SC:** And as you understand it, The Star permitted that to occur?

**MR BEKIER:** Yes.

**MS SHARP SC:** And did you disclose to your colleagues on the board of Star Entertainment that this expansion in the scope of EEIS had taken place?

45

**MR BEKIER:** When I referred to the expansion of the scope of EEIS, I refer to - in my mind, to the addition of the remittance service.

**MR BELL SC:** Right.

5 **MR BEKIER:** The structuring of a formal remittance service - and I think you may have seen in the papers I was pushing very hard to get rid of these temporary arrangements and push everything through EEIS in a formal, structured way. That was the intention, and that would have given us visibility.

10 **MR BELL SC:** Yes.

**MR BEKIER:** I was not aware of the volume of transactions that had occurred through the interim arrangements and, therefore, couldn't alert the board to that.

15 **MR BELL SC:** So what I've been told by others is that the majority of these payments had nothing to do with either the making or repayment of loans by EEIS, or the operations of EEIS as a remitter. Is that something that you've now come to understand?

20 **MR BEKIER:** Yes.

**MR BELL SC:** And should I understand that that's not something you were aware of at the time?

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

**MR BELL SC:** And it would follow that your colleagues on the board were not aware of that either, so far as you know?

30 **MR BEKIER:** I'm - I was unable to alert them to that because I wasn't aware of it. And unless the board had been alerted in the private session through the internal auditors, I don't think they would have been aware.

35 **MR BELL SC:** So what I'm calling the expansion in the scope of the NAB EEIS account, which goes beyond remittance services and loans, is something which you did not authorise; is that correct?

40 **MR BEKIER:** I only accepted the temporary arrangements that were going to be folded into EEIS. I did not authorise the addition of all these additional money service providers.

**MR BELL SC:** Yes. And I take it you would say that these matters should have been drawn to your attention?

45 **MR BEKIER:** If the money service providers had fully complied, and if our processes had fully complied within the AML and CTF framework, I think it was within the discretion of the finance team to add additional payments channels.



**MR BELL SC:** Yes. And you and I have both seen the document that counsel assisting took you to, which indicated that the legal department hadn't been able to carry out those kind of checks; do you agree?

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

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

10 **MS SHARP SC:** Who do you say ought to have made you aware of this expansion in transactions that were occurring through the EEIS accounts?

15 **MR BEKIER:** It should have - so my position, Ms Sharp, is that if the addition of additional money service providers had followed all of our AML/CTF obligations, I'm not sure I needed to be - you know, I needed to give an approval for that. That was within the authority of the finance team.

**MS SHARP SC:** Who, ultimately, was responsible for this expansion in the transactions in the EEIS accounts?

20 **MR BEKIER:** Ultimately, that was within the finance team.

**MS SHARP SC:** So do you say that's Mr Whytcross?

25 **MR BEKIER:** Mr Whytcross should have - you know, was responsible for the legal aspects of all of the agreements that we would enter into and should have probably raised the flag, you know, if those agreements didn't comply with our AML/CTF standards.

30 **MS SHARP SC:** Does Mr Theodore, the CFO, bear any responsibility here?

**MR BEKIER:** I think the control over the accounts we now know was not as tight as it should have been.

35 **MS SHARP SC:** I'm sorry. I don't think that answers my question. Does Mr Theodore, the CFO, bear any responsibility here?

**MR BEKIER:** He does bear partial responsibility, yes.

40 **MS SHARP SC:** And what about Ms Martin, the chief legal and chief risk officer?

**MR BEKIER:** I'm not entirely clear to what extent she was directly involved in this.

45 **MS SHARP SC:** Well, she was a recipient of that memorandum from Mr White that I just took you to. On that basis, does she bear any responsibility?

**MR BEKIER:** Yes.

**MS SHARP SC:** And how about Mr Hawkins, who supervised the VIP team at this time?

5 **MR BEKIER:** I don't think this - I would normally see this fall within his responsibility.

**MS SHARP SC:** Well, he is the other recipient of that memorandum from Mr White I just took you to.

10

**MR BEKIER:** Yes, to - to that extent. But this is - you know, this was really more of a legal and financial matter that didn't really touch his responsibilities of oversight over the sales force.

15 **MS SHARP SC:** Can I take you now to STA.5002.0009.0176. I'm showing you a memorandum which you sent to the board dated 9 February 2022. Do you recall sending that?

**MR BEKIER:** I see it's - it's come from my - from my - under my name, yes.

20

**MS SHARP SC:** Well, that means you sent it, doesn't it?

**MR BEKIER:** I would have authorised sending it, yes.

25 **MS SHARP SC:** Can I have this marked for identification please, Mr Bell?

**MR BELL SC:** Yes. That will be MFI57.

30 **MS SHARP SC:** Now, what this memorandum did was enclose an article which, amongst other things, made allegations that The Star had not been paying the correct amount of duty to the New South Wales Government; correct?

**MR BEKIER:** Yes.

35 **MS SHARP SC:** And in this regard, you understand, don't you, that Star pays less duty on international rebate play and domestic rebate play than it does in relation to local player play?

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

40

**MS SHARP SC:** And you will agree that it's a fairly serious allegation to make that the casino licensee has been underpaying the duty it owes to the New South Wales Government?

45 **MR BEKIER:** Yes.

**MS SHARP SC:** What investigations have taken place into these allegations, to your knowledge?

**MR BEKIER:** To my knowledge, Gadens has been appointed to investigate this matter.

5 **MS SHARP SC:** And when was Gadens appointed?

**MR BEKIER:** I'm - I'm not entirely sure. The - the appointment, you know, rested with Ms Martin.

10 **MS SHARP SC:** And have there been any interim reports at this stage from Gadens?

**MR BEKIER:** Not that I'm aware of.

15 **MS SHARP SC:** Is this memorandum the first time you were made aware that it was possible that The Star had been underpaying the duty it owed to the New South Wales Government?

**MR BEKIER:** Yes, Ms Sharp.

20

**MS SHARP SC:** Did Mr Hawkins or Mr Whytcross make you aware that they looked at the question of whether 14 patrons who played in the international rebate business had been correctly classified as international players back in mid-2020?

25 **MR BEKIER:** I - Greg alerted me to the fact that ILGA had raised questions with him at that - at - at about that time and that there were some documentation issues that needed to be dealt with.

**MS SHARP SC:** And what were those documentation issues?

30

**MR BEKIER:** Well, shortcomings in - or gaps in our documentation to provide the appropriate support for the decision to continue to classify certain players as international residents.

35 **MS SHARP SC:** Is that a long way of saying that The Star could not substantiate in its documents the decision to classify certain of those 14 patrons as international rebate players?

**MR BEKIER:** Yes.

40

**MS SHARP SC:** Did you turn your mind to the question of whether the regulator ought to have been notified of that?

45 **MR BEKIER:** My understanding was that we had a query from - from ILGA. So from that point of view, I - I had a sense that the regulator was aware of this issue.

**MS SHARP SC:** And what was your expectation as to what would be communicated to the regulator about this?

**MR BEKIER:** About the 14 players, Ms Sharp?

**MS SHARP SC:** Yes.

5

**MR BEKIER:** Okay. Well, I expected the documentation issues to be resolved and then the matter to be discussed and resolved with ILGA.

**MS SHARP SC:** And was it your expectation that if any problem - I withdraw that. Was it your expectation that if The Star could not substantiate its classification of players as international rebate players, it would alert ILGA to that fact and cause a recalculation of duty to be conducted?

10

**MR BEKIER:** That would be the normal course of events, yes.

15

**MS SHARP SC:** Are you aware that following on from that analysis, Mr Power advised Mr Hawkins that he should consider whether all international rebate players who played on international rebate programs in July, August and early September 2020 had been appropriately classified as international rebate players?

20

**MR BEKIER:** I'm not - I'm not aware of the fact that the request was to review all players. I was aware of the fact that Greg was working through a small number of players where he felt the documentation was inappropriate or incomplete.

**MS SHARP SC:** Did he tell you he was working through the situation with 25 different players?

25

**MR BEKIER:** I'm not sure he mentioned a specific number.

**MS SHARP SC:** Did he tell you what the outcome of his review was?

30

**MR BEKIER:** Yes. He told me that he had reviewed the files and had made himself comfortable that we had made the right classification.

**MS SHARP SC:** Did he tell you that he had caused a number of players to be reclassified as local players?

35

**MR BEKIER:** No.

**MS SHARP SC:** In your view, should he have told you that?

40

**MR BEKIER:** I'm not sure. I don't think so, Ms Sharp.

**MS SHARP SC:** Did he --

45

**MR BEKIER:** Sorry. Can I - can I just clarify my statement?

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

**MR BEKIER:** If a mistake was made in the initial classification, then the normal course of event would be to reclassify these players and repay - or pay the additional duty at the next duty instalment, and notify the regulator. I think that  
5 would have been a business-as-usual action that I expected him to take if that was what it would take.

**MS SHARP SC:** Now, I want to go back to some evidence you gave on the first day where you identified a problematic subculture in the VIP business. Now,  
10 Ms Paula Martin has responsibilities that extend beyond the international rebate business, doesn't she?

**MR BEKIER:** Yes, she does.

**MS SHARP SC:** Mr Hawkins has responsibilities that extend beyond the international rebate business, doesn't he?

**MR BEKIER:** Yes, he does.

**MS SHARP SC:** Mr Theodore has responsibilities that extend beyond the international rebate business, doesn't he?

**MR BEKIER:** Yes, he does.

**MS SHARP SC:** Mr Houlihan has responsibilities that extend beyond the international rebate business?

**MR BEKIER:** Yes.

**MS SHARP SC:** The lawyers, Oliver White and Andrew Power, have responsibilities that extend beyond the international rebate business, don't they?

**MR BEKIER:** Yes.

**MS SHARP SC:** Graeme Stevens has responsibilities that extend beyond the international rebate business; do you agree?

**MR BEKIER:** I - I agree.

**MS SHARP SC:** Isn't there a culture problem that permeates a very large number of executive officers of The Star and Star Entertainment?

**MR WILLIAMS SC:** I object to that question.

**MR BELL SC:** What's the objection?

**MR WILLIAMS SC:** In such a rolled-up form, Mr Bell, it's unfair to ask the witness to answer that question without any greater granularity as to the matters on which it's based.

5 **MR BELL SC:** Well, Mr Bekier has had greater granularity for about two days. I think it's – there's nothing unfair about asking a broad question at this point. I will allow it.

**MR BEKIER:** Ms Sharp, would you mind just repeating your question?

10

**MS SHARP SC:** The culture problem in The Star and Star Entertainment extends way beyond the international rebate business, doesn't it?

15 **MR BEKIER:** Ms Sharp, when I tried to describe the subculture relating to the international VIP business, I had in mind the 9000 staff in a lot of functions that, based on what I'm seeing, are doing a great job and a very compliant job. It is only - I think, in my mind, the - the cultural issues have only ever crystallised every time we seem to touch the, you know, traditional VIP domestic and international VIP business. And - and it involves, as you pointed out, people who  
20 are not in that function but touch that function in support. So that's what I was trying to describe because I'm seeing all these other people.

**MS SHARP SC:** See, the culture of taking technical legal points, of not being transparent with the regulator, of taking unwarranted risks with anti-money  
25 laundering, of dealing with patently inappropriate customers, is a culture that permeates the senior executive of your organisation; do you agree?

**MR BEKIER:** It - it touches many of the senior executives, yes.

30 **MS SHARP SC:** And that points to the culture of an organisation which is inconsistent with the responsibilities of a casino operator in New South Wales; do you agree?

**MR BEKIER:** I disagree, on the basis that there are so many other parts to the  
35 business.

**MS SHARP SC:** And just at the point where the money laundering risks are so acute because of the sheer volume of money and the sources of funds is the area  
40 where management has most dropped the ball; do you agree?

**MR BEKIER:** With that, I agree.

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

45 **MR BELL SC:** Ms Richardson, do you have any questions for Mr Bekier?

**MS RICHARDSON SC:** No questions. Thank you.

**MR BELL SC:** Mr Williams, anything arising?

**MR WILLIAMS SC:** No, Mr Bell. I have no questions.

5 **MR BELL SC:** Mr Bekier, thank you for your evidence. The direction that I will make is that your examination is adjourned, but you won't be required to attend again unless you receive some notification from the review.

**<THE WITNESS WAS RELEASED**

10

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

**MS SHARP SC:** The next witness is Ms Robyn McKern. I wonder whether it would be convenient to have about a 10-minute break at this point, Mr Bell? Five?

15

**MR BELL SC:** Yes, five minutes. We will have a five-minute break. Thank you.

**<THE HEARING ADJOURNED AT 12:27 PM**

20 **<THE HEARING RESUMED AT 12:32 PM**

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

**MS SHARP SC:** I call Robyn McKern.

25

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

**MS McKERN:** An oath, please.

30 **<ROBYN BEVERLEY McKERN, SWORN**

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

**<EXAMINATION BY MS SHARP SC:**

35

**MS SHARP SC:** Ms McKern, could you state your full name, please.

**MS McKERN:** Robyn Beverley McKern.

40 **MS SHARP SC:** And your work address is known to those assisting this review?

**MS McKERN:** It is.

**MS SHARP SC:** You are a forensic accountant?

45

**MS McKERN:** That's correct.

**MS SHARP SC:** You're a founding partner of McGrathNicol?

**MS MCKERN:** Yes.

5 **MS SHARP SC:** You are a fellow of Chartered Accountants Australia and New Zealand?

**MS MCKERN:** Correct.

10 **MS SHARP SC:** And you are a fellow and former national vice president and board member of Australian Restructuring Insolvency and Turnaround Association?

**MS MCKERN:** Yes, I am.

15 **MS SHARP SC:** You are a graduate of AICD?

**MS MCKERN:** Yes.

20 **MS SHARP SC:** What does that stand for?

**MS MCKERN:** It's - sorry. It's the Institute of Company Directors - Australian Institute of Company Directors.

25 **MS SHARP SC:** And it's correct, isn't it, that since 2001, you have been a registered liquidator?

**MS MCKERN:** That's right.

30 **MS SHARP SC:** You hold a Bachelor of Economics from Monash University?

**MS MCKERN:** Yes.

**MS SHARP SC:** Do you hold any other post-secondary qualifications?

35 **MS MCKERN:** No.

**MS SHARP SC:** Now, you have prepared two reports for the purpose of this review?

40 **MS MCKERN:** I have.

**MS SHARP SC:** One of those reports is dated 12 March 2022?

45 **MS MCKERN:** Yes.

**MS SHARP SC:** The second of those reports is a supplementary report and is dated 26 April 2022?



**MS McKERN:** Yes.

**MS SHARP SC:** And in preparing these reports, you have endeavoured to answer a list of written questions provided to you?

5

**MS McKERN:** Yes.

**MS SHARP SC:** Now, it's correct, isn't it, that there are certain corrections you wish to make to your reports?

10

**MS McKERN:** Yes.

**MS SHARP SC:** Could I start with your first report, please, and take you to paragraph 8.4.9, which at least in my version appears at page 78.

15

**MS McKERN:** Yes.

**MS SHARP SC:** Is there a date change that you wish to make there?

20

**MS McKERN:** Yes, there is. That date in that says May 2018. It should be May 2019.

**MS SHARP SC:** Now, could I show you an email from you to Ms Hourigan at Maddocks dated 3 May 2022. Operator, if I could call up INQ.018.003.0001.

25

**MS McKERN:** Yes.

**MS SHARP SC:** And you recognise this as an email that you sent to Ms Hourigan on 3 May 2022?

30

**MS McKERN:** Yes, I do.

**MS SHARP SC:** Could I have this marked for identification, Mr Bell?

35

**MR BELL SC:** Yes. The email of 3 May 2022 will be MFI58.

**MS SHARP SC:** And it's correct that in this email, you identify four matters which you would like to correct or clarify?

40

**MS McKERN:** Yes, that's right.

**MS SHARP SC:** Can I now show you a further email from you to Ms Hourigan dated 3 May 2022. Operator, could you please bring up INQ.018.003.0003. And you recognise this as an email you sent that date?

45

**MS McKERN:** Yes, I do.

**MS SHARP SC:** Mr Bell, could I have this marked for identification, please?

**MR BELL SC:** Yes. That document will be MFI59.

5 **MS SHARP SC:** Is it correct that what you do in this email is seek to have some amendments made to table 27 of the primary, that is, the first, report?

**MS MCKERN:** Yes, that's correct.

10 **MS SHARP SC:** Now, subject to those corrections and clarifications I have just raised with you, are the contents of your first report and your supplementary report true and correct?

**MS MCKERN:** Yes, they are.

15 **MS SHARP SC:** It's correct, isn't it, that you have had the opportunity to consider the evidence that has been given by various witnesses during the public hearings of this review?

**MS MCKERN:** Yes, that's correct.

20 **MS SHARP SC:** How have you familiarised yourself with that public evidence?

**MS MCKERN:** I have attended the majority of hearings of particular witnesses, and I have considered the transcripts of all witnesses.

25 **MS SHARP SC:** Has anything that you have heard or become aware of during the evidence of the public hearings of this review caused you to alter any of the opinions you expressed in your first or your second report?

30 **MS MCKERN:** No. There has been no change to any of my opinions. There's certainly been evidence that has added, I guess, further context and further information surrounding the issues we considered, but none that has changed my opinions.

35 **MS SHARP SC:** Those are my questions, Mr Bell.

**MR BELL SC:** Ms Sharp, are Ms McKern's two reports exhibits in the hearings?

40 **MS SHARP SC:** Well, I'm told they are - they are, and I have it written in front of me. I'm sorry, Mr Bell. Ms McKern's first report is exhibit C330, and Ms McKern's second report is exhibit H634.

**MR BELL SC:** Yes. Thank you. Yes, Ms Richardson.

45 **MS RICHARDSON SC:** Thank you. I'm just marking those exhibit numbers.

**<EXAMINATION BY MS RICHARDSON SC:**

**MS RICHARDSON SC:** Ms McKern, Ms Sharp asked you some questions about your CV. So it's correct, isn't it, that you're not a lawyer?

**MS McKERN:** That's correct.

5

**MS RICHARDSON SC:** And so is it the case that you were coming to this report that you've been asked to do from an accounting or forensic point of view --

**MS McKERN:** That's correct.

10

**MS RICHARDSON SC:** -- given you're not a lawyer?

**MS McKERN:** Correct.

15

**MS RICHARDSON SC:** And so do you agree, given - and you don't have any legal qualifications; is that correct?

**MS McKERN:** That's correct.

20

**MS RICHARDSON SC:** So - and I think you candidly acknowledged at a couple of points in your report that you're not in a position to assess the legal merits of certain legal issues because you're not a lawyer; is that correct?

**MS McKERN:** That's correct.

25

**MS RICHARDSON SC:** So, for example, I think you've accepted that you and McGrathNicol are not qualified to assess the legal merit, for example, of whether IFTIs were required to be lodged in certain circumstances. You accept you're not in a position to express a view about that; is that correct?

30

**MS McKERN:** That's correct.

35

**MS RICHARDSON SC:** And you also, similarly, accept that you're not in a position to assess the legal merits or express a view about whether The Star was required to take a particular action under the AML/CTF Act; is that correct?

**MS McKERN:** That's correct.

40

**MS RICHARDSON SC:** And is it also the case that you're not able to express a view about the legal position in relation to offshore jurisdictions and what might be required legally in overseas jurisdictions; is that correct?

**MS McKERN:** That's right. No legal opinion, yes.

45

**MS RICHARDSON SC:** Thank you. And so do you accept - to the extent occasionally in your report you might have ventured a tentative view about a legal issue, you have candidly, in a number of cases, accepted that you cannot comment

on the merit of certain legal provisions that you were - it's not something you're putting forward as based on your expertise; is that correct?

5 **MS McKERN:** That's correct. That is not put anything asserting any legal expertise. I'm not sure if there are particular ones that you may have led to. There's certainly - my role was to identify the facts and forensic facts as far as the documents would show me from an accounting perspective.

10 **MS RICHARDSON SC:** Thank you. Do you have a copy of your first report there in front of you?

**MS McKERN:** Yes, I do.

15 **MS RICHARDSON SC:** Would you mind going to page 15, please.

**MS McKERN:** Yes.

20 **MS RICHARDSON SC:** Sorry. Just one moment. Do you see there - so that's table 3, which is a summary of your conclusions and opinions?

**MS McKERN:** Yes.

25 **MS RICHARDSON SC:** And we see up the top of page 15, in the first row, on the left, you put your opinion that:

"The Star's multi-streamed program of AML/CTF improvement underway since late 2018 was necessary and has been appropriately directed towards the identified deficiencies and to enhance overall effectiveness of The Star's AML/CTF function."

30

Do you see that?

**MS McKERN:** Yes, I do.

35 **MS RICHARDSON SC:** And you set out, on the right-hand side, about five bullet points where you identify the key elements of the AML/CTF uplift that has occurred at The Star --

**MS McKERN:** Yes.

40

**MS RICHARDSON SC:** -- since late 2018?

**MS McKERN:** Yes.

45 **MS RICHARDSON SC:** So they were elements of the uplift that you observed at The Star as part of your review; is that correct?

**MS MCKERN:** That I observed The Star had responded to the deficiencies in the report. So the deficiencies identified were those identified through the KPMG reports and that - and the responses to those KPMG reports. So I didn't see evidence that contradicted that these things were happening, but we did not investigate the detail of the things that The Star said it was acting upon. So I'm of the view that it appears - from everything I've seen, it appears these things are happening. But we did not provide - do any testing to provide assurance in that regard.

5  
10 **MS RICHARDSON SC:** And do you agree from the material that was provided to you in terms of the AML/CTF uplift that has been ongoing since late 2018, that significant resources have been put towards those tasks at The Star?

**MS MCKERN:** I agree that certainly there's - significant further resource has been added to address those issues, yes.

**MS RICHARDSON SC:** And is it the case that you did not become aware of any deficiency that had been identified by KPMG that had not been addressed by The Star?

20 **MS MCKERN:** That's correct, in terms of what I saw and also with some reliance upon the subsequent review by BDO.

**MS RICHARDSON SC:** Thank you. So it's the case, isn't it, that the BDO report also came to similar conclusions to you in relation to the uplift in the AML/CTF function that has occurred at The Star since the KPMG report? Is that your understanding?

25  
30 **MS MCKERN:** Yes, they came - they came to that conclusion. And to some extent, I relied on that conclusion because they undertook different work than we did. We didn't investigate this and create and determine - independently provide assurance around that. So I relied on that. I was really reporting on those matters for the benefit of the - this review, and I - but I did not identify issues within the documents or the conversations that we did do to contradict anything that BDO said.

35  
**MS RICHARDSON SC:** Thank you. And looking at page 15, you say there, in the middle row, on the right-hand side, your view is that:

40 "The AML/CTF uplift program at The Star has been extensive and is ongoing."

Is that your view?

45 **MS MCKERN:** I'm just not seeing that there, sorry. That's the middle --

**MS RICHARDSON SC:** It's the first bullet point on the right-hand side of that page. Do you see that:

"The AML/CTF program has been extensive and is ongoing."

5 **MS McKERN:** The changes - the renewal?

**MS RICHARDSON SC:** That's the view you --

10 **MS McKERN:** Sorry. You've got it here - yes. Sorry. Yes. Got it. Sorry. My apologies. Yes. Thank you.

**MS RICHARDSON SC:** That is your view based on the work that you did reviewing The Star; is that correct?

15 **MS McKERN:** Yes, that's my view, particularly in regard to the changes made in 2018 and 2019 - the changes to the AML program at that time.

**MS RICHARDSON SC:** Thank you. And you're aware that The Star has implemented the TrackVia system in relation to - as part of its AML/CTF uplift?

20 **MS McKERN:** Yes.

**MS RICHARDSON SC:** And I think, looking at the bottom row - if we could scroll down a bit - you describe that as being a substantial leap forward towards industry best practice in AML/CTF systems. Do you see that?

25 **MS McKERN:** Yes, I do.

**MS RICHARDSON SC:** Could you explain the basis of your view that that's a substantial leap forward?

30 **MS McKERN:** Yes. So prior to the implementation of TrackVia, particularly the transaction management processes were all not automated. And Star has a range of repositories for information relevant to AML management in relation to patron activities, patron backgrounds, gaming activities and investigation-type activities, know your client activities - all of those things - you know, a whole range of  
35 different systems. And the TrackVia - I guess the nirvana in casino world is to be able to look at all the information about a patron and about their behaviours and about transactions flowing through the casino in the one place, and TrackVia is an endeavour to get to that. So it is significant in terms of Star's progress towards that  
40 best practice position.

**MS RICHARDSON SC:** And you see the bullet point that's at the top on the right-hand side - you say that:

45 "RSM has been appointed by The Star to test the TrackVia system."

**MS McKERN:** Yes.

**MS RICHARDSON SC:** And do you agree that that is a positive step in the sense that the system is being independently reviewed for its efficacy?

5 **MS MCKERN:** Yes, I think it's positive and necessary.

**MS RICHARDSON SC:** And down in the bottom row, on the right-hand side, where it starts, "We perceive," do you see that there?

10 **MS MCKERN:** Yes.

**MS RICHARDSON SC:** So you see TrackVia is a substantial leap forward, but you say there's a risk that the system becomes an end in itself, rather than a tool that's used to make timely decisions and so on. Do you see that?

15 **MS MCKERN:** Yes.

**MS RICHARDSON SC:** Do you agree - you're aware that Skye Arnott has the role of being head of the AML program at The Star?

20 **MS MCKERN:** Yes. In her current role, yes.

**MS RICHARDSON SC:** And that Howard Steiner separately has the role of monitoring TrackVia. Are you aware of that?

25 **MS MCKERN:** Yes, I am.

**MS RICHARDSON SC:** Do you agree that the risk that a TrackVia system becomes an end in itself is mitigated or reduced by the separation of the role of having one person, being Ms Arnott, run the AML program and a separate person having the role of monitoring TrackVia?

30 **MS MCKERN:** Yes. I think that certainly does assist in - in that. Perhaps I should be clear about what I mean as "an end in itself", in that it becomes a system that becomes that repository. The key to the value of these in - from an AML perspective is using the information that - that is maintained in a - in a - to assist  
35 the proper implementation of an AML/CTF program.

**MS RICHARDSON SC:** And do you agree, in terms of whether the data that's inputted into TrackVia, as to whether it is complete or has integrity, that that is something that would be monitored by the second line of a defence and we would expect that, that that is part of the role of the second line of defence?

40 **MS MCKERN:** Yes, I would accept that. And I would expect that to be an element that RSM considers in testing the TrackVia system.

45 **MS RICHARDSON SC:** So I just want to ask you some questions about China UnionPay.

**MS McKERN:** Yes.

5 **MS RICHARDSON SC:** So do you agree that from what you observed with the use of China UnionPay cards at The Star was that the arrangement involved the transfer - I will put a proposition to you, and then I will break it down - the transfer of cleared funds from known customers with bank accounts in their name in China? So I will break that down. The first part of it is that the funds are coming from a bank account and involve cleared funds in the banking system. That's where the money is coming from. Do you agree with that?

10 **MS McKERN:** Our review didn't extend to the details of the CUP cards. I understand the premise that that is the way they operate. They certainly are drawn on a bank account - so they are attached to a bank account - and they are cleared funds, to that extent. How the funds get into that bank account, whether they can be used as stored-value cards is not something we considered or investigated.

15 **MS RICHARDSON SC:** Okay. Well, if - you would agree from your review that the customers were known - that is, the customer who was receiving the CUP transfer. It was a person connected to a bank account. Do you agree with that?

20 **MS McKERN:** Yes.

25 **MS RICHARDSON SC:** So do you agree, in those circumstances, that the source of funds was known because there were known customers where the money was cleared funds from their named bank accounts? So the source of funds was known in respect of those funds?

30 **MS McKERN:** Yes. Yes. On the premise that you put, that the card was presented by a person and the card was in their name, yes. And the customer is - I - I agree - is a known customer from - of The Star, then I agree.

35 **MS RICHARDSON SC:** So do you agree with me that that is relevant to the money laundering - potential money laundering risk that the source of funds was known in relation to these transfers?

**MS McKERN:** Yes. In terms of knowing that it's come under the name of that customer, yes.

40 **MS RICHARDSON SC:** And in that sense, it lowers the money laundering risk because the source of funds is known; do you agree with that?

45 **MS McKERN:** Well, the source of funds is known to have come from that customer, but that customer's - the source of those funds to that customer remains unknown.

**MS RICHARDSON SC:** Well, that's a separate --



**MS McKERN:** Which doesn't differentiate it from other TTs and so forth to the bank accounts.

5 **MS RICHARDSON SC:** Well, I think - if we just focus on source of funds. You agree with me that the source of funds is known because it's clear that the funds are coming from a named customer's account?

**MS McKERN:** Bank account. Yes, I agree with that.

10 **MS RICHARDSON SC:** And I think what you might have been referring to is a source of wealth --

**MS McKERN:** Yes. Okay. Yes.

15 **MS RICHARDSON SC:** It's clear whose funds they are, and I think you were separately --

**MS McKERN:** Apologies. Yes.

20 **MS RICHARDSON SC:** Not at all. You were separately taking about source of wealth --

**MS McKERN:** Yes.

25 **MS RICHARDSON SC:** -- when you said - okay. So in terms of source of funds, do you agree that it's clear in relation to CUP that they are cleared funds that are being transferred from a named customer's account and so, in that respect, that element of it is - lowers the money laundering risk because the source of funds is known?

30

**MS McKERN:** Yes.

**MS RICHARDSON SC:** Thank you. Do you agree in that respect that in terms of source of funds and CUP, it's a similar level of risk to if the money was transferred from a customer's named bank account to The Star's bank account because it's cleared funds moving through the banking system?

35

**MS McKERN:** I'm - I'm just pondering if there is - if there's any differentiation between the different bank accounts in this regard. So it - it is no different, other than the CUP cards are going into hotel specific bank accounts, and other TTs typically go directly into The Star's - what I will describe as the main bank account.

40

**MS RICHARDSON SC:** But I'm just focusing on the source of funds issue.

45

**MS McKERN:** Okay.

**MS RICHARDSON SC:** It has a similar level of visibility of knowing that the funds are coming from a named customer's account?

**MS McKERN:** Yes.

5

**MS RICHARDSON SC:** So would you agree that it poses a lower level of money laundering risk than a cash transaction, for example?

**MS McKERN:** Yes.

10

**MS RICHARDSON SC:** And a lower form of money laundering risk than a remittance transaction?

**MS McKERN:** Yes.

15

**MS RICHARDSON SC:** Just one moment. I apologise. Now, in relation to CUP transactions and IFTI reporting --

**MS McKERN:** Yes.

20

**MS RICHARDSON SC:** -- I think we've already discussed the fact that you accept you're not qualified to comment on whether The Star was, in fact, required to lodge an IFTI or not with AUSTRAC; is that correct?

25

**MS McKERN:** That's correct.

**MS RICHARDSON SC:** Do you agree that - I can take you to this advice, but The Star has received advice - external legal advice that it was not necessary to lodge IFTIs in respect of CUP transactions. Are you aware of that?

30

**MS McKERN:** I have not seen that advice. I may have been aware - it may have been referred to, but I've not considered that advice.

**MS RICHARDSON SC:** So that's an advice from HWL Ebsworth and Mr Seyfort of Ebsworth's. When - you've given evidence up the front of your report of the material that you relied on in section 1.5 of your report. On page 10, you refer to the sources of information.

35

**MS McKERN:** Yes. Perhaps if you take it to me - perhaps I'm mistaken. I'm - can you take me to it?

40

**MS RICHARDSON SC:** Certainly. It's exhibit 3123.

**MR BELL SC:** I wonder if we could do that after the luncheon adjournment, Ms Richardson.

45

**MS RICHARDSON SC:** Certainly.

**MR BELL SC:** Yes. I will now adjourn for one hour. Thank you.

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

5 **<THE HEARING RESUMED AT 2:00 PM**

**MR BELL SC:** Yes, Ms Richardson. I'm afraid we can't hear you, Ms Richardson.

10 **MS RICHARDSON SC:** Sorry. If it's not inconvenient, I might go back to an earlier question I asked, Ms McKern, before I forget to do that. Ms McKern, before lunch I asked you a question about - and this is at transcript 3193.31. Do you agree - this was in terms of source of funds and CUP. My question was: do  
15 of risk to if the money was transferred from a customer's named bank account to The Star's bank account because it's cleared funds moving through the banking system. And you responded:

20 "I'm just pondering if there's any differentiation between the different bank accounts in this regard."

And you referred to whether or not CUP cards were going into one type of account or another. So I just wanted to - you can take this from me, but I will give the reference for the benefit of the assisting team, that the CUP transactions for  
25 Sydney went into an account of The Star Pty Ltd.

**MS McKERN:** Yes.

30 **MS RICHARDSON SC:** And this is in an annexure to Mr Theodore's statement which lists all these accounts. It's an account - the account holder is The Star Pty Ltd.

**MS McKERN:** Yes.

35 **MS RICHARDSON SC:** And for the benefit of the assisting team, the bank account number is 08 - I probably shouldn't read that on to the record, but it ends in 0430. And that (indistinct) account that is listed in answer to question 15 in The Star's 27 October response to an information request which is at  
40 CORRO.001.001.0574. So if you assume that CUP transactions went into an account held by The Star Pty Ltd, do you agree with me that it's a similar level of risk in terms of money laundering to the scenario where the money was transferred from a customer's named bank account to The Star's bank account? Do you agree with that?

45 **MS McKERN:** Yes, I do.

**MS RICHARDSON SC:** And in that sense, it's a lower form of money laundering risk because it's cleared funds moving through the banking system

from a named bank account of the patron to The Star's bank account; do you agree with that?

5 **MS McKERN:** Lower form than remittance or cash?

**MS RICHARDSON SC:** Yes.

**MS McKERN:** Yes. Yes.

10 **MS RICHARDSON SC:** And separately, that it's a similar level of risk to the scenario where you have a transfer of money from a customer's named bank account to The Star's bank account; do you agree with that?

**MS McKERN:** Yes.

15 **MS RICHARDSON SC:** Now, going back to the question of CUP transactions and - actually, I think I might deal with that in submissions. You've accepted generally, and you've accepted in your report, that you're not qualified to comment on the question of whether The Star was required to lodge an IFTI in respect of the  
20 CUP transactions; is that correct?

**MS McKERN:** From a legal perspective, yes.

25 **MS RICHARDSON SC:** And - can I ask, through Ms Sharp, whether the document that's on the screen is exhibit B3123?

**MS SHARP SC:** I will just take some instructions on that, Mr Bell.

30 **MS RICHARDSON SC:** I think that is correct, actually. I think that is exhibit B3123.

**MS SHARP SC:** Yes, it is, Mr Bell.

35 **MS RICHARDSON SC:** Could the witness please be shown page 4294, please. And do you see up the top it says:

"The use of CUP did not require the international funds transfer instruction reports (IFTIs) to AUSTRAC for a variety of reasons including because the transfer of funds (the use of the card) was initiated in Australia."

40 Do you see that?

**MS McKERN:** Yes, I do.

45 **MS RICHARDSON SC:** Did you review this advice - this external legal advice as part of providing your report to this review?

**MS MCKERN:** Sorry. Is this the legal advice, or is this a board report of that advice?

5 **MS RICHARDSON SC:** No. If we could go to page 4296, it will show that this is an advice of Mr Seyfort of HWL Ebsworth that was attached to a board paper.

**MS MCKERN:** Yes. I have seen - I'm not sure if it was specifically in this document, but I have seen that HWL advice in late 2021, yes.

10 **MS RICHARDSON SC:** And if we could go back to page 4294, please. Do you agree that when you were discussing the broad issue of IFTIs and CUP in your report, that you perhaps should have mentioned the fact that The Star had received external legal advice to the effect that an IFTI was not required to be lodged in respect of CUP transactions?

15 **MS MCKERN:** Yes, I think how I phrased it was that "The Star was of the view". I - I could have added to that that - that they had had this advice, although the advice, I understand, was not contemporaneous with the transactions and - and the - this was a - a subsequent review of the position, rather than contemporaneous  
20 with when the transactions were occurring.

**MS RICHARDSON SC:** But do you agree with me that the fact that The Star had received external legal advice to the effect that an IFTI was not required is an additional matter that goes beyond just the fact that The Star itself has adopted that  
25 view? Do you agree with that?

**MS MCKERN:** Yes. Yes, I agree.

30 **MS RICHARDSON SC:** Do you - given that matter, do you agree that the fact that you referred to AUSTRAC guidance in respect of this issue as suggesting a contrary position, that, in retrospect, it would have been fairer to refer to the fact that The Star had received external legal advice to the effect that no IFTIs were required to be lodged in respect of CUP transactions?

35 **MS MCKERN:** Yes, I agree. In retrospect, on reflection, that's - that's a fair comment.

40 **MS RICHARDSON SC:** And I'm not going to go into the legal position with you because you're not a lawyer, but do you agree that if there was no obligation to lodge an IFTI in respect of CUP transactions, that one cannot say that AUSTRAC was denied that IFTI information?

45 **MS MCKERN:** I - I would say to that proposition that in looking at this issue and the overall framework of AML/CTF - the objectives of that legislation in Australia, the intent is to provide AUSTRAC, and therefore law enforcement agencies, with information to enable the - the control of AML activities. It seems curious to me that if - if it is the case, as The Star has been advised, that they had no obligation, that AUSTRAC would have pretty - very straightforward guidance

on its website that goes to precisely, in my view, the sort of transactions involved in the CUP that contradicted that view. But I - I can't untangle that view, not having the legal skills to do so.

5 **MS RICHARDSON SC:** And you're not purporting to untangle that view in your report; is that correct?

**MS McKERN:** That's correct.

10 **MS RICHARDSON SC:** And so do you also agree that you don't have the expertise to express a view about what the AUSTRAC guidance within its terms provides for or not?

**MS McKERN:** That's correct.

15 **MS RICHARDSON SC:** If you wouldn't mind going - I don't think I need to take you to your report. Do you recall that you've footnoted that in respect of the AUSTRAC guidance? You footnoted that:

20 "We do not know whether guidance in these terms was available on the AUSTRAC website at the time The Star was determining its position in regard to submitting IFTIs."

Do you recall saying that?

25

**MS McKERN:** Yes. Yes, that's correct.

**MS RICHARDSON SC:** Do you agree with me that if the casino guidance that you referred to was posted on the web a number of years after the CUP transactions commenced at The Star, that that would be relevant, in your view, to assessing The Star's approach to IFTI reporting in relation to CUP transactions?

30

**MS McKERN:** I would think it's a factor. But - but I think only - but in terms of - I think the ambit of the AML/CTF Act requires a risk assessment and consideration of the objectives of the Act in terms of reporting, and consideration as to whether - whether a black and white legal obligation exists, whether it is in accordance with the objectives of the Act to report transactions of - of the nature seen in CUP nevertheless. That's a roundabout way of - of answering, I - I suspect. If you would like to repeat the question, I will just check that I have, in fact, responded.

40

**MS RICHARDSON SC:** Well, I will ask you a slightly different question.

**MS McKERN:** Sure.

45

**MS RICHARDSON SC:** While you accept you can't express a view about the AML/CTF Act and what the legal requirements under it are, you've accepted that; is that correct?

**MS McKERN:** Yes.

5 **MS RICHARDSON SC:** But you are aware in a general sense that the requirements for IFTIs involve a complex set of provisions in terms of when an IFTI is required; correct?

**MS McKERN:** Yes.

10 **MS RICHARDSON SC:** And you are not purporting to say to Mr Bell that you have the expertise to say when it was required or when it isn't required; correct?

**MS McKERN:** Correct.

15 **MS RICHARDSON SC:** So - I'm putting a different question to you. I will perhaps be more specific. If we could bring up the - there's a date on the casino - the AUSTRAC guidelines, which is 19 July 2019. And our inquiries are that that is about the date that it was first posted on the web.

20 **MS McKERN:** Yes.

**MS RICHARDSON SC:** So I want you to make that factual assumptions.

**MS McKERN:** Mm-hm.

25 **MS RICHARDSON SC:** Given that CUP transactions were taking place at The Star for some six years - or five or six years prior to that - sorry, I will go back a step. You have made certain comments about the AUSTRAC guidance in your report - do you recall that - in relation to IFTI --

30

**MS McKERN:** Yes.

**MS RICHARDSON SC:** -- reporting? And you have drawn a conclusion, based on that AUSTRAC guidance, as to what that might suggest about The Star's approach to AML compliance. Do you recall that?

35

**MS McKERN:** Yes.

40 **MS RICHARDSON SC:** What I want to suggest to you is if that guidance was only put on the web some five or six years after The Star commenced receiving CUP transactions, do you agree that that couldn't be relevant to that six-year period? Do you agree with that?

45 **MS McKERN:** It couldn't be relevant in terms of Star not having had - having any obligation to have regard to explicit guidance by AUSTRAC. But it remains relevant, that contemplation of the sentiment - unless there has been a change in the law also, contemplation of the sentiment that is expressed through that

expectation. I think that remains a relevant issue for Star to have considered the substance of the transactions, as well as the form, as well as the legal obligations.

5 **MS RICHARDSON SC:** But you've agreed that you're unable to express a view about what the AUSTRAC guidance actually requires in terms of legal obligations; is that correct?

**MS MCKERN:** That's right.

10 **MS RICHARDSON SC:** Now, in relation to IFTI reporting for EEIS transactions, you've noted in your main report - perhaps if your first report could be brought up on page 17, please. So you expressed a view - we see on the first row, on the right-hand side, about five lines down, you say:

15 "We are not qualified to assess the legal merit of ... The view that IFTIs were not lodged in EEIS loan transactions"

Do you see that?

20 **MS MCKERN:** Yes.

**MS RICHARDSON SC:** And then you then express a view suggesting that it was contrary to guidance; do you see that?

25 **MS MCKERN:** An observation, yes.

**MS RICHARDSON SC:** Do you accept that in your supplementary report, you have now accepted that - contrary to what's written there, that you accept that there was no obligation to lodge an IFTI in respect of EEIS loan transactions; correct?  
30 Would it be easier if I bring up --

**MS MCKERN:** It would be better if you took me to it, yes.

**MS RICHARDSON SC:** Thank you. If there is --  
35

**MS MCKERN:** I - I - I think - yes. Because I think I talked - that was in the context of a loan being provided to the customer and on the basis that there was, in fact, no funds transfer as between EEIS and either the - and the customer or Star in regard to those loans.  
40

**MS RICHARDSON SC:** Well, just in fairness to you, I will have it brought up so you can see it.

**MS MCKERN:** Thank you.  
45

**MS RICHARDSON SC:** Could the supplementary report please be brought up at page 11?



**MS MCKERN:** Could I have it larger, please?

**MS RICHARDSON SC:** So do you see in the third row, on the right-hand side, you say:

5

"As no funds were transferred from offshore in relation to the EEIS loans, there was no international funds transfer instruction that would require AUSTRAC reporting when the loan was drawn down."

10 **MS MCKERN:** Yes. When the loan was drawn down. Correct.

**MS RICHARDSON SC:** And then in terms of when it was repaid, you go on to say:

15 "The majority of the EEIS loans were repaid at settlement of the program -"

And so on:

20 "These transactions do not require an IFTI."

**MS MCKERN:** Yes. So if they were settled at - at the end of the program, it was all onshore and no IFTI would be involved, is my understanding, legal qualifications aside.

25 **MS RICHARDSON SC:** Thank you. So - now, in relation to deposits that were made into the EEIS account for repayment or clearance of a CCF, do you recall that type of transaction?

30 **MS MCKERN:** Yes.

**MS RICHARDSON SC:** So could we go back to the main report, please. And if we could go to paragraph 8.8.5 on page 84. Do you see there at 8.8.5, you record your finding that:

35 "The vast majority of the transactions into the EEIS bank account include a narrative stating 'CCF redeem'."

**MS MCKERN:** Yes.

40 **MS RICHARDSON SC:** And so you took those transactions to be redemption of a - or repayment of a CCF; is that correct?

**MS MCKERN:** Yes, I did.

45 **MS RICHARDSON SC:** In terms of IFTI reporting in relation to these types of transactions, being CCF payments into the EEIS account for CCF clearance, do you agree with me that it would be relevant to The Star's approach to AML compliance if it sought external legal advice in relation to whether CCFs - sorry, I

will start again. Do you agree that it would be relevant to The Star's approach to AML compliance if it sought external legal advice in relation to whether it was required to lodge IFTIs where CCF clearance payments were made into the EEIS bank account?

5

**MS McKERN:** Yes.

**MS RICHARDSON SC:** Could exhibit C0075 be brought up, please. You see there that that is an email from Mr Anthony Seyfort of HWL Ebsworth?

10

**MS McKERN:** Yes.

**MS RICHARDSON SC:** In relation to EEIS remittance scenarios. And in a moment, I will have the attachment to that document brought up. I think it's exhibit 0076 - sorry, exhibit C0076. The document number is STA.3009.0012.0021. Thank you. Have you seen this external legal advice before as part of your review?

15

**MS McKERN:** I don't recall seeing this, no.

20

**MS RICHARDSON SC:** In your report at paragraph 1.5.1, you set out the sources of information that was required - that was relied upon by you?

**MS McKERN:** Yes.

25

**MS RICHARDSON SC:** Is it the case that you had access to a large amount of material and used keyword searching to try and narrow down the documents that were likely to be relevant to your task?

30

**MS McKERN:** Yes, it is.

**MS RICHARDSON SC:** And did those keywords include words in relation to EEIS and the AML Act?

35

**MS McKERN:** Yes.

**MS RICHARDSON SC:** Can you think of why it is that this document did not come to your attention as part of your review?

40

**MS McKERN:** No, I can't really explain that. So - I mean, I did understand that legal advice - did I understand that? Let me contemplate. I - I was aware that - that Star had this position. I didn't typically review or seek to contradict legal advice. I couldn't make a comment on legal advice. It - it just doesn't - it's just not coming to mind as something that if I had - that I have seen and - and spent some time on. So --

45

**MS RICHARDSON SC:** This will be a matter for submissions, Ms McKern, but there are a number of aspects of the landscape table we see on the right which

represent advice - external legal advice that IFTIs were not required to be lodged in respect of CCF clearance payments that were made into the EEIS account.

**MS McKERN:** Yes.

5

**MS RICHARDSON SC:** Do you agree, in retrospect, given that you made an observation about what AUSTRAC guidance might require in respect of IFTIs, that it would have been fairer or it would have given a fuller picture to refer to the fact that The Star had received external legal advice to the effect that IFTIs were not required for CCF clearance payments?

10

**MS McKERN:** Yes. I think I have already agreed to that, yes.

**MS RICHARDSON SC:** Well, this is in a slightly different context. This is - I put that proposition to you previously in relation to --

15

**MS McKERN:** Sorry. In relation to - yes. Sorry. I agree with the current proposition. Yes. My apologies.

**MS RICHARDSON SC:** Just because we're talking over one another, sorry. The previous proposition was in relation to advice about CUP transactions. I'm putting a similar proposition but in relation to external advice that was received in relation to CCF clearance payments made into the EEIS account.

20

**MS McKERN:** Yes, I agree. Yes, I accept --

25

**MS RICHARDSON SC:** So you agree in respect that it --

**MS McKERN:** I do.

30

**MS RICHARDSON SC:** To give a fuller picture, that that should have been referred to?

**MS McKERN:** Yes.

35

**MR BELL SC:** Are these the only two scenarios referred to in the advice, Ms Richardson?

**MS RICHARDSON SC:** No. The relevant - and it goes on for a number of pages.

40

**MR BELL SC:** I see.

**MS RICHARDSON SC:** And the relevant scenarios are actually - it's not what's on the screen. It's items 13 to 18, 19 to 24 and 25 to 30. So there's a large number of scenarios that are put forward and advice is given about whether IFTIs are required.

45

**MR BELL SC:** Yes.

**MS RICHARDSON SC:** Now, Ms McKern, I've taken you to the part of your report where you express the view that the vast majority of transactions that went into the EEIS account included the narration "CCF redeem". Do you recall that?

5

**MS McKERN:** Yes.

**MS RICHARDSON SC:** And is it also the case that there were a small number of transactions that appeared to be for front money deposits that were made into the EEIS account?

10

**MS McKERN:** Yes.

**MS RICHARDSON SC:** And could exhibit B1712 be brought up, please. And if we could scroll to the next page, please, to pinpoint 0068. And you will see there, we've got scenario 1 and then scenario 2, and if we scroll down, there's scenario 3, and then at the bottom of the page is scenario 4. Do you see that?

15

**MS McKERN:** Yes.

20

**MS RICHARDSON SC:** And you can take it from me that the last bullet point in relation to each of the four scenarios refers to the moneys being credited to a front money account. So I want you to assume from me that the premise of each of these four scenarios is that the money is paid into the front money account.

25

**MS McKERN:** Yes.

**MS RICHARDSON SC:** So I want you to assume for me that this is advice that The Star received from an external law firm that there was no obligation to lodge an IFTI in respect of payments to EEIS for front money account. I want you to make that assumption.

30

**MS McKERN:** Yes.

**MS RICHARDSON SC:** Did you review this external legal advice as part of preparing your report?

35

**MS McKERN:** I'm sorry. I don't recall this piece even coming to my attention. Could you just scroll to the front again?

40

**MS RICHARDSON SC:** Certainly.

**MS McKERN:** Okay. Thank you.

**MS RICHARDSON SC:** Do you - similarly to questions I put in respect of other scenarios, do you agree that given that you put forward a comment about AUSTRAC guidance and IFTIs, that it would have, in retrospect, been fairer to also include in your report the fact that The Star had received external legal advice

45

that there was no obligation to lodge an IFTI in respect of front money payments to the EEIS account?

5 **MS SHARP SC:** Objection. There's a difficulty with the premise here. Ms McKern's report is dated 12 March 2022. Mr Bell, you may recall that there were some productions of documents on around 3 March 2022. I'm just having it checked whether this and the last advice from Mr Seyfort were, in fact, only produced to this review on 3 March 2022. My concern is it's being suggested to this witness that this witness's report was not fair in some way. That, of course, is based on a premise that the document was actually available.

**MR BELL SC:** Well, I'm not sure I can deal with that objection unless you can identify when this document was made available to Ms McKern.

15 **MS SHARP SC:** My instructions at this stage are that these documents were produced in answer to a summons that was issued - it's sometimes described as summons number 2 on 26 November 2021. I'm just trying to take instructions at the moment about the actual date this document became available to the review.

20 **MR BELL SC:** Yes. Presumably it would have been available to Ms McKern by the time of her supplementary report, though.

**MS SHARP SC:** Yes, yes.

25 **MR BELL SC:** Well, perhaps, Ms Richardson, you can approach it in that way.

**MS RICHARDSON SC:** Thank you.

30 **MR BELL SC:** I wonder if I could just raise a matter in the absence of the witness. Operator, could you please just take us into private mode in the absence of Ms McKern.

**<THE HEARING IN PUBLIC SESSION ADJOURNED AT 2:33 PM**

35 **<THE HEARING IN PRIVATE SESSION RESUMED AT 2:33 PM**

**<THE HEARING IN PRIVATE SESSION ADJOURNED AT 2:35 PM**

40 **<THE HEARING IN PUBLIC SESSION RESUMED AT 2:35 PM**

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

45 **MS RICHARDSON SC:** Ms McKern, as part of preparing your report, did you - well, I want you to assume that this legal advice was referred to in a witness statement of Ms Paula Martin that was produced to the review in February of this year.

**MS McKERN:** Yes.

**MS RICHARDSON SC:** So does that mean that this advice was among the universe of material that was available to you as part of preparing your report?

5 **MS McKERN:** I believe so. On that assumption, yes.

**MS RICHARDSON SC:** So do you agree - now, you see that it relates to four scenarios in relation to front money deposits to EEIS - four different factual patterns; do you see that?

10

**MS McKERN:** Yes.

**MS RICHARDSON SC:** Do you accept, given that The Star had received external legal advice that at least in respect of those four factual scenarios that no IFTIs were required to be lodged in respect of front money accounts that, in retrospect, that would have been fairer to include that in the relevant part of your report to - as relevant to The Star's approach to its AML obligations?

15

**MS McKERN:** Yes. I haven't read this. I'll take you at your word that that's what it says, that - that IFTIs were not required in these circumstances. And I - on reflection, it would have been fairer to refer to that fact within the body of my report.

20

**MS RICHARDSON SC:** So - and I'm not asking you for a legal view. But do you agree that if, ultimately, the legal position is that no IFTIs were required in respect of CUP transactions and EEIS transactions, that one cannot say that those transactions have been hidden from AUSTRAC if there was no obligation to make an IFTI lodgement?

25

30 **MS McKERN:** Yes. If there was no obligation, I would agree.

**MS RICHARDSON SC:** Could Ms McKern's supplementary report be brought up, please, to page 18, please. Sorry. If the bottom half of the page could be enlarged, please. Do you see there the third last row is in relation to Regal Crown?

35

**MS McKERN:** Yes.

**MS RICHARDSON SC:** And we see the right-hand columns:

40 "No deposits identified."

**MR BRODIE:** Yes.

**MS RICHARDSON SC:** So does that mean that you did not identify any deposits in the EEIS accounts made by Regal Crown?

45

**MS McKERN:** Yes, using the methodology of searching for the name Regal Crown, Regal and Crown. That's correct.

**MS RICHARDSON SC:** Sorry. If we could go back to Ms McKern's first report, please. Sorry. If we could go to page 28. Could paragraph 2.11.4 be expanded, please. And do you see there there's material you've written about a Mr Gu?

5

**MS MCKERN:** Yes.

**MS RICHARDSON SC:** And do you see on the fourth line, on the right-hand side, it starts, "In August 2020, KPMG reported"?

10

**MS MCKERN:** Yes.

**MS RICHARDSON SC:** And is it the case that you didn't see the actual key KPMG report; rather, you saw a media article that talked about the KPMG report. Is that correct?

15

**MS MCKERN:** Yes, that's right.

**MS RICHARDSON SC:** If we could go to appendix - and so if we go to appendix D, please, of the report, which starts at about page 142. Do you see in appendix D, you've set out four patrons of interest where you've reviewed material available from open sources?

20

**MS MCKERN:** Yes.

25

**MS RICHARDSON SC:** So do you mean by that material that you were able to source in the public domain?

**MS MCKERN:** That's correct.

30

**MS RICHARDSON SC:** And if - I'm sorry. I don't have pin sites to the operator, but if we go to page 10 within this appendix D. The page numbers are in the bottom right-hand corner. We can see it commences where you've set out what open-source information you found about Michael Gu; is that correct?

35

**MS MCKERN:** Yes.

**MS RICHARDSON SC:** And if we go to the next page, please. If we could expand - thank you. We see up the top in the left-hand side:

40

"August 2020, KPMG report."

**MS MCKERN:** Yes.

**MS RICHARDSON SC:** Do you see that?

45

**MS MCKERN:** Yes.

**MS RICHARDSON SC:** And then we've got a footnote on the report which I think is a (i); is that correct?

5 **MS McKERN:** I can't see the footnote on this. There's a one next to the - yes.

**MS RICHARDSON SC:** Because I think the next footnote is (ii). So I think that footnote is a (i).

10 **MS McKERN:** Yes. Yes.

**MS RICHARDSON SC:** Does that sound correct?

**MS McKERN:** Yes.

15 **MS RICHARDSON SC:** And is that the KPMG report that you were referring to in the body of your report as being a KPMG report said a certain thing about Mr Gu?

20 **MS McKERN:** Yes. I believe so.

**MS RICHARDSON SC:** And I think you've already said you didn't - sorry.

25 **MS McKERN:** I was just going to say I can see the footnote reference, but I can't see the actual footnote.

**MS RICHARDSON SC:** I will take you to that.

**MS McKERN:** Sure. Okay.

30 **MS RICHARDSON SC:** So I think you've already agreed you didn't see the KPMG report yourself; you saw a media report that talked about the KPMG report. Is that correct?

35 **MS McKERN:** Yes, I believe that's correct. This was work done by my team. So that's my understanding.

40 **MS RICHARDSON SC:** Thank you. And I will take you through to that footnote. It's - operator, it's at page 24 of exhibit D. Actually, I think it should be (l), not (i). Do you see there the first - there's a URL there --

**MS McKERN:** Yes.

**MS RICHARDSON SC:** -- which is:

45 "Slash Michael Gu, founder of collapsed iProsperity."

Do you see that?



**MS McKERN:** Yes. Yes.

**MS RICHARDSON SC:** So I think actually it was a (l), not a (i). Does that sound correct?

5

**MS McKERN:** Yes. I'd agree, yes.

**MS RICHARDSON SC:** And that's the footnote that was attached to the August 2020 KPMG report citation?

10

**MS McKERN:** Yes.

**MS RICHARDSON SC:** I'm just going to ask the operator to bring up that article. Do you see that article? I want you to assume that that's the - well, is that the article that's referred to in that footnote?

15

**MS McKERN:** I - I believe so.

**MS RICHARDSON SC:** So - I won't ask you to read the article, but is it the case that that is - that footnote (l) is the source of the information that was put into your report in relation to what a KPMG report said about Mr Gu and iProsperity?

20

**MS McKERN:** Yes.

**MS RICHARDSON SC:** I want to suggest to you - and I'm happy for you to have the time to read the article - that there's nothing in that article that supports a view that Mr Gu used iProsperity funds to gamble at The Star. Would you like to have the time to read that article?

25

**MS McKERN:** I have scanned that article. I would just like to review the paragraph in my report again that refers to that.

30

**MS RICHARDSON SC:** Perhaps if we go back to the main report at 2.11.4.

35

**MS McKERN:** Thank you.

**MS RICHARDSON SC:** The statement that was made:

"It was also noted that The Star received funds from iProsperity."

40

**MR BELL SC:** Is this the whole of the newspaper article, Ms Richardson? It doesn't seem to be because it seems to end in the middle of a sentence.

**MS RICHARDSON SC:** There are more pages to that article.

45

**MR BELL SC:** Right. Thank you.

**MS McKERN:** Yes. So your question was do I agree that there's no reference in that article to the connection between the misuse of investor funds and gambling at The Star?

5 **MS RICHARDSON SC:** Yes. Do you agree with that?

**MS McKERN:** Yes. Yes, I agree with that.

10 **MS RICHARDSON SC:** So what was the basis upon which it was written in your report at 2.11.4 that:

"It was also noted that The Star received funds from iProsperity."

15 **MR BELL SC:** Sorry, Ms McKern. Have you read the whole of the article?

**MS McKERN:** No. Just that piece - well, my team has, but I haven't read it just now.

20 **MR BELL SC:** Well, I think if you're answering a question about what the article does or does not say, you probably should read it all first.

**MS McKERN:** Yes. Thank you.

25 **MR BELL:** Is it just those two pages, Ms Richardson?

**MS RICHARDSON SC:** I think there's one or two more.

30 **MS McKERN:** I've read what I'm seeing. There's further pages. Yes, I've read those.

**MS RICHARDSON SC:** Do you agree with me that that article doesn't contain any information supporting a view that The Star received funds from iProsperity?

35 **MS McKERN:** Yes, I agree.

**MS RICHARDSON SC:** So if we go back to paragraph 2.11.4 of your first report, please.

40 **MS McKERN:** Yes.

**MS RICHARDSON SC:** Do you agree that that part of your report should be altered to remove the last sentence because that is not supported by the material that was cited for that proposition?

45 **MS McKERN:** I - I would have to further look at what the - I - I agree that the last sentence does not - does not necessarily refer to the August KPMG report - 2020 KPMG report. I - I - I - on reflection, I agree that it reads that way. But I - I think it is possible that it was noted - also noted that The Star received

funds from iProsperity may have a different source. And if I could just check into that, I would agree. But I certainly agree that it - it doesn't follow from the previous sentence that that KPMG report is not the source of that final sentence.

5 **MR BELL SC:** So, Ms McKern, that's something you will check up on and report subsequently about?

**MS McKERN:** Yes, I will.

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

**MS RICHARDSON SC:** Do you agree with me, in terms of your report, no other material is cited to support that proposition that The Star had received funds from iProsperity?

15

**MS McKERN:** I - I can't agree without reviewing the schedule - the appendix leading to that as well. So once I've looked at that, I'm happy to respond to that question properly.

20 **MS RICHARDSON SC:** Well, if we could just go back to appendix D, please, to page 24. If we could just expand - thank you. You see we've got footnote (l), which is the media article I just took you to?

25 **MS McKERN:** Yes. Is there something in there about - regarding the note that The Star received funds from iProsperity in the body of the index?

**MS RICHARDSON SC:** Well, I want to suggest to you that there is no material referred to in this index that would support the statement at 2.11.4 that The Star received funds from iProsperity.

30

**MS McKERN:** Yes, I understand that's the proposition. I - I am just - it - it would seem improbable to me that I would make that statement without any background for it. It may have been an error in citation, but I'd like to check that before advising that that's - that is the case.

35

**MR BELL SC:** Ms Richardson, there seem to be six media articles from (l) to (l)(vi) relating to iProsperity; is that correct?

**MS RICHARDSON SC:** It looks that way.

40

**MR BELL SC:** Yes. Is it on your instructions that that proposition isn't made in any of those six media articles?

45 **MS RICHARDSON SC:** I haven't read all of those articles. My instructions are is that it is not correct that The Star received funds from iProsperity, that that is not correct as a factual proposition.

**MR BELL SC:** In any of those six articles?

**MS RICHARDSON SC:** I haven't read all the other articles. I'm just giving my instructions about the report at 2.11.4 that it is not correct that The Star received funds from iProsperity. It is not correct.

5

**MR BELL SC:** I'm sorry. What I meant was, is it your instructions that that proposition is not referred to in any of those six media articles? Or is that something you can't answer at the moment?

10 **MS RICHARDSON SC:** I can't answer that at the moment.

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

15 **MS RICHARDSON SC:** Could I just take instructions for one minute, please, Mr Bell?

**MR BELL SC:** Yes, of course. I think I said there were six; I think there are seven media articles.

20 **MS RICHARDSON SC:** Ms McKern, you've set out in your report in relation to overseas payment channels that you found no evidence of practices involving actual money laundering; is that correct?

**MS MCKERN:** That's correct.

25

**MS RICHARDSON SC:** And so it's the case, isn't it, that if you found no evidence of actual money laundering, you couldn't express a view about whether The Star was complicit in enabling any type of money laundering; do you agree with that?

30

**MS MCKERN:** That's correct.

**MS RICHARDSON SC:** So you did not find any evidence of complicity in relation to money laundering; is that correct?

35

**MS MCKERN:** I - what we found was activities that presented a high risk of such - of money laundering activities. We didn't - we could - couldn't identify money laundering activities because, to do that, you need to actually know what the source - that the funds involved are illicit. So the focus within an AML/CTF framework is to concentrate on the risk of such activities and to manage that risk. And so there were - the comments made around potential complicity is whether - the issue is whether The Star's activities were such that, in - in doing those activities, heightened the risk or enabled the possibility of money laundering activities.

45

**MS RICHARDSON SC:** But the views you expressed were in relation to risk, rather than actual findings that there was any heightened complicity of The Star; do you agree with that?

**MS McKERN:** I'm sorry. I missed that. There was interference in the volume.

5 **MS RICHARDSON SC:** Do you agree that the views you've expressed in your report are in relation to risks, rather than you identifying any actual evidence of money laundering or complicity of The Star in relation to money laundering?

10 **MS McKERN:** Yes. Risks - risks of money laundering occurring, risks of complicity.

**MS RICHARDSON SC:** Those are my questions. Thank you.

**MR BELL SC:** Yes, Ms Sharp. Anything arising?

15 **MS SHARP SC:** There is one matter arising, Mr Bell.

**<EXAMINATION BY MS SHARP SC:**

20 **MS SHARP SC:** Ms McKern, based on your experience, is there a difference between a know your customer check and a source of funds check?

25 **MS McKERN:** Well, a source of funds check is a - an aspect of know your customer, usually forms part of enhance - it's on a risk-based scenario. So the higher your assessment of risk of the customer, the more information you would want to know to ensure that you are managing that risk. And if a customer requires enhanced due diligence, then I would - appropriate process would be to include source of wealth as part of that.

30 **MS SHARP SC:** And are know your customer checks and source of funds checks done at the same or different points in the relationship with any particular customer?

35 **MS McKERN:** Sorry. Can I just - I think I responded in relation to source of wealth. Are you asking about source of wealth or source of funds here? We have (indistinct).

40 **MS SHARP SC:** I'm sorry. Yes. I've put the question imprecisely. Let me start all over again. Are know your customer - is know your customer different to source of funds?

**MS McKERN:** Yes.

**MS SHARP SC:** And is know your customer different to source of wealth?

45 **MS McKERN:** Source of wealth is a part of know your customer.

**MS SHARP SC:** What is the difference between source of funds and source of wealth?

5 **MS McKERN:** Source of funds I understand to be where - that knowing the source of - the - where the funds have come from. So as Ms Richardson was talking before, about knowing that it's come from a bank account in the name of the customer, for example, or knowing that it's in the form of cash at the cage. Source of wealth is information about the customer that gives credibility to the bona fides of sums in that form or in that quantity or from that source is consistent with your knowledge of the customer.

10 **MS SHARP SC:** In relation to know your customer checks, source of wealth checks and source of funds checks, do the requirements to do those checks occur at the same time or at different points in the customer relationship?

15 **MS McKERN:** At Star or in general --

**MS SHARP SC:** Well, at Star.

20 **MS McKERN:** At - at Star. Well, the timing of each of those checks is a function of the risk assessment which underlies the AML/CTF program, which, in turn, underlines - underlies statements of operating procedures. And so there's a minimum level of know your customer that is required based on the risk assessed. So, for example, someone that just arrives at a casino with \$500 cash is not going to be subject to any of those matters. Someone who arrives at the casino and joins a loyalty program will be required to provide basic know your customer  
25 information. Someone that is moving into the higher roller areas or into a more premium area and/or betting with larger amounts or putting cash in excess of the threshold down will be asked to require - asked to provide further evidence of source - of wealth. And source of funds is significantly to do with transfers of funds into the bank accounts of Star and knowing where that's come from, whether  
30 it's come from the patron themselves or from a third party.

**MS SHARP SC:** Would you just excuse me for a minute, please, Mr Bell. I have no further questions, Mr Bell.

35 **MR BELL SC:** Yes. Ms McKern, thank you for your evidence. I should indicate that next Wednesday, 11 May, the hearings won't be commencing until 2 pm that day. And I will now adjourn.

40 **<THE WITNESS WAS RELEASED**

**<THE HEARING ADJOURNED AT 3:05 PM**