



INDEPENDENT LIQUOR AND GAMING AUTHORITY OF NSW

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

**PUBLIC HEARING
SYDNEY**

**TUESDAY, 10 MAY 2022
AT 11:30 AM**

DAY 30

**MS N. SHARP SC appears with MR C. CONDE, MS P. ABDIEL
and MR N. CONDYLLIS as counsel assisting the Review
MS K. RICHARDSON SC appears as counsel for The Star Pty Ltd
MR M. HENRY SC appears with MS M. CAIRNS and MS L. RICH
as counsel for Mr Benjamin Heap**

**Witness
MR BENJAMIN ANDREW HEAP**

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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 11:31 AM

MR BELL SC: The examination of Mr Sheppard is adjourned to a date to be fixed. Yes, Mr Conde.

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MR CONDE: Mr Bell, I call the next witness, Mr Benjamin Heap.

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

10 **MR HEAP:** An oath, please, Mr Bell.

<BENJAMIN ANDREW HEAP, SWORN

MR BELL SC: Yes, Mr Conde.

15

<EXAMINATION BY MR CONDE:

MR CONDE: Mr Heap, can you hear me?

20 **MR HEAP:** I can, yes.

MR CONDE: May I ask you first to state your full name.

MR HEAP: Benjamin Andrew Heap.

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MR CONDE: And are you aware that your address has been made known on your behalf to the solicitors assisting Mr Bell's review?

MR HEAP: Yes.

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MR CONDE: Have you been a director of The Star Entertainment Group since 23 May 2018?

MR HEAP: Yes.

35

MR CONDE: Is it correct you have a Bachelor of Commerce degree with a major in Finance and a Bachelor of Science degree with a major in Mathematics from the University of New South Wales?

40 **MR HEAP:** Yes.

MR CONDE: In terms of your other current roles, is it correct that you're a founding partner of a venture capital investment firm called H2 Ventures?

45 **MR HEAP:** Yes.

MR CONDE: And do you also have roles with entities associated with the Commonwealth Bank, Gymnastics Australia and the Federal Government's FinTech Advisory Group?

5 **MR HEAP:** I'm no longer a member of the FinTech Advisory Group, but the other positions are correct.

MR CONDE: Did you previously work in global asset management at UBS?

10 **MR HEAP:** Yes.

MR CONDE: And what, in general terms, did your work at UBS involve?

15 **MR HEAP:** My role prior to completing my period at UBS was as the CEO of the Australian asset management division of UBS.

MR CONDE: And so far as you can recall, did your work at UBS require you to be familiar with rules for anti-money laundering and counter-terrorism financing?

20 **MR HEAP:** Yes.

MR CONDE: And please tell Mr Bell about what that involved.

25 **MR HEAP:** Well, the - the UBS business is an - is an asset management firm in the Australian market, and so it manages moneys on behalf of both wholesale and institutional clients and, in that context, was dealing with fund flows coming in and out of investment funds. And so an aspect of that role was to understand the anti-money laundering regime in the Australian market.

30 **MR CONDE:** And did those fund flows include flows in and out of China?

MR HEAP: Not from my recollection.

35 **MR CONDE:** Which, if any, particular jurisdictions do you recall the fund flows tended to relate to?

MR HEAP: My recollection was it was entirely Australian. So my responsibility was for Australian clients of UBS. And so it was Australian clients investing in - in Australian funds.

40 **MR CONDE:** And as an asset manager, was there a role as principal in transactions with third parties?

45 **MR HEAP:** Not within my part of the business, not within the Australian asset management business.

MR CONDE: Right. So far as you can recall, did your work at UBS also require you to be familiar with rules for the holding and maintenance of an Australian Financial Services Licence or AFSL?

5 **MR HEAP:** Yes.

MR CONDE: And please tell Mr Bell about what that involved.

10 **MR HEAP:** So the - the Australian asset management business, of which I was a director, was an AFSL holder and it - and it was an AFSL holder as - as a product issuer in the Australian market. And so under the requirements of the AFSL, there was both reporting and monitoring obligations which - which the board, and then management on behalf of the board, was - was tasked with ensuring were in place.

15 **MR CONDE:** Are there requirements, as far as you're aware, for AFSL holders to meet some kind of suitability criteria?

20 **MR HEAP:** Well, there's a - there's a similar construction, Mr Conde. I'm not sure if that is under the AFSL. I know it is the case in the context of an APRA regulated entity, which is the fit and proper test, and it's - and it's similar in construct.

25 **MR CONDE:** Right. And is it correct that the asset management businesses with which you were associated at UBS were APRA regulated?

MR HEAP: No, they were ASIC regulated as AFSL holders.

30 **MR CONDE:** So what is the connection to fit and proper under the APRA regulated regime you referred to?

35 **MR HEAP:** Yes. So I'm also - you may get to, Mr Conde, but I'm also a director of Colonial First State Investments, which is an APRA regulated superannuation fund, and there is certainly a fit and proper regime in the context of that entity. I - I believe it also applies to an AFSL entity, but I know it does to an APRA superannuation fund.

MR CONDE: Right. And may I trouble you, please, to tell Mr Bell about your role with Colonial First State.

40 **MR HEAP:** Yes. I'm a director of Colonial First State Investments Limited and also a director of a - of a - a sister company called Avanteos Investments Limited.

45 **MR CONDE:** And does that entity - please tell Mr Bell about those entities' businesses.

MR HEAP: They both have a similar business, which is they provide superannuation funds to Australian superannuation members. And I am a director

of both companies, but therefore also a trustee. They're structured as trusts, so I'm a - I'm a trustee of the superannuation trust.

5 **MR CONDE:** And is it the entities themselves or you or both who have to be fit and proper, so far as you're aware?

10 **MR HEAP:** It's both. So certainly I have to meet a fit and proper test, and the other directors and senior officers within those entities have to meet a fit and proper test.

MR CONDE: Did you ever have a role at TAB Limited?

MR HEAP: I did, in the late 1990s.

15 **MR CONDE:** What, in general terms, did your work at TAB involved?

20 **MR HEAP:** I was the - I believe my title was - was head of e-commerce, which was an early internet digital role in that, you know - that was in the early stages of the digital technology evolution in Australian corporates.

MR CONDE: Is it correct, Mr Heap, that when you commenced as a director of Star Entertainment in May 2018, that was your first directorship of a publicly listed company?

25 **MR HEAP:** I - I had been a managing director briefly of a company immediately after leaving UBS, which was a company called Australian Wealth Investments Limited. That was for a period of about 18 months, and - and I was a director - I was a managing director. It was - The Star role was my first non-executive director role.

30 **MR CONDE:** And may I trouble you, please, to tell Mr Bell about what was the business of Australian Wealth Investments.

35 **MR HEAP:** It was a - it was a small listed Australian company which was seeking to invest in a venture capital style of investments within the financial services space, so what's now referred to as fintech investments.

MR CONDE: Is Star Entertainment your only directorship of a publicly listed company at present?

40 **MR HEAP:** No. I have two other publicly listed directorships: one is a company called Redbubble Limited; and the other is a company called Pandal Group Limited.

45 **MR CONDE:** And if I might trouble you, please, to tell Mr Bell about both of those, Redbubble Limited and Pandal Limited.

MR HEAP: Yes. So Redbubble Limited is - is a - it's a marketplace whereby artists can put up their images or designs and consumers can buy those images or designs on a T-shirt or - or - or for a wall hanging or - or similar. It - its - its proposition is to provide independent, often amateur, artists with a - with a method
5 to make their - their work available and for consumers to be able to buy a very broad range of - of product. It's - it - it offers its product around the world. It's - it's - 90-something per cent of the business is in the United States, by way of example.

10 **MR CONDE:** And Pental?

MR HEAP: Yes. Pental is a - is an investment management firm. Its origins were as the Westpac - or, in fact, was called BTIM, BT Investment Management. So it was owned by Westpac. It was separated from Westpac approximately 10 years
15 ago, and today it is a global investment management firm with investment teams in Australia, the United States and the UK predominantly, and clients in those markets around the world.

MR CONDE: Have you had any training, Mr Heap, in relation to anti-money
20 laundering and counter-terrorism financing?

MR HEAP: Yes, I have.

MR CONDE: And may I ask you, please, to tell Mr Bell about that training.
25

MR HEAP: Yes. So - so I've - I've had training at The Star, which I can talk to. I've also had training in - in the Commonwealth Bank in relation to my roles there, and most recently at Pental in relation to my role there.

30 **MR CONDE:** And may I ask you, please, to begin with The Star. What sort of training have you had there?

MR HEAP: So when - when I - I joined the board in May 2018, as you said. I was, in fact, a board observer in the board meetings in February and in March. In
35 the February board meeting, we had a - a - an AML training session for all directors. I believe that was just coincident with it being my first meeting. We subsequently had board training again in - in 2019. I'm not sure I could tell you the month. And - and we had training again in 2021. And those sessions are provided to the directors collectively to - to ensure they - they are across the key aspects
40 of - of the AML legislation. There was also some online training that I've done at The Star. Most recently, I think I did an online training module in December of 2021.

MR CONDE: And did the content of those training sessions overlap?
45

MR HEAP: It did. In my experience - my training at - at other firms as well - 80 per cent of that training is covering the core principles to ensure you had a good understanding of the - the core principles of the AML regime. You know, in my

experience, there's always 20 per cent you learn each time you do a new module, which - which may be a different trainer or it may be perhaps changes that have become a focus within the regime itself.

5 **MR CONDE:** At Star Entertainment, it's correct, isn't it, that you're the chair of the risk compliance and regulatory performance committee?

MR HEAP: Yes.

10 **MR CONDE:** And you're also a member of the audit committee; is that correct?

MR HEAP: Yes.

15 **MR CONDE:** And you're a member of the remuneration, people and social responsibility committee; is that correct?

MR HEAP: Yes.

20 **MR CONDE:** At the time that you were invited to become a director of Star Entertainment, what of your skills and/or experience did you consider equipped you to be a director of Star Entertainment?

25 **MR HEAP:** I think I - I was able to bring a few things. I had some contemporary executive management experience from my UBS role, which - which I was able to - to bring. I had a reasonably good understanding of the investment opportunities that The Star was looking to invest in, from my - again, from my experience at UBS. And I had a reasonably good understanding of contemporary technology opportunities and challenges from my most recent experience investing through H2 Ventures.

30

MR CONDE: And do you agree that a director, depending on a particular company and its business, may need to have an extra sensitivity to particular issues?

35 **MR HEAP:** Yes.

MR CONDE: So - and by way of example, just as a director of a mining company might be especially sensitive to OHS and environmental issues, directors of other businesses are going to have other issues to consider; would you agree?

40

MR HEAP: Yes.

MR CONDE: And for a casino business, would you agree that there need to be particular concerns around money laundering?

45

MR HEAP: Yes. I - there are - there are complexities in a casino business that means that a full appreciation of - of money laundering and - and the threat that it

represents is something that - that any director of a casino business should be across.

5 **MR CONDE:** And do you agree that criminal influence is a particular issue which arises for casinos?

MR HEAP: Yes. And - and a requirement under the Casino Control Act.

10 **MR CONDE:** And do you - in the AML training which you undertook at Star Entertainment versus other places, did you feel that the training recognised those sorts of differences?

15 **MR HEAP:** I - I don't recall that directly, Mr Conde, other than to say that - that covering anti-money laundering was sort of a fundamental part of that training in any organisation, including at The Star.

MR CONDE: Yes. Do you understand that, as a director of Star Entertainment, you owe a duty of care and diligence to the company?

20 **MR HEAP:** Yes.

MR CONDE: And you owe a duty to exercise your powers in good faith in the best interests of the company; do you agree?

25 **MR HEAP:** Yes.

MR CONDE: Do you agree that Star Entertainment needs to ensure that the people it deals with are of good repute?

30 **MR HEAP:** Yes.

MR CONDE: And do you agree that the casino industry is highly regulated in Australia?

35 **MR HEAP:** Yes.

40 **MR CONDE:** And you've mentioned financial services in general terms, but in particular what, if any, other business or organisation that you've been involved with do you think raises any similar issues to those raised by a casino business?

45 **MR HEAP:** Well, I would use financial services as the example, Mr Conde, in the sense that you have the same issues with fund flows. You have the same sort of criticality in terms of systems and process. I would also say that - that through some of the investments that - that - that we've made through the H2 Ventures business, which focused on fintech investments, we have looked at the contemporary ways that - that - that businesses are seeking to deal with that regulatory obligation in a - a more efficient and effective way.

5 **MR CONDE:** Do you agree that a director of Star Entertainment, when reviewing board materials, receiving presentations and listening to answers to questions asked of management, must be especially concerned, in the context of this particular business, to look out for any suggestion of money laundering and/or criminal influence?

MR HEAP: Yes.

10 **MR CONDE:** Have you read Star Entertainment's constitution?

MR HEAP: I'm - I'm not sure I've read it in detail. I'm certainly familiar with it.

15 **MR CONDE:** Do you agree that Star Entertainment's directors are in charge of, and ultimately responsible for, the business of the company?

MR HEAP: Yes.

20 **MR CONDE:** And do you agree that the business of Star Entertainment is managed by the board which may exercise all powers of the company that are not required to be exercised by shareholders?

MR HEAP: Yes.

25 **MR CONDE:** Do you agree that the board can then delegate powers to a managing director and withdraw or suspend any such delegation as the board sees fit?

MR HEAP: Yes.

30 **MR CONDE:** Do you accept that even though directors are entitled to delegate from time to time to management, and in particular to the managing director, directors must not defer to management?

35 **MR HEAP:** Yes.

MR CONDE: And, indeed, directors should be challenging management and holding them to account as required; do you agree?

40 **MR HEAP:** Yes.

MR CONDE: Do you agree with this statement: active stewardship requires the board to hold management to account when a company operates outside the board's stated risk appetite?

45 **MR HEAP:** Yes.

MR CONDE: And also do you agree with this statement: the board cannot simply express its disappointment at a risk staying outside appetite for a stated period; it must do more to quickly return the company to being within appetite?

5 **MR HEAP:** Yes.

MR CONDE: Do you agree that it is incumbent on directors not to allow themselves to be overwhelmed by dense, voluminous board packs?

10 **MR HEAP:** Yes.

MR CONDE: And do you agree that, instead, what directors need to do is to be proactive in requiring management to deliver information in a form that will help them to fulfil their oversight and monitoring mandate?

15

MR HEAP: Yes.

MR CONDE: Do you agree that boards should not have to search through substantial amounts of information to seek out references to material risks and, instead, management should be required to tell directors where to look?

20

MR HEAP: Yes.

MR CONDE: In relation to informal board meetings - and by that, what I mean is a meeting that is not in the ordinary course with an agenda and papers and so forth - do you understand what I mean by that expression, "informal board meetings"?

25

MR HEAP: I believe I do.

30

MR CONDE: Do you agree that there can be a risk of such meetings giving rise to decisions or actions being agreed upon but without formal frameworks or without the benefit of the entire board's views being considered?

35

MR HEAP: Yes.

MR CONDE: Do you agree that if a board does not challenge management, then that may be a sign of the board not operating effectively?

40

MR HEAP: Yes.

MR CONDE: And similarly, do you agree that if a management team becomes accustomed to not being challenged on important matters, that creates a problem for the company's culture?

45

MR HEAP: Yes.

MR CONDE: Do you agree that depending on the seriousness of a given issue or situation at Star Entertainment, the board's role could involve withdrawing or limiting a delegation to the managing director and the executive team and taking control of a particular matter?

5

MR HEAP: Yes.

MR CONDE: And I take it you agree it is the role of the board to set the risk appetite for the company?

10

MR HEAP: Yes.

MR CONDE: Would you agree with this statement: that the board of Star Entertainment should instill and seek to reinforce a culture at the company of acting lawfully, ethically and responsibly?

15

MR HEAP: Yes.

MR CONDE: And do you understand that it is reserved for the board of Star Entertainment to identify the desired culture for the company and to set the tone in relation to the company's organisational culture and values?

20

MR HEAP: Well, I see that as a joint responsibility of the board and senior management. But clearly, the board has accountability for culture at the end of the day.

25

MR CONDE: Perhaps if I can bring up some more precise language. It's document INQ.012.005.0020. Mr Bell, this doesn't have an exhibit number, so in due course I will ask for it to be marked for identification. Do you see this is the board of directors' terms of reference document?

30

MR HEAP: Yes.

MR CONDE: If I could ask that pinpoint 0023 be brought up. And it's paragraph 2.2(f). So do you see in 2.2, it says - sorry. If the operator could go a bit further up, please. Yes, the introductory language to 2.2. Can you see that, Mr Heap?

35

MR HEAP: Yes.

40 **MR CONDE:**

"Matters which are reserved for the board or its committees are and include the matters listed below."

45 And then (f) is:

"Identifying the desired culture, setting the tone in relation to the company's organisational culture and values, and determining if those principles are reflected in the company's strategic plans and business plans."

5 **MR HEAP:** Yes.

MR CONDE: And do you agree with those statements?

MR HEAP: I do, yes.

10

MR CONDE: Do you agree that if non-executive directors were to leave the issue of organisational culture entirely to management, there would be a failure to recognise the board's leadership position?

15 **MR HEAP:** Yes.

MR CONDE: And there would also, do you agree - I'm sorry. In that situation, if non-executive directors were to leave the issue of organisational culture entirely to management, do you agree there would also be a failure to recognise that the executive members of the leadership group will be living the culture and be enmeshed in it and may not easily recognise dysfunctional or suboptimal aspects or be willing or capable of changing it?

25

MR HEAP: Yes. I think that's true.

MR CONDE: Do you agree that poor corporate culture in a company can reflect adversely on the board's performance in setting the tone and influencing and overseeing culture?

30 **MR HEAP:** Yes.

MR CONDE: Do you agree that directors should be curious?

MR HEAP: Yes.

35

MR CONDE: And do you agree that good corporate governance will include maintaining and safeguarding accurate corporate records and reports?

MR HEAP: Yes.

40

MR CONDE: Have you been aware of Star Entertainment's code of conduct at all times while you've been a director of Star Entertainment?

MR HEAP: Yes.

45

MR CONDE: Do you agree that two particular core guiding principles in the code are extremely important, namely, "we comply with the law" and "we are ethical"?

MR HEAP: Yes.

MR CONDE: If I can show you part of the code. If we go, please, to exhibit D7 --

5 **MR BELL SC:** Just before we do, Mr Conde. This document needs to be marked for identification, does it?

MR CONDE: Sorry. Yes, Mr Bell.

10 **MR BELL SC:** Yes. What's the date of that document, Mr Conde?

MR CONDE: It's dated 1 - sorry. The operator has kindly brought up the code of conduct. The terms of reference document is 28 July 2021, I believe.

15 **MR BELL SC:** That document will be MFI63.

MR CONDE: So we can leave that document. Thank you, operator. And if I could ask Mr Heap, please, to look at this, the code of conduct. So this is STA.3008.0023.8145. And I just ask you to be taken, please, to pinpoint 8150.
20 And do you see, a few bullet points down, there's then some text in italics:

"Our employees are expected to."

25 And then there's a further list?

MR HEAP: Yes.

MR CONDE: And then the last of those bullet points reads:

30 "Provide complete, honest and accurate information to any regulator who lawfully requests information."

Can you see that?

35 **MR HEAP:** Yes.

MR CONDE: And is it correct that this is an important expectation of Star Entertainment's board, so far as you're aware?

40 **MR HEAP:** Yes.

MR CONDE: Do you agree that "do the right thing" forms an important part of Star Entertainment's values?

45 **MR HEAP:** Yes.

MR CONDE: And what does "do the right thing" mean to you?

MR HEAP: In a sense, "do the right thing" seeks to capture a behavioural expectation which perhaps goes beyond a lawful requirement to - to obey the law and - and obey what, you know, sometimes is referred to as the spirit of the law, which is to ensure that that behaviour is what would be expected, rather
5 than - rather than - than limiting it to a - if you will, a black letter requirement.

MR CONDE: Are you concerned that Star Entertainment's employees might not appreciate what "do the right thing" means?

10 **MR HEAP:** I think, Mr Conde, some of the things that - that I have learnt over the past month and few months, have led me to - to have concerns in that regard.

MR CONDE: And please tell Mr Bell about what you're referring to in that answer.

15 **MR HEAP:** I think there's a few examples. I think the - the - the use of CUP from 2013 to 2020 was a fundamental example of not doing the right thing. I think that the decision process at certain points in relation to Suncity in particular within the junket space was an example of not doing the right thing. They would be the two
20 examples that come immediately to mind, Mr Conde.

MR CONDE: And in terms of current employees' understanding, if I could ask that you be shown exhibit B3451. This is STA.3018.0002.0041. Are you aware of this document?
25

MR HEAP: Yes.

MR CONDE: And please tell Mr Bell what your understanding of this document is.
30

MR HEAP: This is a review of the risk culture of The Star that was commissioned from PwC as an independent review. I believe it was commissioned in October or November 2021, and it was presented to the board at the beginning of 2022, in January, as I recall. It was - it was a very specific action that - that was
35 called for to - to seek to understand what was going on - what is going on with respect to the risk culture within The Star.

MR CONDE: And, Mr Heap, do you have any comment - on this first page, it says - do you see it says:
40

"Privileged and confidential. Prepared for the purpose of legal advice."

Do you see that?

45 **MR HEAP:** Yes.

MR CONDE: Does that accord with your understanding of the purpose of this report?

MR HEAP: No.

5 **MR CONDE:** And if I could ask, then, that you be shown pinpoint 0042. Do you see on the top left of the screen, it should say:

"Observations. What is the 'right thing'."

10 **MR HEAP:** Yes.

MR CONDE: And there is - the second sentence, I will just ask you to look at. It says:

15 "While The Star has purposely kept the definition of 'the right thing' broad, a number of internal and external factors are leading employees to be unsure 'what is the right thing?'"

What, if any reaction, did you have on reading that sentence?

20 **MR HEAP:** Well, firstly, I think that's accurate and - and that was sort of brought - brought to - to clarity in my mind, that while a significant amount of work had gone into "do the right thing" - that was a program and a change to our values that kicked off approximately 12 months earlier - from memory, I think it was November 2020 - and was then included in our code of conduct in - in
25 January 2021. So it had been in place for 12 months at this point. I'm - I'm not sure that we had given our employees the examples to help them understand what that meant.

30 **MR CONDE:** And so far as you're aware, what, if any, steps are being taken to correct that?

MR HEAP: Well, there's - there's a - there's a number of steps that are - that are underway, Mr Conde. One that relates specifically to this is - is a piece of work that's being done by a third-party firm called Risk-E Business, which is designed
35 to look at what - what - what good reputé means so that we can understand that particular element and seek to address that question of where patrons are not the sort of patrons we should be dealing with. It - it can be a nuanced question. My personal view is that we have had our settings wrong in relation to that point. And - and the work that Risk-E Business is seeking to do is to help us have a much
40 clearer framework on which we make decisions as to which patrons sit outside of that risk appetite.

MR CONDE: And do you know when this - when Risk-E Business was engaged?

45 **MR HEAP:** I don't. I'm reflecting back. I - I believe it's quite recent. There may have been some engagement in late 2021, but - but I - I have been working - I'm leading a piece of work - or chairing what we call the renewal steering committee, which is - has oversight of a range of activities designed to bring The Star back to

the level it needs to be. And - and so I have had engagement with them over the past month in that context.

5 **MR CONDE:** And are they management consultants or public relations advisers - or how would you describe their business, as you understand it?

10 **MR HEAP:** So they're ex-federal and state senior police officers. They're - it's a relatively small business, but it specialises in this area. I think they bring a perspective on particularly the criminal influence element. In a sense, Mr Conde, I feel we've worked quite hard on the AML space, but perhaps to the exclusion of thinking about the aligned challenge of - of ensuring that criminal influence isn't - is a part of our decision-making process around patrons.

15 **MR CONDE:** And in your interactions with them, is it your impression that they are approaching their work with an attitude that it's not just a question of proving criminal guilt to decide whether or not Star should be dealing with someone?

20 **MR HEAP:** Definitely. I think I alluded a moment ago to - to where perhaps we - we didn't have our decision framework right. My sense is at points in the past, that has been part of our thinking. It's almost been a benefit of the doubt in favour of a - of a patron. That - that, to me, can't be the test. Our test needs to be a higher test than that.

25 **MR CONDE:** And by "benefit of the doubt", do you mean that, at least in this respect, patrons - the question has been asked, "Can it be proven that a patron has engaged in criminal conduct of some kind?" Rather than a more - a wider question of, "Should we be dealing with this patron?"

30 **MR HEAP:** I'm - I'm not aware directly, Mr Conde. Much of my knowledge in this regard comes from reviewing material in - in preparation for today. But - but it does look like - I'm not sure the test has quite been at that level, but - but it's been - you know, there has been a willingness to accept patrons well beyond where the test needs to be.

35 **MR CONDE:** So to get back to those you're dealing with at Risk-E Business, is that - are they - sorry. You're comfortable with their approach in relation to these issues?

40 **MR HEAP:** Yes. And - and as I said, I, as a - as a non-executive director, am chairing that renewal steering group in part to ensure that the board's very clear expectation is conveyed into their work and into other programs of work underway.

45 **MR CONDE:** Is the work of that renewal steering committee being given top priority, in your view?

MR HEAP: Yes.

MR CONDE: And what is the expected timing of the work of that committee, Mr Heap?

5 **MR HEAP:** There are - we refer to a renewal program, and it would be fair to say, Mr Conde, there is a series of then underlying projects within that program. One of those we've just discussed, which goes to really understanding good repute. Another program of work goes to responding to the matters with respect to - to culture, which we spoke about a moment ago. A third stream of work goes to our AML uplift. A fourth stream of work goes to our risk uplift.

10 My - my answer to your question is I think it will take a significant amount of time to address all of those issues. In particular, culture is something that will take time. But our - our very firm intention is to make - address issues we can urgently - to do so urgently. And - and our hope is that - that a number of things are - are in a stronger place in three months' time, which - which is designed to align with - with
15 when Mr Bell will be releasing his findings to - to be able to have addressed what we see as the issues. Of course, Mr Bell will form his own view.

20 **MR BELL SC:** And, Mr Heap, who are the other members of the renewal steering committee?

MR HEAP: I'm the only non-executive director. So I'm chairing it. It's predominantly a management committee, Mr Bell, albeit the board has signed off on it - the terms of reference for the committee. The other members of the
25 committee are Mr O'Neill, as the executive chairman, is a member and attends when - when he is able. We also have Ms Kim Lee, who is acting in the role of chief of staff in the organisation at the moment; Mr Geoff Hogg, who is the chief casino officer; Mr James Gough, who is the - appointed as the interim CRO; and then we have some external members, a Ms Samantha Torres, who is from an
30 external group who is assisting us with a range of regulatory responses. There may be one or two others, Mr Bell. I don't recall right now.

MR BELL SC: Yes. Thank you.

35 **MR CONDE:** And, Mr Heap, you've mentioned the timing of Mr Bell's review. Are you aware that the review's final report is to be delivered to the authority by 31 August of this year?

40 **MR HEAP:** Yes, Mr Conde.

MR CONDE: Is it correct, though, that - would you expect the steering committee to have progressed its work well before then?

45 **MR HEAP:** Yes.

MR CONDE: Right. So I appreciate asking for time estimates is difficult, but when do you expect the - that work to conclude?

MR HEAP: An example of - of - of the work there is the preparation of a - of a response to - to - to what we have seen through - through - through the inquiry or the review to this point. And so we're certainly aiming to be able to respond - I believe we're aiming for the end of June. But - but as I said earlier, I think there's
5 parts of the renewal steering committee - I've - I've made the point to - to my - to my colleagues in management that - that we can't simply say that we'll fix culture in that sort of timeframe. That - that is something that will play out over a - you know, a longer period of time.

10 **MR CONDE:** And may I just ask, the relationship - how you would describe the relationship as between the renewal steering committee and the board itself?

MR HEAP: So the renewal steering committee reports to the board risk compliance and regulatory performance committee, which is the board I chair.
15 And so I'm - I'm chairing the renewal steering committee in my capacity as chair of the - that risk committee. In - in December of last year, Mr Conde, we amended the terms of reference for the risk compliance and regulatory performance committee to capture what we saw as a program of work. At that point, we referred to it as regulatory performance.

20 We've - we've effectively given it a broader remit now, which is to think more broadly about renewal. Clearly that includes significant changes in the senior management team. There's a renewal program that's underway in the context of the board itself. All of those things we're seeking to make sure that, as we go through
25 clearly a very important transformation for the organisation, we don't - we don't miss anything and we don't cause any - any issues to the ongoing suitable management of the casino itself - casinos.

MR CONDE: And so you mentioned board renewal being part of the steering
30 committee's work. So do you anticipate recommendations being made to the board as to the continuation or otherwise of particular directorships?

MR HEAP: I - to be clear, I didn't say board renewal was part of its work. I - I said another piece of work was board renewal. So board renewal is going on at the
35 board level, not at the renewal steering committee level. I'm thinking about that - the framing of that and the timing of that is - is something the renewal steering committee is trying to be cognisant of the changes that will go on.

MR CONDE: And what, if anything, do you know about foreshadowed board
40 renewal - or expected board renewal at Star Entertainment?

MR HEAP: Well, the - the board - the directors of the board have discussed their - their intentions with respect to renewal, and - and different directors
45 have - you know, have taken a view on - on when it would be appropriate for them to - to step off the board, and that's a conversation that's - that's - that's proactively happened.

MR CONDE: And in terms of managing - sorry. Would you agree that The Star has announced to the market a number of executive departures?

MR HEAP: Yes.

5

MR CONDE: So in particular, Mr Bekier, Ms Martin, Mr Hawkins and Mr Theodore?

MR HEAP: Yes.

10

MR CONDE: And in terms of transfer or sort of managing issues arising from their departures, is that being managed at the renewal steering committing level or at the board level?

MR HEAP: No, at the board level. And - and obviously Mr O'Neill is serving as the executive chairman. And so what would otherwise be the - you know, the delegations to the CEO are delegated to Mr O'Neill. The renewal steering committee is considering the implications of those changes and making sure that we are appropriately overseeing the different programs of work in the context of the changes going on.

20

MR CONDE: And so far as you're aware, is it correct that Mr O'Neill is not intended to stay in the executive chairman role indefinitely?

MR HEAP: Yes.

25

MR CONDE: And so once a new CEO is found, you would expect him to cease that executive role?

MR HEAP: That's correct.

30

MR CONDE: You're aware, Mr Heap, aren't you, that as a listed company, Star Entertainment has an obligation of continuous disclosure under the Corporations Act and the ASX Listing Rules?

35

MR HEAP: Yes.

MR CONDE: What, to your understanding, is Star Entertainment required to do under that obligation of continuous disclosure?

40

MR HEAP: Well, that's - that's fundamentally to ensure that the ASX is - is a - is a fair trading market. And so that means, at a practical level, ensuring that the information relevant to the share price of the company is in the market at any point in time.

45

MR CONDE: Do you agree that releases to the ASX are important documents?

MR HEAP: Yes.

MR CONDE: Do you agree that directors of a listed company must take care to ensure that the company ASX's releases are accurate and not misleading?

5 **MR HEAP:** Yes.

MR CONDE: Do you agree that - actually, just pausing there. Are you aware of a process referred to as verification?

10 **MR HEAP:** I'm not sure in which context you - you - I - I know - obviously know the term in the general context.

MR CONDE: And what is your understanding of that?

15 **MR HEAP:** Well, in the general context, is - is to ensure that a particular document or piece of information is accurate.

MR CONDE: And so far as you're aware, is that process something which is undertaken in relation to Star Entertainment's ASX releases?

20

MR HEAP: Well, yes is the answer. I think - I think care is taken to ensure that - that what we release is accurate. I'm not sure if we - I'm not sure I'm aware of a particular verification process other than, you know, the - the management putting forward a - typically a draft and - and the board signing off on it.

25

MR CONDE: Do you agree that it is important to ensure that ASX releases are correct not just in what they include, but care must be taken to ensure that they are not misleading by excluding information either?

30 **MR HEAP:** Depending on the context, of course.

MR CONDE: And what context do you mean, Mr Heap?

35 **MR HEAP:** Well, as a general rule, I think ASX releases - my view is they should be as concise as possible to ensure that you just provide clarity on a particular point and, in this case, is what's relevant to market material information - or material information to a share price. They're not - I would describe it this way: they're not designed to be media releases. So they're not designed to be a document you can put in lots of positive news about how you're performing.

40

MR CONDE: But doesn't that - it's still the case, isn't it, that care must be taken to ensure that ASX releases are not misleading by excluding information?

45 **MR HEAP:** I don't disagree. Care must be taken to ensure that the information you're providing is accurate and - and, you know, ensures the market is informed.

MR CONDE: Accurate and not misleading; do you agree?

MR HEAP: Yes.

MR CONDE: Do you agree that board minutes are important documents?

5 **MR HEAP:** Yes.

MR CONDE: And are you aware that minutes of directors' meetings are required to be kept under the Corporations Act?

10 **MR HEAP:** Yes.

MR CONDE: Are you aware that minutes are evidence of what has taken place in a board meeting unless the contrary can be proved?

15 **MR HEAP:** Yes.

MR CONDE: Do you agree that it is important for board and committee minutes to provide a full and true account of the relevant meeting to which they relate?

20 **MR HEAP:** Yes.

MR CONDE: As a member of Star Entertainment's audit committee, is it correct that independent audits commissioned by or on behalf of the audit committee should report without fear or favour and without interference from management?

25

MR HEAP: Yes.

MR CONDE: Is it correct that independent audits commissioned by or on behalf of the audit committee should report directly into the audit committee?

30

MR HEAP: I - I would typically expect that's the case.

MR CONDE: And if there were to be interference from management in an independent audit process, would you agree there would be a risk of the audit losing its independence and effectiveness?

35

MR HEAP: Yes.

MR CONDE: Do you understand that to operate a casino in New South Wales and Queensland, it is necessary to hold a casino licence?

40

MR HEAP: Yes.

MR CONDE: And are you aware that The Star Entertainment Group holds casino licences for its properties in New South Wales and Queensland?

45

MR HEAP: Yes.

MR CONDE: Do you understand that you are a close associate of the licensee in Sydney, The Star Pty Ltd, as someone who exercises control over that entity as a director of its ultimate holding company, Star Entertainment?

5 **MR HEAP:** Yes.

MR CONDE: Do you understand that to be a close associate, you need to be of good repute having regard to character, honesty and integrity?

10 **MR HEAP:** Yes.

MR CONDE: And would you agree that part of having good character, honesty and integrity involves avoiding engaging in sharp business practices?

15 **MR HEAP:** Yes.

MR CONDE: Do you know who the directors and secretary of the licensee entity for the Sydney casino, The Star Pty Ltd, are?

20 **MR HEAP:** I - I believe - I believe it is still - well, I believe it was Mr Bekier and Mr Theodore. I - I - I'm - and I'm not sure who it is today.

MR CONDE: Are you aware that the secretary has at least previously been Paula Martin?

25

MR HEAP: Yes. Sorry, I assume that's the case.

MR CONDE: What, if any, understanding do you have of the planned future directors and secretary of The Star Pty Ltd?

30

MR HEAP: I've been asked if I would be willing to - to step on to certain boards in the absence of - of other executives, which I've indicated I'd be willing to do. And so the - the short-term intention, I think, may be that non-executive directors are - stand on those boards.

35

MR CONDE: Is it your expectation, then, that - sorry. I don't wish to - just to understand your earlier answer, Mr Heap. Who, if anyone, do you expect to be on the board of The Star Pty Ltd with you?

40 **MR HEAP:** Well, my understanding at the moment is that - well, I - I'm - I'm speculating, Mr Conde, just based on the information I have. And so on the information I have is that obviously the current directors, being senior members of management, will be stepping off. There will be an interim period while we bring new senior members of management into the organisation, in particular a CEO and
45 a permanent CFO. I would assume that they will take up roles on those boards in due course. There may be a gap, and I've been asked if I would be willing to be on - on one or other of those boards, or both, which I've indicated that I would be willing to do for that period.

MR CONDE: You mentioned "one or other". I was only asking about The Star Pty Ltd. Is there another entity you're referring to?

5 **MR HEAP:** Well, I'm just referring to the Queensland entity, which - which would have the same directors.

MR CONDE: I see. And so far as you're aware, who else has been invited to express their interest or otherwise?

10

MR HEAP: I believe Mr Sheppard.

MR CONDE: And in light of the resignations of Mr Bekier, Mr Theodore and Ms Martin as announced, do you expect that to occur promptly?

15

MR HEAP: I would - I would presume that, yes, Mr Conde.

MR CONDE: Are you aware that The Star must only have business associations with people of good repute having regard to character, honesty and integrity?

20

MR HEAP: Yes.

MR CONDE: And are you aware that The Star must not have dealings with people who have undesirable or unsatisfactory financial sources?

25

MR HEAP: Yes.

MR CONDE: Are you aware that, generally, The Star mustn't lend money to patrons save for cheque cashing facilities or CCFs?

30

MR HEAP: Yes.

MR CONDE: Do you agree that Star Entertainment's casino licences underpin Star Entertainment's business?

35

MR HEAP: Yes.

MR CONDE: And would you agree that in terms of Star Entertainment's existing business, one of, if not the most, important priorities for Star Entertainment and its subsidiaries is to be suitable for the purposes of holding its casino licences for its Sydney, Brisbane and Gold Coast properties?

40

MR HEAP: Yes.

45 **MR CONDE:** And just to link that back, then, to the relationship between the board and management that we discussed earlier, would you agree that if there are serious issues which might reasonably raise a doubt about the suitability of Star Entertainment or its subsidiaries to hold a casino licence, then those serious issues

would require the board to take a very active role to intervene and seek to understand and fix such issues?

MR HEAP: Yes.

5

MR CONDE: Have you and, to your knowledge, your colleagues on The Star Entertainment board been closely following developments from these public hearings of Mr Bell's review?

10 **MR HEAP:** Yes.

MR CONDE: Have you had regular meetings with fellow directors and others in what's called the Bell Review Daily Download?

15 **MR HEAP:** Yes. We - we have a daily call. We've ceased those calls this week, but - but we were having a daily call where we were briefed by our solicitors on - on key matters from the day. And there's a - there's a set of emails which - which provide a summary of those which were shared more recently.

20 **MR CONDE:** So is that the sort of - the download part of that is the receipt of information by directors?

MR HEAP: Yes.

25 **MR CONDE:** Is there ever what might be called an upload whereby the board members provide feedback and instructions?

MR HEAP: No. There's often questions to - to understand aspects of the download or to provide some clarity.

30

MR CONDE: Who is or who are, so far as you're aware, the principal person or persons instructing Star Entertainment's lawyers in connection with this review at the moment?

35 **MR HEAP:** I would say the board and - and in particular the chairman, Mr O'Neill.

MR CONDE: Was it previously Paula Martin?

40 **MR HEAP:** I think - no. I think certainly from the commencement of the public phase, Ms Martin has - has been outside of the - of the engagement with the lawyers.

45 **MR CONDE:** What, if any, reaction did you have to the evidence on day 5 of this public hearing from Angus Buchanan in relation to the Suncity Salon 95 room that it appeared to him, at least on occasions in 2018, that an organisation with links to the triads had been running a casino within a casino?

MR HEAP: Well, that was highly troubling.

MR CONDE: Did you see the video footage which was played to Mr Bell?

5 **MR HEAP:** I didn't, no.

MR CONDE: As best you can recall, when did you first become aware of the issue of cash being exchanged for chips by Suncity staff in Salon 95?

10 **MR HEAP:** Certainly in that - in my preparation for these hearings, so within the last month.

MR CONDE: Only within the last month, Mr Heap?

15 **MR HEAP:** Yes.

MR CONDE: I might come back to that. What steps, if any, have you taken in response to this issue of cash being exchanged for chips by Suncity staff in Salon 95?

20

MR HEAP: Well, I think on - on a range of issues, and this being one, I, as a director - I think the board collectively have been conscious to allow this process to - to properly proceed. And so there are a number of issues that - that - that the board will need to take action in relation to, and that is certainly one. And - and, you know, I would suggest that - that senior management changes represents a step in that regard.

25

MR CONDE: Would you agree that the serious concern of a casino being - sorry - an unlicensed casino within a casino being operated requires a serious response?

30

MR HEAP: Yes.

MR CONDE: And why is it, so far as you're aware, that there is an approach that you mentioned earlier of waiting for this review to proceed?

35

MR HEAP: I - I think in relation to that matter - so that happened in 2018. And to the best of my knowledge, it - it hasn't happened since then. So - so the response is a response to what happened at that point in time. Other than the fact that I've been confronted by a lot of things I've learnt over the past month, I don't believe there is any prospect of that happening today. And so, yes, it requires a serious response, but we have the opportunity to be thoughtful and to get that right. I don't see there's a need to act immediately because I don't see that threat is existing today.

40

MR CONDE: Are you aware that in early October '21, a series of allegations were aired on 60 Minutes and in Sydney Morning Herald and Age newspapers about Star Entertainment?

45

MR HEAP: Yes. Mr Conde, I might - might take the chance to correct my earlier answer as well. I said that I was only aware of the Salon 95 matter in the last month. I - I did - I was - I did see that media coverage at that time and became aware of it at that time. Over the last month, I've - I've been able to understand what was actually going on at - at that time.

MR CONDE: So is it correct that your evidence to Mr Bell is that you were unaware of the Salon 95 issue before the October 2021 media allegations?

MR HEAP: That's correct.

MR CONDE: And is it correct that despite being aware from October 2021, you've only taken steps to familiarise yourself with materials relating to Salon 95 in the last month?

MR HEAP: I - I think - I think in relation to Salon 95 and that particular issue, as I said a moment ago, that - that was one that, as I understood, had happened in relation to Suncity in that period of time and - and that had ceased at - at that time. The broader issue, which is one of how it happened and why that wasn't reported to the board, is something that I've been focused on since October 2021.

MR CONDE: Were you concerned not just about the conduct but about the people who allowed that conduct to take place?

MR HEAP: Yes. However, in October, I didn't know who those people were. So it wasn't clear to me exactly how that had happened. I have a better sense for that now, now that I've been able to see a lot of the background material.

MR CONDE: But weren't you curious at the time in October 2021 to find out, independently of this review, about whether there was substance to the allegations?

MR HEAP: Yes, I was. And - and I think there were a series allegations - you know, CUP was another one of those - which I was seeking to understand at that point in time.

MR CONDE: Weren't the allegations going to a question around - sorry. Weren't they allegations, if true, going to questions ultimately around suitability?

MR HEAP: Yes, I think that's true.

MR CONDE: And so in circumstances where suitability relates to the licence, the licence underpins all of Star Entertainment's business, wasn't the responsible thing to do straightaway to initiate an urgent and comprehensive investigation?

MR HEAP: I - I think - I think this review had commenced at that point in time. I think this review commenced in September, and - and there was a - certainly in my mind - I believe in the minds of other directors as well - there was a desire not to

be seen to be cutting across the work of this review. That did not mean there weren't actions that needed to be taken. And I wrote to Mr O'Neill and wrote to Mr Bekier at that time, proposing three specific courses of action.

5 One of those was that the culture review that had been discussed at that point, I felt very importantly needed to come to the board directly so the board saw very clearly what was going on in relation to culture. The second one was that we needed to put in place what I believe I referred to as a regulatory transformation program to actually - and that has been put in place. And the third one was that as
10 we worked through these issues, we had to be entirely transparent with our regulators and our shareholders.

MR CONDE: Are you aware that the first term of reference of Mr Bell is:

15 "The suitability of The Star Pty Ltd (as casino operator), and each close associate of it -"

Including Star Entertainment:

20 "As being concerned in, or associated with, the management and operation of The Star casino."

MR HEAP: Yes.

25 **MR CONDE:** So in that sense, do you agree that it's peculiar of the company not to initiate its own urgent investigation and, rather, seek - I just wish to go back to your words, to avoid cutting across, I think you said, the work of this review. Yes, "cutting across". In circumstances - do you understand the question, Mr Heap?

30 **MR HEAP:** I think so, yes. I understand the point you're making, and this has been a complicated one to manage from - from the perspective of the board. Obviously, and appropriately, the review had a shorter timeframe initially, and that timeframe has extended as - as these matters have needed to be properly investigated. And so at that point in October, we were anticipating that there
35 would be the right investigation.

I think we sought to ensure that all of the information was made available to this review in order that this review might - might come up with its position and we could then respond appropriately to that. Time has made - has made it seem much
40 longer now, Mr Conde. I accept that. And had we known then that - that - where the timeframe may go, perhaps we would have responded earlier. But I think we were seeking to respond appropriately at that point.

45 **MR CONDE:** But wouldn't you be concerned at that time in October 2021 that if Mr Bell is considering the suitability, there would be a risk, if there's no investigation and no response, of an adverse finding on that all-important question?

MR HEAP: That - that's fair, Mr Conde. And I think as we - as we began - as - as I, as a director, began to see those documents, I think that became clearer. Yes, at that time, it wasn't as clear in my mind.

5 **MR CONDE:** And so does that, in your mind, perhaps increase the urgency of the work of the renewal steering committee?

10 **MR HEAP:** Yes. And I - I hope - I hope - I hope I made it clear. I think there is a - there's a very firm urgency around that work. The very establishment of the renewal steering committee is - is designed to - to drive that reform as quickly as possible.

15 **MR CONDE:** Do you recall, Mr Heap, hearing or learning about the evidence on day 7 of these hearings from The Star's regulatory affairs manager, Mr Graeme Stevens, that in relation to the Salon 95 room, he knowingly misled the regulator?

MR HEAP: I - I don't recall that specifically, Mr Conde, but I will take your word for it.

20 **MR CONDE:** I will show you the document. It's exhibit F65, STA.3417.0078.6717. That has come up?

MR HEAP: Yes.

25 **MR CONDE:** Do you see it's an email from Mr Stevens dated 12 October 2017 - so I appreciate this is before your time on the board of Star Entertainment. It's addressed to an email at liquorandgaming.nsw.gov.au. Do you see that?

MR HEAP: Yes.

30

MR CONDE: And if we read from the first paragraph:

35 "The Star is proposing to make some minor changes to the junket operator's office located in the Rivers gaming Salon 95. The purpose of these changes is to create a more customer friendly environment by installing a service desk in the salon and service window in the wall of the junket operator's office."

Can you see that?

40 **MR HEAP:** Yes.

45 **MR CONDE:** Now, that same comment appears in a submission document, and I will show you that very quickly. It's exhibit F74. It's STA.3417.0078.6726. And it's under the heading Reason for Submission. Do you see it says:

"To enable the junket operators who use Salon 95 to provide better service for the junket participants, The Star proposes to open a service window into the wall of the junket operator's office."

MR HEAP: Yes.

5 **MR CONDE:** Now, you can take it from me, then, that on day 7 of these hearings, Mr Stevens told Mr Bell that at the time he sent this, he knew - there are three things: (1) he knew it was contemplated that players would be providing funds to Suncity in this room; (2) he knew he had not included that additional information in the submission; and (3) accordingly, he knowingly misled the regulator. What, if any, reaction do you have to that?

10 **MR HEAP:** Well, it's - it's unacceptable for The Star at any time to be anything other than fully transparent with the regulator. And - and so on that third point alone, that's clearly unacceptable.

15 **MR CONDE:** So, so far as you're aware, is Mr Stevens still employed within The Star group?

MR HEAP: Yes, as far as I'm aware.

20 **MR CONDE:** And his evidence was given on 25 March - that's day 7 - so more than a month ago. Are you aware of any disciplinary or other action being taken as a result of that evidence?

25 **MR HEAP:** I am - I am aware that the board has sought - has sought to - to make the necessary changes at the senior level, but has also considered the requirement to consider other roles as well. I can't comment specifically on - on Mr Stevens.

30 **MR CONDE:** Do you agree that knowingly misleading a regulator is just an extremely serious and seriously bad thing to do?

MR HEAP: I agree.

35 **MR CONDE:** And if you recall, I showed you earlier from the code of conduct the expectation that employees provide complete, honest and accurate information to any regulator who lawfully requests information. Do you recall looking at that?

MR HEAP: Yes.

40 **MR CONDE:** It's just the most flagrant of breaches of that to knowingly mislead a regulator, isn't it?

MR HEAP: Yes.

45 **MR CONDE:** If I can show you a document. It's exhibit C49. It's STA.3427.0018.3096. Do you see the bottom of this page, there is an email dated 14 May 2018 from Mr Andrew McGregor, who is a senior investigator at The Star, addressed to Andrew Power, Kevin Houlihan and Amanda Judd?

MR HEAP: I can see that banner. I can't see what's in that email.

MR CONDE: No. But just in this chain, that there is - that's the email.

5 **MR HEAP:** Yes.

MR CONDE: If I could ask the operator just to go to the bottom of that page, please. Yes. Now, if we can go to the next page, pinpoint 3097. And I would like to draw your attention to the second-last paragraph in that email. Do you see it
10 says:

"Today's activities with Suncity have been very strange, we have an entity within our four walls which is totally non-compliant to reasonable requests for basic information. I'm going to call it out early, Suncity is operating a
15 business model under our noses which is problematic for the SEG -"

Star Entertainment Group:

"With regards to AML/CTF laws."
20

And he then goes on to mention a \$300,000 and \$250,000 cash deposit. Do you see that?

MR HEAP: Yes.
25

MR CONDE: And it's right, isn't it, that Mr McGregor is doing the right thing here, to articulate his concerns and, to use his words, to call it out early?

MR HEAP: Yes.
30

MR CONDE: Now, the next day, 15 May 2018, Mr Power sent an email to Greg Hawkins, who forwarded that email to Mr Bekier on 16 May, and that's exhibit B790. It's STA.3411.0010.3560. If we can go to that, please. Now, can you see at the top there's a forward from Mr Hawkins to Mr Bekier on 16 May?
35

MR HEAP: Yes.

MR CONDE: And then this email - the main - what I call the main email is the one from Mr Power to Mr Hawkins dated 15 May?
40

MR HEAP: Yes.

MR CONDE: And if we can - if I could ask the operator, please, to enlarge the part that says:
45

"Legal and regulatory risks."

Sorry, that sort of section. Do you see the opinion expressed here by Mr Power on 15 May - he writes:

5 "In my opinion, the junket group's conduct has exposed The Star to an unacceptable level of risk and constitutes a breach of the agreement, of applicable laws or otherwise amounts to casino operations."

And:

10 "In particular -"

And he gives a list. But in particular, can I draw your attention to the first one there:

15 "Cash for chip (and vice versa) transactions."

And then:

20 "Withdrawal of cash (terms unknown) by non-junket participants."

And then he says:

25 "Equally, concerns are held around (1) reporting requirements, compliance with AML reporting requirements; (2) source of funds."

And then do you see the last part of this section:

"Finally, a suggestion that one of the junket's staff was an excluded patron."

30 **MR HEAP:** Yes.

MR CONDE: Have you ever seen this email?

35 **MR HEAP:** No.

MR CONDE: What, if any, comment do you have on the fact that you haven't seen this email?

40 **MR HEAP:** Well, perhaps I wouldn't expect, in the normal course, to see an email within management. But it would seem to me, from the content of this email, that there were matters that should certainly have been reported to the board risk and compliance committee and, through that, to the board.

45 **MR CONDE:** Well, I've shown you before that this email was from Mr Power to Mr Hawkins, and Mr Hawkins has forwarded that to Mr Bekier. So this opinion, as expressed by Mr Power, was known by the most senior executive in Mr Bekier and a very senior executive in Mr Hawkins; do you agree?

MR HEAP: Yes.

5 **MR CONDE:** And reading that now, and in light of what's recorded there by Mr Power, do you agree that what these people should have done at the time - and they had the seniority and authority to do it - was to direct that Salon 95 be shut down straightaway?

10 **MR HEAP:** Operator, would you just mind showing me the date again, just to - I should say, Mr Conde - not that the date is relevant, but - yes. As I look at those issues, as - as we reflect back on the - the discussion earlier around the requirement to keep the casino free of those not of good repute, it would seem clear to me there was action required at this point.

15 **MR CONDE:** And in light of the seriousness of this matter, as well as the level of business that Suncity brought to Star Entertainment, do you agree that at least Mr Bekier should also have brought the full detail of these matters to the attention of the board?

20 **MR HEAP:** Yes. And certainly to the risk and compliance committee.

MR CONDE: And I appreciate you were not yet a director of Star Entertainment, but you mentioned earlier you were a board observer in February and March of 2018?

25 **MR HEAP:** I was, yes.

30 **MR CONDE:** And the circumstances of your attending those board meetings, was that because you were - it was intended that you would become a director and so you were brought in to see meetings?

MR HEAP: It wasn't for that reason. It was - it was intended I was becoming a director, and I was - my probity approval was - was - was with Liquor and Gaming at that point.

35 **MR CONDE:** So did you participate in the deliberations of the board in February and March before your appointment was formalised?

40 **MR HEAP:** I - I was - I was an observer. So I attended as an observer, but I wasn't - I wasn't formally a member of the board until 23 May.

MR CONDE: If I can just clarify: did you participate - did you offer comments or in any other way participate in the meetings, as best you can recall?

45 **MR HEAP:** Yes. As I recall, Mr O'Neill, who was the chairman at that time, invited me to - to - to ask questions if I so chose. But as an observer, I was - I - I don't recall directly. I was relatively quiet at that point.

MR CONDE: If you had been forwarded this email, let's say later in May 2018 after had you become a director, and you had thus seen the information provided here in full by Mr Power, what, if any, reaction do you think you would have had to this information?

5

MR HEAP: Well, my immediate reaction, as I - as I look at it today, which I hope would have been my reaction at that time as well, is that on what basis should we continue our business relationship with this group in light of - in light of these activities that seem to be going on.

10

MR CONDE: Because do you agree that what Mr Power has called out here is an unacceptable level of risk constituting a breach of the agreement, applicable laws or otherwise amounts to casino operations? So it would just have to stop, wouldn't it?

15

MR HEAP: Well, the behaviour would certainly have to stop. That is without question. The - the - it would seem to me that on the basis of that behaviour alone, it would be very challenging to continue a relationship with - with this party. In - you know, in some - some occasions, you know, poor behaviour can be - can be spoken about and dealt with and a relationship can continue. But in - as I look at this, that would seem to be very challenging here.

20

MR CONDE: Mr Bell, I'm about to move on to another topic. May I ask that we take the lunch adjournment at this time?

25

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

<THE HEARING ADJOURNED AT 12:53 PM

30

<THE HEARING RESUMED AT 1:56 PM

MR BELL SC: Yes, Mr Conde.

35

MR CONDE: Mr Heap, do you recall, before we went to the break, I had been asking you questions about an email from Mr Power to Mr Hawkins, which then went to Mr Bekier?

MR HEAP: Yes.

40

MR CONDE: If I might now take you to what you were told. We need to go first to the minutes of the board meeting dated 26 July 2018. So this is exhibit B1011. It's STA.5002.0004.1047. Do you see that you were present at this meeting, Mr Heap?

45

MR HEAP: Yes.

MR CONDE: And do you also see that Mr Bekier, Mr Hawkins and Ms Martin were at this meeting?

MR HEAP: Yes.

5 **MR CONDE:** If we go to pinpoint 1049, please. Do you see halfway down the page, it says:

"Managing director and CEO report, May 2018 and June 2018."

10 **MR HEAP:** Yes.

MR CONDE: And do you see the May 2018 report from Mr Bekier was taken as read?

15 **MR HEAP:** Yes.

MR CONDE: And can I just ask you about that. Do you recall why a May 2018 report was being read in a July board meeting?

20 **MR HEAP:** We have 10 board meetings a year, and so we - if I remember correctly, we - well, it just depends on the cycle of the meeting. So we - we often don't have a meeting in the month of April. So - so it may have been that we - we just missed that particular cycle.

25 **MR CONDE:** Right. In any event, do you see that Mr Bekier spoke to the key points? I think it says that --

MR HEAP: Yes.

30 **MR CONDE:** -- at the - yes. Okay. Now, if we can go to that May 2018 report, and that is STA.5002.0004.1675, exhibit B753. And if I can ask that we go to pinpoint 1696. And then do you see the third bullet point down, it says:

35 "Salon 95 service desk: in May, concerns emerged around certain activities undertaken at the junket service desk in Salon 95. At present functions at the service desk are limited pending the roll out of detailed processes for the junket representatives in that salon. It is expected that training will be completed by 8 June, with regular ongoing compliance monitoring following resumption of services at the service desk."

40 Now, do you recall reading this?

MR HEAP: I - I recall the board meeting. I - I don't immediately recall this.

45 **MR CONDE:** Is it correct that, as best you can recall, when this paper was taken as read at the July 2018 board meeting, no member of the board asked of Mr Bekier, "Well, what does this mean? What are the concerns? What are the certain activities that you are referring to?"

MR HEAP: I - I - I don't recall if those questions were asked.

MR CONDE: Would you agree that there was nothing to that effect in the minutes that I showed you a moment ago?

5

MR HEAP: Yes.

MR CONDE: And so far as you're aware and recall, nobody in the July 2018 board meeting asked for a report on this issue of Salon 95, did they?

10

MR HEAP: Not that I recall.

MR CONDE: And do you agree that the language used to the board was vague?

15

MR HEAP: Yes.

MR CONDE: And it's expressed in the passive, "concerns emerged". There's no explanation from what those concerns were; do you agree?

20

MR HEAP: Yes.

MR CONDE: And the language around certain activities, again there's no explanation of that; do you agree?

25

MR HEAP: Yes.

MR CONDE: And it says:

"Undertaken at the junket service desk in Salon 95."

30

There's no mention of what has been undertaken by whom; do you agree?

MR HEAP: Yes.

35

MR CONDE: Is that almost a sort of mysterious language from the managing director here?

MR HEAP: In light of what I know now, it - it - it seems to - you know, it seems to be missing the point.

40

MR CONDE: Do you feel - in light of what you know now, do you feel disappointed at the text of this report?

MR HEAP: Yes.

45

MR CONDE: And is that because - well, do you agree that if the board had had a more fulsome disclosure, then stronger action could have been taken in relation to Salon 95?

MR HEAP: Yes.

5 **MR CONDE:** And, indeed, had that - I think you accepted before the lunch break, that had the full detail of Mr Power's opinion been communicated, you feel that the correct approach at that time would have been to shut down Salon 95; is that correct?

10 **MR HEAP:** Yes.

MR CONDE: So do you agree that if questions had been asked of this item, with both Mr Bekier and Mr Hawkins present, the board could have opened a line of inquiry leading to the matters addressed in Mr Power's email of 15 May 2018?

15 **MR HEAP:** Yes, that's - that's - that's true.

MR CONDE: Do you find it frustrating, looking back at this, to think that in July 2018, at that board meeting, you and your colleagues were maybe only one or two questions away from opening up a line of inquiry to uncover serious problems relating to Salon 95 which were known to management at the time?

20 **MR HEAP:** Yes. Yes.

MR CONDE: And it's correct, isn't it, that you and your colleagues on the board were in a room with at least two other people - Mr Bekier and Mr Hawkins - who had received the concerns that Mr Power had identified in relation to Salon 95, and yet that information was not drawn out in the board meeting, was it?

25 **MR HEAP:** Yes. Correct.

30

MR CONDE: Do you accept that, as a director of a casino business, you do have to be on red alert for issues relating to money laundering and potential criminal influence?

35 **MR HEAP:** Yes.

MR CONDE: And so looking back now, do you agree that when the board received a message like this - a vague message like this from management, reporting of undescribed concerns around certain activities in a junket room, that's something that ought to have been interrogated?

40

MR HEAP: As I - as I look at this today, with what I know today, this is an example of where I would like to have asked more questions.

45 **MR CONDE:** And why is that, Mr Heap?

MR HEAP: Mr Conde, what - what clearly sat beneath this reference was a - was a matter that clearly had to come to the board so that the board could form a view

and, if necessary, make a decision. My - my disappointment is that the way that it was framed, it - it - it was a - it was a - it was a needle in a haystack. It was a - and - and - and so it was - it put the obligation on the board to find that and go looking for it. And I'm not resiling from the fact that that is, of course, part of the board's responsibilities. But - but the board should not have to work against management to find these things; it should be assisted by management to find these things.

10 **MR BELL SC:** Looking back on it now, can you offer any explanation for why the management was communicating in this Delphic manner?

15 **MR HEAP:** It's hard to say, Mr Bell. I - I would - it's hard to form a view other than - than management didn't want this matter explored further by the board. And it may be that management felt that they were handling it appropriately and therefore - you know, there were a lot of matters for the board to deal with at any time and, therefore, they didn't consider this sufficiently important. It - it - it may be that there was a concern - Salon 95 related to Suncity. I wasn't aware of that at this time. And so Salon 95 in itself didn't mean anything. And so that it may be that the importance of Suncity to the business meant that there was a desire that it be - that - that - that - you know, that business not be challenged.

25 **MR BELL SC:** I'm just summarising it. Does that mean that one explanation for this is that the business objectives were taking priority over proper compliance objectives?

MR HEAP: That - that is one possibility, yes.

MR BELL SC: Yes, Mr Conde.

30 **MR CONDE:** And in that regard, Mr Heap, when you mentioned responsibility, would you agree with your colleague Mr Sheppard's evidence yesterday - and I will just read it - when he said that:

35 "The board is ultimately responsible, even in circumstances where it has put in place procedures for things to be elevated, even in circumstances where it has put in place a code of conduct. If these things don't ultimately work, the board has to bear responsibility."

40 **MR HEAP:** Yes, I would agree with that.

MR CONDE: Now, do you agree that it reflects very poorly on the culture of Star Entertainment's senior management that so an important issue as this, effectively an unlicensed casino within a casino, was presented to the board in the limited way that it was?

45

MR HEAP: Yes.

MR CONDE: And remembering that the origins of this room, Salon 95, trace back to a Star compliance manager knowingly misleading the regulator, as I've taken you to, do you agree that this whole situation of Salon 95 amounted to the most serious of breaches of the core guiding principles in Star Entertainment's code of conduct "we comply with the law" and "we are ethical"?

MR HEAP: Yes.

MR CONDE: Do you accept that, ultimately, this issue about Salon 95 - it being set up, operating, not being shut down as quickly as it could have been - these are all things for which the board must accept responsibility?

MR HEAP: Ultimate responsibility. Obviously, there is responsibility borne by a number of parties. But ultimately, the board has responsibility for the organisation as a whole.

MR CONDE: And do you have any further comment, Mr Heap, on how a problem like Salon 95 could come about?

MR HEAP: That's a - that's an interesting question. I think it goes to what - I've spent some sleepless nights trying to understand how a lot of these things have happened the way they have. And - and to - to me, there is some underlying cultural failings which have allowed decisions to be made or behaviours to be pursued, which have led to - to - you know, to just - just terrible decisions. And - and engaging with Suncity initially, which I think goes back to 2016 or even earlier, is fine. Perhaps the decision to go forward with a salon was - was okay, but at some point there were decisions made that were just wrong. And to - to me, in an organisation of 8000 employees, that - that really comes down to culture. That comes down to people making the right decisions, you know, when - when others can't sit over the top of them.

MR CONDE: And on that question of culture, Mr Heap, do you recall earlier - I can take you - I will take you back to the minutes of 26 July board meeting. So this is exhibit B1011. Do you recall I confirmed with you that Ms Martin was also at that meeting - I think her name is first in the line of in attendance?

MR HEAP: Yes.

MR CONDE: And so far as you recall, at least until her recent resignation, it is correct that Ms Martin attended all board meetings?

MR HEAP: Yes.

MR CONDE: And if I can show you a document. It's not yet exhibited, so I will need to ask for it to be marked for identification, Mr Bell. It's STA.3402.0007.3857. Do you see it's an email from Ms Kim Lee to Ms Martin dated 11 March 2018?

MR HEAP: Yes.

MR CONDE: And she says:

5 "Attached to my notes and accompanying docs."

MR HEAP: Yes.

10 **MR CONDE:** Now, Ms Kim Lee is the chief people and performance officer at Star Entertainment, isn't she?

MR HEAP: She was at that time. She's acting in the role of chief of staff at present.

15 **MR CONDE:** I see. And the role of chief of staff, what is that, as best you understand it, Mr Heap?

20 **MR HEAP:** That - that role is designed to support Mr O'Neill in his capacity as - as executive chairman. Ms Lee has a - has a very strong understanding of the people issues across the business and - and a lot of the issues that Mr O'Neill are managing relate to people. She has also had oversight of the transformation program of work and the renewal steering committee to which I referred earlier.

MR CONDE: Right. And do you see at the top of this email, it's says:

25 "My notes on recent events relating to JC and IRB."

MR HEAP: Yes.

30 **MR CONDE:** Yes. And "JC", I want you to assume, is John Chong. And do you understand "IRB" to mean international rebate business?

MR HEAP: Yes.

35 **MR CONDE:** And, sorry, Mr Bell, may I have that marked for identification?

MR BELL SC: Yes. That will be MFI64.

40 **MR CONDE:** And then if we can go to the first attachment. It's STA.3402.0007.3858. And, Mr Bell, may I have this marked for identification too?

MR BELL SC: MFI65.

45 **MR CONDE:** Mr Heap, do you see there is a table with two columns, and in the bottom right of at least the first two rows as they appear on this first page, there's an all capitals text of "observation"?

MR HEAP: Yes.

MR CONDE: And so you've got the first one, which is:

5 "Poor leadership and understanding of process."

Do you see that?

MR HEAP: Yes.

10

MR CONDE: And the next row in the - underneath Monday, 26th and Tuesday, 27th February, it says:

15 "JC has a fundamental lack of understanding of what the CFO was asking of him."

And then the observation down the bottom is:

20 "Commercial capability gap."

Do you see that?

MR HEAP: Yes.

25 **MR CONDE:** Now, I would like to ask you, please, to read the next entry to yourself and then I will ask some questions. So as it appears there, there's just a - the top of an email extracted from Greg Hawkins, sent on 8 March 2018.

MR HEAP: Yes.

30

MR CONDE: But if you could be shown, please, the following page, which is pinpoint 3859. And it can be shown by itself, as long as Mr Heap is happy not to have that bottom of 3858 in front of him. Perhaps, operator, if we could enlarge the text of - yes. Thank you.

35

MR HEAP: So just read this email, Mr Conde?

MR CONDE: May I ask you, please, to do so, Mr Heap.

40 **MR HEAP:** Yes.

MR CONDE: Now, reading this email, Mr Heap, and in particular that second paragraph where Mr Hawkins says:

45 "I cannot see how the security team mismanaged this in any way."

Do you agree that the position Mr Hawkins adopts in this email is a positive one in terms of validating The Star's refusal to allow an intoxicated patron to gamble?

MR HEAP: Yes.

5 **MR CONDE:** And do you agree, though, that what this suggests is that the person to whom it is addressed, Mr Chong, has adopted a different approach?

10 **MR HEAP:** Well, it's - it's hard to know from this email. My suspicion, in reading it - my assumption, in reading it, is that it's referencing an important client for Mr Chong. And so, you know, I would imagine Mr Chong had received a complaint and - and - and had voiced that to Mr Hawkins.

MR CONDE: If we can go to the next page, please, pinpoint 3860. And do you see Ms Lee's observation up the top? And her observation is that:

15 "JC driving poor behaviour that further alienates sales from service operations could lead to toxic culture."

And she also observes:

20 "Ignorance of company policy."

MR HEAP: Yes.

25 **MR CONDE:** Do you agree that this opinion of conduct potentially leading to toxic culture is a very concerning one to be reached by Ms Lee at that time?

MR HEAP: Yes.

30 **MR HENRY SC:** I object. I object. Mr Bell, this is questioning about a matter that doesn't involve the witness and requires, necessarily, assumptions and speculation on his behalf in order to make sense of it. The information that's given is also incomplete. If one looks at the top of the page, it refers to further email trails which we don't know about.

35 **MR BELL SC:** I think the witness is well able to deal with matters notwithstanding he wasn't personally involved. I will allow the question.

40 **MR CONDE:** Mr Heap, I believe you've answered it, but I will ask again. Do you agree that this opinion of conduct potentially leading to toxic culture is a very concerning one to be reached by Ms Lee at that time?

MR HEAP: Yes.

45 **MR CONDE:** And if you recall the cover email, this analysis was sent to Ms Martin on 11 March 2018. Do you recall that?

MR HEAP: I don't immediately recall, but I'll - I'll take your word for it.

MR CONDE: No, no. If we can go back to exhibit - sorry, MFI64. It's STA.3402.0007.3857. It's 11 March 2018. This is communicated to Ms Martin.

MR HEAP: Yes.

5

MR CONDE: So if we can go back, please, to MFI65, STA.3402.0007.3858, and then to that page - thank you - 3860. Now, putting to one side Mr Chong, who I will come to in a moment, but do you recall if Ms Martin ever told the board about concerns of a toxic culture in the IRB business in 2018?

10

MR HEAP: No, I don't have that recollection.

MR CONDE: If we can go to pinpoint 3861, the following page. Do you see - all I wish to refer you to here is the observation:

15

"Intimidating behaviour from a senior leader towards a junior member of HR, ignorance of company policy."

MR HEAP: Yes.

20

MR CONDE: And there are further entries through this document, but the one I really want to focus on next is at the bottom of pinpoint 3863, two pages on. And at the bottom of the page, do you see there's a row called Termination List?

25

MR HEAP: Yes.

MR CONDE: And it says:

30

"There have been a number of terminations, 36 in the last 12 months in the IRB team, 37 per cent turnover. These range from resignations, summary dismissals, performance terminations."

MR HEAP: Yes.

35

MR CONDE: And then if we could go over, please, to page 3864:

"Redundancy termination within probation and resignation as a result of company-assisted termination."

40

Pausing there, do you know what company-assisted termination is?

MR HEAP: No.

45

MR CONDE: And then Ms Lee comments - do you see she says in the last sentence of that paragraph:

"This number is excessive given the size of the team, 97 employees in total in team."

MR HEAP: Yes.

5 **MR CONDE:** Do you recall any of these matters of terminations and an opinion about them being excessive being raised with the board?

MR HEAP: No.

10 **MR CONDE:** Do you agree that this document records very serious concerns by a senior executive in Ms Lee?

MR HEAP: Yes.

15 **MR CONDE:** And do you agree that they're being expressed through the forwarding email to a person who, at that time, was very senior in the management team, Ms Martin?

MR HEAP: Yes.

20 **MR CONDE:** And if we can go, please, to what you were told about Mr Chong. Can we pull up the board minutes of 24 May 2018. This is exhibit B822. That's STA.5002.0004.1038. Do you see that you were at this meeting, Mr Heap?

25 **MR HEAP:** Yes.

MR CONDE: And was this your first official meeting as a director, so far as you recall?

30 **MR HEAP:** Yes.

MR CONDE: And do you see that Ms Martin and Mr Hawkins were also present?

MR HEAP: Yes.

35 **MR CONDE:** And if we can go, please, to pinpoint 1043. Towards the top, it says the March 2018 managing director and CEO report was taken as read?

MR HEAP: Yes.

40 **MR CONDE:** So if we go to that. It's STA.5002.0004.1244. And, Mr Bell, this has not yet been exhibited, so may I ask that it be marked for identification?

MR BELL SC: Yes. MFI66.

45 **MR CONDE:** If we go to pinpoint 1265. Under the headings 10, Human Resources, 10.1, Talent Acquisition, do you see, over on the right, there's some language under the column heading Explanation, and it starts "GM treasury"?

MR HEAP: Yes.

MR CONDE: And then the very last entry is:

5 "John Chong, president international marketing, redundancy 23/3."

MR HEAP: Yes.

10 **MR CONDE:** Do you recall the board being told of the circumstances of Mr Chong's departure from Star Entertainment?

MR HEAP: No.

15 **MR CONDE:** Apart from what I've taken you to here, do you recall management raising further detail with you about the circumstances of Mr Chong's departure?

MR HEAP: No.

20 **MR CONDE:** Is it correct that so far as you can recall, there was no issue of toxic culture raised with the board at or about this time in May 2018?

MR HEAP: No.

25 **MR CONDE:** And do you agree that management should have provided a lot more detail around this concern which Ms Lee had articulated and, in particular, going to toxic culture?

MR HEAP: I agree.

30 **MR CONDE:** Do you find it frustrating that Ms Martin in particular was sitting there in that meeting, she had received Ms Lee's email and yet this issue was not raised?

35 **MR HEAP:** I - I wouldn't necessarily call out Ms Martin in particular. The context of that email isn't - isn't clear. And there were clearly others who were across that behaviour as well. But - but I would say that Ms Martin and others had the opportunity and should have brought this behaviour to either the board or to the board's people and social responsibility committee's attention.

40 **MR CONDE:** If I can just ask the operator, please, to go back to B822. That's the board minutes of 24 May 2018 where this report was taken as read. Do you see Kim Lee is noted as being in attendance?

MR HEAP: Part attendance.

45

MR CONDE: I was going to say. Do you recall which part that was?

MR HEAP: No, she would normally be there for matters - she, at that point, was the people and performance head, and so normally for matters in relation to that.

5 **MR CONDE:** And so do you agree, though, that Ms Lee had a - she expressed a view about toxic culture to Ms Martin?

MR HEAP: Yes.

10 **MR CONDE:** Between them, one of them should have raised that with the board at the time of discussing - or passing over Mr Chong's departure?

MR HEAP: Yes. At that time or somewhere else, it should have come to the board.

15 **MR CONDE:** Now, around this time in another place, an intelligence team at the Hong Kong Jockey Club put together a report on Suncity dated April 2018. Mr Buchanan gave evidence that he started at Star Entertainment in May 2019, a year after your directorship commenced, Mr Heap. And Mr Buchanan gave evidence that he had the same opinion set out in paragraph 111 of the Hong Kong Jockey Club's April 2018 report. So if we can have that brought up, please. It should be part of exhibit C79, document STA.3427.0037.3870. The exact pinpoint I want to go to is 3894. That might be part of a later document, which is STA.3427.0037.3882. Yes. Thank you. And if paragraph 111 could be enlarged, please. And do you see it reads:

25 "111. Due to the reasons detailed above, it is assessed that Suncity Group's controlling entities, Cheng and Alvin Chau, would pose tangible criminal as well as reputational risks to the club, and indeed racing integrity in Hong Kong, should they, or their associates, become members and horse owners. Accordingly, the role of the security and integrity department, in vetting membership applications, is key to protecting the club through identifying potential Suncity Group associations and preventing their access to membership."

35 Do you agree that conclusions of tangible criminal as well as reputational risks associated with Suncity are extremely serious conclusions for the team at the Hong Kong Jockey Club to have reached?

MR HEAP: Yes.

40 **MR CONDE:** And do you agree that those are extremely serious conclusions or opinion to be held by Mr Buchanan who said that he had that same opinion as expressed in paragraph 111?

45 **MR HEAP:** Yes.

MR CONDE: Have you read a copy of the Hong Kong Jockey Club's report?

MR HEAP: I have, in - in the last month, in preparing for this inquiry.

MR CONDE: And is that the first time that you've had access to it?

5 **MR HEAP:** Yes.

MR CONDE: Are you aware of Mr Bekier's evidence - sorry. Do you recall, Mr Heap, when you first asked for a copy of this report?

10 **MR HEAP:** I don't, no. I'm not sure I ever did. I - I'm not sure I realised that it was in the possession of the organisation.

MR CONDE: Are you aware of Mr Bekier's evidence that the Hong Kong Jockey Club report is a very good report which assembles a lot of evidence to paint a picture of somebody we shouldn't be doing business with?

15 **MR HEAP:** I wasn't aware of that evidence, but I would agree with it.

MR CONDE: Would you agree that if the board had received either a copy of the Hong Kong Jockey Club's report or at least a briefing on it - a thorough briefing on its contents, the board should have stopped doing business with Suncity and Alvin Chau?

25 **MR HEAP:** Yes, I would agree with that.

MR CONDE: And if I can take you to exhibit C78. This is STA.3427.0037.3869. And I just ask you not to read any of the blue text in this public hearing, Mr Heap.

30 **MR HEAP:** Yes.

MR CONDE: But on 12 June 2019, Mr Buchanan provided a copy of the Hong Kong Jockey Club report to Paula Martin, Oliver White and Kevin Houlihan. And do you see in the first paragraph of his email, Mr Buchanan notes that this report was prepared by his intelligence team at the time? And then in the second paragraph, he describes it as:

"A comprehensive report prepared due to the potential threat Suncity posed/poses to the integrity of racing in Hong Kong."

40 Do you see that?

MR HEAP: Yes.

MR CONDE: And next paragraph:

45

"I suspect certain aspects of the report may be of interest to The Star."

MR HEAP: Yes.

5 **MR CONDE:** Do you agree that, by this email and the attachments, on 12 June 2019 - I'm sorry. I will withdraw that. I will ask another question, Mr Heap. Do you agree that in June 2019, questions about Suncity raising tangible criminal as well as reputational risks would have been of interest to you as a director of Star Entertainment?

MR HEAP: Yes.

10 **MR CONDE:** And why would it have been of interest to you?

15 **MR HEAP:** Well, it - it goes to the - well, frankly, it goes to our very licence. We have an obligation under our licence not - to ensure the casino remains free of criminal influence. It's - it's fundamental information to the board, and to management for that matter, in - in determining who we should have associations with at the casino.

20 **MR CONDE:** Now, this is in June 2019. The next month - were you aware of the 60 Minutes Crown Unmasked program that was broadcast on 28 July 2019, along with reports in the Sydney Morning Herald and Age?

MR HEAP: I was aware of it, yes.

25 **MR CONDE:** Do you recall watching the 60 Minutes program at the time?

MR HEAP: I - I - I don't recall if I did. I actually was thinking about that recently. I'm not sure if I did or didn't, but I was certainly aware of it.

30 **MR CONDE:** Were you aware that it referred to a secret report by one of the world's largest book makers, the Hong Kong Jockey Club?

MR HEAP: I'm not sure if I was aware of that, no.

35 **MR CONDE:** Do you recall that the board met on 7 August 2019, noted the allegations and media relating to Crown and asked management to keep the board briefed on all significant regulator correspondence and to prepare a paper on this topic?

40 **MR HEAP:** Yes.

MR CONDE: And if I can take to you a report in The Age dated 9 August 2019, which I will ask be brought up. It's INQ.014.001.0211. Sorry, 0211. And, Mr Bell, this is exhibit H239. Do you recall reading this article?

45 **MR HEAP:** I - I wouldn't have read it in The Age. I - but - but I - I was aware of it at the time. I may have seen it in - we - we receive media monitors regularly as directors, and I would likely have seen it there.

MR CONDE: In the media monitors, so far as you're aware, does that cover multiple news publications?

MR HEAP: It does, yes.

5

MR CONDE: If we go to the second page of this document - it's 0212 - second paragraph, do you see it says:

10 "Mr Chau has since been blocked from entering Australia, and the Hong Kong Jockey Club has banned his junket, Suncity, over its links to drug trafficking and money laundering."

MR HEAP: Yes.

15 **MR CONDE:** And then if we go over to the page after that, 0213. In the paragraph just above - there's a picture of Mr Chau, and then in the paragraph above that, do you see it says:

20 "In an internal intelligence report in 2018, the Hong Kong Jockey Club reported that 'Suncity Group's controlling entities, including Alvin Chau, pose tangible criminal and reputational risks to the club and indeed racing integrity in Hong Kong'."

Can you see that?

25

MR HEAP: Yes.

MR CONDE: Now, do you agree that you discussed Suncity and the allegations against Crown at the board meeting on 15 August 2019?

30

MR HEAP: We certainly discussed - there was - there was a number of individuals who had been named. I - I don't recall if we discussed Suncity directly, but I imagine we did.

35 **MR CONDE:** If we go to the minutes of that meeting. It's exhibit B1542, and that's STA.5002.0005.1428. Do you see that you were present at the meeting?

MR HEAP: Yes.

40 **MR CONDE:** And so was Ms Martin; do you agree?

MR HEAP: Yes.

45 **MR CONDE:** And if we go over to pinpoint 1430, which is page 3 of the minutes, do you see the entry towards the bottom:

"Crown Resorts Limited media and related matters."

MR HEAP: Yes.

5 **MR CONDE:** Now, there was a paper which was tabled styled Crown Resorts Limited Media and Related Matters. Do you see that? It says that just under "Peter Jenkins".

MR HEAP: Yes.

10 **MR CONDE:** So if we can then go over the page to 1432 - top of 1431. Do you see the minutes record Ms Martin speaking to communications received from regulators?

MR HEAP: Yes.

15 **MR CONDE:** And then the second paragraph:

20 "Management spoke in particular to the corporate history of Suncity, specific allegations made in relation to them, and the changes that Suncity is making in relation to their business across Australian jurisdictions."

MR HEAP: Yes.

MR CONDE: What do you recall, doing your best today --

25 **MR HEAP:** Yes.

MR CONDE: -- was said by whom from the management team about these matters?

30 **MR HEAP:** I would be guessing, Mr Conde. Typically, Mr Bekier, the CEO, would - would speak to these matters. But I would be - I'd be guessing.

MR CONDE: Do you recall discussing Salon 95?

35 **MR HEAP:** No.

MR CONDE: Do you recall discussing the Hong Kong Jockey Club report?

40 **MR HEAP:** No.

MR CONDE: Did you discuss the Hong Kong Jockey Club's ban on Suncity?

MR HEAP: Not that I recall.

45 **MR CONDE:** At your 15 August 2019 board meeting, did you discuss the fact that Liquor and Gaming had requested specific information relating to Suncity and Alvin Chau on 8 August 2019?

MR HEAP: As I recall, it was - we were advised that Liquor and Gaming had requested information. I don't recall if - if the actual letter was shared with the board. But the typical practice was to advise us of that correspondence and advise us that we would be responding.

5

MR CONDE: If we go to the board paper. It's exhibit B1538, and this is STA.5002.0005.2241. This is the board paper referred to in the minutes. Do you recall reading this document, Mr Heap?

10 **MR HEAP:** Yes.

MR CONDE: So if we go to pinpoint 2242, please, the next page. Do you see, three paragraphs down, it says:

15 "Attachment 1 lists the main allegations made in the Nine Media against Crown."

MR HEAP: Yes.

20 **MR CONDE:** And then that same page, further down under a heading Contact from Regulators, do you see that that refers, then, to attachments 3 and 4?

MR HEAP: Yes.

25 **MR CONDE:** Okay. So if we can go to attachment 1, which is from pinpoint 2245. And can we have the bottom row emphasised, please, and then the top of the next one, from 2246. Now, do you see the allegation as summarised there is:

30 "Crown was wilfully blind to the criminal activity of key business partners. Particularly junket operators. This included claims related to Hong Kong Jockey Club ban on Suncity."

MR HEAP: Yes.

35 **MR CONDE:** And having read this entry, do you agree that in all likelihood at the 15 August 2019 board meeting you discussed the Hong Kong Jockey Club's ban on Suncity?

40 **MR HEAP:** I - I think it's possible, and it's probably likely. There was - there was a reasonable amount of information in this paper. So I don't have a recollection if we specifically discussed the Hong Kong Jockey Club ban.

MR CONDE: If we can then go to pinpoint 2251. Do you see that this is a letter addressed to Mr Power from Liquor and Gaming? And if the operator could just scroll up a bit so we can see the date, please. Sorry. This letter is dated at the end. Do you see the fifth paragraph down:

45

"We have reviewed the recent media reports."

And there is then a request, by reference to a list of names in annexure 1, for the specific information there?

5 **MR HEAP:** Yes.

MR CONDE: And if I could ask the operator, please, to go to the next page. So do you see the date there, 8 August 2019?

10 **MR HEAP:** Yes.

MR CONDE: And then annexure 1 is at pinpoint 2253. And do you see it has both Suncity Group Holdings Limited and its subsidiaries and Alvin Chau?

15 **MR HEAP:** Yes.

MR CONDE: Having read this material, do you agree that in all likelihood at the 15 August 2019 board meeting you discussed the fact that Liquor and Gaming had requested specific information relating to Suncity and Alvin Chau?

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MR HEAP: In all likelihood, yes.

MR CONDE: And at this 15 August 2019 board meeting, it's correct, isn't it, that no member of the board asked for further detail on the Hong Kong Jockey Club's ban of Suncity?

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MR HEAP: Not that I recall.

MR CONDE: Do you agree that - well, I suggest to you that there's nothing in the minutes to that effect and that - you're going to have to take it from me. But if there's - if there had been a resolution for management to seek to obtain that information, wouldn't it have been recorded in the minutes?

30

MR HEAP: Certainly if it was an action that came out, it would have been recorded in the minutes. If there had been a discussion, it would not necessarily have been captured, but - but - but it would likely have been.

35

MR CONDE: Do you agree that if that further detail - if further detail about the Hong Kong Jockey Club's ban of Suncity had been requested by the board on 15 August 2019, the board would likely have uncovered a chain of inquiry leading to the serious concerns about Suncity which were documented in the Hong Kong Jockey Club's April 2018 report?

40

MR HEAP: Yes. I - I think that's likely. I think - if what you're saying is - was there a thread that - that could have been pulled on, absolutely.

45

MR CONDE: And do you find it frustrating, looking back at this, to think that in that 15 August 2019 board meeting, Ms Martin was there, she had received a copy

of the Hong Kong Jockey Club's report on 12 June 2019 and had discussed it with Mr Buchanan that month?

MR HEAP: Yes.

5

MR CONDE: And do you accept that you and your colleagues were there - you and your board colleagues were there in the room with Ms Martin, she had received a copy of the Hong Kong Jockey Club report, she had discussed it with Mr Buchanan and yet the serious concerns about Suncity which were recorded in the Hong Kong Jockey Club report were not drawn out, either in that board meeting or after?

10

MR HEAP: That should have been shared with us at that time, yes.

15

MR CONDE: As a director of a casino business, if you see a reference to a third party's ban on a major source of business for your company, don't you need to be asking the question, "What do they know that we don't?"

MR HEAP: Yes, I would agree with that.

20

MR CONDE: And in the same way as to my earlier questions, do you agree that the board must take ultimate responsibility for that chain of inquiry or, to use your language, the thread to pull on not being drawn out?

25

MR HEAP: Yes. The board must take that ultimate responsibility.

MR CONDE: If we can stay in August 2019, do you recall at that time reading or viewing media allegations that Mr Huang Xiangmo had delivered \$100,000 in cash to a political party and that a former federal senator had told a corruption inquiry that Mr Huang may have been an agent of influence for an overseas government?

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MR HEAP: Sorry, Mr Conde. Was that also in the media report?

35

MR CONDE: Not in the media reports I've just taken you to, Mr Heap. But in August 2019 --

MR HEAP: Yes.

40

MR CONDE: -- do you recall at that time reading or viewing or indeed hearing of media allegations that Mr Huang Xiangmo had delivered \$100,000 in cash to a political party and that a former federal senator had told a corruption inquiry that Mr Huang may have been an agent of influence for an overseas government?

45

MR HEAP: I have a vague recollection of that.

MR CONDE: The senator was Mr Dastyari, and the party was the Labor Party. Does that assist?

MR HEAP: That assists, yes.

5 **MR CONDE:** Are you aware that following those allegations, Mr Huang was excluded from The Star on 13 September 2019?

MR HEAP: I wasn't aware of that, no.

10 **MR CONDE:** Are you aware that between 2010 and 2018, Mr Huang had a table games buy-in at Star properties of \$1.781 billion?

MR HEAP: No, I wasn't aware of that.

15 **MR CONDE:** Do you agree with Mr Houlihan's evidence that that is an extraordinary amount of money for an individual to be bringing in?

MR HEAP: That's a significant amount for anyone to gamble, yes.

20 **MR CONDE:** Are you aware that in the years 2014, 2015 and 2016, Mr Huang's buy-in was more than \$400 million in each of those years?

MR HEAP: I wasn't aware.

25 **MR CONDE:** Were you aware that by 5 March 2018, in respect of Mr Huang, Star Entertainment held copies of three different passport numbers for passports from the same country with two different names and two different birthdays for Mr Huang?

MR HEAP: I wasn't aware of that.

30

MR CONDE: And what, if any, comment do you have in relation to Mr Houlihan's evidence that neither he, nor, so far as he was aware, anyone else in Star Entertainment's investigations team, was ever asked to investigate Mr Huang's source of wealth?

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MR HEAP: I find that hard to believe.

40 **MR CONDE:** It's extraordinary, isn't it, to think that somebody brought in more than a billion dollars to the casino and the investigations team didn't investigate that person's source of wealth?

MR HEAP: As I say, I find that hard to believe.

45 **MR CONDE:** What, if any, comment do you have on Mr Houlihan's evidence to Mr Bell that by at least May 2017, there were questions about whether Mr Huang had been properly identified?

MR HEAP: I'm - I'm not quite sure of the question, Mr Conde.

MR CONDE: Well, I mentioned before that - I would ask you to assume, Mr Heap, that by March 2018, Star Entertainment held copies of three different passport numbers for passports from the same country, with two different names and two different birthdays for the individual.

MR HEAP: Yes.

MR CONDE: Mr Houlihan told Mr Bell that there were questions about whether Mr Huang had been properly identified as a result. And I was asking what, if any, comment do you have on that evidence?

MR HEAP: Well, it seems to me that there's a range of questions. Clearly, there's - that requires proper identification or clarification. I don't know the specific details of it, but there's enough there that - that has to be looked at very closely.

MR CONDE: And drawing on your extensive financial industry experience, and including in relation to know your customer checks and that sort of thing, do you agree that it's just not satisfactory to have three different passport numbers for passports from the same country with two different names and two different birthdays for an individual?

MR HEAP: I agree.

MR CONDE: Do you agree - Mr Houlihan told Mr Bell that there were questions by May 2017 about whether, as a result, Mr Huang should have been allowed to gamble at the casino. Do you agree with that?

MR HEAP: Yes.

MR CONDE: And Mr Houlihan gave evidence to Mr Bell that there were serious questions around the source of Mr Huang's wealth. Do you agree with that?

MR HEAP: Well, I don't have any details, but - but from everything you've said, clearly that would be something that you would be looking at very closely.

MR CONDE: I should - in fairness to you, Mr Heap, I should say that when Mr Houlihan gave evidence to Mr Bell that there were serious questions around Mr Huang's - the source of Mr Huang's wealth, he had, by that time, told Mr Bell that he had not, nor anyone in his investigations team, investigated or been asked to investigate Mr Huang's source of wealth. So would you agree with his evidence that there were serious questions by that time?

MR HEAP: Absolutely. I'd agree.

MR CONDE: Are you aware that Star can, and has before, said to patrons, "Unless you explain your source of wealth, we're not going to let you gamble here"?

5 **MR HEAP:** Yes.

MR CONDE: And if I can show you a document. It's B1479, STA.3417.0005 - it has come up already - 8905. The pinpoint is 8912. And do you see in respect of the first individual mentioned, Roy Moo, second bullet point:

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"The Star compliance advised that Roy Moo's Sovereign Room access was revoked in 2017 until he was able to provide source of funds evidence."

MR HEAP: Yes.

15

MR CONDE: And in light of what I've mentioned to you, in particular around Mr Houlihan's evidence, do you agree that this same approach is what should have been done with Mr Huang from at least May 2017?

20 **MR HEAP:** Yes. Certainly source of wealth, but also KYC clarification as well.

MR CONDE: Earlier, Mr Heap, you - I believe you agreed with my suggestion that if a management team becomes accustomed to not being challenged on important matters, that can create a problem for the company's culture. So far, I've taken you to three short examples where I've suggested to you that the board was not far away from uncovering important information relating to Suncity, Salon 95, Mr Huang Xiangmo. Are you concerned, in light of the material I've been taking you to, that Star's management was accustomed to not being challenged on important matters?

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30

MR HEAP: No. By "the board", I - I presume you mean, Mr Conde --

MR CONDE: Not being challenged - sorry. Are you concerned that Star's management was accustomed to not being challenged by the board on important matters?

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MR HEAP: I'm not - I'm not as a point of principle. I think the board did challenge on a range of matters. You know, I recall in the time when I first joined the board, 2018/2019, there was a very strong focus from the regulator here in New South Wales, and also in Queensland, around areas like responsible service of alcohol, minors in the casino, violence, those topics. And the board pushed very hard on those things. The board also pushed very hard on OH&S matters.

40

We had some very significant, and continue to, construction projects underway, and the board was acutely focused - and there were various examples where the board insisted on - on verification around those things. One of my takeaways, as I've reflected today, is that in this area - in this area of understanding the patrons that were coming into the casino and understanding where the settings were in

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terms of verifying their status in terms of good repute, as I reflect today, I think the board could have, and should have, asked further questions.

5 **MR CONDE:** And you mentioned a number of matters there, Mr Heap, such as OHS, violence and those sorts of things. But would you agree that the Salon 95 room issue was sort of at another level above those other sorts of issues?

10 **MR HEAP:** That's a difficult one to answer, Mr Conde. I don't resile for a moment from the importance of our AML KYC obligations and, further than that, our obligations under the Casino Control Act here and in Queensland. And they are of paramount importance. Frankly, they, more than anything, go to the value in the business. They go to our suitability and, therefore, to the value of our social licence. But I don't want to undermine the importance of those other areas as well.

15 And - and the simple reality is the board of a large complex organisation, you don't have the choice of prioritising one thing over another. You - you really do need to take on responsibility for all of those areas. What I would say is in taking on responsibility for those other areas, you clearly cannot - cannot - ignore this area. And this is an area where, as I said a moment ago, we could have and should have
20 challenged further.

MR CONDE: In my question, Mr Heap, I referred to the Salon 95 issue, and I suppose I should unpack that. Because accepting what you've said about the importance of multiple issues for a big company with multiple casino properties
25 and the like - by "Salon 95 issue", what I was meaning to refer to included a number of elements. There's the evidence of - from Mr Buchanan of his concern about an organisation with links to the triads. So you've got criminal association or suspected criminal association; the operation of a casino within a casino, so there's unlicensed gaming; and then there's also that issue of misleading - knowingly
30 misleading the regulator. So by "Salon 95 issue", I meant to sort of embrace all of those. And would you agree that as an issue, embracing those elements, that is at another level?

MR HEAP: I don't disagree with you, Mr Conde. What - what I would say is
35 those issues are fundamental to our licence. Those issues go to - you know, go to the core of our - of our obligations under the casino licence and to our relationship with our regulator in that context. As - as a director, perhaps my frustration is - is that those issues, given their importance, weren't brought to the board with - with - with bells and whistles. They're the sort of issues that we
40 shouldn't - shouldn't have to dig for; they're the sort of issues that should be front and centre for us.

MR CONDE: I think your reference, Mr Heap, to the thread to pull on, though - what has prompted these questions is my suggestion to you that - or my
45 question to you as to whether you're concerned, having regard to the Salon 95 issue, Suncity, Huang Xiangmo, that management had become accustomed to not being challenged on important matters and, therefore, will be less likely to bring things out for you and make them front and centre.

MR HEAP: I don't think that's right, Mr Conde. As I said, I do believe we were challenging on important matters. I think - I think on - on this particular one, we didn't go - we didn't go digging in on Suncity at this point in time. And as I look
5 on it today, we should have at this point in time. But - but I don't believe that's the reason management wasn't bringing these things to us.

MR CONDE: And what do you believe is the reason?

10 **MR HEAP:** My speculation is that Suncity was an important client - partner - in the context of the junket business. The IRB business represented a reasonably significant amount of - of The Star's revenue and earnings at that point in time. We were 12 or so months away from having a major competitor enter the Sydney market, who was specifically focused on that same IRB business. I think for all of
15 those reasons - I speculate for all of those reasons that management was seeking to find a way to continue that relationship with Suncity. And - and I speculate that - that if they were to make clear to the board the underlying pattern of facts, that the decision would be quite obvious for the board, which would be to exit any arrangement or any association with Suncity.

20 **MR CONDE:** Perhaps if I can now ask you about China UnionPay cards.

MR BELL SC: Just before you get to that, Mr Conde. You're aware, I take it, that Chow Tai Fook is a significant shareholder of Star Entertainment?
25

MR HEAP: Yes.

MR BELL SC: And that it has at least one joint venture arrangement with Suncity?
30

MR HEAP: I'm aware of that, yes.

MR BELL SC: Yes. And is one possible explanation for management's reluctance to bring forward criticism of Suncity because it was getting a message from the
35 board that Suncity was an important partner of Star Entertainment, if I can put it that way?

MR HEAP: That Suncity was, Mr Bell?

40 **MR BELL SC:** Yes.

MR HEAP: No.

MR BELL SC: So to what extent was it known, as you understand it, amongst
45 your board colleagues, that Suncity had a joint venture with Chow Tai Fook?

MR HEAP: Well, I've only become aware of that very recently, I believe over the last couple of months, in preparation for this. Certainly I wasn't aware of it before, and I'm not sure if any of my other board colleagues were either.

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

MR CONDE: And, Mr Heap, I just might ask if you have any comment on - in relation to these issues - Suncity, Salon 95, Mr Huang Xiangmo - I've taken you through various documents and materials. And noting now that a number - would
10 you agree that a number of senior executives have resigned?

MR HEAP: Yes.

MR CONDE: And so what, if any, comment do you have on Star Entertainment
15 being satisfied that underlying culture is going to improve? I suppose - perhaps another way of putting that is that various heads have been removed, Mr Bekier, Ms Martin, Mr Theodore, Mr Hawkins. But what, if any, satisfaction do you have that underlying culture is going to change?

20 **MR HEAP:** I - I think - I think that - that - well, I will make a few comments, Mr Conde. Culture starts from the top, and so I think that changed from the top allows for a change in culture. And I think that's an appropriate step. I - I do believe - and - and I suggest that the PwC recent culture work, and - and for that
25 matter the McGrathNicol work looking at culture, has identified there's - there are some strong elements within the culture. There's - there really is quite a strong compliance culture. But a much less sophisticated understanding of risk. And, you know - and the problem with the strong compliance culture in that context is that you can end up with a - sort of a "tick the box" mindset, which is not helpful.

30 And so what I - what I would suggest is that - is the - the building blocks are there. The vast majority of Star's 8000 staff, I think, are very compliant individuals, have exactly the right sort of behaviours we look for. I'm aware Mr Bekier talked to one particular part of the business, being the IRB business. And while I would agree at one level that that particular part of the business had particular challenges - and
35 effectively by shutting down that part of the business, we will address that particular challenge - my underlying concern with the culture goes to transparency.

40 My underlying concern is that these things were not being shared with the board and - and, from my own investigations, were not necessarily being shared internally in the way they should have been, for example, amongst the - you know, the executive cohort, which - which we call the ExCo. We will need to address those things. And - and to me, there's a - there's a really important piece of work we need to go - which goes to this idea of behavioural risk, this idea of what are
45 the settings we have in the organisation which - which then allow for - or even, you know, create incentives for poor behaviour.

And that is things like getting our remuneration structure right. That's things like making sure that our code of conduct is properly understood by everyone in the organisation. We have what I believe is a terrific initiative we established a number of years ago, which is our ethics panel. That, I think, we need to revive and make sure it is working properly so people who have those complicated questions, which is where rubber hits the road in terms of culture, have an avenue - a place they can go to be able to test and understand those. So I apologise, that's a longer answer than maybe you were looking for, but I think the problem is more nuanced and will require very careful thought to solve.

MR CONDE: Mr Heap, I did ask you an open question, so please - but a few questions arising. You mentioned remuneration and getting that right. What, if any, concerns do you have about past remuneration structures?

MR HEAP: My - my question - well, the question in my mind that I think we need to give thought to around remuneration is to make sure that - a part of a remuneration structure must go to, you know, ensuring a business is - is motivated to be profitable and successful on behalf of its shareholders. But an equally important part, certainly in the context of a casino, is making sure, in setting those drivers, you also have clarity around your - your risk and compliance obligations. We have made some changes in that context, in the past 12 months, from memory, in the context of our remuneration model. I - I would expect that we will continue to refine that as we think broadly about these - you know, driving the right culture in the organisation.

MR CONDE: And I think you also referred to - I'm not sure I will get the precise language correct, but shutting down the IRB business?

MR HEAP: Correct. So - so we - we determined to exit the junket - our junket activities in August 2020, from memory. We - we have affirmed that position recently, I think, that that remains our position, that - that international IRB business just represents a level of risk which is not commensurate with the level of return that it can generate for the business. I think we're more broadly considering how the rebate business works for us and making sure that we have our processes and our structures entirely to the satisfaction of the board before, you know, we build out those lines of business as well.

MR CONDE: And this is - are you referring to your - to Star Entertainment's ASX announcement of yesterday styled Suspension of Rebate Programs and Interim Executive Appointments?

MR HEAP: Yes.

MR CONDE: And I just note the word there "suspension". What, if any, expectation do you have around the lifting of such a suspension?

MR HEAP: Well, I guess - I guess different between junkets and IRB. I think the junket business, the position - my position and position of the board

generally is - is that - the Bergin report has - has proposed that it be prohibited. The government is - is considering their position on that. We have no interest in re-entering that business at this time, and so we've parked that.

5 With respect to the rebate business - the rebate business per se can make sense. It's
incredibly important that you're - that you're understanding know your client
and - and understanding the clients that are coming in through that program is
in place and that you're comfortable with that side of the - the rebate program. And
10 so it is something that we would consider opening again, but only subject to the
board's full satisfaction and that board full satisfaction would, of course, depend
also on the regulator's full satisfaction.

MR CONDE: And in relation to the - during the time of suspension, so far as
15 you're aware, what is to happen of the rebate play and junket staff?

MR HEAP: Well, having stepped out of the junket business sort of 18 months
ago, that - that - we've - we've closed down all of that business, to the best of my
knowledge, and - and my understanding is that those staff have either been
20 reassigned or - or have been made redundant. With respect to the rebate business,
that - that actually overlaps with - with our - our VIP relationships with, for
example, our premium mass customers or our premium customers more generally.
And so those staff we - we would expect to continue in their roles and looking
after our high-end customers. What - what we're seeking to do is to get away from
25 the - the customer - well, the - the risk part of our business we're seeking to avoid
is the customer who is motivated by - by the - by the financial gain of the - of
the - of the rebate side of that business.

MR CONDE: So I took you earlier to a concern expressed by Ms Lee on your
30 renewal committee about a toxic culture within the IRB business. Is it correct that
those staff will be continuing in the same roles?

MR HEAP: No, no, no. Those - those are the staff I referred to that - that's the
business we closed down in August 2020. So - so those staff have exited.

35 **MR CONDE:** I see.

MR BELL SC: Mr Heap, what do you understand was the main driver of the
board's decision to suspend rebate programs yesterday?

40 **MR HEAP:** I think for us, Mr Bell - for - for me and - and for other members of
the board, we have been concerned by a range of issues that have arisen. One of
those issues relates to - to activity that links back to the rebate space. And until the
board can be entirely satisfied that - that we have our processes in place in respect
to all of those issues, we didn't have the risk appetite to be running that business. I
45 think - so I think it reflects our - you know, our strong desire to ensure that we
bring The Star to a place where we, the board, can be comfortable that all of the
processes are working as they need to.

MR BELL SC: Yes, Mr Conde.

5 **MR CONDE:** Mr Heap, do you understand that - it is your understanding that China UnionPay cards are not dissimilar from EFTPOS cards in that they allow transactions without a credit risk for Star Entertainment?

10 **MR HEAP:** Well, I'm not sure I would describe it in that way. My understanding of China UnionPay cards is they're - they - they're - that they're a form of - I believe they have different types, so a debit and a credit and a stored-value card, which is used as a payment alternative, similar to - to an American Express or a Mastercard.

15 **MR CONDE:** And I think you've accepted that generally - it's your understanding that, generally, Star Entertainment cannot provide patrons with credit except via a cheque cashing facility; is that correct?

MR HEAP: Yes.

20 **MR CONDE:** Do you understand - and I appreciate this is before your time as a director of Star Entertainment. Perhaps, then, I should ask this: are you aware of the general history of China UnionPay transactions at Star Entertainment?

MR HEAP: I am today.

25 **MR CONDE:** And when did you first become so aware?

30 **MR HEAP:** Well, the - the - the first time I knew of China UnionPay was in a board meeting in July 2021. It had arisen, as I recall, as an issue in the Finkelstein Inquiry in that month. We had a piece of work underway, which was looking at issues that had arisen from Bergin initially, but - but picked up issues that arose from the Finkelstein Inquiry. And - and the intention of that work was to assure the board that matters that arose in those inquiries were not matters that were of concern for The Star.

35 In the July meeting, it was drawn to our attention that the CUP matter had arisen in Finkelstein, that The Star had, in the past, used CUP cards. I think we were advised that had ceased in March of 2020, and that the matters that had arisen in relation to the CUP card were not matters that - that were relevant to Star. But nevertheless, an independent review would be done on The Star's use and - and
40 brought to the board, which happened at a subsequent meeting.

45 **MR CONDE:** If I can ask you some general questions about that - your understanding of that history, and I will try to do so at a relatively high level so as to not to be here longer than necessary. But you mentioned earlier in your evidence to Mr Bell that Star Entertainment was not doing the right thing in respect of China UnionPay cards between 2013 and 2020. Do you understand that by late 2013, there was an issue with China UnionPay cards where the time taken

for funds to clear once a patron had swiped his or her China UnionPay card was too long?

5 **MR HEAP:** I'm not sure I was aware of that issue.

MR CONDE: Are you aware that on 22 November 2013, Star sought regulatory approval to release chips to patrons straightaway before funds had cleared?

10 **MR HEAP:** I'm not aware of that.

MR CONDE: Are you aware that no such approval was granted?

MR HEAP: I'm not aware of that.

15 **MR CONDE:** Are you aware that at least by 3 February 2014, a workaround was put together and recorded in a memorandum from Oliver White to address what was noted as ILGA's view that a patron using a CUP card can only access the funds for which they have transacted once those funds have cleared in The Star's bank account?

20 **MR HEAP:** No, not aware of that.

MR CONDE: Were you aware of a workaround involving using a cheque cashing facility?

25 **MR HEAP:** No.

MR CONDE: Are you aware that right from the beginning of this workaround in 2014, senior executives - including Mr Bekier, who was then the CFO, and Ms
30 Martin - were on notice of a concern expressed by Oliver White that in light of the Independent Liquor and Gaming Authority's view on Star only accessing funds once cleared, they would form the view that the use of cheque cashing facilities in this circumstance is a prohibited provision of credit?

35 **MR HEAP:** I'm not aware of that.

MR CONDE: Perhaps - I might show you that. It's exhibit F54, STA.3034.0001.0591. And it's under - first of all, just under Background, do you
40 see:

"Currently, it is ILGA's view that a patron using CUP can only access the funds for which they have transacted once those funds have cleared in The Star's bank account."

45 **MR HEAP:** Yes.

MR CONDE: And do you see there's then a heading, Operating a CCF, and there's a description of that over the page?

MR HEAP: Yes.

5 **MR CONDE:** And at 0592 - so if I could ask that that second page be enlarged, please. And at the bottom, I think it says Proposed Workaround. Do you see that?

MR HEAP: Yes.

10 **MR CONDE:** And that is:

"To allow a CCF to be drawn by a patron with overseas bank accounts, but without a supporting blank cheque, on the basis that the 'approved' confirmation on the use of the CUP is confirmation that funds will -"

15 Sorry, that's now gone to the top:

"Funds will arrive to clear the cheque and accordingly there is no provision of credit prohibited under the Casino Control Act."

20 **MR HEAP:** Yes.

MR CONDE: And what I read to you earlier was from the first sentence of that first bullet point. Do you see Mr White flags that:

25 "The issues to be considered in relation to this solution are."

And that first one is:

30 "ILGA's stated view on the position of CUP transactions to date (as set out above) which might suggest that they would form the view that the use of CCF -"

Cheque cashing facility:

35 "In this circumstance is a prohibited provision of credit."

MR HEAP: Yes.

40 **MR CONDE:** Are you aware that Star Entertainment went ahead and ran that risk?

MR HEAP: No.

45 **MR CONDE:** Are you aware that Mr Bekier told Mr Bell in his evidence that what should have happened here is to have had the practice cleared with the regulator?

MR HEAP: In relation to this element, I agree.

MR CONDE: Well, that was going to be my next question. So were you aware of Mr Bekier's evidence, Mr Heap?

5 **MR HEAP:** I wasn't on that, no.

MR CONDE: But you agree with that? Do you agree that the practice should have been cleared with the regulator?

10 **MR HEAP:** Yes.

MR CONDE: And is that because if there's any kind of risk of this nature, it's just not worth the trouble of running?

15 **MR HEAP:** Absolutely. The very idea - I - I baulk at these words "work around". That - that should not be the goal. And so I - that's - I react to that. The very idea of not being entirely transparent with the regulator as to exactly why we were looking to do something makes no sense to me at all.

20 **MR CONDE:** And do you understand that what happened then through to March 2020 was that The Star ran a risk of contravening the Casino Control Act each and every time there was a China UnionPay swipe and a patron was given chips prior to funds clearing?

25 **MR HEAP:** Well, I - yes, I - I understand it now, as you've explained it.

MR CONDE: So that's one issue. Another issue I want to ask you about is this: do you have any understanding to the effect that there is a prohibition applying in the People's Republic of China on money being taken out of China and used for gambling?
30

MR HEAP: I'm not an expert, but I understand that much, Mr Conde.

MR CONDE: And are you aware of Mr Graeme Stevens's evidence in Mr Bell's review on day 6 that it was his understanding in June 2013 that UnionPay International prohibited the use of China UnionPay cards to purchase gambling chips?
35

40 **MR HEAP:** I wasn't aware of that evidence.

MR CONDE: Are you aware of Mr Bekier's evidence on day 27 that it was his understanding, by 2015 or 2016, that UnionPay International's rules prevented the CUP cards being used to purchase gaming chips?

45 **MR HEAP:** I wasn't aware of that evidence.

MR CONDE: Are you aware of Mr Theodore's evidence on day 25 that it was his understanding, from about March 2016, that there was a prohibition on China

UnionPay cards being used directly to purchase gaming chips or funding of gambling?

5 **MR HEAP:** No, I wasn't aware of that.

MR CONDE: Are you happy to assume, Mr Heap, that each of those executives - Mr Graeme Stevens, Mr Matt Bekier and Mr Harry Theodore - gave that evidence?

10 **MR HEAP:** Yes. I'm happy to accept that.

MR CONDE: Now, are you aware that China UnionPay cards were used at terminals at Star Entertainment's hotels with money then being transferred to front money accounts for gambling?

15 **MR HEAP:** I'm aware of that now.

MR CONDE: And when did you first become aware of that?

20 **MR HEAP:** I'm not sure to what extent that was explained to us in - in - when the - the report was presented to the board in September of 2021. There was some information that became clear to me through that review, and - and I've gained a further level of clarity as I've read the background material in preparation for this hearing.

25 **MR CONDE:** Are you aware of Mr Andrew Power's evidence that there was a practice of dummy rooms being assigned to patrons using China UnionPay cards and that this was fake in that it was not a true reflection of what had occurred?

30 **MR HEAP:** I'm not aware of that evidence, but I - but I have seen documents to that effect.

MR CONDE: And do you agree that an arrangement with so-called dummy rooms raises a question about whether the arrangement is above board?

35 **MR HEAP:** Yes.

MR CONDE: And just as to the amount of these transactions, are you aware that over \$900 million was swiped on China UnionPay cards at Star Entertainment Group hotels?

40

MR HEAP: Yes.

MR CONDE: And when did you first become aware of that?

45 **MR HEAP:** I - I believe in - in the last month.

MR CONDE: And what, if any, comment do you have on that?

MR HEAP: Well, it's a very significant amount of money.

5 **MR CONDE:** Do you agree that, in particular, it's a very significant amount of money to be coming through a channel where there's a risk I have explored with you earlier on each and every transaction that Star might have been viewed by the regulator as providing credit in breach of the Act?

10 **MR HEAP:** Yes, I agree.

MR CONDE: And what, if any, comment do you have on Star engaging in that practice and running that risk?

15 **MR HEAP:** Well, my view is very clear. I don't think we should have been doing CUP from the very start and - and before determining the - the - the credit risk issue you have raised. I actually think the practice itself, which I understand to have been in contravention of the card rules of CUP from the start, is just not a practice we should have entered into. I'm perplexed as to how this happened in the first place and why it wasn't stopped at multiple opportunities before 2020.

20 **MR BELL SC:** Is that a convenient time for the afternoon adjournment, Mr Conde?

25 **MR CONDE:** Yes, Mr Bell.

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

<THE HEARING ADJOURNED AT 3:31 PM

30 **<THE HEARING RESUMED AT 3:47 PM**

MR BELL SC: Yes, Mr Conde.

35 **MR CONDE:** Mr Heap, are you aware of a matter which has been explored over days of evidence before Mr Bell in this review involving queries from a Chinese bank to NAB about certain CUP transactions at Star hotels and NAB passing on those queries to Star Entertainment?

40 **MR HEAP:** I'm aware of those, from this inquiry.

MR CONDE: And if I can just take you to two particular responses. The first one is STA.3002.0010.0096, and it's exhibit B1430. Perhaps if we can start - do you see about halfway down the page, there's a request from Joel Avenell dated 18 June 2019 at 12.47 pm?

45 **MR HEAP:** Is that --

MR CONDE: It's towards the bottom of the screen. It's in the middle of the page. Yes, the request there --

MR HEAP: Yes, I see that now.

5

MR CONDE: And - I'm sorry. That request is then - seems to be - have been copied and pasted into an email just above it from John Ventura. Do you see that?

MR HEAP: Yes.

10

MR CONDE: And - but do you see in the email from Joel Avenell, he writes under the salutation:

"UnionPay's risk team have flagged transactions."

15

And then later:

"Please request The Star to confirm below for the two amounts."

20

MR HEAP: Yes.

MR CONDE: And do you see there are three questions:

25

"(1) Explain the business scope of the relevant merchants; (2) explain what type of goods or services did the cardholder purchase; and (3) provide the supporting documents for the attached transactions."

30

Now, just pausing there, Mr Heap, do you agree that whatever view executives within Star might have had about what was and wasn't accepted by UnionPay before this time, these are straightforward questions which warranted straightforward answers?

MR HEAP: Yes.

35

MR CONDE: And so going to the answers at the top of the page - if we can go to that. Do you see there's an email from Ms Dudek, 19 June 2019 at 10.15?

MR HEAP: Yes.

40

MR CONDE: And the answers:

"(1) The merchant operates integrated resorts in Australia, consisting of hotels, restaurants and other entertainment facilities; (2) the cardholder purchased hotel accommodation services with the transactions in question."

45

Now, that's in answer to "explain what types of goods or services purchased". And (3):

"Invoices are attached."

Now, there's a similar exchange dated 28 August 2019. So I will just take you to that as well. It's exhibit B1594, and that's STA.3002.0010.0004. And do you see
5 that at the top, from Ms Dudek, there's the same form of response, in particular, at item 2:

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

10

MR HEAP: Yes.

MR CONDE: And are you aware that Ms Dudek told Mr Bell that at this time, she knew that the CUP cards had been used to fund gambling?

15

MR HEAP: I'm not aware she gave that evidence, but I am aware of that now.

MR CONDE: Are you aware that Ms Dudek agreed in her evidence to Mr Bell that her response here was utterly misleading and unethical?

20

MR HEAP: I wasn't aware of that. I - I recall that evidence, but I wasn't aware it related specifically to this.

MR CONDE: What, if any, comment do you have on Ms Dudek's communications - sorry, I withdraw that. What, if any, comment do you have on these communications sent by Ms Dudek to the NAB?

25

MR HEAP: Well, the - the - the very best interpretation is that it's misleading.

30

MR CONDE: And are there any other interpretations that you would --

MR HEAP: Stronger than that - it's certainly misleading. It's certainly designed to - to avoid saying the reality of what was going on, which is that "accommodation services" was a euphemism for - for - for gambling.

35

MR CONDE: Would you agree with your - are you aware that your board colleague, Mr Sheppard, described it as, in his opinion, utterly misleading?

MR HEAP: I would have no issue with that interpretation.

40

MR CONDE: Are you aware that Ms Dudek told Mr Bell that this language had been provided to her by Mr White and that she did not feel she was able to challenge her superiors in this regard?

45

MR HEAP: Again, I was aware of that evidence. I didn't know it was specifically in relation to this email. But, yes, I'm aware of that evidence.

MR CONDE: And what, if any, comment do you have on Ms Dudek's evidence of feeling unable to challenge her superiors?

5 **MR HEAP:** I'm particularly troubled by that. It - it goes to the point I was making earlier about culture and transparency. An aligned issue is - is this - is - is anyone
10 feeling that they can't report a matter that they are troubled by. That - that entirely undermines, you know, one's ability to really institute a "do the right thing" model within an organisation. That should be of paramount importance. I don't know the
15 circumstances of why Ms Dudek felt that way. In all honesty, I feel a sort of a duty to Ms Dudek, who's an employee, that she was put in a position where she felt she
20 couldn't report that. That - that in its own right is troubling. So, you know, I - I - I just find that upsetting.

15 **MR CONDE:** Do you - what, if any, understanding do you have of Star Entertainment's whistleblower policy?

20 **MR HEAP:** I'm well aware of it and, you know, I would like to think in a situation like that, Ms Dudek would - would want to use the whistleblower policy - whistleblower service. It's obviously designed, in all
25 organisations - certainly all large organisations - to protect an employee's ability to be able to report in exactly that way. And so, you know, I would welcome the opportunity to understand why employees, in this case Ms Dudek, didn't feel comfortable to be able to take a matter like that to the whistleblower policy if they
30 didn't feel there was a - there was a channel - an identified channel they could take.

MR CONDE: Is the effectiveness or otherwise of the whistleblower service part of the matters being considered by the renewal committee?

30 **MR HEAP:** It hasn't been on the agenda to this point, but you have raised it in my mind, Mr Conde, as a matter that should be. And we do use an external service provider. I think we need to think carefully about why it wasn't effective and how we can make it more effective.

35 **MR CONDE:** The second document I wish to show you, Mr Heap, is exhibit B1828. That's STA.3105.0011.5300. And if we can start on the second page, please. That's pinpoint 5301. Do you see that it's an email from Ms Tanya Arthur from an email address at NAB dated 6 November 2019 at about 7.27 pm?

40 **MR HEAP:** Yes.

MR CONDE: And do you see in that first paragraph, towards the end, she - well, in the first paragraph, first sentence, she records that:

45 "UnionPay have provided us notice indicating they are considering issuing NAB a directive to cease provision of UnionPay card acceptance to The Star."

MR HEAP: Yes.

MR CONDE: And then the third sentence, do you see:

5 "From our conversation -"

It's the third line down, towards the end:

10 "From our conversation with local UnionPay representatives, China's central bank (that is, the People's Bank of China, PBOC, similar to our RBA) is not satisfied with UnionPay's explanations received from The Star (via NAB) for previous irregular transaction investigation requests."

MR HEAP: Yes.

15

MR CONDE: And then, in fact, it's put squarely in the next sentence:

20 "PBOC has observed individual cardholders spending more than \$20 million at The Star which they believe includes gambling and are struggling to see how this level of expenditure could be made on non-gambling entertainment."

Do you see that?

25 **MR HEAP:** Yes.

MR CONDE: And then there's a request for additional information in the chapeau to the bullet points. If I can take you back, please, to the first page of this, pinpoint 5300. Do you see there's a lengthy response there from Ms Scopel dated 7
30 November 2019?

MR HEAP: Yes.

MR CONDE: If I can trouble you to read that to yourself, please, Mr Heap, and I
35 will ask you some questions. And if the operator could just enlarge that, please.

MR HEAP: Yes.

MR CONDE: Now, are you aware that Ms Scopel told Mr Bell on day 2 of these
40 hearings that in or after June 2019, she was aware that money would be transferred ultimately to patrons' front money accounts, in other words, for gambling?

MR HEAP: I wasn't aware of that.

45 **MR CONDE:** Are you aware that Ms Scopel told Mr Bell that her evidence was unethical?

MR HEAP: No.

MR BELL SC: I think you mean her conduct, rather than her evidence, Mr Conde.

5 **MR CONDE:** I'm sorry --

MR BELL SC: You might want to put that question again.

10 **MR CONDE:** I'm sorry, Mr Bell, and I will withdraw the question. Mr Heap, are you aware that Ms Scopel in her evidence told Mr Bell that her conduct was unethical?

MR HEAP: I believe I was aware of that.

15 **MR CONDE:** And do you agree with that assessment in her evidence?

MR HEAP: Well - well, based on this email, which I presume is what she was referencing in the context of her evidence, yes, it was unethical.

20 **MR CONDE:** And are you aware that Mr Bekier and your board colleague, Mr Sheppard, described this answer to Mr Bell as both misleading and deceptive?

MR HEAP: I'm sorry. This answer to Mr Bell?

25 **MR CONDE:** I'm sorry. Are you aware that Mr Bekier and your board colleague, Mr Sheppard, described this email --

MR HEAP: Yes.

30 **MR CONDE:** -- this email to NAB --

MR HEAP: Yes.

MR CONDE: -- as both misleading and deceptive?

35

MR HEAP: I wasn't aware, but I would agree with both of them.

MR CONDE: And in particular, do you see - if I could ask the operator to enlarge the paragraph second from the bottom - yes:

40

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

45 Are you aware, Mr Heap, that Mr Theodore told Mr Bell that that sentence in particular was false and deceptive?

MR HEAP: I wasn't aware of that.

MR CONDE: And do you agree with that assessment from Mr Theodore?

5 **MR HEAP:** Well, I - I assume in saying that, that that is inaccurate, and that's why he was - he was saying it was false and deceptive. My view would be that the - the underlying premise of it, which is - which is to sort of create some
workaround whereby - some perceived difference that - that the money was
actually swiped in the hotel lobby and then transferred across, I don't think it
makes any difference at all.

10 **MR CONDE:** Because it's correct, is it not, that the substance of the transactions were that the money was being used for gambling?

MR HEAP: That's my view, yes.

15 **MR CONDE:** Yes. Are you aware of evidence from Ms Scopel that her response was prepared in the context of receiving guidance from both Mr White and Mr Theodore?

20 **MR HEAP:** I was aware of that, yes.

MR CONDE: And are you aware that Ms Scopel told Mr Bell that she did not feel she was in a position to challenge Mr White or Mr Theodore because she was concerned that if she did, it could impact her employment?

25 **MR HEAP:** I was aware of that, yes.

MR CONDE: And would your evidence earlier in relation to a similar concern raised by Ms Dudek apply equally to Ms Scopel's evidence?

30 **MR HEAP:** Yes.

MR CONDE: Do you agree that all of these matters I have explored with you in relation to this email, both in terms of the knowledge of people when they're sending it and then a feeling of being unable to challenge, reflect poorly or
35 extremely poorly on the culture of Star?

MR HEAP: Yes, it does.

40 **MR CONDE:** Is there any further general comment that you wish to make on the conduct which I've shown you here in relation to responses provided by Star Entertainment to the NAB?

45 **MR HEAP:** The only other - I - I guess the comment I would make there, Mr Conde, is as a large, respected professional organisation, one would expect that our relationship and our communications and our respect for a large, respected Australian bank should be of a higher standard than - than these emails would suggest.

MR CONDE: Are you aware of a suggestion in the course of these public hearings that maybe NAB knew the true position at all times that China UnionPay cards were being used for gambling?

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

MR CONDE: And are you aware that Ms Arthur of NAB gave evidence denying such knowledge, and she was cross-examined which included a suggestion to her that she understood exactly how those CUP cards were being used, which she
10 denied?

MR HEAP: I'm aware of that, yes.

MR CONDE: Do you agree, though, that irrespective of NAB's knowledge and, indeed, irrespective of any past knowledge of the Chinese entity to which the responses were being forwarded, the fact is that Star Entertainment should be
15 giving truthful responses in correspondence with its banks?

MR HEAP: Absolutely. You took the words out of my mouth, Mr Conde. It makes not an iota of difference in my mind as to whether NAB knew or otherwise. It's just conduct we shouldn't do in any in any event - or shouldn't be a part of in
20 any event.

MR CONDE: I want to ask you, then, about the evidence of Mr Andrew Power on this. Because he said on day 18 that he accepted that the true purpose of the UnionPay transactions were concealed from China UnionPay, and Ms Sharp said:
25

"Well, stopping you there, isn't that completely unethical?"

30 To which he said:

"I don't believe it's completely unethical, no."

35 Do you agree with Mr Power when he said it's not completely unethical for Star to have concealed the true purpose of the transactions from China UnionPay?

MR HEAP: I'm not - I'm not entirely sure of what context he - he might have provided that answer. It - I'm speculating, but perhaps the point he was trying to make is that - is that Star was communicating with NAB, and NAB was
40 communicating with China UnionPay. I would make the same answer, though, that I gave a moment ago. In my mind, it doesn't make an iota of difference. The obligations that NAB has to China UnionPay - in - in providing an answer to NAB, my view is that we have the same obligations.

45 **MR CONDE:** Mr Heap, do you recall that there were emails relating to Salon 95, which I took you to earlier - and, in fact, I just ask that it be brought up, exhibit B790. This is the one dated - do you see it's dated 16 May 2018?

MR HEAP: Yes.

5 **MR CONDE:** Now, 16 May 2018 happens to be the same date that KPMG issued two anti-money laundering and counter-terrorism financing reports to Star Entertainment. Are you aware of those reports? I appreciate 16 May is about a week before you commenced.

10 **MR HEAP:** Yes. I wasn't aware of them then; I was aware of them later in that year.

MR CONDE: And so noting that you started the week after the KPMG reports, were you told about them on arrival?

15 **MR HEAP:** Well, I was an observer on the board. I didn't attend the audit meeting where they were first tabled, which was - I believe it was 23 May 2018. But I was aware of them. I - I - I would have reviewed the papers for that meeting, notwithstanding I wasn't at the meeting, and - and then obviously I attended the - the subsequent meeting in August where - where the set of actions in relation to that report was tabled.

20 **MR CONDE:** Are you aware of the evidence in Mr Bell's review that between 16 May 2018 and 6 August 2018, there were a number of meetings between KPMG and Star Entertainment where, among other things, Star raised some 22 specific points of concern with KPMG in relation to the reports?

25 **MR HEAP:** I was aware of some of that. I wasn't aware of the 22 points of concern.

30 **MR CONDE:** Are you aware of the evidence of a letter dated 6 August 2018 from KPMG whereby KPMG confirmed that the findings and recommendations contained in their final reports from 16 May 2018 remained valid?

MR HEAP: I'm not aware of that letter, but I was aware of the substance of it.

35 **MR CONDE:** Are you aware of the evidence from the KPMG partners and others that at least after that 6 August 2018 letter, Star Entertainment's management went about fully implementing KPMG's recommendations?

40 **MR HEAP:** Yes.

MR CONDE: Just in terms of that - I will just ask that that 6 August letter just be brought up, in fairness to you, Mr Heap. It's exhibit B1027, KPMG.001.001.1779. I'm not sure if you recall seeing this letter.

45 **MR HEAP:** I don't believe I have.

MR CONDE: And if I could ask the operator just to go to the next page, please, 1780. The first paragraph after the bullet points up the top - there's a reference there to 22 specific aspects of the final reports. So that's what I was talking about.

5 **MR HEAP:** Yes.

MR CONDE: And then under Overall Summary, the second paragraph:

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

That is the other matter I took you to - I quoted. If I can just ask you to think about this period between 16 May 2018 when KPMG's reports were provided through to 6 August 2018 when KPMG confirmed its responses to the matters raised by Star.
15 What, if any, comment do you have on the utility of the questions and meetings that took place?

MR HEAP: Well, I didn't have particular knowledge of the questions or - or the meeting, certainly at the time. My understanding today is that Mr Bekier felt he
20 hadn't had an opportunity to discuss the findings with KPMG and was seeking to do that. As a - as a member of the risk committee - and - and while this went to the audit committee - I wasn't a member of the audit committee at that time. But post this August meeting, the actions went to the risk committee to - to take ownership for.

25 And as a member of that committee, I - I would take comfort from the fact that no changes were made. I would - I would - I would have questions if changes had been made. It would have been far less clunky had those discussions happened prior to the report being tabled in May, would be my comment. And I think the
30 concern in this scenario is that particularly independent providers of - of analysis or reports to the board don't feel they are under any pressure to provide a full and fair independent report. The board, frankly, depends entirely on that.

MR CONDE: Could I just ask the operator to scroll up on this page 2 to the top.
35 Do you see that bullet point - in fact, I think, to make sense of it, we need to go back a page. So if I could ask the operator, please, to go back to 1779. And then there's language introducing the bullet points, and it says:

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

And then do you see the list goes down? And then if we can go back over the page, please, to the top. And do you see it says:

45 "Validated each and every finding in draft form with the chief risk officer, general manager compliance and responsible gambling, and the compliance manager, prior to finalising the reports."

MR HEAP: Yes.

5 **MR CONDE:** And then if we can enlarge, please, footnote 2 at the bottom of the page, because that's given. Do you see there's a reference there to the draft reports being issued on 3 May, and then a meeting with various Star executives on 14 May?

MR HEAP: Yes.

10 **MR CONDE:** And on that second paragraph, it says:

"The findings in both reports were validated for factual accuracy and agreed. No issues were raised at that meeting as to the factual accuracy of the reports."

15

MR HEAP: Yes.

20 **MR CONDE:** So would you agree that, in fact, KPMG's analysis should not have been the subject of intervention, as it were, from Mr Bekier?

25 **MR HEAP:** I guess the answer I would give to that, Mr Conde, is these were serious matters that - that they - they have led to, really, a four-year program of work, which is ongoing, to ensure that - that our AML KYC program is where we need it to be. It would seem to me that - that the CEO and managing director should have been part of this briefing. And so if I - if I had been involved in this process at that time, I might have suggested to - either the chief risk officer that he include the CEO or - or - or otherwise suggested to the CEO he include himself, to ensure that he had that chance to - to - to understand the context, to provide any input he might provide. So - so I - I'm - what I'm saying is - is I think the process was clunky. I think the fact that the CEO should have been a part of it as a board member, I think, is very important.

30 **MR CONDE:** Would you not be concerned that such an approach would run the risk of undermining the independent audit reporting without fear or favour and without interference from management?

35 **MR HEAP:** Well, no, because I would take the view that the CEO should be the absolute champion for - for the approach to risk and the approach to culture we're looking for within the organisation. We - we do have a separate internal audit channel, and I recognise this report then was reported, obviously, up to the audit committee. So - so the KPMG partners had that responsibility, to provide that no fear or favour feedback to the audit committee. But I would still subscribe to the view that - that having the CEO's voice would be important somewhere in the process.

45

MR CONDE: In light of the fact that KPMG's reports of 16 May 2018 were expressed as final, do you agree that the independent audit process was

undermined by management subsequently seeking to question and disagree with KPMG's findings?

5 **MR HEAP:** I don't think it was undermined. As I said earlier, Mr Conde, had - had changes been made to, for example, water down the findings, that would be a very different thing. I also agree with you that - that - that the fact that this - this engagement with the CEO happened after it had come to the audit committee was, frankly, clunky - or was - was just poorly handled. But - but I don't believe that it undermined the - the independence of the audit - of the
10 KYC - or the AML/CTF program.

MR CONDE: Is it correct, Mr Heap, that you feel the CEO should at least be given an opportunity to comment on factual accuracy?

15 **MR HEAP:** No. Well, it - it - it may be he has a view on factual accuracy, and so - I'm - I'm wary of semantics there because if it's factually accurate, it's factually accurate. And what was clear is that no changes were made and, therefore, there wasn't a question as to factual accuracy. My - my view as to what happened here was it was actually a question of the CEO had been out of that
20 process and felt it was important that he had a chance to understand the findings and understand the process. As I say, that should have happened in advance of - of 14 May, and it was poor that it happened afterwards.

25 **MR CONDE:** Are you aware, Mr Heap, that one of the principal issues KPMG identified was that people who came into the casino with hundreds of thousands of dollars of cash were not being automatically assessed as higher risk?

MR HEAP: Yes.

30 **MR CONDE:** And do you agree that KPMG's analysis gave rise to an opportunity for Star Entertainment to say, "Well, here are external advisers in KPMG saying that Star is letting in people with large amounts of cash without flagging them properly. We should check to see who has been let in thus far and whether any existing relationships need to be stopped"?
35

MR HEAP: I - I think that's a fair point, Mr Conde. I - I haven't turned my mind to that point before now. It's - it's - it's a good point.

40 **MR CONDE:** If we were to go to exhibit B794 - that's STA.3001.0001.2750 - and if we can go, please, to page - pinpoint 2767. And it's the last bullet point. If we can bring that up, please. There's a red box marked "high" at the top, but last bullet point:

45 "Through our interviews, we note that customers are not formally risk assessed based on the amount of money they bring into the casino and this is not documented as an ML/TF risk factor. The New South Wales AML administrator informed us that a customer who brings hundreds of thousands

of Australian dollars in large sums of money would not automatically be classified as high risk (or critical risk in SGR's terms)."

And then they say:

5

"In our view, customers who bring in large amounts of money should be reconsidered higher risk, unless SGR is reasonably satisfied that they have legitimate and known sources of income."

10 And then, in fact, footnote 20 - do you see that that's in that final bullet point. And then if we go down to footnote 20. And it says - do you see it says:

15 "Although customers who bring in \$100,000 plus in cash are referred to the AML administrator for consideration and the New South Wales AML administrator has advised that he would consider a customer bringing in \$250,000 as potentially suspicious."

Do you agree that this is a serious finding?

20 **MR HEAP:** Yes.

MR CONDE: And do you accept that if Star Entertainment, having seen this, had raised that question I asked you earlier about, "Well, you know, who have we let in? Who do we have an existing relationship with that might need to be stopped?",
25 at this time, May 2018, Star would have been on chains of inquiry going to the issues of Suncity, Salon 95 and Huang Xiangmo to which I've taken you?

MS RICHARDSON SC: I object to that question.

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

MS RICHARDSON SC: Well, the premise of that - that question involves premises that have not been put to this witness in relation to Huang Xiangmo, Salon 95 and so on, suggesting that this aspect of the KPMG report is relevant to
35 all of those persons. None of those integers have been put to this witness.

MR BELL SC: I accept that has some force in relation to Huang Xiangmo. But hasn't there been a mountain of evidence about the large amounts of cash that were being brought into Salon 95 at roughly this particular point in time?
40

MS RICHARDSON SC: But there's no evidence supporting the quantum of that cash and whether it dovetails into this finding of KPMG.

MR CONDE: Mr Bell, I will rephrase the question so that the objection doesn't
45 arise.

MR BELL SC: Yes.

MR CONDE: Mr Heap, I asked before about whether this presented - this question of people coming into the casino with large amounts of cash and not being flagged as suspicious gave rise to an opportunity for Star to turn around and say, "Well, who have we let in thus far and who do we have a relationship with that might need to be stopped?" Do you agree that that opportunity arose?
5

MR HEAP: Yes. I think that it gave rise to that opportunity.

MR CONDE: And if Star had been asking, "Well, are there any relationships which need to be stopped?" - irrespective of amounts of cash - or that precise issue of, you know, hundreds of thousands of dollars of cash coming in. But if Star was asking a more general question around, you know, "Can we do a stocktake of who we have relationships with that might need to be stopped?", that sort of inquiry is going to raise the issues that I've taken you to today in relation to Suncity, Salon 10
15 95 and Mr Huang Xiangmo?

MR HEAP: Well, my understanding - my understanding was that junket participants - and I'm not sure of Mr Huang Xiangmo, but I presume he was a junket participant - were automatically classified for a higher level of due diligence under our ECDD standard. Now, the ECDD standard was not in place at this point in time. It was one of the findings - or one of the takeouts from this report was a very significant uplift in our AML program, which came into effect about 12 months later in - I'm going to say August 2019. It may have been May 2019. Which I think was - from memory, was version 9 of the program. It included that ECDD standard.
20
25

And that meant that any participants in junkets were automatically lifted to a higher level of due diligence, which, if I'm not mistaken, included a source of wealth or source of funds confirmation. That - that was part of ongoing improvement which - which played through. And once that came into effect, Mr Conde, it automatically looked back because as - as each participant then gambles in the casino, you automatically renew that ECDD assessment. So - so I think that work was happening. I - I can't tell you exactly the timeframes, but I do believe that was part of the uplift that has played out since this time.
30
35

MR CONDE: Do you agree that the KPMG reports in May 2018 gave Star Entertainment an opportunity, first of all, to do the obvious thing of addressing the specific analysis and recommendations in KPMG's reports and, further, Star Entertainment did that, at least after August 2018?
40

MR HEAP: Yes.

MR CONDE: But do you agree also that there was a further opportunity, which is - which was for Star Entertainment to recognise that it had a potential historical issue of having done business with people with whom it should not have done business and to work to identify that and any ongoing relationships which should be stopped?
45

MR HEAP: Yes, I - I - I agree that that could have given rise to that. And as I say, I think the subsequent work did allow Star to ensure that it wasn't dealing with - with those individuals. But - but to the best of my knowledge, there wasn't a historic exercise that went on at that time.

5

MR CONDE: On that question of a look-back, are you aware that in late July 2019 and August 2019, a series of allegations were aired in the media about Crown Resorts?

10 **MR HEAP:** Yes.

MR CONDE: And in particular, allegations were made that some of the junkets with which Crown Resorts dealt were unsavoury?

15 **MR HEAP:** Yes.

MR CONDE: And that money laundering incidents had occurred in the Suncity room in Crown Resorts in Melbourne?

20 **MR HEAP:** Yes.

MR CONDE: And that Crown Resorts in Melbourne had turned a blind eye to money laundering?

25 **MR HEAP:** Yes.

MR CONDE: Do you recall raising the question with your board colleagues, or anyone else at Star Entertainment, whether similar things could have happened at Star properties?

30

MR HEAP: Yes. Well, I think immediately following that, Mr Conde, we - we had that - we had a board meeting on or around 7 August 2019, if I remember correctly, and - and then one on the 13th or 14th - I don't remember those dates precisely - where a paper was presented to the board that went through the individuals that had been named and - and provided - sought to provide the board with comfort in relation to Star's practices with respect to those individuals.

35

MR CONDE: Are you aware that then in early October 2021, a series of allegations were aired on 60 Minutes and in the Sydney Morning Herald and Age newspapers about Star Entertainment?

40

MR HEAP: Yes.

MR CONDE: And perhaps if I can show you what I believe is the first of the Herald articles. It's exhibit B3156. That's in pinpoint INQ.014.001.0005. Do you recall reading this article at the time?

45

MR HEAP: I would have. I don't recall immediately what was in it, but I know the broad context of it.

5 **MR CONDE:** Do you recall that the allegations included an issue being raised in relation to KPMG's 2018 reports, and they were said to be highly critical of Star Entertainment's AML program?

MR HEAP: Yes.

10 **MR CONDE:** And if we can go, please, to pinpoint 0006, and just over the page. If we can go, please, to the last paragraph on that page. Do you see it says:

15 "The Age, Herald and 60 Minutes investigation has found that between 2014 and 2018, Star Entertainment allowed Chinese high-rollers to use special Chinese debit and credit cards to withdraw hundreds of millions of dollars in funds from Star's hotel properties in a manner which disguised gambling activity as hotel expenses."

20 **MR HEAP:** Yes.

MR CONDE: Do you recall reading that at the time?

MR HEAP: Not specifically, but - but I would have at the time, Mr Conde.

25 **MR CONDE:** Would you agree that that in and of itself is an extremely serious allegation?

30 **MR HEAP:** Well, I would have understand that to referring to the CUP matter, which I was aware of at that time.

MR CONDE: And would you agree that that is an extremely serious allegation?

35 **MR HEAP:** Well, I - I - I definitely felt the CUP matter was extremely serious, yes.

MR CONDE: And is it - would you agree that that paragraph, subject to at least one clarification, which is that the reference there to 2018 might better be March 2020, but otherwise would you agree that this paragraph is correct?

40 **MS RICHARDSON SC:** I object. I think the reference to "credit cards" should also be deleted.

MR BELL SC: Yes, I think that's right.

45 **MS RICHARDSON SC:** I ask to be --

MR CONDE: Well, Mr Bell, I'm happy to make that clarification to the witness, but I was only thinking - I believe Mr Heap said his understanding of CUP cards earlier included a credit element.

5 **MR BELL SC:** I think, in fairness, you should make that clarification in the question.

MR CONDE: Yes. So, Mr Heap, I pointed out the 2018 matter, and also the reference there to "and credit" ought to be deleted. But apart from those two
10 clarifications, would you agree that this paragraph is correct?

MR HEAP: So I - I would have also drawn attention to the credit point. I did know CUP cards were used in different ways. From my understanding, though, it was - the debit card was used in our context. I would - I would say the dates are
15 wrong. I would say that reference is wrong. So, broadly, I would say that that - this media speculation is pointing in a direction without being, you know, specifically accurate. And it was pointing in the direction of the CUP matter of which I had been made aware about a month earlier. And, you know - and - and I've already expressed my views on the CUP matter.
20

MR BELL SC: But you had, in fact, been made aware by this time that CUP cards were being used at Star Entertainment properties to withdraw hundreds of millions of dollars in funds from hotel properties in a manner which disguised gambling activities as hotel expenses, hadn't you?
25

MR HEAP: Yes. Yes, through the report that had been provided to the board.

MR BELL SC: Yes. Yes, Mr Conde.

30 **MR CONDE:** And would you agree that - would you understand, and having regard to your extensive financial experience, that the most serious part of this allegation is the part about withdrawal of hundreds of millions of dollars from hotel properties in a manner which disguises gambling activity as hotel expenses?

35 **MS RICHARDSON SC:** Well, I object. I think, in fairness, the witness hasn't been taken to all of the allegations in the article, which is a laborious process. But if it's going to be put that out of all the allegations that are put that there's some character on a particular allegation, the witness should be allowed to read the article. That's --
40

MR BELL SC: Ms Richardson, my understanding is that counsel assisting's question was that the gravamen of the allegation here is that hundreds of millions of dollars had been withdrawn which disguised gambling activity as hotel expenses. I think the question is fair, and I will allow it.
45

MR HEAP: Mr Conde, my - my understanding of this point - I - as I say, I focused in on the CUP aspect of it and saw this as a reference to CUP. I didn't focus on the withdrawal of hundreds of millions of dollars of funds other than

withdrawal across to be used for gambling activities. So - so I saw this as referring to the fact that funds were being moved from hotel accommodation across to be used to gamble.

5 **MR CONDE:** Yes. I should clarify, Mr Heap. First of all, I'm referring just to this paragraph. So I'm not referring to its - how it relates to the rest of the allegations. But just in this paragraph, and having regard to your financial experience, your extensive employment history with banks and relationships and so forth, would you agree that the substance - or the most important - most serious part of this
10 paragraph - of the allegation in this paragraph is the fact of hundreds of millions of dollars being withdrawn from hotel properties in a manner which disguised gambling activity as hotel expenses?

MR HEAP: So as I said at the start, Mr Conde, I don't have a direct recollection
15 of reading this article. I wasn't - I accept I would have read it at the time, but I wasn't reading it for its factual accuracy. In reading that paragraph, I see the point you are making now about that it's - it's - it could be read as referring to withdrawing money, I presume in the context of - of - of money laundering. I - I would have read this paragraph in the context of the CUP matter, and that's what
20 would have - my mind would have gone to, my understanding of what was going on with CUP.

MR CONDE: Yes. Mr Heap, we may well be at cross-purposes. Accepting that this is a reference to CUP --
25

MR HEAP: Yes.

MR CONDE: -- and the use of CUP in the manner that we've spoken about today, would you agree that in this paragraph, the most - the substance and the most
30 serious part of the allegations - or what is suggested in this paragraph is the use of - is the - or is the use of cards - the CUP cards --

MR HEAP: Yes.

35 **MR CONDE:** -- to withdraw hundreds of millions of dollars in funds from hotel properties in a manner which disguises gambling activity as hotel expenses?

MR HEAP: Yes, I would accept that. Yes.

40 **MR CONDE:** And indeed - and that substance - or that - that - to use Mr Bell's word, the gravamen of that allegation, which I've just suggested to you, was correct, was it not?

45 **MR HEAP:** I'm sorry. Would you - would you just mind saying that question again?

MR CONDE: Well, I suppose if I put it another way. It's correct that CUP cards had been used to withdraw hundreds of millions of dollars from hotel properties in a manner which disguised gambling activity as hotel expenses?

5 **MR HEAP:** Yes. Yes.

MR BELL SC: And you were aware of that by the time this article was published, were you not?

10 **MR HEAP:** Yes, I was - I was aware of it from - from the - the --

MR BELL SC: So you were aware the media were making a serious allegation which, in substance, you understood to be true?

15 **MR HEAP:** Yes, I was - I was aware of that. Yes.

MR BELL SC: Yes, Mr Conde.

20 **MR CONDE:** If we can then go to pinpoint 0010. And if we could ask that the last paragraph on this page be brought up, please. Do you see that it refers - the last paragraph refers to "links to" - and then in that last paragraph towards the end:

25 "Australia's most infamous alleged foreign-interference agent and political donor, billionaire property developer Huang Xiangmo, the man whose relationship with former Labor senator Sam Dastyari led to the end of the Australian's political career. Mr Huang, along with at least two other members of his Australian-based Chinese Communist Party lobbying organisation, were high-rollers at Star for several years."

30 Do you recall this allegation being made at the time?

MR HEAP: I have some recollection of it.

35 **MR CONDE:** Do you recall that the article referred to Suncity and raised a question whether Star should have been doing business with Suncity in light of adverse information in relation to Crown?

MR HEAP: Yes. I - I believe I have a recollection of that.

40 **MR CONDE:** And if we can go, please, to pinpoint 0008 of this document. Under the photo - if we can go to the second and third paragraphs - do you see it says:

45 "In 2020, Star's managers were also busy cutting deals with another entity accused of links to organised crime, a high-roller tour junket company called Suncity. Crown Resorts was excoriated in the media in 2019 for dealing with the Macau company because of its links to Asian organised-crime gangs and suspected money laundering. In August that year, it was also revealed that Suncity's chief executive, Alvin Chau, had been banned on character grounds

from entering Australia by the Federal Government. But asked at the time if the casino would continue doing business with Suncity, CEO Matt Bekier said, 'Why not?'"

5 Do you recall reading that information at the time?

MR HEAP: At the time of this story.

10 **MR CONDE:** And do you recall that the publications referred to China UnionPay cards being used by Phillip Dong Fang Lee to use millions - to move millions of dollars from China to Australia?

MR HEAP: I - I don't recall that directly, Mr Conde.

15 **MR CONDE:** In fairness, I will just go to 0011.

MR HEAP: I accept it's there.

20 **MR CONDE:** It's the penultimate paragraph:

"A Star source said one of the men, Phillip Dong Fang Lee, used Star's China UnionPay card system to move millions of dollars from China to Australia around 2014/2015."

25 Does that help your memory?

MR HEAP: Yes. I don't recall focusing on - on that name or most of the names at the time.

30 **MR CONDE:** Do you agree that these allegations in general, but also the specific ones I've taken you to, were, in general terms, extremely serious?

MR HEAP: Yes.

35 **MR CONDE:** And did these allegations appear to you at the time to raise questions about the character, honesty and integrity of at least some operations at Star Entertainment's casinos?

40 **MR HEAP:** Not that - not these allegations per se. I - my - my confidence had been - had been shaken by the - the - the CUP report that had - had been presented in September, a month earlier than this, when - you know, when I felt information had - was being shared as to activity that had happened from 2013 to 2020 that the board had been in the dark in respect of. And so I - I already had a concern. I don't think these allegations per se changed that position.

45

MR CONDE: Now, this article was dated 10 October 2021. By that time, you were aware, weren't you, that one of the journalists, Mr Nick McKenzie, had sent queries and a request for comment to Star Entertainment?

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

5 **MR CONDE:** And by this time - 10 October 2021 - Peter Jenkins, the group executive of external affairs, had told the board three things in relation to Mr McKenzie's queries, and I will just run them through one by one. Mr Jenkins had told you, had he not, that, first of all, Mr McKenzie's queries were based on sound knowledge of the circumstances. Do you recall that?

10 **MS RICHARDSON SC:** I object to this. I know I should wait for the question, but it will take a while to get through. I think the document should be put to the witness because there's ambiguity about what, in fact, was said.

15 **MR BELL SC:** It's probably going to be the shortest route home, Mr Conde.

MR CONDE: All right. If we could have STA.3029.0002.0063 brought up, please. And do you see, Mr Heap, this is minutes of meetings of directors dated Friday, 8 October 2021?

20 **MR HEAP:** Yes.

MR CONDE: And you were there; correct?

25 **MR HEAP:** Yes.

MR CONDE: As was Peter Jenkins, group executive of external affairs?

MR HEAP: Yes.

30 **MR CONDE:** And - I apologise, Mr Bell. This is exhibit H469. Now, if we go to the - do you see there's an entry:

"Media matters, 60 Minutes report and press articles by Nick McKenzie, 10 October 2021."

35 **MR HEAP:** Yes.

MR CONDE: Now, what I was suggesting to you was related to that final - do you see the final entry - the final paragraph within the bullet points:

40 "In Peter Jenkins', group executive external affairs, discussions with the journalist, Mr McKenzie, he noted that in his view - "

45 First bullet point:

"The allegations are based on sound knowledge of the circumstances."

MR HEAP: Yes.

MR CONDE:

5 "There is reason to believe integrity issues exist within The Star."

MR HEAP: Yes.

MR CONDE:

10 "And from speaking with people at The Star they are concerned."

MR HEAP: Yes.

15 **MR CONDE:** Now, what, if any, recollection do you have of Mr Jenkins's presentation as recorded here in the minutes?

MR HEAP: I - I don't have a memory beyond - beyond what's - what's detailed there.

20 **MR CONDE:** When it says "in Peter Jenkins' discussions, he noted that in his view", are you able to assist Mr Bell as to who the "he" and the "his" are?

MR HEAP: I believe this was Mr Jenkins's discussion with Mr McKenzie.

25 **MR CONDE:** And the bullet points - the "his view" which introduces the bullet points, is that Mr Jenkins's view or Mr McKenzie's view, or do you not recall?

MR HEAP: I believe this is Mr Jenkins's view.

30 **MR CONDE:** And so, in particular, in circumstances where Mr Jenkins has expressed these opinions to you, do you agree that you and your board colleagues had every reason to take the allegations seriously?

35 **MR HENRY SC:** I object. That question, Mr Bell, was in circumstances where Mr Jenkins expressed something. The previous answer was "I believe". What is being referred to in the minute is Mr Jenkins's view. What was not put to the witness, and what could still be put to the witness, is who said what about this at the meeting.

40 **MR CONDE:** Well, perhaps I will put it this way. Mr Heap, you've mentioned your belief of what this records. Does this language, and understood the way that you believe it records developments, accord with your own memory of the meeting?

45 **MR HEAP:** Mr Conde, I don't have a clear memory of this. And so I'm interpreting what is here in the minutes.

MR BELL SC: Well, let me ask you this, Mr Heap, just so I'm clear about it. The three bullet points, should I understand that as Mr Jenkins expressing Mr McKenzie's view or Mr Jenkins expressing his own view?

5 **MR HEAP:** I believe this was Mr Jenkins expressing his view after having spoken to Mr McKenzie.

MR BELL SC: Yes. Thank you.

10 **MR CONDE:** And having regard to those minutes, and having regard to your belief as to how those minutes should be interpreted, do you agree that you and your board colleagues had every reason to take the allegations seriously?

MR HEAP: Yes. I think we were already.

15 **MR CONDE:** If I can show you Star Entertainment's 11 October 2021 ASX release. This is exhibit H473, and the pinpoint is INQ.003.006.0539. Do you recall approving this ASX release?

20 **MR HEAP:** Yes.

MR CONDE: Did you do so by email?

25 **MR HEAP:** I don't recall if we did by email or in a meeting, Mr Conde, I'm afraid.

MR CONDE: Whether by email or in a meeting, do you agree that you approved it?

30 **MR HEAP:** Yes.

MR CONDE: Now, do you see the second paragraph of this announcement, it says:

35 "The Star is concerned by a number of assertions within the media reports that it considers misleading."

MR HEAP: Yes.

40 **MR CONDE:** And how would you understand the word "misleading" to mean - sorry. What would you understand the word "misleading" to mean?

MR HEAP: Lacking in clarity.

45 **MR CONDE:** And at this time - 11 October 2021 - what, if any, assertions within the media reports did you consider to be lacking in clarity?

5 **MR HEAP:** Well, the - the - the one we specifically discussed was the CUP related one. I thought was - was seeking to talk to a particular item which was CUP, but was - had a series of inaccuracies within it. I don't have the rest of the story in front of me, but my - my view at the time was that there was a - a level of sensationalism in that article that - that didn't accurately reflect the situation as we saw it.

10 **MR BELL SC:** Mr Heap, "misleading" means a great deal more than just lacking in clarity, doesn't it?

MR HEAP: It's probably right, Mr Bell. It's - it's - it's lacking in clarity and pointing in the wrong direction, perhaps.

15 **MR BELL SC:** Yes. Surely the suggestion that it's misleading means at least that you considered that a reader might be led to reach the wrong conclusion?

MR HEAP: Yes, I would agree with that.

20 **MR BELL SC:** Yes, Mr Conde.

25 **MR CONDE:** And in relation - you've mentioned the CUP matter. Haven't you accepted that the substance of that allegation recorded in that paragraph I showed you in relation to disguising hundreds of millions of dollars of funds as hotel expenses was correct?

30 **MR HEAP:** Well, I think in the discussion around that point, it was clear to me that it didn't clearly define that particular matter. My memory of the rest of the article was there were various comments and - and - and statements made that - that I - I think the rest of the board - didn't feel accurately reflected the circumstances or the position we were in at that point.

35 **MR BELL SC:** But didn't you tell me just a few minutes ago, Mr Heap, that you understood that the media were making a serious allegation about CUP which, in substance, you understood to be true?

MR HEAP: Yes, I did. That's - that's what I've said, Mr Bell, and I - I haven't changed that.

40 **MR BELL SC:** Right. So I think the point that counsel assisting is making is that this ASX release, which you approved, made no mention of the fact that you understood that the media had made serious allegations which you understood to be true.

45 **MS RICHARDSON SC:** Well, I, with respect, object to that question.

MR BELL SC: What's the objection?

MS RICHARDSON SC: I'm happy to do it in the absence of the witness. I'm happy to do it in the absence of the witness.

MR BELL SC: That's all right. I will allow Mr Conde to proceed.

5

MR CONDE: Mr Heap, do you accept that at this time, even if there were allegations in the media which you considered were likely to lead readers or viewers into error and thus be misleading, there were other allegations which you thought were substantively accurate?

10

MR HEAP: The answer to that is yes, Mr Conde. There were definitely allegations which were substantively accurate. I think, overall, the concern I had was that many of the allegations - perhaps all of the allegations - referred to historic matters, and that wasn't made clear at all in the article. And - and at its heart, our - our intent with an update like this is to make sure that the market understands where the company is today. And - and at this point, and with the media allegations in the market, our concern was that investors would consider that these were all current and live issues. They were - I'm not resiling from the fact they were issues - historic issues that had to be dealt with, but they weren't issues that were impacting the - the company as it sat today.

15

20

MR BELL SC: And hadn't the media article in relation to CUP identified a time period of 2014 to 2018 which, in fact, was less than the true period?

25

MR HEAP: Yes, that's true, Mr Bell. That - that one had identified a time period.

MR BELL SC: So it had identified a past practice which raised serious allegations which you, in substance, understood to be true?

30

MR HEAP: Yes, I agree with that, Mr Bell.

MR BELL SC: Yes, Mr Conde.

MR CONDE: And I appreciate it's late in the day, but if I can just finish on this. Do you agree, Mr Heap, that - you've accepted before that there were allegations that you might have considered to be misleading. There were allegations which you accepted were substantively accurate. Do you agree that this ASX release makes mention only of the allegations which you considered to be misleading and makes no mention of allegations which were substantively accurate?

35

40

MR HEAP: That's true.

MR CONDE: And do you agree that when you mention a distinction between current and historical issues, this ASX announcement does not draw that distinction; for example, the board doesn't say, "The Star is concerned by a number of assertions which suggest that they are current, but they are not. They are historical"?

45

5 **MR HEAP:** I think what - I think the point we were trying to achieve with this announcement was to make sure the market understood that - that we didn't accept all of the findings. Obviously, we didn't. In - in saying The Star is concerned of a number of assertions which it considers misleading, we weren't seeking to define ones that we considered to be accurate. We were simply seeking to - to make sure the market understood that we didn't agree holus with what was in the - the media assertions and to make clear that we would be working with the Bell Inquiry in terms of the addressing the matters.

10 **MR CONDE:** Are you concerned, reading this now, that by focusing on the matters you considered to be misleading as opposed to the matters you considered to be substantively accurate, the ASX announcement of 11 October was itself misleading?

15 **MR HEAP:** I don't believe it was, Mr Conde.

MR CONDE: Mr Bell, is that a convenient time?

20 **MR BELL SC:** Yes. I will adjourn until 2 pm tomorrow.

<THE HEARING ADJOURNED AT 5:02 PM