



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, 24 MAY 2022
AT 10:00 AM**

DAY 35

**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**

**Witness
JOHN ANTHONY O'NEILL**

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<THE HEARING RESUMED AT 10:04 AM

MR BELL SC: Mr O'Neill, you remain bound by the oath you took yesterday.

5 **<JOHN ANTHONY O'NEILL, ON FORMER OATH**

MR O'NEILL: Yes, Mr Bell.

MR BELL SC: Yes, Ms Sharp.

10

MS SHARP SC: Mr Bell, just before I ask some more questions of Mr O'Neill, could I tender some further documents. You should have in front of you an index marked Part K with nine tabulated documents referred to. I tender that index, and each of the documents it refers to, as exhibit K.

15

MR BELL SC: Those documents will be exhibit K1 to K9.

MS SHARP SC: Thank you, Mr Bell.

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

MS SHARP SC: Mr O'Neill, yesterday you expressed some regret over the competency of some Star executives and said that they had been appointed beyond their competencies. Who were the people you were referring to?

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MR O'NEILL: And obviously, Ms Sharp, I said that with - with the caveat with the benefit of hindsight, but I think Mr Houlihan, for example, is a person of good character and good intent and someone I've known for a long time, who originally, I think, started running the investigations unit and was promoted up the line into a senior position covering AML and CTF. Also, I think, Graeme Stevens, who I don't know well, but was a long-serving Star employee - I think 20-odd years or so - had started off, I've now been told, in the cage but over time was promoted to a senior position in charge of compliance. So that's an example of - of two people in two critical positions where, through no fault of their own, in a sense, they were promoted into bigger and bigger roles over a period of time. And, you know, with the benefit of hindsight, the organisation should have given more thought to training and upskilling them for that role or, indeed, seek - do a search in the broader marketplace for people with, you know, a particular skill set in those areas.

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MS SHARP SC: Are they the only two staff members who you consider were appointed beyond their competencies?

45 **MR O'NEILL:** Well, it's in a different sort of genre, Ms Sharp, and it's not about competency. This is more about a mistake by - really, by the top management. And those very senior appointments to the executive committee of the company are made by the managing director, who would consult with the board, but ultimately it was his decision. When Paul McWilliams departed the company as

chief risk officer, Paula Martin, who had done an outstanding job as general counsel and company secretary, was in line for a promotion to the chief risk officer's position. And the decision was taken to combine the two functions, such that her job was chief legal and risk officer. With the benefit of hindsight, it was not the right combination. Legal should have been kept quite separate from risk and compliance. And we have since - we have since rectified that. There's an interim chief risk officer, James Gough, and an interim chief legal officer on secondment from KWM, Neil Carabine.

10 Back to Paula, again with the benefit of hindsight, I think we were asking too much of her to cover the full suite of responsibilities under legal and risk. Again, with knowledge I've since, you know, been more familiar with, she may have had up to nine people reporting to her. An incredibly hard-working, intelligent, industrious, loyal person, but I think the - she had - you know, with the benefit of
15 hindsight, she didn't have sufficient background and experience in the risk and compliance space, which, as we've seen now, that that's an area where we require extremely specialist skills, people with a good background knowledge of - of risk, the systems that support risk, the whole AML/CTF space. And it - Paula, you know, as I said, tried extraordinarily hard and worked extremely long hours, but I
20 think it was a fundamental mistake by the company to combine the two roles.

MS SHARP SC: And if I could just take you to your first statement for a moment, please, Mr O'Neill. If I could have that brought up and show you paragraph 68. And, operator, you will need to go over two pages to show the whole of paragraph
25 68. It starts at page 22. And I will have this highlighted for you, Mr O'Neill. Now, in that paragraph, you set out what you then regarded as the benefits of having legal, compliance and risk functions headed by the same person, and you said it helped breakdown information silos. And that, in your view, at the time of that statement, Ms Martin's appointment as chief legal and compliance officer had
30 resulted in a marked improvement in the rigour and quality of Star Entertainment's management of risk, legal and compliance issues, but particularly risk. May we take it you no longer hold those views?

MR O'NEILL: That's correct.
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MS SHARP SC: And when did you cease to hold those views?

MR O'NEILL: My witness statement was signed on 4 February, and in the course of preparation for this examination, I've had the benefit or the burden of reviewing
40 documentation and issues that have emerged that have caused me to review my --

MS SHARP SC: And, Mr O'Neill, you've referred to Mr Houlihan, Mr Stevens and Ms Martin in expressing a view that some employees were appointed beyond their competencies. Is there anybody else that you add to that list?
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MR O'NEILL: Look, Ms Sharp, as the non-executive chairman, you - my exposure is largely to the members of the executive team under Matt Bekier. And below that, you would not expect non-executive directors to go to the next level

of - of management team. But in - I can't remember the exact date. We engaged Spencer Stuart to do a talent assessment of our executive leadership team of about 13 people, and that assessment concluded that they were a high-quality management team. It was designed also to put the board in a better position to do succession planning for Mr Bekier. So I can't, off the top of my head now, Ms Sharp, nominate other people that are in the category of who have been - of having been promoted beyond their level of competence.

MS SHARP SC: And just in relation to that report of Spencer Stuart, that's the report you refer to at paragraph 71 of your first statement, and it was a report that was commissioned in early 2021, right?

MR O'NEILL: That's correct.

MS SHARP SC: And it referred to 13 senior executives, relevantly including Mr Hawkins, Ms Martin and Mr Theodore?

MR O'NEILL: Yes.

MS SHARP SC: And it's fair to say that firm, Spencer Stuart, expressed very positive views about those three executives in particular?

MR O'NEILL: Yes.

MS SHARP SC: Now, you mentioned Mr Houlihan in an answer you gave earlier today. Is the position that he is still employed by Star Entertainment?

MS RICHARDSON SC: Could I just raise a matter as to whether this could be dealt with in private session, please?

MR BELL SC: Yes. I'm happy for that to be in private session. Perhaps you could deal with that at the end, Ms Sharp.

MS SHARP SC: Yes. I will come back to that. Now, a number of people have resigned in recent times from Star Entertainment. Is it correct that the board of directors solicited a number of those resignations?

MR O'NEILL: The board of directors, under the heading of "procedural fairness", waited until the various people you're referring to had given their evidence before Mr Bell and then, with external legal advice from KWM through their employment lawyers, there was an examination of the transcripts of the evidence given. A report was tendered - our - our - our people and performance head, Paula Hammond, was also involved in the review of the transcripts. There were, you know, identified issues, findings and conclusions in respect of those that had given evidence and a recommended way forward. The board - and it was up to a particular point in time. There have been a few others to give evidence since then. The board accepted the conclusions.

And in terms of those executive committee members who reported to me, I was given the authority to have a conversation with them to suggest they consider the option of resigning and a short period of time to think about that option. In the absence of resignation, they would be terminated with notice and their statutory entitlements. So in respect of Harry Theodore, Paula Martin and Greg Hawkins, the three executive committee people who reported to me, I had that conversation with them separately, accompanied by Paula Hammond, the head of people and performance. After a 48-hour time period, each of them tendered their resignations. People beyond that - those three were dealt with by Paula Hammond as the head of people and performance, and she is continuing to deal with that list of people.

MS SHARP SC: I'm going to move now to ask you some questions about risk management, Mr O'Neill. First of all, do you agree that the following documents form part of Star Entertainment's overarching risk management framework: first of all, the company's constitution?

MR O'NEILL: Yes.

MS SHARP SC: Secondly, the company's corporate governance statement?

MR O'NEILL: Yes.

MS SHARP SC: The code of conduct?

MR O'NEILL: Yes.

MS SHARP SC: The directors' terms of reference?

MR O'NEILL: Yes.

MS SHARP SC: And the compliance policy and framework document?

MR O'NEILL: Yes.

MS SHARP SC: Now, it's correct, isn't it, that during the relevant period, being the period from November 2016 until the present, Star Entertainment has also had a specific risk management policy and risk management framework?

MR O'NEILL: That's correct.

MS SHARP SC: And relevantly, a risk management policy and a risk management framework were approved by the board in December 2017, and a further version of that policy and that framework were approved by the board in August of 2020?

MR O'NEILL: That's correct.

MS SHARP SC: Are you able to tell us what the reasons were for adopting a new risk management framework and a new risk policy in 2020?

5 **MR O'NEILL:** Well, Ms Sharp, the - the normal practice with - with, you know, policies of whatever nature is they're - they're subject to regular, if not annual, reviews, no matter what the policies are. If they're - the board's responsibility is to, you know, set the policies, set the framework, but to ensure that they're reviewed as regularly as needed such that they're fit - fit for purpose. In this particular space, 10 to the best of my recollection, the upgrading of the documents to which you refer would have been reflective of the changing circumstances. What was the date again, Ms Sharp, that you mentioned?

MS SHARP SC: They were updated in August of 2020.

15 **MR O'NEILL:** That may well have been off the back of what was coming out of the Bergin Inquiry. But the fact of the matter is that an attentive board would be ensuring that the policies are as up to date and as contemporary as possible.

20 **MS SHARP SC:** Now, Mr Sheppard gave evidence at transcript page 3226 to the effect that the main purpose of revising the policy and the framework in August 2020 was to make the documents simpler and easier to understand. Do you agree with that?

25 **MR O'NEILL:** Yes.

MS SHARP SC: Now, I think you said that you were an ex officio member of both the board risk and compliance committee and also the audit committee?

30 **MR O'NEILL:** Correct.

MS SHARP SC: And it's right that they generally met four times per year?

MR O'NEILL: Yes.

35 **MS SHARP SC:** And it's the case, isn't it, that they generally met immediately before board meetings occurred?

40 **MR O'NEILL:** Generally, yes, except with the audit committee - audit committee meeting at the half year and the full year. The committee would meet about a week before the actual board meeting to get early line of sight on the accounts and - and then, if needed, would meet again just before the board meeting.

45 **MS SHARP SC:** Is it correct that it was the board risk and compliance committee that was responsible for identifying risks?

MR O'NEILL: Yes.

MS SHARP SC: Can I show you the risk management policy from December 2017. This was the one that applied up until August 2020. Could I call up exhibit D, tab 11, which is STA.3402.0002.8118. And I take it you're familiar with this document, Mr O'Neill?

5

MR O'NEILL: Yes.

MS SHARP SC: Now, could I take you to pinpoint 8120.

10 **MR O'NEILL:** If it could be blown up a bit, please.

MS SHARP SC: Certainly. Operator, could you blow up the second half of that page, from the heading Responsibilities. Now, Mr O'Neill, it's correct, isn't it, that this part of the risk management policy sets out the respective responsibilities of different entities within Star Entertainment for identifying and managing risk?

15

MR O'NEILL: Yes.

MS SHARP SC: And if I could just ask you to read that page, and I will take you over to the next. I would just like to know if what is set out here is consistent with your understanding of what those entities' respective responsibilities were. So let us know when you're ready to turn the page.

20

MR O'NEILL: Yes. Yes.

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MS SHARP SC: And then could I have the operator show you the second half of that page, from the Group Risk heading to the Divisional Business Units heading.

MR O'NEILL: Yes.

30

MS SHARP SC: Now, if I could take your attention to the heading Group Risk, you will see at the fourth dot point - or perhaps the fifth dot point is:

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"Report to the board risk and compliance committee and the management risk and compliance committee on the status of Star Entertainment's key risks."

Now, was this the function for which Paula Martin was ultimately responsible from mid-2019 when she assumed the responsibilities of chief risk officer?

40 **MR O'NEILL:** Yes.

MS SHARP SC: And then if we go back to the first page. If I could direct your attention, please, to the entry BRCC, which is the board risk and compliance committee. This is on pinpoint 8120, operator. And if I could ask that the operator go down to BRCC. Now, you see there, Mr O'Neill, that the board risk and compliance committee is charged with the responsibility of monitoring Star Entertainment's risk profile --

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MR O'NEILL: Yes.

MS SHARP SC: -- and also with monitoring the effectiveness of Star Entertainment's risk management processes. Did the board risk committee
5 discharge those responsibilities by receiving the reports from group risk and, in particular, Ms Martin?

MR O'NEILL: To the best of our ability, Ms Sharp.

10 **MS SHARP SC:** Is that a "yes"?

MR O'NEILL: Yes.

MS SHARP SC: And what form did those reports take that group risk, and in
15 particular Ms Martin, provided to the board risk and compliance committee?

MR O'NEILL: Well, Ms Sharp, you'd have to take me back to one of the board reports. But they are, you know, quite voluminous and --

20 **MS SHARP SC:** Well, in fact, I will take you back to a paper and I will see if this is the reporting style. Could I please call up STA.5003.0002.0172. And this is exhibit H, tab 39. Now, this is a report going back to the time where Mr McWilliams was the chief risk officer, on 24 May 2017.

25 **MR O'NEILL:** Yes.

MS SHARP SC: It's entitled Compliance Report. Is this the kind of report that was submitted from group risk to the board's risk committee to identify risks and assess those risks?

30

MR O'NEILL: Could I ask that the document be blown up, please?

MS SHARP SC: Yes.

35 **MR O'NEILL:** Yes.

MS SHARP SC: So this was the form the report took, was it?

40 **MR O'NEILL:** Well, it is a compliance report and it is in a form that I can recall.

MS SHARP SC: And did you understand that in order for group risk to prepare the compliance report, it would give a questionnaire to the relevant business units within Star Entertainment and have those units complete the questionnaire in order to identify risks?

45

MR O'NEILL: Yes.

MS SHARP SC: And is it correct that those completed questionnaires were not provided to the board risk and compliance committee?

MR O'NEILL: Correct.

5

MS SHARP SC: So, instead, what happened is the group risk unit provided an assurance to the board risk and compliance committee on the basis of the answers in those questionnaires?

10 **MR O'NEILL:** Correct.

MS SHARP SC: Could I take you to another document, which is STA.3141.0004.0766. I think it's not in evidence, so I might come back to that at another time. If you will excuse me for one moment. Mr O'Neill, did the audit committee have any role at all in terms of risk identification?

15

MR O'NEILL: Well, Ms Sharp, you earlier showed me the summary of - of the key responsibilities of each of the board subcommittees. At least once a year, maybe twice a year, there would be a joint meeting of the risk and compliance committee and the audit committee, which I tended to call a joint meeting of both houses, but we would bring together the two committees, under the joint chairmanship of whoever was the chairman, to attempt to ensure there were no gaps between risk and compliance and audit. Because there were - there were certain areas where there was potential for - certainly for overlap, but equally the potential - we wanted to avoid anything falling between the cracks. So, yes, that joint meeting of both committees was to ensure that as between audit's responsibilities and risk and compliance's responsibilities, we had picked up the responsibilities for - of both committees adequately.

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MS SHARP SC: Now, I will take you back to the risk management policy, which is exhibit D at tab 11, which set out the responsibilities of the various business segments for managing risk. If we could go back to section 6, please, operator. And you will recall, Mr O'Neill, that this goes over the page, and I can show it to you if you need me to. You accept that, knowing what you know now, there were significant breakdowns in the risk management framework at Star Entertainment?

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MR O'NEILL: Yes.

MS SHARP SC: Are you able to indicate where those breakdowns occurred in terms of the responsibilities that are assigned in this document? And let me know if you need to look at other pages to answer that question.

40

MR O'NEILL: Well, Ms Sharp, as you mentioned before, the - the process starts with the members of management, you know, filling out their forms and then it gets elevated up, eventually, through, you know, the risk committee and on to the board. Again, with the benefit of hindsight, it - it would seem to me that there may well have been some filtering of information, that it would have been best for it to have been presented in its raw form rather than a filtered form.

45

MS SHARP SC: And where was that happening? Was that happening at the group risk function? And perhaps I will go over to the next page, if I could, operator. So was that filtering happening at the point of group risk or at the point of the divisional business units or both?

MR O'NEILL: I'm sorry, Ms Sharp. I just can't be sufficiently certain as to where we had a breakdown in the system. The - you know, the intent always from a board level is to design and approve policies and frameworks that are well thought through and have - have the best of intent. The reality is those policies and frameworks and reporting requirements are only as good as the information that is - is put into them. You can have - you can invest in the best system money can buy, but unless the inputs are of high quality, then the outputs may not meet the desired purpose. It's a complicated and complex area. And as the non-executive chairman over a long period of time, I - you know, I did think we had a robust approach to risk and compliance and certainly audit. But now, with the benefit of hindsight, there were failures in the system. You know, precisely where and who by, I'm not able to say.

MS SHARP SC: Do you have any reflections on what can be done to improve the risk management framework at Star Entertainment?

MR O'NEILL: A substantial amount, and some of this is - some of the work in remediation and renewal work that I think Ben Heap in his evidence, you know, spoke to the substantial renewal program that is underway. But it's fair to say, Ms Sharp, that, you know, like the banks, we're underdone on risk and compliance and should have been alert to it earlier. But, you know, it's - it's a very fast moving and ever more sophisticated and complex function that businesses like ours, you know, have - have not moved quickly enough. I think we haven't invested enough. I'm not making excuses, Ms Sharp, but the - you know, we were - you know, two - two years of a pandemic - you know, we were closed down more than we were open across '20 and '21.

Prior to the pandemic, we'd had, for various reasons, a major cost-cutting program. And it may be - it may be, with the benefit of hindsight, that some of the cost cutting resulted in not enough attention, investment, being put into this critical area. It is a substantial amount of money that you have to put into better systems and processes and better people, and that is underway. You know, I continue to observe - you know, as we are essentially a duopoly between Star and Crown - you know, there aren't too many secrets in this industry. Crown risk and compliance function has gone from 30 people to close to 130 people in a short period of time, and that's the path we're on. We - we need to urgently upgrade, upskill, invest in far better fit-for-purpose proactive risk and compliance systems.

MS SHARP SC: And do you agree that there also needs to be a cultural commitment to risk management?

MR O'NEILL: That's without a doubt. Without any doubt, I - I think we - we need a risk - a risk champion. It's - it is, you know, the elevation and inculcation of risk into everyone's thinking. It is - it is a missing link which needs to be filled. You know, the - there's a slightly offbeat story, but Allan Moss who used to run
5 Macquarie Bank exceptionally successfully was interviewed, and I know Allan quite well. And someone said, "When you get up every day, Mr Moss, what do you think about?" His response was, "Risk." Not a bad story. And that's - you know, that's - if the - if the CEO of the company says every day he gets up out of bed and thinks "risk", that's the messaging we need.

10

MS SHARP SC: And you've referred a moment ago to "a missing link". Do you agree that one of the things that has been missing from Star Entertainment during the relevant period has been a cultural commitment to managing risk?

MR O'NEILL: Yes. I mean, culture in all its guises is about leadership. And whether it's "do the right thing" in its broader sense, but the inculcation of a risk culture - and the Pricewaterhouse risk and compliance review we had done back end of last year - and it's referred to in my witness statement, and I referred to it yesterday - was, you know, extremely insightful, in that - and it wasn't all bad. But
15 higher up the risk curve in that risk/reward ratio, the further you go up the risk curve, sometimes the rewards are not as attractive, and that's where your - your risk management skills are really needed. You know, the - those cultural issues were - were - were evident, that it wasn't - it - there wasn't a top of mind
20 acceptance of the imperative of risk management in the riskiest area of the business.

25

MS SHARP SC: And looking at it now, Mr O'Neill, do you think it can fairly be said that the board failed to inculcate and encourage a culture of risk management?

MR O'NEILL: Ms Sharp, I think we take our share of the blame.

30

MS SHARP SC: And where else does the blame lie, do you think?

MR O'NEILL: In terms of the inculcation of culture, as I said, in its various
35 guises, it's the board - look, the buck - the buck stops with the board on culture and - and - and the - the leadership team. You know, we - you know, we're - we're given the responsibility of governing the company, appointing - appointing the executives, monitoring their performance, keeping the business running as well as humanly possible for the benefit of all shareholders. And, you know, if - if there
40 are mistakes and errors that have been made, then, you know, the board has to take responsibility and accountability, as does the leadership team.

45

MS SHARP SC: Now, it's correct, isn't it, that it is for the board to approve the Star Entertainment's risk appetite statement?

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MR O'NEILL: Yes.

5 **MS SHARP SC:** Could I take you to the risk appetite statement, which is exhibit D at tab 20, being STA.3402.0002.8138. I should indicate this is the March 2017 version of the risk appetite statement, but it applied for much of the relevant period. You, of course, were one of the people who approved this risk appetite statement?

MR O'NEILL: Yes.

10 **MS SHARP SC:** And could I take you, please, to pinpoint 1995 of this document. I see there is a - if I could just ask to go over the page, please, operator. I've got the incorrect pagination for this document. Now, in terms of - what I'm showing you now are the - hang on, I have to go over the page. One more page, please.

15 **MR O'NEILL:** And it will have to be blown up.

MS SHARP SC: Yes. These are - what I'm showing you are six or seven different risk categories, and then for each risk category, there is a qualitative risk appetite statement. So how much risk Star Entertainment is prepared to take. Whereabouts would I place risks associated with money laundering and counter-terrorism financing within this framework?

MR O'NEILL: Is there any more to this document after --

25 **MS SHARP SC:** Yes. I will just have the rest of it - maybe the operator could minimise it just so you could see it in its entirety. So you will see there are six distinct categories referred to there.

MR O'NEILL: I think compliance is:

30 "Low appetite for material breaches of regulatory obligations. Compliance policies and procedures are designed to prevent material breaches and to allow timely identification and rectification of any breaches that do occur. Relationships with key regulators are managed proactively to support a model of cooperative compliance."

35 **MS SHARP SC:** Do you think there would be any benefit in introducing a specific risk category for AML and CTF in view of the vulnerability that casinos have to money laundering and counter-terrorism financing?

40 **MR O'NEILL:** Yes.

MS SHARP SC: Can I ask you now, Mr O'Neill: where do risks associated with junkets and ensuring business associations only with those of good repute fit in to this risk typology?

45 **MR O'NEILL:** Again, Ms Sharp, under compliance and reputational.

MS SHARP SC: And in view of - well, I'll withdraw that. Do you accept that casinos are at risk of criminal influence and exploitation?

MR O'NEILL: Yes.

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MS SHARP SC: And that, indeed, is reflected in the objects of the Casino Control Act, and in particular section 4A which states an object of the Act is to prevent criminal infiltration and exploitation?

10 **MR O'NEILL:** Yes.

MS SHARP SC: In view of that vulnerability and that objective, do you think it would be prudent to introduce a risk category that deals specifically with that matter?

15

MR O'NEILL: Yes.

MS SHARP SC: Do you know whether any discussion has been had by the board of directors about revising its risk appetite framework?

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MR O'NEILL: I can't answer that precisely at the moment, Ms Sharp. But there - in - under the many activities that are underway at the moment under the oversight and control of the board, I suspect it will be picked up.

25 **MS SHARP SC:** Now, could I move to a different topic, Mr O'Neill, and I will now ask you some questions about the KPMG reports in 2018.

MR O'NEILL: Yes.

30 **MS SHARP SC:** I will start by bringing up the part A report, if I could. It's STA.3001.0001.2750. And that is exhibit B794. Now, you, of course, have seen this document before, Mr O'Neill?

MR O'NEILL: Yes, Ms Sharp.

35

MS SHARP SC: And you understand, don't you, that KPMG gave a part A report, which was about reviewing part A of Star Entertainment's AML/CTF program, and part B, which was about reviewing part B of the AML/CTF program?

40 **MR O'NEILL:** Yes.

MS SHARP SC: Now, is it correct that the first time you became aware of these reports is when you received committee papers in the lead-up to the audit committee meeting on 23 May 2018?

45

MR O'NEILL: Yes.

MS SHARP SC: And did you read those papers at the time you received them?

MR O'NEILL: Yes, I did.

5 **MS SHARP SC:** And were you - just to understand, were you provided with the full reports or simply with summaries of those reports?

MR O'NEILL: Just executive summary.

10 **MS SHARP SC:** And do you agree that KPMG identified a number of shortcomings in Star Entertainment's AML and CTF program?

MR O'NEILL: Yes.

15 **MS SHARP SC:** And do you accept that Star Entertainment found that - I withdraw that. Do you accept that KPMG found that Star Entertainment did not have an adequately documented risk assessment methodology for money laundering?

20 **MR O'NEILL:** Yes.

MS SHARP SC: And that was a fundamental problem, wasn't it?

MR O'NEILL: Yes.

25 **MS SHARP SC:** And KPMG also found that Star Entertainment had, in fact, given no consideration to counter-terrorism financing?

MR O'NEILL: Correct.

30 **MS SHARP SC:** And that was also a fundamental problem, wasn't it?

MR O'NEILL: Yes, it was.

35 **MS SHARP SC:** And KPMG also found that Star Entertainment had no documented risk assessment or methodology for junkets?

MR O'NEILL: That's correct.

40 **MS SHARP SC:** And do you agree that was also a fundamental problem?

MR O'NEILL: Yes, it was.

45 **MS SHARP SC:** What was your reaction when you read these executive summaries provided in your committee papers for the 23 May 2018 audit committee meeting?

MR O'NEILL: Exceptionally - excuse me - exceptionally surprised and alarmed.

MS SHARP SC: And why was that?

MR O'NEILL: It was due to the fact that in - under the AUSTRAC legislation, we're required to have this independent review done every three years. The
5 previous review was conducted by an external advisor by the name of Orange
Advisory. That was 2015. And then in 2016, in November, we had Dr Horton
QC's section 31 review. And at some point in 2017, we'd had a relatively
encouraging correspondence with AUSTRAC. And I couldn't - for my part, I
couldn't reconcile the findings of the KPMG report with those earlier documents.
10 Because the earlier documents, in a sense, gave us a relatively good report, and it
jarred with me that we had a - you know, a 2015 report and a 2018 report which
were substantially different. So that did - excuse me - that did ring alarm bells with
me.

15 **MS SHARP SC:** Tell me, at the time you received the summaries of the reports, did you understand that KPMG had, in fact, finalised its reports?

MR O'NEILL: I don't recall. I presume they had.

20 **MS SHARP SC:** And did you understand that management had, in fact, invited two partners from KPMG to come along and address the audit committee, and they were outside the meeting room?

MR O'NEILL: I was unaware that that invitation had been extended.
25

MS SHARP SC: So nobody made you aware that those representatives were there and willing to discuss their report at that meeting?

MR O'NEILL: Once I was in the meeting, I was made aware of that. But I wasn't
30 aware of it until then.

MS SHARP SC: Now, they weren't called in during that meeting. Are you able to explain why?

35 **MR O'NEILL:** Well, I'm - firstly, I wasn't the chairman of the audit committee. I was there as a member. The context, which was important, is that the KPMG report had been provided late in the piece and that the members of the audit committee and the management team had had, you know, insufficient time to absorb its findings. And - and, therefore, the committee felt it was best if the
40 chairman of the audit committee take the opportunity, together with management, to meet separately, away from the - the audit committee table, to validate KPMG's findings. That was felt to be the best and most efficient way to do what I call the reconciliation between some alarming findings by KPMG not being consistent with earlier reports.
45

So there was a necessary reconciliation needed. That reconciliation was done. The chairman of the board audit committee, Mr Zlatko Todorcevski, met with KPMG representatives, I think accompanied by the then CFO, Chad Barton. The findings

were all validated, and the report came back to the board audit committee and then on to the board. All, I think, 33 recommendations - and I should say, not one word - not one word of the KPMG report was changed. There were no alterations, and the recommendations were implemented in full through the course of the next 5 18 months. Subsequently, BDO were engaged to do the next review of part A. And the BDO report, I think, has been provided to Mr Bell's review.

MS SHARP SC: And we will come back to the BDO report. And you, in fact, set out in your first statement the steps that Star Entertainment took in light of the 10 recommendation in the KPMG reports, don't you?

MR O'NEILL: Yes.

MS SHARP SC: Now, you said a little bit earlier that one difficulty was that the 15 reports were provided fairly late in the piece. I've got the part A KPMG report up on the screen for you to look at now. You will see it's dated 16 May 2018, and the audit committee meeting was 23 May 2018. I'm just wondering why you say the reports were provided fairly late in the piece.

MR O'NEILL: Ms Sharp, I really can't elaborate on why. I can - I would have to 20 go back to find out when the - when the papers - it's not so much about 16 May; it's actually when did the board audit committee - when were we given the report. And I can't remember precisely other than there wasn't a lot of pre-reading time.

MS SHARP SC: Were you aware at the time of this audit meeting that, in fact, 25 KPMG had already been through a process of verification of what was in its report with Mr McWilliams and which involved KPMG interviewing a number of officers of Star Entertainment?

MR O'NEILL: No, I wasn't. 30

MS SHARP SC: And that's not something that Mr McWilliams told you about when he spoke to the report in the audit meeting?

MR O'NEILL: Yes. Mr McWilliams told us about that in the audit committee 35 meeting, but not prior to the audit committee meeting.

MS SHARP SC: But he did tell you in the audit committee meeting that the paper 40 had already been through a process of validation and verification?

MR O'NEILL: Well, we're using - we may be at cross-purposes, Ms Sharp, about 45 the use of the word "validation". (Indistinct). My reference earlier was that the board audit committee, through Mr Todorcevski, needed, on behalf of the committee, to validate - validate the findings, as I (indistinct) do recall that as chairman of the board audit committee, I - I - I don't think that he had been made aware that KPMG had been engaged.

MS SHARP SC: And are you aware that subsequent to this audit committee meeting, Mr Bekier met with KPMG about the reports?

5 **MR O'NEILL:** I was aware that Mr Bekier was going to meet with KPMG.

MS SHARP SC: And are you aware that Ms Martin met with KPMG on a number of occasions after this audit committee meeting?

10 **MR O'NEILL:** I only became aware of that during the course of preparation for this hearing.

MS SHARP SC: Are you aware that Ms Martin provided KPMG with a list of 22 points to address?

15 **MR O'NEILL:** I only became aware of that in the course of preparation for this hearing.

20 **MS SHARP SC:** Do you have any concerns at all that officers of The Star attempted to interfere with the findings expressed by KPMG in their report?

MR O'NEILL: I'd have to ask you, Ms Sharp, is there evidence of that?

25 **MS SHARP SC:** Well, you've - I'm only asking you on the basis of what you know, Mr O'Neill.

MR O'NEILL: Ms Sharp, I'm unaware of - and it's the first I've heard of an attempt to interfere.

30 **MS SHARP SC:** And you would agree an attempt to interfere with the independence of a report would be quite a serious matter?

MR O'NEILL: Yes, it would be.

35 **MS SHARP SC:** And it wouldn't be appropriate for a report that is expressly required by legislation to be an independent report?

MR O'NEILL: Correct.

40 **MS SHARP SC:** Was there any expression of disagree-(indistinct) with views set out in the KPMG reports at the audit meeting on 23 May 2018?

45 **MR O'NEILL:** To the best of my recollection, Ms Sharp, there was some open and frank discussion about the findings, which was conducted in a completely normal fashion in the confines of the board audit committee meeting.

MS SHARP SC: Was there any dissatisfaction expressed with the findings in the KPMG report at the audit committee meeting?

MR O'NEILL: I go back to my earlier answer about my own situation of finding some of KPMG's findings alarming as I couldn't reconcile them with the earlier reports that we'd had. And I - my focus, and that of the board audit committee meeting, was achieving a reconciliation between reports we'd received earlier
5 which were - gave us a reasonably clean bill of health and a report from KPMG which concerned us. And, you know, that concern manifested itself through Mr Todorcevski having validated the findings. And then we moved on. We completely accepted all the recommendations of KPMG. And I can only speak on behalf of the board audit committee meeting. There was no attempt to, you know,
10 change, alter or amend the report.

MS SHARP SC: You used the expression "a clean bill of health" a moment ago. Is it your position that the KPMG reports did not give Star Entertainment a clean bill of health?
15

MR O'NEILL: Ms Sharp, I said "a reasonably clean bill of health". That's a big difference.

MS SHARP SC: Well, what is your position? Did KPMG give a clean bill of health to --
20

MR O'NEILL: No. KPMG, appropriately, identified shortcomings. And we accepted their recommendations, and we actioned them.

MS SHARP SC: And do you accept that they identified a number of serious shortcomings in the AML/CTF program of Star Entertainment?
25

MR O'NEILL: Yes.

MS SHARP SC: Now, I know it's a long time ago now, but if you can cast your mind back to what was discussed during the 23 May 2018 meeting. Was there any discussion at all about this independent review report being subject to legal professional privilege?
30

MR O'NEILL: I don't recall, Ms Sharp.
35

MS SHARP SC: Now, I just need to clarify: does that mean you think it's unlikely there was a discussion, or you simply have no recollection?

MR O'NEILL: Look, there may - may have been. I - whilst I did qualify as a solicitor many years ago, I didn't practise for long, and I leave the decisions and the discussions on those matters to advice from our legal advisors.
40

MS SHARP SC: And I know it's been a very long time since you've had anything to do with the law, but are you aware that you can only claim legal professional privilege if a document was brought into existence for the dominant purpose of obtaining legal advice?
45

MR O'NEILL: Yes, I've been reminded of that in the course of preparation for this hearing.

5 **MS SHARP SC:** And were you aware at the time in relation to this independent review that, in fact, the AML statutory regime, via the AML Rules of 2007, provides that an AML/CTF program be subject of regular independent review?

MR O'NEILL: Yes.

10 **MS SHARP SC:** So you were aware that there is, in fact, a statutory obligation on the part of Star Entertainment to commission an independent review?

MR O'NEILL: Yes, Ms Sharp.

15 **MS SHARP SC:** And it's right, isn't it, that that statutory obligation must be the dominant purpose for obtaining this independent review, isn't it?

MR O'NEILL: Absolutely, Ms Sharp.

20 **MS SHARP SC:** With that in mind, I'm wondering - well, I will approach it a different way. The minutes - and I will take you to them in a moment. The minutes of this meeting record that the part A report was subject to legal professional privilege. I'm just wondering if you reflected upon why that was at the time.

25 **MR O'NEILL:** I can't shed any great light on that, Ms Sharp. I was more concerned about the content of the report. And it - as I said, it - it - the report did concern me. Its findings were serious, and I was far more focused on getting to the bottom of the findings and coming out the other side, taking whatever remedial action needed to be taken.

30

MS SHARP SC: Could I just show you the minutes of that meeting, please, Mr O'Neill. It's exhibit B at 811, which is STA.5001.0003.0818. Now, I will have that enlarged for you. I'm showing you the minutes of the audit committee of 23 May 2018. And you, of course, accept you attended that meeting?

35

MR O'NEILL: Yes.

MS SHARP SC: Could I just direct your attention to the bottom half of the page, please, Mr O'Neill. You will see:

40

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

And do you see the minutes say:

45

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

Now, do you have any recollection at all of the committee chair saying that?

MR O'NEILL: No.

5 **MS SHARP SC:** Have you - and again, I'm asking you with the benefit of hindsight, to be clear. Do you have any concerns now that it was asserted in these minutes that the KPMG report was subject to legal professional privilege?

MR O'NEILL: Yes.

10

MS SHARP SC: And what are those concerns, Mr O'Neill?

MR O'NEILL: Well, in the - in the course of preparing for this hearing, Ms Sharp, and reviewing some of the evidence that has been given, there's - I'm
15 concerned there seems to be a use of legal professional privilege in - in a way that I'm not particularly sure about. There obviously is a - there obviously are grounds for legal professional privilege. But, again, you would - you would expect - or aspire to ensuring that legal professional privilege is only claimed where you are entitled to claim it.

20

MS SHARP SC: Based on the information that you've been briefed with for the purpose of you giving evidence, and also understanding the issues before this review, do you think there may be a problem at Star Entertainment in terms of documents and communications being marked as subject to legal professional
25 privilege when there is not a proper basis for that marking?

MR O'NEILL: Ms Sharp, I - I can't put myself in the head of some of the people who have made those decisions, you know, and I wouldn't want to make a presumption that those who made those decisions about legal professional
30 privilege did so for - for an untoward reason. I - I - I simply don't know the answer to that.

MS SHARP SC: Is it a matter on your radar in terms of an issue to look at?

35 **MR O'NEILL:** I've certainly - in - in the border sense of - of - of my radar being acutely sensitive to ensuring that matters that should be elevated to the board are elevated. And the interesting thing, Ms Sharp - and you, no doubt, know this, but I only found out during the course of preparation. But as you've, you know, well pointed out, we are required to do this review of, you know, part A every three
40 years under the legislation. There's no requirement in the legislation to then give it to AUSTRAC, and that's a bit strange. I was very surprised when I asked that question because I - I presume we're going to go down the track of why didn't we give it to AUSTRAC. But, you know, you - you sort of wonder about a piece of legislation that requires - appropriately requires you to obtain a review every three
45 years, but there's not a requirement to automatically pass it on to the regulator. I think it would make more sense if that requirement was spelt out.

MS SHARP SC: Do you agree that if a marking of legal professional privilege is made over a document, that could lead people within your organisation to refuse to give that document to a regulator on the ground of legal professional privilege?

5 **MR O'NEILL:** That it could.

MS SHARP SC: And you're aware, aren't you, that that did, in fact, happen in the case of this KPMG report?

10 **MR O'NEILL:** I am - in the course of preparation for this hearing, I've been made aware.

MS SHARP SC: Mr O'Neill, were you concerned that these KPMG reports warranted consideration for disclosure to the ASX in accordance with Star Entertainment's continuous disclosure obligations?

15 **MR O'NEILL:** I don't believe so, Ms Sharp.

MS SHARP SC: Is there a reason why the reports and findings were not disclosed to the ASX?

MR O'NEILL: Well, to the best of my recollection, Ms Sharp, I don't think there was a requirement. You know, we - it wasn't the first report of this nature that we'd had done, and the Orange Advisory report in 2015 - I - that's a long while ago. I - I - I don't think we had a disclosure obligation at that - at that time. I mean, boards - boards receive reports of - on all sorts of things and - and - and varying in importance of - of a range of matters. I think if we lived in an environment where each and every report that a board considers needs to be disclosed by way of an ASX release, I think that's an overkill.

25
30 **MS SHARP SC:** To put it in general terms, though, you do accept that, ordinarily, a listed company must disclose price sensitive information to the market by ASX releases?

35 **MR O'NEILL:** Yes. We discussed that yesterday.

MS SHARP SC: And do you agree that an independent report that identifies serious deficiencies in a casino's AML/CTF program is price sensitive information?

40 **MS RICHARDSON SC:** I object to that question. I seek to deal with this in the absence of the witness, please.

MR BELL SC: Yes. Operator, can you please take us into private mode in the absence of Mr O'Neill.

<THE HEARING IN PUBLIC SESSION ADJOURNED AT 11:22 AM

<THE HEARING IN PRIVATE SESSION RESUMED AT 11:22 AM

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

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

MR BELL SC: Yes, Ms Sharp.

10 **MS SHARP SC:** Mr O'Neill, as a very experienced director and indeed chair of a publicly listed company, do you consider that the KPMG reports contained price sensitive information?

MR O'NEILL: No, I didn't.

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

MR O'NEILL: Well, the recommendations had been accepted in full and were being actioned. And I - at no point in that consideration, at either the board audit committee table or the board, was there any legal advice or suggestion that it was price sensitive.

MS SHARP SC: And to be clear, the recommendations of KPMG were not accepted at the 23 audit committee meeting, were they?

25 **MR O'NEILL:** At the risk of repeating myself, Ms Sharp, they were not approved at the board audit committee meeting on 23 May. They were taken away by the chairman of the board audit committee to validate the findings with KPMG and to reconcile them with earlier reports and then brought back to the board audit committee and then ultimately, to the best of my - best of my recollection, then approved by the board for implementation.

MS SHARP SC: Could you assist us in understanding why accepting the recommendations of KPMG meant that this was not price sensitive information?

35 **MR O'NEILL:** I can't recall the exact circumstances, Ms Sharp, but I would be in the habit of taking advice from our in-house lawyers on continuous disclosure.

MS SHARP SC: And would that be Ms Martin?

40 **MR O'NEILL:** I presume so.

MS SHARP SC: She's the company secretary.

MR O'NEILL: And general counsel.

45 **MS SHARP SC:** Now, you'd be aware that there is an obligation - well, I withdraw that - that the obligation of continuous disclosure is subject to certain exceptions, including where information is legally professionally privileged?

MR O'NEILL: Yes.

5 **MS SHARP SC:** If there was not a proper basis for a claim of privilege, ordinarily a matter that was price sensitive would need to be disclosed to give effect to the continuous disclosure obligations, wouldn't it?

10 **MR O'NEILL:** Ms Sharp, what - you can help me here. If - what - what is it about the board's approval of the KPMG recommendations for implementation - what is it that is price sensitive?

15 **MS SHARP SC:** My question to you, Mr O'Neill, is whether an independent report that identifies serious deficiencies with a casino operator's AML and CTF program is price sensitive information. And I'm asking for your opinion, based upon your longstanding experience as a director and indeed chair, as to whether that is price sensitive information?

MR O'NEILL: No, it's not.

20 **MS SHARP SC:** And you're quite sure about that, are you?

25 **MR O'NEILL:** Ms Sharp, I'm sure about it in terms of the decision was to fully accept and implement all of the KPMG recommendations. And on that basis, you know, there was no hesitation from the board other than to move on and implement the shortcomings that had been identified. So I did not, and do not, see any price sensitive information (indistinct).

30 **MS SHARP SC:** Did you, in fact, turn your mind to that question at the time around this audit committee meeting, that is, the question of whether the KPMG report did contain price sensitive information that may need to have been disclosed to the market?

35 **MR O'NEILL:** I don't recall, Ms Sharp, but it would be normal around our board table, given the composition of the board, particularly, you know, with Dr - Dr Sally Pitkin's expertise in corporate governance. She is always quick to pick up any aspect of continuous disclosure that - to ensure that the board at least turns its mind to it. And I don't recall that being - and I'm not putting any obligation on Dr Pitkin; it's - it's up to all of us. But I - I have no recollection of it being raised.

40 **MS SHARP SC:** Mr O'Neill, given that casinos of their very nature are vulnerable to money laundering and counter-terrorism financing, and given that KPMG had identified serious shortcomings in Star Entertainment's AML/CTF program, did you give consideration as to whether the KPMG report ought to be disclosed to the
45 New South Wales casino regulator at the time?

MR O'NEILL: I didn't turn my mind to it at the time. But in the course of preparation for this - the Bell Review, and with the benefit of hindsight, it should have been disclosed to ILGA.

5 **MS SHARP SC:** And I'm just wondering, as the chair of the directors of Star Entertainment, why you didn't turn your mind to that question at the time.

MR O'NEILL: I can't specifically recollect. It may have been the presumption that in the normal course of business, the management team would attend to that.

10

MS SHARP SC: May we take it that nobody within senior management made that suggestion to you at the time?

MR O'NEILL: Correct.

15

MS SHARP SC: And to the best of your knowledge, is it right that this report has not been disclosed to the New South Wales casino regulator?

MS RICHARDSON SC: Well, I query the basis of that question.

20

MR BELL SC: Yes. I think --

MS SHARP SC: I- I see that. I withdraw that. Are you aware as to whether the New South Wales casino regulator has now been provided with a copy of the KPMG report?

25

MR O'NEILL: Again, to the best of my recollection, I think they have.

MS SHARP SC: And can you assist us in understanding when that occurred?

30

MR O'NEILL: No, I can't.

MS SHARP SC: Was it only fairly recently, Mr O'Neill?

35 **MR O'NEILL:** I'd be guessing, Ms Sharp.

MS SHARP SC: It certainly hadn't been disclosed by the time of the media allegations in October 2021, had it?

40 **MR O'NEILL:** Again, I'd be guessing, Ms Sharp.

MS RICHARDSON SC: Mr Bell, I note the time.

MS SHARP SC: Yes.

45

MR BELL SC: Is that a convenient time, Ms Sharp?

MS SHARP SC: Yes.

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

<THE HEARING ADJOURNED AT 11:34 AM

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<THE HEARING RESUMED AT 11:47 AM

MR BELL SC: Yes, Ms Sharp.

10 **MS SHARP SC:** Now, could I take you, please, Mr O'Neill, to STA.3012.0001.1855. And do you see there's a letter from AUSTRAC to Mr Brodie dated 14 September 2018?

MR O'NEILL: Yes.

15

MS SHARP SC: Now, can I take you to annexure A to that letter, please. And, in fact, I might need to go to a different document ID. I should indicate, Mr Bell, that was exhibit B1087. I'm now showing you annexure A to that document. Could I take you, please, to item 8 of this document. If we can scroll down the page. Now, 20 do you see what AUSTRAC is requesting there is a copy of the independent reviewer's report on the Star Entertainment AML/CTF compliance program?

MR O'NEILL: Yes.

25 **MS SHARP SC:** And you are aware now, aren't you, that in September 2018, AUSTRAC did request that document from Star Entertainment?

MR O'NEILL: Ms Sharp, I think this is the first time I've seen this document.

30 **MS SHARP SC:** Okay. Well, let me show you another document and I will see if you have seen this one before. If we could go --

MR O'NEILL: Ms Sharp, sorry, I can say that in the course of preparation for this hearing, I was made aware that AUSTRAC had requested the KPMG report.

35

MS SHARP SC: Okay. And you can take it from me that this letter I'm just showing to you --

MR O'NEILL: Yes.

40

MS SHARP SC: -- is the one where AUSTRAC originally makes that request.

MR O'NEILL: Yes.

45 **MS SHARP SC:** So now I will show you the response to that. If you can call up STA.3009.0009.0073. And can you see it's on a Star letterhead, and it's dated 5 October 2018 to AUSTRAC?

MR O'NEILL: Yes.

5 **MS SHARP SC:** And, Mr Bell, this is exhibit B1102. And, operator, could we go, please, to pinpoint 0076. And can I please draw your attention to number 9. You might need that enlarged.

MR O'NEILL: Yes.

10 **MS SHARP SC:** Do you see it says:

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

MR O'NEILL: I read that.

15 **MS SHARP SC:** All right. And this is the original letter, that is, the 5 October 2018 letter, where Star Entertainment refused to provide the KPMG report to AUSTRAC on the basis of legal professional privilege. Now - but you haven't seen this before today; is that correct?

20 **MR O'NEILL:** That's correct.

MS SHARP SC: Now, are you aware that a year later, on 12 September 2019, AUSTRAC issued Star Entertainment with a section 167 notice requiring it to produce the KPMG part A report?

25 **MR O'NEILL:** Well, my general comment, Ms Sharp, is that I was made aware of - in the course of preparation for this hearing, I was made aware that AUSTRAC had been requesting the KPMG report.

30 **MS SHARP SC:** And by the time I've just referred to, it was issuing a coercive notice to try to obtain that. I will just take you to that letter, which is STA.3402.0002.2699. And you will see this is a letter addressed to Skye Arnott from AUSTRAC dated 12 September 2019, and it says it's enclosing a notice under section 167 of the Anti-Money Laundering and Counter-Terrorism
35 Financing Act. And let me take you to that notice now, which is STA.3402.0002.2700. And that's exhibit B1675. Now, if I take you over - and you will note that is the section 167 notice. Do you see that?

40 **MR O'NEILL:** Yes, I do.

MS SHARP SC: And I will take you over the page now. Sorry. I will need to take you one further page over. And one more page over, please. And you will see item 5 is a copy of the --

45 **MR O'NEILL:** Can you blow that up, please?

MS SHARP SC: Yes. Amongst other things, paragraph 5 seeks the independent reviews in relation to The Star's compliance with part A of the AML/CTF

compliance program. So you understand, at least now, don't you, that AUSTRAC issued a coercive notice to try to obtain that document?

5 **MR O'NEILL:** As I said, in the course of preparation for this hearing, I was generally made aware of the requests that AUSTRAC had made you - in terms of what you've shown me today, I now understand the specifics of it.

10 **MS SHARP SC:** And let me show you The Star's response to this coercive notice. If I could now have you shown STA.3402.0002.1704. And now I'm showing you - and this is exhibit B1736. I'm now showing you a letter - if we could have it scrolled to the top of the page so you can see, a letter from Star dated 9 October 2019 to AUSTRAC. And if I take you over the page, please. And you will see right in the bottom row there - I will have it enlarged for you. If we look to the right-hand column, once again --

15

MR O'NEILL: Yes.

20 **MS SHARP SC:** -- The Star declined to provide that report, this time in answer to a coercive notice, asserting that legal professional privilege attached. So that's - you'd agree that there are now two separate occasions where The Star has refused to provide that report to AUSTRAC, including one occasion where AUSTRAC had issued a coercive notice to Star?

25 **MR O'NEILL:** Yes. Yes, Ms Sharp.

MS SHARP SC: Now, are you aware that AUSTRAC wrote again to The Star seeking the production of that document?

30 **MR O'NEILL:** I'm generally aware, as I said, Ms Sharp, in the course of my preparation for this hearing, that there were a number of requests from AUSTRAC. I'm not sure how many.

35 **MS SHARP SC:** Okay. Well, what I'm going to do now is show you the third request from AUSTRAC, this one dated 5 December 2019. Could I call up STA.3402.0002.3488. And this is exhibit B2013. And in that second paragraph, which I will have enlarged --

MR O'NEILL: Yes, please.

40 **MS SHARP SC:** -- AUSTRAC refers to the KPMG report and the letter of engagement and points out to Star Entertainment that clause 1.3 of KPMG's terms and conditions clearly state that KPMG's services exclude the provision of legal advice or services. And AUSTRAC here expressly asserts that there's no basis for claiming legal professional privilege. Now could I show you the response from Star to that document. If I can call up STA.3412.0004.7476. And this is exhibit 45 B2049. Do you see this is a letter from The Star dated 12 December 2019?

MR O'NEILL: Yes. Could you blow it up a bit, please.

MS SHARP SC: Yes. And what I will do is have blown up for you the third paragraph. And it says there:

5 "Please note, The Star is not suggesting that the 2018 KPMG report constitutes legal advice. The basis on which The Star claims that legal professional privilege attaches to the report is that it was provided to The Star's legal advisors for the purpose of enabling them to provide legal advice to the business in regard to The Star's AML program."

10

And the assertion is made that the report is subject to legal professional privilege. Now, what we see here, do you agree, is Star doubling down on its assertion that legal professional privilege attaches to this document?

15 **MR O'NEILL:** Yes, Ms Sharp.

MS SHARP SC: So that's the third time that AUSTRAC tried to obtain the advice. Now I will take you to the fourth attempt by AUSTRAC to obtain the advice. Could I call up STA.3402.0002.2198. Now, this letter bears the date 20 January 2019, but you can take it from me that it is, in fact, dated 9 January 2020. And you will see it's a letter from AUSTRAC to The Star.

MR O'NEILL: Yes, I - I take that, Ms Sharp.

25 **MS SHARP SC:** And, operator, could we just scroll to the bottom of that page, please. And I'm not sure I said this, Mr Bell: it's exhibit B2095. Could I take you over the page, please. In fact, to the third page. Do you see at number 6 it says:

30 "Claim of legal professional privilege."

35

And do you see, once again, there's a discussion about legal professional privilege in light of the KPMG report?

MR O'NEILL: Yes.

40

MS SHARP SC: And it's noted that on 23 December 2019, AUSTRAC's national manager of regulatory operations and AUSTRAC's general counsel spoke to Paula Martin about the claim.

45 **MR O'NEILL:** Yes.

MS SHARP SC: Now, ultimately, after this letter, The Star did provide the KPMG report. So four letters from AUSTRAC and one telephone call later. Do you understand that?

50

MR O'NEILL: Yes, fully.

MS SHARP SC: And was that your understanding before I took you through those documents, that that was the extent of trouble that AUSTRAC had to go to, to obtain the KPMG report?

5 **MR O'NEILL:** Coming into the witness box today, Ms Sharp, I was aware that there had been four requests by AUSTRAC. But that's - I've now seen the documentation that supports that.

10 **MS SHARP SC:** And what do you say about these repeated assertions by the legal representatives of Star Entertainment that the report was subject to legal professional privilege when it plainly was not?

MR O'NEILL: Inappropriate and unacceptable.

15 **MS SHARP SC:** And do you agree that that conduct continued over a significant period notwithstanding that AUSTRAC repeatedly sought to call out that conduct?

MR O'NEILL: As I said, it disappoints me, Ms Sharp.

20 **MS SHARP SC:** And do you agree it shows a lack of transparency with AUSTRAC?

MR O'NEILL: Yes. And - and I'm at a loss as to why we dug in. And I'm - and the board was unaware of all of this.

25 **MS SHARP SC:** Well, can I take you now to exhibit B at 2841, please, which is STA.3002.0001.1248. I'm showing you the next round of independent review. This is the one conducted by BDO last year - in May of last year.

30 **MR O'NEILL:** Yes.

MS SHARP SC: Now do you see it has got "privileged and confidential" written on it?

35 **MR O'NEILL:** Yes.

MS SHARP SC: And do you see it says:

40 "Prepared by BDO at the request of HWL Ebsworth Lawyers for the purpose of providing legal advice."

MR O'NEILL: Yes, I do.

45 **MS SHARP SC:** But there's a statutory obligation on the part of Star Entertainment to obtain these independent reviews, isn't there?

MR O'NEILL: Yes, there is.

MS SHARP SC: Is HWL Ebsworth being interposed here in order to cloak this report with legal professional privilege?

5 **MR O'NEILL:** I can't be perfectly sure as to why it's described in the way it is, but that could well be a conclusion that could be reached.

MS SHARP SC: Does it concern you that that may well be the conclusion that is reached?

10 **MR O'NEILL:** Well, without - without the benefit of an explanation from whoever issued the instructions, it seems a curious way of addressing the requirement to have an independent report done of our part A by BDO.

15 **MS SHARP SC:** And it seems particularly curious, doesn't it, in view of this protracted debate with AUSTRAC about whether legal professional privilege ought to have been claimed over the KPMG report?

20 **MR O'NEILL:** Well, if you're joining the dots, Ms Sharp, it - it - it does make me wonder.

MS SHARP SC: Could I show you some minutes from a board meeting, please. Could I call up exhibit B at 3006, STA.5002.0007.2441. And you'll see these are minutes of 28 July 2021, and you're recorded as being present?

25 **MR O'NEILL:** Yes.

MS SHARP SC: Now, could I take you, please, to pinpoint 2449.

30 **MR O'NEILL:** Can I have it blown up, please.

MS SHARP SC: Yes. I will direct your attention to the top of the page. Do you see there's an entry for Ebsworth Lawyers and BDO?

35 **MR O'NEILL:** Yes.

MS SHARP SC: And do you see Ms Martin introd- well the minutes record that Ms Martin introduced Anthony Seyfort from HWL Ebsworth and Adam Simms from BDO. And then a little bit further down, the minutes record:

40 "Mr Seyfort noted that both phases of the review are being conducted subject to legal professional privilege."

MR O'NEILL: Yes, I see that.

45 **MS SHARP SC:** But you're not in a position to provide any explanation as to why HWL Ebsworth was involved in commissioning a report that Star Entertainment was legally obliged to obtain under the AML 2007 Rules?

MR O'NEILL: Correct.

MS SHARP SC: Do you think there might be a problem here, Mr O'Neill?

5 **MR O'NEILL:** Yes.

MS SHARP SC: See --

10 **MR O'NEILL:** I mean, the - the - there's intricacies around - as you pointed out, Ms Sharp, around the - the - the definitions or the requirement and the proper - proper purpose of - of claiming legal professional privilege. I - I don't recall having that matter discussed with me. I mean, this is not that long ago, July last year. I can only guess that my mind was - my attention was very much
15 KPMG report, that I was focused on the findings of BDO.

MS SHARP SC: Do you recall whether any of the directors at this meeting asked why Ebsworth was involved in the commissioning or advising on a report of BDO that Star Entertainment was statutorily obliged to obtain?
20

MR O'NEILL: I don't recall, Ms Sharp.

MS SHARP SC: Just while we're on the topic of BDO and its reviews, could I show you exhibit B at tab 3370, which is STA.3402.0008.4551. Now, you will see
25 that what I'm showing you is BDO's draft report, Phase 2 Reporting (Transaction Monitoring). Do you see it has got a privilege statement on the bottom of it:

"Prepared by BDO at the request of HWL Ebsworth."

30 **MR O'NEILL:** Yes, I can see that now.

MS SHARP SC: But – but you're not in any position to explain why it was that HWL Ebsworth was commissioning a report that Star was statutorily obliged to obtain?
35

MR O'NEILL: No, I'm not.

MS SHARP SC: Tell me, this is a draft report on transaction monitoring that appears to bear the date August to September 2021. Has that report been finalised?
40

MR O'NEILL: I'd have to check, Ms Sharp. I think it has been.

MS SHARP SC: Do you know when it was finalised?

45 **MR O'NEILL:** Not off the top of my head. I'd have to check, Ms Sharp.

MS SHARP SC: Are you sure it's been finalised?

MR O'NEILL: Not sure, no.

MS SHARP SC: I call for the production of any finalised version of BDO's transaction monitoring report.

5

MS RICHARDSON SC: I'll make inquiries.

MS SHARP SC: I'll move to a different topic now, if I can, Mr O'Neill. Operator, you can take down that document. You're aware, I take it, Mr O'Neill, that the Bergin report was published in February of 2021?

10

MR O'NEILL: Yes.

MS SHARP SC: May we take it that you were briefed on that report?

15

MR O'NEILL: Yes.

MS SHARP SC: Did you read that report for yourself?

20

MR O'NEILL: Yes, I did.

MS SHARP SC: Did you appreciate that one of the major problems identified in the Bergin report was that there were - or was the indicia of money laundering in patron bank accounts and that Crown Resorts had not adequately monitored those patron bank accounts?

25

MR O'NEILL: Yes.

MS SHARP SC: And you did appreciate that was a serious problem that was identified by the Bergin report?

30

MR O'NEILL: Yes.

MS SHARP SC: At that time, I take it you also appreciated that Star Entertainment and its subsidiaries operated a number of patron bank accounts, that is, bank accounts into which patrons could deposit funds?

35

MR O'NEILL: Yes.

MS SHARP SC: Upon becoming aware of this problem with patron bank accounts at Crown Resorts, did you take any steps to direct a full review take place of Star Entertainment's patron bank accounts?

40

MR O'NEILL: Well, to the best of my recollection, Ms Sharp - and you may well have a copy of the - of the document that went to the board where - off the back of Patricia Bergin's report being handed down, we asked for a full review. I should add that we accepted all 19 recommendations without hesitation. But a - I seem to

45

recall that a report from Greg Hawkins and Paula Martin came to the board reporting on our position vis-à-vis the findings in the Bell Inquiry.

5 **MS SHARP SC:** So I don't think that was quite an answer to my question. Upon becoming aware of the problem with the patron bank accounts with Crown Resorts, did you take any steps to direct a full review to take place of Star Entertainment's patron bank accounts?

10 **MR O'NEILL:** I think what I'm saying, Ms Sharp, is that's that - that subject was included in the overall request for a review of all the Bergin recommendations.

MS SHARP SC: I see. And was that overall review of the Bergin recommendations something that happened under the auspices of Project Zurich?

15 **MR O'NEILL:** Yes, Project - you know, I would be testing my memory, but Project Zurich had a number of subprojects. But the - the - the source document that came to the board initially after Bergin was, I think, authored by Greg Hawkins and Paula Martin.

20 **MS SHARP SC:** Can I take you to a document, please. I want to understand whether you've seen it. It's STA.3002.0018.0001. And this is exhibit B2960. And this is a report prepared by HWL Ebsworth. If I show you the last page, which is pinpoint 0008, dated - if we just have the operator take you over there. Do you see it's dated 7 July 2021?

25

MR O'NEILL: Yes.

MS SHARP SC: And was this a report that - and I'll take you back to the front page now. It's called Review Paper 2: Group Bank Account Arrangements. Is this 30 a report that was provided to the board at about the time of the date it bears?

MR O'NEILL: Could you blow that up, please? I presume that paper went to the board, Ms Sharp.

35 **MS SHARP SC:** Can I - and does that mean that you assume that you read the report?

MR O'NEILL: I believe so, yes.

40 **MS SHARP SC:** Could I just take you to one of the conclusions. You will see there's a heading Conclusions on that page. If I can have the operator scroll to the bottom paragraph, please. And I'll have this paragraph highlighted for you. It states:

45 "While outside the scope of this paper, we have a broader concern that there may have been insufficient management oversight of EEIS operations prior to its pause in operations in early 2020."

And then a little further along:

5 "The role, management and oversight of EEIS will be considered in forthcoming review papers addressing international financial transactions and international offices. If The Star continues to offer EEIS activities, the full circumstances of its debt collection activities and the applicable procedures and controls and their efficacy ought to be reviewed against The Star's risk appetite statement."

10 **MR O'NEILL:** Yes.

MS SHARP SC: Is it fair to characterise this as sounding a note of warning that all might not be well in terms of the EEIS patron bank accounts?

15 **MR O'NEILL:** That's correct. Look, to the best of my knowledge and recollection, Ms Sharp - and I know there has been observations about the - the title "EEIS". EEIS, I think, was originally - sort of came to life in about 2013/14 when the company was called Echo Entertainment. So EEIS stands for Echo Entertainment International Services. Be that as it may, in November 2015 we
20 changed our name to Star Entertainment. But my understanding - and I will not pretend to be an expert in this space - that the purpose for which EEIS Hong Kong bank account was set up was to make loans and to remit funds back to Australia. A question I asked at the time was, "Is it perfectly legal? Is it legitimate?" And the answer was, yes, it was, that it had been registered with the Hong Kong regulator
25 as well as AUSTRAC.

But I - you know, I think some of the - the uses of the account at future times was not for the purposes for which they were intended. And so there was a - some - some risks involved which were not mitigated against. In terms of other,
30 you know - and I can't be precise, but, you know, I have a substantial file on - on things that are being done, which I, you know, obviously cannot bring into the witness box. But there is - there are ongoing reviews into the overall subject of offshore bank accounts, including EEIS, Bank of China Macau and - and others. I don't have them all in the top of my head, but that is ongoing work.

35 **MS SHARP SC:** So I will come back to a question a little bit earlier. You do agree that by July of 2021, when you read the document, there was a signal that all may not be well with the EEIS patron bank accounts?

40 **MR O'NEILL:** Correct.

MS SHARP SC: And we discussed yesterday the report of Mr Seyfort that was provided to the board in September 2021 in relation to CUP.

45 **MR O'NEILL:** Yes.

MS SHARP SC: And you agree, don't you, that that did identify some fairly serious problems in the way the CUP process had operated at The Star?

MR O'NEILL: Yes.

MS SHARP SC: And because of that, the board directed management to prepare
5 a management response on the Seyfort paper, didn't it?

MR O'NEILL: Yes, it did.

MS SHARP SC: And that response, if I can show it to you, was one prepared by
10 Matt Bekier on 1 October 2021. And I will just call it up. It's
STA.3411.0002.1796. And this is exhibit B3117. And could I just direct your
attention, please, to the very bottom of that page. And, in fact, before I do, you
read this at the time, didn't you?

MR O'NEILL: Yes, I did.

MS SHARP SC: And what Mr Bekier says in the final paragraph is:

20 "Use of the CUP card is governed by the card scheme rules of UnionPay.
Gambling is a prohibited category of expenditure under these rules. This was
generally understood by management."

MR O'NEILL: Yes.

MS SHARP SC: And then if I take you over the page, there's a heading Critical
25 Failings. And I will just have that highlighted for you. And you agree with me,
don't you, that three critical failings on the part of management were identified,
being:

30 "(1) Focusing on technical legal aspects rather than 'doing the right thing'; (2)
not responding to changes in the risk profile; and (3) insufficient
communication to the board of material operational changes."

MR O'NEILL: Correct.

35

MS SHARP SC: You must have been developing some concerns about the way
senior management had conducted itself by this time; is that right?

MR O'NEILL: Correct.

40

MS SHARP SC: And, indeed, yesterday when I asked you when you developed
concerns about something being wrong, you said at page 3773 that you developed
this feeling during the Finkelstein process, and you say the turning point for you
was the 60 Minutes program, right?

45

MR O'NEILL: Yes.

MS SHARP SC: Now, do you agree with me, Mr O'Neill, that in your first statement to this review, you say nothing at all about holding any concerns about senior management and the way people in senior management had conducted themselves?

5

MR O'NEILL: That's correct.

MS SHARP SC: And by the time you made that statement, you obviously did have some concerns about that matter, didn't you?

10

MR O'NEILL: Yes, I did.

MS SHARP SC: Is there some reason why you did not disclose this in your statement to the review?

15

MR O'NEILL: Are we talking about CUP, Ms Sharp?

MS SHARP SC: No. I'm just asking you about why you didn't disclose your concerns about senior management in the statement you gave to this review.

20

MR O'NEILL: Well, at that point I was, you know, rightly or wrongly, Ms Sharp, giving people the benefit of the doubt. I tend, by nature, to trust people until they give me a reason not to trust them. And I hadn't reached that point at the time I signed my statement on 4 February.

25

MS SHARP SC: But --

MR O'NEILL: And I should say, Ms Sharp, that - that, you know, the board was quite rightly distressed, upset and disappointed in - we're using CUP as an example of something that was not elevated. And - and, you know, we saw the - Anthony Seyfort's report. We asked management to respond. They responded. We - at the board table, we - we referenced the - what consequences will there be for this. And we decided, rightly or wrongly, to park consequences. We didn't for a moment duck that there needed to be consequences for this behaviour, but we deferred consideration of the consequences until Mr Bell's findings were delivered. And - and at that point, those findings were going to be delivered at a much earlier time than they currently are now scheduled. And - but in - 4 February, Ms Sharp, I signed my witness statement. Since then, in the course of preparing for my examination, I have seen things and been shown things that I had never seen. And - and - and in that context, I sadly lost trust in some people.

30

35

40

MS SHARP SC: Do you think it might have been more transparent if you had disclosed the concerns that you did hold about senior management at the time you made your 4 February statement?

45

MR O'NEILL: Look, Ms Sharp, with the benefit of hindsight, perhaps. But I, in a sense, was - you know, you - my philosophy is to back management until they give you a good reason not to. And, you know, as I said, we were - we were

moving to that - we were moving to that point, but I had a road to Damascus moment once I saw material I hadn't seen before.

5 **MS SHARP SC:** Can I show you a document, please, which is exhibit B at tab 3136, STA.3401.0002.6254. Now, I'm showing you an email. I'm not sure whether you were ever made aware of this, and I wanted to check in with you about that. Peter Jenkins is emailing a number of senior executives, letting them know that he had received an inquiry from journalist Nick McKenzie on 6 October about a number of allegations that Mr McKenzie was considering publishing. Do you see, 10 midway down the page, Mr McKenzie says in his email:

"There are some questions within this email which should be directed to the chairman Mr John O'Neill."

15 Are you able to tell us: were those questions directed to you?

MR O'NEILL: Can you blow that up, please, Ms Sharp.

20 **MS SHARP SC:** Yes. I think from the second half of the page, operator.

MR O'NEILL: Firstly, I did - I did see this email at the time. And --

25 **MS SHARP SC:** And you'll agree that one of a series of questions are about the review of Star Entertainment's AML/CTF program in 2018?

MR O'NEILL: Yes.

30 **MS SHARP SC:** And you, of course, understood that to be a reference to the KPMG review?

MR O'NEILL: Yes.

35 **MS SHARP SC:** Could I just take you over the page, please. And I will show you this - there's this whole page of questions and then there's another whole page of questions. But you see there are some questions in relation to China UnionPay? Operator, if we can just stay at the top of the document, please.

MR O'NEILL: Yes. Yes.

40 **MS SHARP SC:** (Indistinct) dot points. And then you see in the third dot point and the fourth dot point, there are some questions about Phillip Dong Fang Lee?

MR O'NEILL: Yes.

45 **MS SHARP SC:** And you can take it from me that the rest of this page asks various questions, including about Mende Trajkoski, James Mussillon, Mark Walker, Michael Gu and Harry Huang. And then if we go over to the next page, at pinpoint 6256, questions are asked about patron John Khoury and questions are

asked about due diligence conducted on a large number of people associated with junkets, including Huang Xiangmo, Alvin Chau, Tom Zhou, Simon Pan, and questions are also asked about Mr Marcus Lim and why he left Star. My question to you is this, Mr O'Neill: when you were made aware of these questions from
5 Mr McKenzie, you were aware that he was investigating many more issues than simply the KPMG report, weren't you?

MR O'NEILL: Yes.

10 **MS SHARP SC:** And you indicated that you did watch the 60 Minutes broadcast?

MR O'NEILL: Yes.

MS SHARP SC: And did you watch it on 8 October 2021 when it was broadcast?
15

MR O'NEILL: Yes, I did.

MS SHARP SC: And you agree, don't you, that it made allegations about a variety of matters and did not limit itself to the KPMG report?
20

MR O'NEILL: That's correct.

MS SHARP SC: And there was a board discussion on 8 October 2021 about these media allegations, wasn't there?
25

MR O'NEILL: Yes.

MS SHARP SC: And could I just take you to the minutes of the meeting, please. If we go to exhibit H at tab 469, STA.3029.0002.0063. I'm showing you minutes of 8 October 2021, and you're recorded as being present. You were present at that meeting, weren't you?
30

MR O'NEILL: Yes, I was.

35 **MS SHARP SC:** And do you see there's - and again, I will have this half of the page enlarged for you. You see there's a reference to 60 Minutes?

MR O'NEILL: It has to be blown up. I can't see it. Yes.

40 **MS SHARP SC:** It seem - the minutes here record:

"The chairman provided an overview of the background context."

45 Is it right that you did provide an overview of background context to the board of directors?

MR O'NEILL: That's what it says, Ms Sharp, yes.

MS SHARP SC: And do you recollect doing that?

MR O'NEILL: Yes, I do.

5 **MS SHARP SC:** And could I just scroll down to the bottom of the page, please. Now, I just want to clarify with you how we should understand what's recorded in these minutes. It's a little bit ambiguous. The minutes say:

10 "In Peter Jenkins', group executive external affairs, discussion with the journalist, Mr McKenzie, he noted that in his view the allegations are based on sound knowledge of the circumstances; there is reason to believe integrity issues exist within The Star; from speaking with people at The Star they are concerned."

15 Now, do you recollect, Mr O'Neill, whether Peter Jenkins was giving his own view of the allegations or whether he was relaying Mr McKenzie's view of the allegations?

MR O'NEILL: That was Mr McKenzie's views.

20 **MS SHARP SC:** So it is the case that Mr Jenkins said that Mr McKenzie was of the view that the allegations are based on sound knowledge of the circumstances; that he believed there were integrity issues at The Star; and from speaking with people at The Star, he was concerned?

25 **MR O'NEILL:** Yes. Mr Jenkins was simply conveying the views and comments of Mr McKenzie.

30 **MS SHARP SC:** Now, after - or at about - after this meeting, it's correct, isn't it, that further newspaper articles were published which aired allegations against Star Entertainment?

MR O'NEILL: That's correct.

35 **MS SHARP SC:** And did you read those at the time?

MR O'NEILL: Yes.

40 **MS SHARP SC:** And I'll show some of them to you. First of all, if I can call up exhibit B at tab 3155. And I'm showing you an article of Nick McKenzie and Joel Tozer of 10 October 2021 in the Sydney Morning Herald. Did you read that article at the time?

MR O'NEILL: Yes, I did.

45 **MS SHARP SC:** And I'll show you another article. If I can call up exhibit B at tab 3156, which is INQ.014.001.0005. And this is another article published on 10

October 2021 in the Sydney Morning Herald called The Fallen Star, again by Nick McKenzie and Joel Tozer. Did you read this article at the time?

5 **MR O'NEILL:** I believe so.

MS SHARP SC: And you will agree that this article canvassed a large number of allegations?

10 **MR O'NEILL:** Yes, it did.

MS SHARP SC: And it wasn't just restricted to allegations about the KPMG report?

15 **MR O'NEILL:** No, it wasn't.

MS SHARP SC: So by the time of 10 October 2021, you were personally aware that media allegations were being made about the KPMG report but also about CUP, due diligence that had been conducted with a number of high-value patrons and junket players, and that allegations had been made, for example, about Phillip Dong Fang Lee's use of China UnionPay cards?

20 **MR O'NEILL:** I was aware of the allegations. We had not been - it was not at a point in time where we'd been able to, you know, track down and confirm or otherwise the allegations.

25 **MS SHARP SC:** Pardon me for one moment. Could I take you, please, to exhibit H at tab 473, which is INQ.003.006.0539. Now, I'm showing you an ASX announcement issued by Star Entertainment on 11 October 2021. Do you remember approving that announcement?

30 **MR O'NEILL:** If that could be blown up, please, Ms Sharp. Down the bottom it says "approved by the board of directors", I think. Yes.

35 **MS SHARP SC:** And you remember approving that, do you?

MR O'NEILL: Yes, I do.

40 **MS SHARP SC:** And do you see it says, in the second paragraph, if I can have that highlighted for you:

"The Star is concerned by a number of assertions within the media reports that it considers misleading."?

45 **MR O'NEILL:** Yes.

MS SHARP SC: Now, when you approved this ASX release, I take it you did so because you considered it to be price sensitive information?

MR O'NEILL: Yes.

MS SHARP SC: And what was it that you considered to be misleading in the media reports at that time?

5

MR O'NEILL: Well, there were a number of outstanding matters that we had not yet been able to track down, but in particular, the assertion around the KPMG report we regarded as being misleading.

10 **MS SHARP SC:** Okay. And what was that assertion about the KPMG report that you regarded as misleading?

15 **MR O'NEILL:** That we had kept it secret. And then there were other allegations about - to the best of my recollection, Ms Sharp, allegations that - about attempts to amend the report, change the report, interfere with the report. So this - this referred to a number of assertions within the media that we considered misleading.

20 **MS SHARP SC:** So, Mr O'Neill, may we take it that as a long-time director and indeed a chair of a publicly listed corporation, you understand that it is a very serious matter to allege that adverse media allegations against the company are misleading?

MR O'NEILL: Yes.

25 **MS SHARP SC:** So you've told us that you thought that the KPMG allegations were misleading in that it was asserted that The Star kept the report secret and in that it was asserted that attempts were made to amend or change the report. What else did you consider to be misleading at that point in time?

30 **MR O'NEILL:** Well, there a number of - on the check - on the shopping list that 60 Minutes and Mr McKenzie had outlined, we were still in the process of chasing a lot of them down. And in some cases, it involved patrons or customers where we had yet to confirm, or otherwise the substance of those allegations.

35 **MS SHARP SC:** Now, if you were still in the process of chasing allegations down, that does mean, doesn't it, that you didn't know whether they were correct or incorrect?

40 **MR O'NEILL:** Look, at the time, there'd been, as you saw, a 60 Minutes report, a lot of negative publicity, share price was under - under - under pressure. So we - we needed - we needed to get this ASX release into the marketplace to - to ensure our - the market and our investors that a number of the assertions within the media were misleading.

45 **MS SHARP SC:** All right. But the most important thing of all was to get information into the marketplace that was correct, wasn't it?

MR O'NEILL: And are you suggesting this is not correct, Ms Sharp?

MS SHARP SC: I'm asking you to answer my question, which is the most important thing was to get information into the marketplace that was correct, wasn't it?

5

MR O'NEILL: That's right, Ms Sharp.

MS SHARP SC: Now I'll return to my previous question, which you did not answer, which was you agree, don't you, that if you were still in the process of chasing down allegations, you were not in the position to know whether they were correct or incorrect?

10

MR O'NEILL: Ms Sharp, we said:

15 "The Star is concerned by a number of assertions within the media that it considers misleading."

MS SHARP SC: Mr O'Neill, could you answer my question, please. You agree, don't you, that if you were still in the process of chasing down allegations, you were not in a position to know whether they were correct or incorrect?

20

MR O'NEILL: That's correct, Ms Sharp.

MS SHARP SC: So it must follow, mustn't it, that in relation to the allegations that you were still chasing down, you could not confidently assert that those allegations were misleading?

25

MR O'NEILL: Well, Ms Sharp, it goes on to say:

30 "There are constraints on publicly disclosing specific individuals. We will take the appropriate steps to address all the allegations with relevant state and federal regulators and authorities, including Mr Bell who is undertaking The Star Sydney review."

35 So --

MS SHARP SC: Now, if you could just answer my question, please, Mr O'Neill. It must follow that if you had not confirmed the correctness or otherwise of some of the media allegations, you were not in a position to assert that they were misleading?

40

MS RICHARDSON SC: Well, I object to that question. My learned friend should point out where that assertion is made in the release so Mr O'Neill can address it.

45 **MR BELL SC:** Ms Sharp.

MS SHARP SC: I'm sorry. I missed what you said, Mr Bell.

MS SHARP SC: I was just asking you to respond to Ms Richardson's objection.

MS SHARP SC: Well, I submit that my question was perfectly appropriate.

5 **MR BELL SC:** What was your question? Can I have it read back, please.

MS SHARP SC: Yes. Hang on a moment. The transcript keeps moving:

10 "It must follow that if you had not confirmed the correctness of some media allegations, you were not in a position to assert that they were misleading?"

MR BELL SC: Yes, I will allow that question. Where it goes from there is another matter, but I will allow that question.

15 **MR O'NEILL:** I don't believe that's correct, Ms Sharp. I think if you read the totality of the release, it's - in its totality, it is not misleading. We were concerned by a number of assertions, particularly around the KPMG report, that we considered misleading. We then go on to say there are constraints on publicly discussing - it's there for you to read. I don't - I generally don't believe this media
20 release was misleading.

MS SHARP SC: Well, let me ask you this: you've identified to Mr Bell two respects in relation to these media allegations that you considered to be misleading: firstly, that there was an allegation that the KPMG report was kept
25 secret; and secondly, there was an allegation that The Star had sought to amend or change the KPMG report. What, amongst all those other media allegations that you were aware of at the time, did you consider to be misleading when you authorised this release to go out to the ASX?

30 **MS RICHARDSON SC:** I object to that question. In my submission, they are - the media allegations go over a number of pages. They should be put to the witness so he can, in fairness, address them. If my learned friend is going to this level of particularity, be given the opportunity to look at them and indicate which category they fall into.
35

MR BELL SC: Mr O'Neill, are you generally familiar with the media allegations that were made against Star Entertainment in October 2021?

40 **MR O'NEILL:** Sorry, Mr Bell. What was that?

MR BELL SC: Are you generally familiar with the media allegations that were made against Star Entertainment in October 2021?

45 **MR O'NEILL:** Yes.

MR BELL SC: I will allow the question.

MR O'NEILL: Could you repeat the question, Ms Sharp?

MS SHARP SC: Yes. What else did you consider to be misleading in the media allegations at the time you authorised this release to the ASX?

5 **MR O'NEILL:** Well, I felt that the representation of - at that point, we're talking about 11 October and the earlier reporting in the 60 Minutes report on CUP - particularly in the light of the advice we'd had from Anthony Seyfort was misrepresenting the totality of that relationship.

10 **MS SHARP SC:** And what was that? I'm asking you for specific information about what you considered to be misleading at the time you authorised this release to the ASX?

15 **MR O'NEILL:** Well, I've already mentioned the KPMG report, and you're asking me to go back over other matters. You'd have to remind me as to what the 60 Minutes report said about - I mean, I am familiar, Mr Bell, but I can't go line by line and recall exactly what Mr McKenzie said about CUP, for example. But CUP - we'd only just recently had advice saying, you know, no - no law - no federal or state law broken, no regulatory breach, no adverse AML consequences and, arguably, unacceptable commercial practice. So that's where my headspace was on 11 October. But - I don't have it in front of me, but I think the 60 Minutes report went further than that around CUP. You know, it would be a matter of walking through each and every one. But the purposes for which - and we were, you know, understandably, in an environment of some pressure and stress to get into the marketplace as accurate a statement as we possibly could provide at that point in time.

25 **MS SHARP SC:** Well, would it have been more accurate to tell the market that, in fact, you were still investigating the veracity of the media allegations?

30 **MR O'NEILL:** Well, that's what we do say, Ms Sharp:

"We will take the appropriate steps to address all allegations with relevant state and federal regulators and authorities, including Mr Bell."

35 **MS SHARP SC:** Well, you don't say there that you accept that there may be some merit in any of those allegations, do you?

40 **MR O'NEILL:** Why would we say that?

MS SHARP SC: Well, did you accept that at that point in time?

MR O'NEILL:

45 "We will take the appropriate steps to address all allegations with relevant state and federal regulators and authorities."

MS SHARP SC: But you did positively assert that a number of assertions within the media reports were misleading, didn't you?

MR O'NEILL: That we - we consider misleading.

5

MS SHARP SC: Let me ask you this, Mr O'Neill: when the board came to liaise about this ASX release, was Ms Paula Martin the company secretary consulted with?

10 **MR O'NEILL:** At that point, she was - at that point, she was the group chief legal and risk officer. I can't recollect what level of consultation took place with her.

MS SHARP SC: Was it ever discussed amongst the board when Ms Paula Martin was present that the allegation that the KPMG report was kept secret was not true?

15

MR O'NEILL: I can't recollect that, Ms Sharp.

MS SHARP SC: Well, you know now, don't you, that, in fact, the KPMG report was kept secret?

20

MS RICHARDSON SC: Well, I object to that. What does my learned friend mean by "kept secret"?

MR BELL SC: I think you should be more precise, Ms Sharp.

25

MS SHARP SC: With respect, Mr Bell, it's the language that Mr O'Neill has used in his answers to you. I'm simply adopting the language that he has used. Perhaps I will ask him. Mr O'Neill, what did you mean by, "It was a misleading assertion to say that the KPMG report was kept secret"?

30

MR O'NEILL: Well, the word "secret" came - I think you'll find, Ms Sharp, that the descriptor "secret" didn't come from us. It came from the 60 Minutes report and the allegations. So if you went to the 12 October ASX release, I think - I think I was referring to the allegation that we had kept the KPMG report secret. And --

35

MS SHARP SC: What do you mean by that?

MR O'NEILL: Well, that we had hidden it. I mean, no doubt you're as good as anyone at defining what the word "secret" means.

40

MS SHARP SC: Well, I'm asking you what you mean by "keep secret" when you're using those words, Mr O'Neill.

MR O'NEILL: Well, it was used in the press release of 10 October - of 12 October.

45

MS SHARP SC: All right. And you've said you regarded that to be misleading at the time. Why is that?

MR O'NEILL: Because we didn't hide it. We didn't sit on it. We didn't lock it away in a vault.

5 **MS SHARP SC:** You did lock it away from AUSTRAC, didn't you?

MR O'NEILL: We didn't lock it away in a vault. We - you know, we approved all the recommendations and got on with it and implemented all 33 recommendations. Only later - even today, Ms Sharp - have I been aware - been made aware that
10 AUSTRAC had requested the document. Now, if you're going to use the fact that AUSTRAC weren't handed the document to refute the use of the word "secret", I'm not sure that's fair.

MS SHARP SC: Well, Mr O'Neill, you do accept, don't you, that in asserting on
15 four separate occasions that the report was subject to legal professional privilege and refusing to provide it to AUSTRAC, Star Entertainment was keeping the report secret from AUSTRAC?

MR O'NEILL: I don't believe that's the case.

20 **MR BELL SC:** Ms Sharp, are you able to identify the exhibit number for the 12 October 2021 media release?

MS SHARP SC: Yes, I can, Mr Bell. It is STA.3411.0001.7109.

25 **MR BELL SC:** Operator, can you please bring that document up. And if that could be enlarged. You see, Mr O'Neill, that under the heading Summary, there is a reference to media reports asserting that the reports prepared by KPMG were kept secret?

30 **MR O'NEILL:** Yes.

MR BELL SC: And then two paragraphs further on, the report that you and your colleagues authorised were that:

35 "Details of the review and resulting reports were shared with the AML/CTF regulator, AUSTRAC -"

Etcetera. Do you see that? Third paragraph under the heading Summary.

40 **MR O'NEILL:** Yes:

"Details of the review and resulting reports were shared with the AML/CTF regulator."

45 **MR BELL SC:** Now, I understand from your evidence that at the time you approved this release, you were not informed that Star Entertainment had withheld

the KPMG reports from AUSTRAC over a period of approximately 16 months; is that correct?

5 **MR O'NEILL:** That's correct. We were - when this press release was framed and we did the due diligence to prepare to put it into the marketplace, we had been told that details of the review and resulting reports had been shared with AUSTRAC.

10 **MR BELL SC:** So I can take it, can't I, that had you known the truth about what had, in fact, occurred with AUSTRAC, you would not have approved the release in this form?

MR O'NEILL: Correct.

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

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

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

20 **<THE HEARING ADJOURNED AT 12:57 PM**

<THE HEARING RESUMED AT 1:57 PM

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

MS SHARP SC: Prior to the luncheon adjournment, Mr O'Neill, Mr Bell was asking you some questions about the 12 October 2021 ASX release --

30 **MR O'NEILL:** Yes.

MS SHARP SC: -- and the - refuting the assertion that the KPMG report was kept secret. By the time that release was released, had you been made aware that, in fact, AUSTRAC had sought, on a number of occasions, to obtain the KPMG document but Star had resisted its production?

35 **MR O'NEILL:** No.

40 **MS SHARP SC:** Was Ms Martin involved in any way in assisting you and other directors prepare the ASX announcement, that being the 12 October one?

MR O'NEILL: You would expect so. We - for - for ASX releases, we go through a due diligence process that involves our - our legal advisors, company secretary, media advisors, investor relations advisors. So you would imagine Ms Martin would have been involved.

45 **MS SHARP SC:** If Ms Martin had told you at the time that on four occasions AUSTRAC had requested the production of the KPMG reports and The Star had

resisted on the ground of legal professional privilege, would you have authorised the 12 October 2021 ASX release in the terms that you did?

5 **MR O'NEILL:** No - no, Ms Sharp. I think Mr Bell posed that question to me just before the lunch break, and I gave - gave the same answer.

10 **MS SHARP SC:** Now, returning to your first - that is, the first ASX release, which is the 11 October 2021 document. It's INQ.003.006.0539, if I can have it brought up. Now, my question for you is: were you, in fact, satisfied at the time you authorised this that there was a proper basis for asserting that a number of assertions within the media reports were misleading?

MR O'NEILL: Yes.

15 **MS SHARP SC:** Did you take all due care in making your decision to consent to this ASX announcement?

MR O'NEILL: Within the time available, we did.

20 **MS SHARP SC:** Well, isn't the most appropriate thing that you do take more sufficient care before you release something to the market like this?

25 **MR O'NEILL:** Yes. As I mentioned before, Ms Sharp, there were some significant time pressures and expectations from the market, given the airing of the allegations.

MS SHARP SC: Would it have been more accurate to state in words to the effect that The Star was still investigating the allegations?

30 **MR O'NEILL:** Well, Ms Sharp, I - I think what we, as a board, signed off on - on 11 October was the - the - the most truthful and accurate description that we could provide at that time.

35 **MS SHARP SC:** Well, wouldn't a more truthful and accurate description be one where you said, "We are still investigating whether there is any substance to a number of these allegations"?

40 **MR O'NEILL:** No, I think that what we have signed off on at the time was sufficient.

MS SHARP SC: Isn't this ASX announcement itself somewhat misleading?

MR O'NEILL: No.

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

MR O'NEILL: Yes.

MS SHARP SC: Now, can I then go to - if I could call up, please, exhibit H at tab 475.

5 **MS RICHARDSON SC:** Could I just say before I forget, in response to the call made before lunch in relation to the final BDO report, it's an exhibit before the review, H464.

MR O'NEILL: Thank you.

10 **MS SHARP SC:** Now, I'm showing you an email that you sent Mr Sheppard and Mr Bekier and Mr Jenkins on 11 October 2021. In turn, you're responding to an email from Mr Sheppard. Can I ask you: was there a particular reason that you were only consulting with Mr Sheppard and Mr Bekier at this time about the media allegations, rather than the board more generally?

15 **MR O'NEILL:** You'll have to blow that up for me, Ms Sharp. So, Ms Sharp, it's the first - well, obviously I read this email at the time, and it was addressed to myself; Matt Bekier, the CEO; and Peter Jenkins, the head of ADO. It was Richard writing to - to us with a suggestion as to who we might consult with on
20 our particular issues. And I simply said:

"Thanks Richard."

25 **MS SHARP SC:** Could I take you, please, to STA.3412.0079.4931. There's an email from you to Mr Bekier, Ms Martin, Mr Theodore, Mr Power, Mr Jenkins and Mr Hawkins dated 11 October 2021. It was sent at - it appears to be 1 - do you agree it's 1.19 in the afternoon?

30 **MR O'NEILL:** Yes. That's --

MS SHARP SC: Or is it just after midnight? I'm not sure.

MR O'NEILL: It could well have been just after midnight.

35 **MS SHARP SC:** What you say there is:

"Did we or did we not give ILGA the KPMG report? Very important."

40 And you then reference a newspaper article called No Knowledge: Gambling Watchdog Unaware of Criminal Infiltration. Why did you consider it very important to know whether Star gave ILGA the KPMG report?

45 **MR O'NEILL:** Well, I think - I think the time - the time was probably 20 past - or 19 minutes past 1 in the morning, given the circumstances that we're operating in. I must - I presume, from memory, Ms Sharp, that I'd probably read the - online the newspapers and had read that article, and I needed to know the answer to that question, the reason being that - I'm only looking at the headline, No Knowledge: Gambling Watchdog Unaware of Criminal Infiltration. So it was a - my

recollection is a bit faint, I must admit, but I presume I was asking the question for a very good reason.

5 **MS SHARP SC:** Well, I'll take you to the link that you refer to in that article. If I could call up INQ.014.001.0001. And what I'm showing you is that newspaper article that you gave the hyperlink for. And if I have enlarged for you the first paragraph, Mr O'Neill, it says:

10 "The New South Wales gaming regulator was kept in the dark about confidential reports commissioned by gaming giant Star Entertainment which found it was failing to properly combat the risk of organised criminals or terrorists exploiting the company's Sydney and Queensland casinos."

15 Now, you well understood from that first paragraph that the assertion being made in the media was that the New South Wales gaming regulator had not been provided with the KPMG report?

MR O'NEILL: That appears to be the case.

20 **MS SHARP SC:** And that is why, isn't it, you ask your colleagues in that email, "Did we or did we not give ILGA the KPMG report?"

MR O'NEILL: Yes.

25 **MS SHARP SC:** And what were you told?

MR O'NEILL: Going from memory, I think the response was that we hadn't handed it over to ILGA.

30 **MS SHARP SC:** So to be clear, at the time that you sent this email on 11 October at - it looks like the very early hours of the morning, your concern was that the media was alleging that ILGA had not been provided with the KPMG, and it was later confirmed to you that, yes, indeed, ILGA had not been provided with the KPMG report?

35 **MR O'NEILL:** Well, Ms Sharp, you may be able to help me. Was there a response to that email?

40 **MS SHARP SC:** Well, I'm just asking you the question, Mr O'Neill. That's right, isn't it?

MR O'NEILL: Yes, but I - I posed the question to a number of senior executives.

45 **MS SHARP SC:** Yes. And you've just given evidence that you were told that ILGA had not been provided with the KPMG report.

MR O'NEILL: That's the best of my recollection, that we hadn't provided it. I just wondered whether there was an email response. That's all, Ms Sharp.

5 **MS SHARP SC:** Just to be clear, to your knowledge, once that question was answered for you, you were aware that that media allegation was true, that is, the New South Wales gaming regulator was kept in the dark about confidential reports?

MR O'NEILL: Well, I didn't - didn't know when I read it as to whether it was true or false, and that's why I asked the question.

10 **MS SHARP SC:** All right. So you asked the question in the very early hours of 10 October 2021 and then you authorise an ASX announcement that went out on 12 October 2021 that said:

15 "Recent media reports have asserted that reports prepared by KPMG in 2008 were kept secret and not adequately acted on. These assertions are incorrect."

MR O'NEILL: (Indistinct).

20 **MS SHARP SC:** But they weren't incorrect, were they, Mr O'Neill?

MR O'NEILL: Well, if I had - Ms Sharp, we're talking about whether the KPMG report had been supplied to AUSTRAC.

25 **MS SHARP SC:** Well, that's not what this document says. I'll take you back to it. STA.3411.0001.7109. Do you see in the summary, it says:

30 "Recent media reports have asserted that reports prepared by KPMG in 2018 were kept secret and were not adequately acted on. These assertions are incorrect."

Now, it's right, isn't it, that one of the articles you had in your mind in authorising this ASX announcement was the one that you copied to all of your colleagues in your 11 October 2021 email?

35 **MR O'NEILL:** But, Ms Sharp, this press release was in response to the 60 Minutes program and subsequent reporting alleging that we - making allegations about the KPMG report, and that - and that we - the allegation was that we kept it secret and not adequately acted upon, and we said those assertions were incorrect. And we were referring to - and we've already discussed the fact that at that time, 40 I'd been told that the KPMG report had been provided to AUSTRAC. It turns out it hadn't been.

45 **MS SHARP SC:** But, Mr O'Neill, you had in your mind the media allegation that you copied to your colleagues which made the assertion that the New South Wales gaming regulator was kept in the dark about confidential reports, didn't you? Or at least that was one of the things you had in your mind?

MR O'NEILL: Ms Sharp, when you posed the question to me as to did I - did I or didn't I know whether the KPMG report had been handed to ILGA, I - I said of - to the best of my recollection, I don't think it had been. And then I asked you whether there was a response to my email which could confirm, you know, definitively,
5 whether I got an answer from the colleagues that I asked. So I'm basing it on - I'm basing it on recollection that it doesn't look like we had given it to ILGA at that time. But given I wrote an email asking the question, you would normally expect there would be a written answer.

10 **MS SHARP SC:** Mr O'Neill, I will ask you to attend to my questions, please. You had in your mind on 11 October 2021 the media allegation that the New South Wales gaming regulator had been kept in the dark, didn't you?

MR O'NEILL: When I wrote the email?

15

MS SHARP SC: Yes.

MR O'NEILL: I asked the question as to whether we had provided the KPMG report to them.

20

MS SHARP SC: Okay. I'll ask you the question again. As at 11 October 2021, you had in your mind the media allegation that the New South Wales gaming regulator was kept in the dark. Is that correct or incorrect, Mr O'Neill?

25 **MR O'NEILL:** Based on the media article, that was the impression I had.

MS SHARP SC: So that's correct, isn't it?

MR O'NEILL: Yes.

30

MS SHARP SC: That's the allegation you had in your mind, isn't it?

MR O'NEILL: That's the allegation I was asking for a response to.

35 **MS SHARP SC:** All right. And that is one of the allegations that you were responding to when you authorised this 12 October 2021 ASX announcement, wasn't it?

MR O'NEILL: I didn't have that allegation in my mind at that time.

40

MS SHARP SC: Well, it was the very next day, wasn't it, Mr O'Neill?

MR O'NEILL: It was.

45 **MS SHARP SC:** See, what I'm suggesting to you, Mr O'Neill - and I'll be very clear about this - is that you authorised a statement to the ASX that you knew to be incorrect.

MR O'NEILL: Ms Sharp, before I answer that, I would ask again whether there was --

5 **MS SHARP SC:** No, no, no, Mr O'Neill. I ask the questions here, not you. So could you answer my question, please.

MR O'NEILL: Well, Ms Sharp, the answer will be qualified because I still don't know what the response was to my email question of my colleagues.

10 **MS SHARP SC:** Mr O'Neill, you had in your mind on 11 October 2021 that one of the media allegations was that ILGA had not been provided with the KPMG report. And then the very next day, on 12 October 2021, you authorised a release that said it was not true that reports that said that KPMG reports were kept confidential were not true. And you had --

15 **MR O'NEILL:** The words were "were kept secret".

MS SHARP SC: You had no proper basis for refuting the assertion that they had been kept secret, did you?

20 **MR O'NEILL:** Well, Ms Sharp, I know you ask the questions, but it's difficult for me to answer without a definitive evidence of what my colleagues came back with to my question.

25 **MS SHARP SC:** You were never told by your colleagues that ILGA had been provided with the KPMG report, were you?

MR O'NEILL: I posed the question to them by way of email, and you can put the email up again to read what I said. I said, "This - I need to know. Was this provided to ILGA? This is important."

MS SHARP SC: And you were never told by your colleagues that the report was provided to ILGA, were you?

35 **MR O'NEILL:** I'm simply asking is there an email that responded to my email.

MS SHARP SC: Mr O'Neill, you were never told by your colleagues that ILGA was provided with the KPMG report, were you?

40 **MR O'NEILL:** I need help with my recollection, Ms Sharp, without, you know - you know, finding whether they responded to me in writing. I put a question to them in writing and said how important it was. I would have normally expected the response, either yes or no, would - would have been by an email exchange.

45 **MS SHARP SC:** Mr O'Neill, you were never told by your colleagues that ILGA had been provided with the KPMG report by that time, were you?

MR O'NEILL: To the best of my recollection - to the best of my recollection, Ms Sharp, in the absence of seeing any email, that's correct.

5 **MS SHARP SC:** And the fact is that you authorised an ASX announcement on 12 October 2021 that you knew to be incorrect, didn't you?

10 **MR O'NEILL:** I didn't - I didn't believe it to be incorrect, Ms - Ms Sharp. I was concentrating on more as to whether it had been provided - the KPMG report had been provided to AUSTRAC. That was in my mind. The fact that I perhaps forgot about the ILGA component, that may be an error. But the fact is in crafting this, what the board and I had in our mind was whether - the allegations that the report was kept secret from AUSTRAC.

15 **MS SHARP SC:** And, of course, you know now that it was indeed kept secret from AUSTRAC, don't you?

MR O'NEILL: Yes.

20 **MS RICHARDSON SC:** Well, I object to that question.

MR BELL SC: I will allow it. I think Mr O'Neill has answered it, Ms Sharp.

25 **MS SHARP SC:** Thank you. Could I take you, please, to exhibit H489, which is STA.3433.0005.0066. Now, I'll start at the back of this email chain, if I may. Could I take you, please, to 0067, which is an email from Richard Sheppard. Now, this is dated 11 October 2021 to you - it's to you and Mr Bekier. Can we take it you read that email at the time?

30 **MR O'NEILL:** I've been shown it recently in preparation for this hearing.

MS SHARP SC: Okay. But did you read the email that was sent to you at the time?

35 **MR O'NEILL:** Yes, I did.

MS SHARP SC: And you'll agree that Mr Sheppard was concerned with the question of whether a public inquiry might be announced in the context of Mr Bell's review?

40 **MR O'NEILL:** Yes.

45 **MS SHARP SC:** And could I take you, please, to your response. If we go back to the previous page, and I'll have it enlarged for you. It's at the bottom of that first page. There's an email from you dated 11 October 2021. You agree that's an email you sent to Mr Sheppard at that time?

MR O'NEILL: Yes.

MS SHARP SC: And you refer to the fact that you had quite a long board call not long ago?

MR O'NEILL: Yes.

5

MS SHARP SC: And then you say:

10 "There is a power of overt and covert work underway with I can assure you extreme urgency to achieve the number 1 objective/imperative at the moment of ensuring the Bell Review remains in camera."

Why was that the number 1 objective and imperative at that time?

15 **MR O'NEILL:** Well, Ms Sharp, from the time that ILGA announced the suitability review by Mr - by Mr Bell, at that time there was the announcement that the hearings - or the review would be in camera, which for all the business continuity and distraction reasons was preferable, and that had been the intention. And at that - at this particular time to say that we would have a strong preference that the Bell Review remained in camera is, you know, I think a fairly normal
20 reaction by the business.

MS SHARP SC: And tell me, what was the power of overt work underway to achieve the number 1 objective/imperative that the Bell Review remained in camera?
25

MR O'NEILL: In terms of overt work, that was simply conversations I was having with the chairman of ILGA as to what he thought might happen.

MS SHARP SC: And what was the covert work that was underway?
30

MR O'NEILL: That was our internal government relations people ensuring that we were communicating with the appropriate minister responsible to ensure that we were attending to a full investigation of the allegations.

35 **MR BELL SC:** Mr O'Neill, how could you have considered it part of your proper role as chair of Star Entertainment to be taking steps to prevent these public hearings from occurring?

40 **MR O'NEILL:** Well, Mr Bell, it was not a matter of trying to stop the - the - you know, ultimately, that decision lay with - with you and ILGA. But it was to get a - information in front of people as to an opportunity to buy some time such that we could verify or otherwise the allegations that had just been aired, some of which were new to us.

45 **MR BELL SC:** If you weren't trying to stop these public hearings, how should I read your own words?

MR O'NEILL: Well, Mr Bell, this was - this had come like a bolt from the blue and, you know, we were aware that, you know, moving into public hearing mode was - created significant challenges and significant distractions for the business. So I can assure you, Mr Bell, there was no bad intent. It was, you know - we had
5 started the - you know, your review with the intention of it being held as a business-as-usual review, and it had taken a serious, you know, turn for the worst. And in the - in the heat of battle, it was really my concern and others of - if - if we can continue to have the review in camera, that is a better outcome for the day-to-day running of the business.

10 **MR BELL SC:** Do you accept that these public hearings have uncovered serious misconduct which you and your board colleagues should have identified?

15 **MR O'NEILL:** Yes, Mr Bell. But we were unaware of many of them at the time.

MR BELL SC: Yes, Ms Sharp.

20 **MS SHARP SC:** Now, just explain to us precisely what the covert work was that was underway. It had something to do with representations to a minister, did it?

MR O'NEILL: No. No. It was simply - look, I - my recollection is not all that clear, but it was usually just at a chief of staff level to keep the information flow going. So there was nothing - nothing sinister about this at all.

25 **MS SHARP SC:** Well, you in your words say, "There is a power of overt and covert work underway." You must have had a fairly good understanding of what it was that you were describing as the covert work. So could you please tell Mr Bell what that was.

30 **MR O'NEILL:** Well, I wasn't intimately aware of - and it's an overstatement in the environment in which we were operating. It was high pressure and stressful, and it was simply our government relations people keeping the appropriate people in government aware that we had taken the allegations seriously and were investigating them.

35 **MS SHARP SC:** What you say in your email is that:

40 "Covert work is underway to achieve the number 1 objective/imperative of ensuring the Bell Review remains in camera."

What was that work?

45 **MR O'NEILL:** It was simply conversations by our government relations people, providing an assurance that we had taken the allegations seriously and were - and - and that they will be now the subject of the Bell Review.

MS SHARP SC: And who were these representations being made to, Mr O'Neill?

MR O'NEILL: Ms Sharp, I don't recollect directly.

MS SHARP SC: It's not that long ago. It was only 11 October 2021 that you were telling your colleagues of the covert work. What's your best recollection?

5

MR O'NEILL: My best recollection would be at a chief of staff level.

MS SHARP SC: To whom?

10 **MR O'NEILL:** Whoever --

MS SHARP SC: Chief of staff of a minister?

MR O'NEILL: Of whoever the responsible minister at the time would have been.

15

MS SHARP SC: And that's your best recollection, is it?

MR O'NEILL: It is, yes. As I said, I regret the use of the language because it had been an exceptionally busy and stressful few days and, you know, we were absorbed by the upcoming Bell Review and we had wrongly - and as Mr Bell has said, we - there were many issues that have been uncovered that we, you know, should have known about. But we had started the Bell Review on the basis that it would be a business-as-usual review, and this - this unfolded in a way that was unexpected. And - and in - and in the moment in time where you're working under stress and great pressure, you know, you can use careless words that aren't intended to be of ill intent whatsoever.

20

25

MS SHARP SC: Did you have any communications with anybody to achieve the number 1 objective of ensuring the Bell Review remained in camera?

30

MR O'NEILL: Only one conversation with Mr Crawford.

MS SHARP SC: Can I take you to the minute of a board meeting of 12 October 2021, please. STA.3029.0002.0031, which is exhibit H, tab 488. Now, you are recorded as being at this meeting, and you were, weren't you?

35

MR O'NEILL: Yes.

MS SHARP SC: And you agree that Paula Martin was also at that meeting?

40

MR O'NEILL: Yes, she was.

MS SHARP SC: She was there for the entirety of the meeting, was she?

45 **MR O'NEILL:** Well, I can't see all the minutes.

MS SHARP SC: Well, I'll show you the first page. If I can - operator, if you could scroll down that page. And then over to the next page, please, operator. So the substantive discussion is recorded on the first page; do you agree?

5 **MR O'NEILL:** Yes.

MS SHARP SC: Right. We'll go back to that first page. Was Ms Martin present for the whole of that meeting?

10 **MR O'NEILL:** Yes.

MS SHARP SC: Now, you'll see that the purpose of the meeting is to consider a draft ASX release, and that was the second ASX release, wasn't it?

15 **MR O'NEILL:** Yes.

MS SHARP SC: And that was the one where the suggestion that the KPMG report was kept secret was refuted?

20 **MR O'NEILL:** Yes.

MS SHARP SC: And is it your evidence that while that ASX release was discussed at this meeting, at no point did Ms Martin say, "By the way, I knew that Star refused to provide the KPMG report to AUSTRAC over a 16-month period"?

25 **MR O'NEILL:** That's correct.

MS SHARP SC: What comment do you have about that?

30 **MR O'NEILL:** Extremely disappointing.

MS SHARP SC: Now, you'll see - if I can take you to the heading Media Coverage. It's fair to say there was a concern - if you look at the second paragraph - about the share price movement?

35 **MR O'NEILL:** Yes.

MS SHARP SC: And that's why consideration was being given to a further ASX announcement?

40 **MR O'NEILL:** Yes.

MS SHARP SC: And it's there recorded that:

45 "Management noted that the key matter at the core of the ongoing media is the KPMG reports from 2018."

MR O'NEILL: Yes.

MS SHARP SC: And:

5 "Management further noted that Mr McKenzie has not yet covered all matters
the subject of initial questions put to the company on 6 October 2021."

MR O'NEILL: Yes.

10 **MS SHARP SC:** But isn't it right that by this time, a very large number of
allegations had been levied in the media against Star, including allegations in
relation to China UnionPay, the propriety of dealing with particular junket
operators and the propriety of dealing with certain high-value clients, such as
Mende Trajkoski, James Mussillon and John Khoury?

15 **MR O'NEILL:** Yes.

MS SHARP SC: Why is it that the board was so concerned with the allegation
about the KPMG reports?

20 **MR O'NEILL:** Well, I think the - the seriousness of the allegation struck - struck
the board very heavily, that - that we had, you know - I can't read out what all the
allegations were, but it was - it smacked of serious allegations that we had
attempted to cover up the KPMG report, attempted to cover it up, amend it.
And - and that rested with the board, you know, very - very heavily. And in terms
25 of a number of the other allegations, with, say, CUP, the board had recently
addressed that at a board meeting on 21 September, and it was still work in
progress waiting on management's response, I believe. I'd have to check that date.
And - and the allegations around patrons were such that we were, you know,
tracking them down, and there were some issues raised around the confidentiality
30 of names.

MS SHARP SC: Just so we understand, one of your principal concerns at that
point in time was with the allegation that The Star had tried to get KPMG to
change its report; is that right?

35 **MR O'NEILL:** That's my recollection, yes.

MS SHARP SC: And knowing what you know today, what is your view of the
correctness or otherwise of that allegation?

40 **MR O'NEILL:** The allegation that - could you repeat that, please, Ms Sharp?

MS SHARP SC: What is your view today, knowing what you know now, as to
the correctness or otherwise of the allegation that Star Entertainment attempted to
45 have KPMG change its report?

MR O'NEILL: That allegation was unfounded.

MS SHARP SC: And that's the view you maintain today, is it?

MR O'NEILL: Yes.

5 **MS SHARP SC:** Now, can I - if you will pardon me one moment. Can I take you to exhibit H494, which is STA.3029.0001.1498. And do you see this is an email that you sent to your fellow directors dated 13 October 2021?

MR O'NEILL: Yes.

10

MS SHARP SC: And there's an attachment to it called Responses to Media Allegations?

MR O'NEILL: Yes.

15

MS SHARP SC: And you say:

"Just FYI this is a briefing note used to talk to investors today."

20 **MR O'NEILL:** Yes.

MS SHARP SC: Now, there wasn't any annual general meeting that day, was there?

25 **MR O'NEILL:** No. We had a number of large investors who were - who had requested meetings with myself.

MS SHARP SC: And you spoke to them on 13 October 2021, did you?

30 **MR O'NEILL:** I'm not sure of the exact date.

MS SHARP SC: Well, your email says:

"Just FYI this is the briefing note used to talk to investors today."

35

MR O'NEILL: Yes. That must be right.

MS SHARP SC: So it must be right, mustn't it, that it was the 13 October you spoke with those investors?

40

MR O'NEILL: Yes.

MS SHARP SC: Who were they?

45 **MR O'NEILL:** I'd have to have my diary in front of me, Ms Sharp. I think one - one was Martin Currie.

MS SHARP SC: Anyone else that you can recall?

MR O'NEILL: It was only - I think I only dealt with two. But, you know, investors inevitably were disturbed at the reports.

5 **MS SHARP SC:** Well, I just want to know, Mr O'Neill, who you spoke to on 13 October 2021, please.

MR O'NEILL: I don't remember.

10 **MS SHARP SC:** But more than one investor?

MR O'NEILL: Perhaps. I'd have to check my diary.

15 **MS SHARP SC:** Can I take you to the attachment to that email, please, which is STA.3029.0001.1499, which is exhibit H495. And you agree that's the briefing note you attached to that email?

MR O'NEILL: Yes.

20 **MS SHARP SC:** And may we take it that when you spoke to the investors on 13 October 2021, you used this note to inform what you said to those investors?

MR O'NEILL: Well, I can't see all of the briefing note, Ms Sharp.

25 **MS SHARP SC:** I'll show it to you now.

MR O'NEILL: Yes. Well, these - these were the briefing notes prepared for me by our investor relations people. And, yes, they are the notes that I used to speak to the investors at their request.

30

MS SHARP SC: And one - and those investors that requested to speak to you, who of them do you remember requested to speak to you?

35 **MR O'NEILL:** I think you just asked that question, Ms Sharp, and I said I can't remember specifically who they were. I'd have to check my diary, which I don't have with me.

MS SHARP SC: Now - and that will be recorded in your diary, will it?

40 **MR O'NEILL:** Yes.

MS SHARP SC: I call for production of that part of the diary that shows who Mr O'Neill spoke to.

45 **MS RICHARDSON SC:** I'll make inquiries.

MS SHARP SC: Now, may we take it that one matter you spoke to these investors about was the KPMG report?

MR O'NEILL: Yes.

5 **MS SHARP SC:** And another matter you spoke to the investors about were what you've got here as number 2, customer-related allegations?

MR O'NEILL: Yes.

10 **MS SHARP SC:** And you deny the claim that Star turned a blind eye to criminals?

MR O'NEILL: Yes.

15 **MS SHARP SC:** And so that's something you said to the investors?

MR O'NEILL: I can't recollect whether I used that exact language. I used these - I used these notes to guide me in the conversation with the investors, depending on their areas of interest.

20 **MS SHARP SC:** And if I could take you over the page, please, Mr O'Neill. You also spoke to this group of investors about staff-related allegations, did you?

MR O'NEILL: Yes, I did.

25 **MS SHARP SC:** And number 4 here says:

"Various allegations around The Star's relationship with junket operators."

30 You spoke to the investors about that matter, did you?

MR O'NEILL: Yes, I did.

35 **MS SHARP SC:** And then there's a heading here, 5, China UnionPay. You spoke to investors about that matter, did you?

MS RICHARDSON SC: Sorry. Could the page just be scrolled down, please.

MR O'NEILL: Yes, I did.

40 **MS SHARP SC:** And did you tell the investors in words to the effect that:

"Have reviewed historic practices in a number of areas, many of which were broad industry practices, that have been raised in recent Crown reviews."

45 **MR O'NEILL:** I can't remember the precise language I used, Ms Sharp. But these - as I said, these briefing notes gave me - I didn't use them as a Hansard record, but it gave me a chance to speak more broadly about any of the subjects that they wanted to question me about.

MS SHARP SC: And this note then says:

5 "Consistent with these structured reviews, we did an independent legal review on the use of CUP cards. That assessment concludes that CUP was not used in a way that contravened the Casino Control Act or any applicable laws."

10 Now, is that the substance of what you communicated to the investors?

MR O'NEILL: I don't recollect precisely, Ms Sharp.

15 **MS SHARP SC:** Well, given that that is the note that you used to prepare for speaking to the investors, do you think it's most likely that this is what you actually said to the investors?

20 **MR O'NEILL:** Well, it's probably more likely that I used the language that I'd been using out of the Anthony Seyfort review, that there was no - that the review had told us there was no legal - no law, federal or state, broken; no regulatory contravention; no adverse - no adverse AML consequences. I - I suspect I would have said that the - it was unacceptable commercial practice. I can't recollect exactly. It, again, was in a very pressurised environment where investors were agitated. And - and - but I was careful, Ms Sharp, not to give them any price sensitive information.

25 **MS SHARP SC:** Well, I'll come back to that question. But there's nothing in this document that says it was not acceptable commercial practice, is there?

30 **MR O'NEILL:** No. But as I said, these were - these had been prepared by our investment relations group, and it would depend - and I can't remember the exact way the conversations would have flown.

MS SHARP SC: Now, the Seyfort report said:

35 "Use of CUP to fund gambling expenditure was a breach of CUP card scheme rules of UnionPay International."

Did you tell the investors that?

40 **MR O'NEILL:** I don't recollect, Ms Sharp.

MS SHARP SC: Is it most likely you didn't, given it's not in your briefing note?

45 **MR O'NEILL:** I don't recollect, Ms Sharp.

MS SHARP SC: Well, what do you think is most likely, Mr O'Neill? It wasn't that long ago.

MR O'NEILL: It's most likely, Ms Sharp, I - I spoke off the top of my head about the review by Anthony Seyfort at a high level, that no law was broken. Everything I just said a moment ago.

5 **MS SHARP SC:** Well, you do agree with me, don't you, that Mr Seyfort did not give the CUP process a glowing endorsement, did he?

MR O'NEILL: No.

10 **MS SHARP SC:** And did you mention that to the investors when you were briefing them?

MR O'NEILL: I would presume so.

15 **MS SHARP SC:** Well, there's nothing about that in this document, is there?

MR O'NEILL: No, but I'd be surprised if I didn't tell them we had closed down the CUP business in March 2020. And I'd be surprised if I hadn't told them that the board were doing this investigation.

20

MS SHARP SC: But you have no recollection of saying that; is that right?

MR O'NEILL: Not specifically, no.

25 **MS SHARP SC:** And the Seyfort report said:

"It is possible to conclude that NAB contractually intended that CUP not be made available for gambling expenditure."

30 Did you tell the investors that?

MR O'NEILL: I don't recollect, Ms Sharp.

35 **MS SHARP SC:** Is it most likely you didn't, given that it's not in your briefing note?

MR O'NEILL: Most likely.

40 **MS SHARP SC:** Most likely you did not tell the investors?

MR O'NEILL: I - I kept it, from my best recollection, at a very high level. And it depended on what questions the investors - it was a two-way conversation of investors asking me questions and, to the best of my ability, giving the response.

45 **MS SHARP SC:** Now, Mr Seyfort also said this in his review - and I'll read it out:

"The historical use of CUP would not conform to The Star's current corporate culture and risk appetite for at least four reasons."

Dot point:

5 "The Star did not adhere to the rules of a major card scheme in which it participated."

Dot point:

10 "The Star attracted financial and reputational risk in its use of CUP and its dealings with NAB."

Dot point:

15 "The Star appeared to have less regard for foreign legal issues than Australian ones."

Dot point:

20 "Some parts of management felt unconstrained by the spirit of controls."

Did you tell the investors that?

MR O'NEILL: I don't believe so, Ms Sharp.

25 **MS SHARP SC:** And it's not in your briefing note, is it?

MR O'NEILL: No. But these are briefing notes, Ms Sharp, and these meetings, you know, were over within 45 minutes.

30 **MS SHARP SC:** And, Mr O'Neill, the Seyfort report also says:

35 "UnionPay International and NAB might have been misled, but whether they were depends on what each actually knew or perceived about the use of CUP cards at The Star."

Did you tell the investors that?

MR O'NEILL: As I said, Ms Sharp, we kept the conversation at a very high level.

40 **MS SHARP SC:** Is it right that you didn't give the investors an accurate briefing of what Mr Seyfort had found in his review?

45 **MR O'NEILL:** In terms of, you know, our overall responsibility to all shareholders, Ms Sharp, it would be - it wouldn't be appropriate to go into that level of detail.

MR BELL SC: Why didn't you tell all the shareholders what you were telling this select group of investors about China UnionPay?

5 **MR O'NEILL:** Well, Mr Bell, this was shareholders who had requested urgent meetings to seek clarification on a number of matters. And, you know, we were - attempted to be exceptionally cautious about how much we said within the confines of ongoing investigations. And we were two weeks away from our annual general meeting.

10 **MR BELL SC:** Well, looking back on it now, can you see some dangers in selective briefings of this nature?

15 **MR O'NEILL:** Looking back on it now, yes, Mr Bell. But we took and I had advice as to what I could or couldn't say, and I was very cautious with - I think it was only two shareholders. So I was trying to be painstakingly careful to avoid any sense that some shareholders had information that others didn't.

20 **MR BELL SC:** But well, the cautious and careful approach would surely have been to make sure that the market as a whole was informed of these matters; do you agree?

25 **MR O'NEILL:** Well, Mr Bell, in a perfect world, yes, that would be right. But we were still in the course of running down some of these allegations to a satisfactory or - or understandable conclusion.

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

35 **MS SHARP SC:** Did you engage in this briefing of select investors in order to prop up the share price?

40 **MR O'NEILL:** No. No, Ms Sharp. No. It was - it was those shareholders who had requested or demanded a meeting.

45 **MS SHARP SC:** Is it right that you formed the opinion after this briefing that those investors had a more positive view of the share price or value of Star Entertainment shares?

50 **MR O'NEILL:** I'm sorry. I can't answer that, Ms Sharp. You'd have to ask them.

55 **MS SHARP SC:** Well, I'll take you to an email from you dated 13 October 2021. It's STA.3029.0001.1480, which is exhibit H493. And do you see you're emailing your fellow directors, forwarding them a newspaper article called Shares in The Star Entertainment Group Lift After Late-Night Response to Media Allegations? And do you see you say:

60 "FYI. Also I met and spoke with some investors today."

65 **MR O'NEILL:** Yes, I see that.

MS SHARP SC: Well, is it right that what you were trying to do in speaking with those investors was to prop up the share price?

5 **MR O'NEILL:** Can you scroll down so I can see the rest of that article?

MS SHARP SC: Operator, could you do that, please.

10 **MR O'NEILL:** Well, it's saying the boost in the share price followed a late-night ASX release from Star on the Tuesday. So it seems to be saying that the improvement in the share price was as a result of the ASX release.

MS SHARP SC: I understand what the article is saying, Mr O'Neill, but what I'm interested in are the words that you were saying to your fellow directors when you forwarded this newspaper article and said:

15 "Also I met and spoke with some investors today."

What were you trying to convey there?

20 **MR O'NEILL:** Can you scroll back, please? I just said:

"FYI. Also I met and spoke with some investors today."

25 But, Ms Sharp, I - I don't recall what I was inferring other than to give them information that I had spoken with investors.

MS SHARP SC: Well, let me try and assist you further with another of your emails. Could I take you, please, to STA.3412.0009.4119. And this is exhibit H497. Now, this is an email that you send to Mr Jenkins, Mr Bekier, Mr Theodore, Ms Martin and Mr Power dated 13 October 2021.

MR O'NEILL: Yes.

35 **MS SHARP SC:** And you forward the same newspaper article about the share price increase, don't you?

MR O'NEILL: Yes.

MS SHARP SC: And the commentary that you make in your email is:

40 "My investor meeting."

MR O'NEILL: Yes, that's the comment I make.

45 **MS SHARP SC:** And clearly what you are trying to do here is say that your meeting with certain investors contributed to a boost in the share price?

MR O'NEILL: Look, at best, Ms Sharp, I may have been saying it contributed to an improvement in the share price.

5 **MS SHARP SC:** Well, that's exactly what you were saying, wasn't it?

MR O'NEILL: There's reference to the article, Ms Sharp, where it gives credit to the late-night ASX release. I'm perhaps simply suggesting my investor meetings may have helped.

10 **MS SHARP SC:** Well, that is precisely what you were suggesting to these colleagues of yours, wasn't it?

15 **MR O'NEILL:** Well, Ms Sharp, it may - it was more in hope than in certainty, that I had hoped that my investor meetings had assisted in the improvement in the share price.

MS SHARP SC: And you well understood at this point in time that you had taken price sensitive information to a select group of investors and not the wider market, didn't you?

20 **MR O'NEILL:** I don't believe it was price sensitive information, Ms Sharp.

MS SHARP SC: Mr O'Neill, you were clearly implying in this email I'm showing to you that your investor meeting had contributed to an increase in the share price, weren't you?

MR O'NEILL: Yes.

30 **MS SHARP SC:** So you were well aware that you were taking price sensitive information to some investors and not the market as a whole, weren't you?

35 **MR O'NEILL:** That's not the case, Ms Sharp. It was a press release that went out at night, and - and that is nominated, if you scroll down again, as a contributor to the increase in share price. And I was requested by a handful of investors, you know, I think only two, to give - that demanded a meeting. I don't honestly believe I gave them price sensitive information. And, you know, the fact that the share price rose can be a combination of - of the press - what was in the press release and that they had had time to absorb.

40 **MS SHARP SC:** Now, that answer is not frank and it is not truthful, is it?

MR O'NEILL: Can you repeat that, Ms Sharp?

45 **MS SHARP SC:** Your last answer was not frank and it was not truthful.

MR O'NEILL: I'm being truthful, and I don't believe I provided to whichever shareholders I briefed with price sensitive information.

MS SHARP SC: And are you concerned, Mr O'Neill, about Star Entertainment's compliance with its continuous disclosure obligations because of this selective briefing of certain investors?

5 **MR O'NEILL:** No, I'm not, Ms Sharp.

MS SHARP SC: No concern at all?

MR O'NEILL: No, Ms Sharp.

10

MS SHARP SC: Now, are you familiar with the - and, sorry, are you giving a frank answer?

MR O'NEILL: Yes, Ms Sharp.

15

MS SHARP SC: Are you sure about that?

MR O'NEILL: Yes, Ms Sharp.

20

MS SHARP SC: Now, are you familiar with the renewal steering committee of Star Entertainment?

MR O'NEILL: Yes, I am.

25

MS SHARP SC: And that is a steering committee chaired by Mr Heap, isn't it?

MR O'NEILL: Yes, it is.

MS SHARP SC: And which board subcommittee does that report in to?

30

MR O'NEILL: It reports in - well, it either reports directly to the board, or it may report through the risk and compliance committee.

MS SHARP SC: And when was the first committee of the renewal steering committee?

35

MR O'NEILL: Early April.

MS SHARP SC: Mr O'Neill, have you been giving instructions to KWM for the purpose of conducting this review?

40

MR O'NEILL: Yes, I have.

MS SHARP SC: For what period of time?

45

MR O'NEILL: Originally - and I'll have to check the dates, Ms Sharp. Originally, the instructions were being provided - well, KWM are acting for the company, and I'm the chairman of the company. And initially, Paula Martin had been involved

until such time as she had been called as a witness. And so neither she nor Andrew Power were involved in any instructions. So the instructions have been coming from me, with the help of internal resources, and initially Nikki Pace, who went on maternity leave, and James - James Johnston.

5

MS SHARP SC: Mr O'Neill, could you tell us what your understanding of the concept of active stewardship is, in terms of a director exhibiting active stewardship?

10 **MR O'NEILL:** It's not a term I've heard spelt out. I certainly understand the - the meaning of "stewardship". And stewardship is responsibility for the good governance of a company or good governance of a - of whatever entity you are - you are handed the baton in a leadership role to take the stewardship of a company's affairs, to ensure that, to the greatest extent possible, it's handed over in
15 better shape than when you found it in your stewardship. Active stewardship, I presume, is being active in the - in - in conducting your role as a steward.

MS SHARP SC: What qualities do you consider a director should bring to a publicly listed company?

20

MR O'NEILL: Honesty; integrity; good character; good judgment; intelligence; depending on the company - the make-up of the company, a particular skill set; discipline; a strong level of curiosity; and a deep - deep obligation to comply with the obligations.

25

MS SHARP SC: And are these qualities that you have brought as a director to Star Entertainment?

MR O'NEILL: To the best of my ability, Ms Sharp.

30

MS SHARP SC: Do you agree that as a director of Star Entertainment, when reviewing board materials or other presentations to the board, it's important to be especially concerned to look out for risks of money laundering or criminal infiltration?

35

MR O'NEILL: Yes, Ms Sharp.

MS SHARP SC: And that is by virtue of the fact that your company ultimately, through subsidiaries, holds casino licences?

40

MR O'NEILL: Yes, Ms Sharp.

MS SHARP SC: And I think as you've already agreed, casinos of their nature are vulnerable to money laundering and criminal infiltration?

45

MR O'NEILL: Yes, Ms Sharp.

MS SHARP SC: Now, you were, as a director, briefed from time to time on the performance of the international rebate business, weren't you?

MR O'NEILL: Yes.

5

MS SHARP SC: And could I take you, please, to exhibit B435, which is STA.5002.0003.1476. And what I'm showing you is a board paper dated 26 September 2017 called International Rebate Strategy Update.

10 **MR O'NEILL:** Yes.

MS SHARP SC: And you expect that you would have read this document at about the time it was produced?

15 **MR O'NEILL:** Yes.

MS SHARP SC: I just wanted to take you to a few parts of this document, please, Mr O'Neill. Could we start with pinpoint 1491. And looking at this page, and in particular the second dot point, you will agree that you were briefed in 2017 that Suncity had become The Star's largest customer?

20

MR O'NEILL: Yes.

MS SHARP SC: And if you look at that pie chart, you will agree that you were briefed on what percentage of revenue Suncity was bringing in to Star as compared with other junkets?

25

MR O'NEILL: Yes.

MS SHARP SC: And you'll agree that you were briefed on the proposition that in the financial year 2018, management was focused on strengthening relationships with other major junkets, including Guangdong, Tak Chun and MegStar?

30

MR O'NEILL: Yes.

35

MS SHARP SC: Are you aware that the Guangdong junket was another name for the Neptune junket?

MR O'NEILL: I don't recall.

40

MS SHARP SC: Were you aware of the Chinatown junket?

MR O'NEILL: Yes, I was.

45 **MS SHARP SC:** And you were aware of Sixin Qin, were you?

MR O'NEILL: Yes.

MS SHARP SC: Now, could I take you to pinpoint 1497, please. Do you see here an update was provided about the Macau market?

MR O'NEILL: Yes.

5

MS SHARP SC: And do you agree that, in general terms, it was important for Star Entertainment to understand movements and developments in the Macau VIP casino market?

10 **MR O'NEILL:** Yes.

MS SHARP SC: And one of the things you were briefed on, if you have regard to that last dot point, was the Chinese Government launching Operation Chain Break in late 2015 which sought to stop the flow of funds into foreign casinos?

15

MR O'NEILL: Yes.

MS SHARP SC: So you well understood, in 2017, that that was an issue that Star Entertainment had to deal with?

20

MR O'NEILL: Yes.

MS SHARP SC: Now, could I take you to pinpoint 1499. And you see there's a heading here Competitors, Australian and New Zealand Market?

25

MR O'NEILL: Yes.

MS SHARP SC: And you will see in the first dot point, it says that:

30

"The Star has increased its share of the Australia/New Zealand international rebate market from 29.7 per cent in financial year '13 to 48.9 per cent in financial year 2017."

MR O'NEILL: Yes.

35

MS SHARP SC: Now, you would agree that you were aware at this time that there had been very significant growth in The Star's market share of the international VIP business?

40 **MR O'NEILL:** Yes.

MS SHARP SC: Now, could I take you, please, to pinpoint 1502. And you see there's a heading Current Issues?

45 **MR O'NEILL:** Yes.

MS SHARP SC: And you were briefed on the fact that:

"The Chinese Government focus on cracking down on gaming appears to be moderating in respect to Macau casinos, but not foreign operators."

MR O'NEILL: Correct.

5

MS SHARP SC: And you were also briefed on the fact that:

"Global focus on anti-money laundering continues to intensify, with direct and indirect implications."

10

MR O'NEILL: Yes.

MS SHARP: And what did you understand that to mean?

15 **MR O'NEILL:** Well, exactly as it says here, with - in terms of - picking up the:

"Indirect including banks tightening their internal controls and customer risk assessment."

20 But it was part of the overall crackdown on the movement of - stopping the movement of funds out of - out of China for gambling purposes. And, you know, globally, there was increased focus on - on AML.

25 **MS SHARP SC:** And did you understand, Mr O'Neill, that the focus on anti-money laundering was creating issues for Star Entertainment?

MR O'NEILL: I believe - I seem to recollect this was the purpose of this paper, Ms Sharp.

30 **MS SHARP SC:** And why did you understand it was creating issues for Star Entertainment?

MR O'NEILL: It was - to best of my recollection, it was becoming harder to - for patrons to get their money out of China.

35

MS SHARP SC: So that's what you understood in 2017, did you?

MR O'NEILL: In - in broad terms, yes.

40 **MS SHARP SC:** Now, if I could take you, please, over the page to pinpoint 1503. And do you see there it says:

"Operation Chain Break, a campaign to stop the flow of money and connections between high-stakes gamblers on the mainland and casinos was launched in mid-2015."

45

Now, you understood that had implications for Star Entertainment, didn't you?

MR O'NEILL: Yes.

MS SHARP SC: What did you understand that implication to be?

5 **MR O'NEILL:** Well, ringing a note of caution that the campaign to stop the flow
of money and connections between high-stakes gamblers on the mainland and
casinos, including Macau, that it would be in terms of the - the junket business and
high rollers from China, you know, coming to visit our - our properties,
10 particularly Sydney. It - it would be - different ways and means would be required
for them to be able to access their - their funds.

MS SHARP SC: And did you understand, Mr O'Neill, that patrons were reluctant
to have their paperwork indicate that money was moving into casinos?

15 **MR O'NEILL:** Yes. I should say, Ms Sharp, I'm - you know, relied on the
management team at the time and throughout in the IRB space. It's - it's - it's not
an area where I'd claim to have, you know, deep expertise and knowledge. But,
yes, that was my understanding.

20 **MS SHARP SC:** So you agree with my last question?

MR O'NEILL: Yes.

25 **MS SHARP SC:** And can I take you, please, to pinpoint 1506. And that's a page
headed Key Strategies.

MR O'NEILL: Yes.

30 **MS SHARP SC:** And you understood from this page that these were proposals by
management in terms of key strategies?

MR O'NEILL: Yes.

35 **MS SHARP SC:** And if I direct your attention, please, to the North Asian Junket
Market. You understood, didn't you, that one of the key strategies at this time, that
is, late 2017, was to:

40 "Formalise Macau activities through the activation of EEI (Hong Kong)
Services Limited."

MR O'NEILL: Yes.

45 **MS SHARP SC:** And could I take you over the page to pinpoint 1512. And do
you see there's a heading North Asian Junket Business, Key Issues and Strategic
Responses?

MR O'NEILL: Yes.

MS SHARP SC: And can I direct your attention to the first dot point. It says:

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

And the third dot point there is:

10 "Macau bank accounts: Risk that bank accounts in Macau (which are used to remit funds) may be closed or subject to enhanced due diligence."

MR O'NEILL: Yes.

15 **MS SHARP SC:** So management notified you, as a director, of this issue, didn't they?

MR O'NEILL: Yes, they informed us.

20 **MS SHARP SC:** And you understood, didn't you, that it was getting harder for patrons to move money out of Macau?

MR O'NEILL: Yes. And - and that's that last paragraph:

25 "In order to address these concerns, management recommended implementing the following activities - following initiatives."

30 **MS SHARP SC:** So you understood, didn't you, that what management was recommending, in response to it being harder to move money out of Macau, was to use EEIS in some way?

MR O'NEILL: That's my understanding.

35 **MS SHARP SC:** Can I take you, please, to exhibit B442, which is STA.0025.0001.0922. Now, every board meeting, the managing director and CEO prepared a report for the board, didn't he?

MR O'NEILL: Yes, he did.

40 **MS SHARP SC:** And I take it you would read that report prior to the meeting?

MR O'NEILL: Yes.

45 **MS SHARP SC:** Could I take you, please, to pinpoint 0926. Now, you can take it from me this was one of the documents that was presented to the board meeting on 6 December 2017, along with the managing director's report. You see it's a presentation on a cheque cashing facility process?

MR O'NEILL: Yes.

MS SHARP SC: And you would have read that prior to the meeting, wouldn't you?

5 **MR O'NEILL:** Yes.

MS SHARP SC: And could I take you, please, to pinpoint 0942. And do you see there's a summary of Star Entertainment's top 20 junkets in financial year 2017?

10 **MR O'NEILL:** Yes. It's hard to - hard to read, but --

MS SHARP SC: And for present purposes, though, you'll agree that management did brief you on this information?

15 **MR O'NEILL:** Well, they presented a paper.

MS SHARP SC: And you read it?

20 **MR O'NEILL:** Yes.

MS SHARP SC: And if I can just have that enlarged so you can actually read it. You'll see that there are a number of junket operators identified and then cheque cashing facility holders identified?

25 **MR O'NEILL:** I can see that, yes.

MS SHARP SC: And one of those CCF holders is Chau Cheok Wa. And that's Alvin Chau, isn't it?

30 **MR O'NEILL:** Well, if it's Suncity, it's Alvin Chau.

MS SHARP SC: Did you know his Chinese name is Chau Cheok Wa?

35 **MR O'NEILL:** Well, in the course of preparing for this hearing, I'm now more aware of that.

MS SHARP SC: And you're familiar with who Alvin Chau is, aren't you?

40 **MR O'NEILL:** Yes.

MS SHARP SC: And you've been familiar with him for quite some time?

MR O'NEILL: Yes.

45 **MS SHARP SC:** Have you ever met him, by the way?

MR O'NEILL: No.

MS SHARP SC: And you'll see there's a reference a little bit further down, in the context of the Shen Minmin junket, to Mr Sixin Qin being the cheque cashing facility holder.

5 **MR O'NEILL:** Yes, I see that.

MS SHARP SC: And you're familiar with Mr Sixin Qin, aren't you?

10 **MR O'NEILL:** Only - only through preparing for this hearing.

MS SHARP SC: Well, if you look a little further across the way, do you see his cheque cashing facility limit is \$167 million?

15 **MR O'NEILL:** Yes.

MS SHARP SC: In fact, his is by far the highest cheque cashing facility at that time?

20 **MR O'NEILL:** Yes.

MS SHARP SC: Surely you were specifically aware of him at the time, given that he had the largest cheque cashing facility by a long shot?

25 **MR O'NEILL:** Yes. I just didn't recall his name, Ms Sharp.

MS SHARP SC: Have you ever met him?

MR O'NEILL: No. I haven't met any of these junkets.

30 **MS SHARP SC:** Now, you told us earlier that you agreed with Dr Horton's statements in his November 2016 suitability report about junkets and the risk of money laundering. Do you remember that?

35 **MR O'NEILL:** Yes.

MS SHARP SC: And other directors of Star Entertainment have told this review that they also agreed with those observations.

40 **MR O'NEILL:** Yes.

MS SHARP SC: And you understand, don't you, that one of the objectives of the New South Wales Casino Control Act is to prevent the casino being infiltrated or exploited by criminal influences?

45 **MR O'NEILL:** Yes.

MS SHARP SC: And you understand, don't you, that the Casino Control Act requires that the casino operator only have business associations with those of good repute?

5 **MR O'NEILL:** Yes.

MS SHARP SC: And you, of course, understand that a casino operator must adequately identify and manage money laundering and counter-terrorism financing risks?

10

MR O'NEILL: Yes.

MS SHARP SC: And casinos, of their very nature, are vulnerable to money laundering and counter-terrorism financing?

15

MR O'NEILL: Yes.

MS SHARP SC: And you understand that that is particularly the case in the international rebate business?

20

MR O'NEILL: Correct.

MS SHARP SC: In view of those matters that we've just discussed, do you accept that there was a role for the directors in counselling and stressing to senior management that they must be mindful of these risks in executing their duties in relation to the international rebate business?

25

MR O'NEILL: Yes.

30 **MS SHARP SC:** And did the directors do this, Mr O'Neill?

MR O'NEILL: I believe we did, Ms Sharp.

MS SHARP SC: And how did the directors do that, Mr O'Neill?

35

MR O'NEILL: Within - within board meetings and conversations, that - there was a genuine awareness that this was a very risky business for all the reasons you've just outlined and that all care and attention on the risk and compliance front, and particularly around AML, should be part of day-to-day business practices.

40

MS SHARP SC: And were there specific ways in which the directors did stress to senior management that in view of the international rebate business being particularly risky, they had to exercise care and caution in their business dealings?

45

MR O'NEILL: Ms Sharp, I can't point to a particular, you know, paper and say this is what the board wrote to the management team. But the interaction between the board and the leadership team - Matt Bekier or whoever was leading the IRB

VIP business - was clearly conversations and dialogue that put, you know, proper emphasis and acceptance on managing the risks. It was - as I said before, you know, we're not - not in a business - you can't be in this business and pretend that you can eliminate the risk. It was to ensure that the message from the board was
5 that the risks were well known and they had to be managed carefully and appropriately.

MS SHARP SC: Do you agree that in view of the risks we've just discussed, the directors had to be particularly vigilant to ensure that risks of money laundering
10 and criminal infiltration were guarded against in relation to the international rebate business?

MR O'NEILL: Yes, Ms Sharp.

MS SHARP SC: In your opinion, were the directors sufficiently vigilant in that regard?
15

MR O'NEILL: I think to the best of our ability we were, Ms Sharp. Given what we know today, and through the course of the hearing, we could have always had
20 heightened and improved vigilance. And if I could just indulge, Mr Bell, just for a moment, because it's - the point has been made about self-reflection. And I'm not taking anything away from all of what you've said, Ms Sharp, but when you do reflect about a moment in time where you might - you may well take a different decision to that which we took, with the Crown arrests in - in 2016 - and, yes, we
25 took on a review of what happened with Crown and tried to satisfy ourselves that we were not doing any of the - or we - we were playing in the same sandpit as Crown, but we wanted to be sure that we were managing our risks better and we weren't crossing the line.

MR O'NEILL: The point I wanted to make is I think it was a strategic point where we - we had
30 the choice - and it was never put like this, but we - we had the choice of retreating from that market, basically under the heading of "too hot to handle". 19 - 19 Crown employees arrested. It sort of - inevitably, you had to stop and say, "Is the business worth it?" We did checks and balances and examination of - and
35 ultimately took the decision to move forward. And - and with abundant benefit of hindsight, I think it would have been better to step back from the market for a period of time, retreat. There were a number of junkets that we then picked up from Crown, as you can see, before our market share grew off the back of Crown's problems. And a number of the junkets that we picked up were of - of poor
40 quality. And it's - it's not blaming anyone; it's a collective responsibility. Strategically, that was a point in time where we could have said, "Enough's enough. This is too risky." So I'm sorry about that, Mr Bell.

MS SHARP SC: May I just ask you, Mr O'Neill: why didn't the board say,
45 "Enough's enough. This is too risky"?

MR O'NEILL: It certainly was contemplated, but the - the business case was put to us that indicated that the money that was being made was acceptable and could

be even more acceptable. And look, I think - again, it's - the questions that I tend to pose on propositions - and a wiser man than me years ago told me that if you're looking at a proposition as a director, ask the first question: is this perfectly legal? Second question: is it - is it proper? Third question: is it prudent? And lastly ask whether it's profitable. And don't address the profitability issue first; do it last. It has to be perfectly - perfectly, legal, proper and prudent. And I think that word "prudent" is something that we fell short on. And - yes. Look, it's a - okay, we're out of junket business and - but there's a lot of pain and suffering as a result of staying in it.

MS SHARP SC: Would this be a convenient time for the mid-afternoon adjournment, Mr Bell?

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

<THE HEARING ADJOURNED AT 3:31 PM

<THE HEARING RESUMED AT 3:45 PM

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Mr O'Neill, yesterday at page 3774, the transcript records me asking you a question:

"And may we take it that at the time of the public hearings of this review were announced, you welcomed the opportunity to have the issues ventilated in public."

And you answered:

"Yes."

Now, earlier today I took you to an email to one of your directors where you said that you were using overt and covert methods to achieve the number 1 objective of having hearings in camera. So what's the correct position? Did you welcome the opportunity to have the issues ventilated in public or not?

MR O'NEILL: Yes, I did, Ms Sharp. Once - once I'd had the conversation with Mr Crawford explaining the reasons for lifting two parts of the terms of reference into the public arena, his - his explanation was - was - it was clear and instructive, and it - it brought me to a - brought me to a proper understanding of the benefits of the public hearings.

MS SHARP SC: Could I take you now to Ms Robyn McKern's first report prepared for this review, and I will bring it up. That first report is INQ.018.001.0001. It is exhibit C330. And, operator, could I ask you to go, please, to page 20 of the document. Now, I just want to see if you agree with some of Ms McKern's observations. Do you see there's a heading 2.6, Findings, Use of China

UnionPay Cards? And I will have that enlarged for you, including the diagram.
Now, what Ms McKern says at paragraph 2.6.1 is that:

5 "Since 2013, significant international jurisdictions, notably Hong Kong and
Macau jurisdictions have increasingly tightened restrictions on the movement
of funds offshore and in connection with gambling."

10 Now, just pausing there, that was a matter that you understood at the time because
senior management briefed the board on that; correct?

MR O'NEILL: Yes.

MS SHARP SC: And then Ms McKern continues:

15 "This has led The Star to introduce alternative arrangements in order to
continue the flow of funds into The Star either for the purpose of front money
for gambling or for the repayment of debts owed to The Star arising from
gambling, notwithstanding the offshore regulations."

20 And you understood that at the time too, didn't you?

MR O'NEILL: Is this with the use of - this is not about CUP at this point.

25 **MS SHARP SC:** No, this is just a general introduction.

MR O'NEILL: Yes.

30 **MS SHARP SC:** Yes. So you understood at the time, because management did
brief you, that the tightening of restrictions overseas meant that The Star was
exploring alternative options for patrons to get their funds into the casino?

MR O'NEILL: Yes.

35 **MS SHARP SC:** And Ms McKern provides a diagram with a timeline of these
alternative arrangements that were pursued by The Star. Now, you've had the
opportunity to review this report. Do you agree with Ms McKern's figure 1,
Overview of Evolution of Channels For International Payments to The Star?

40 **MR O'NEILL:** Yes.

MS SHARP SC: And you agree, do you, that one of the arrangements was what I
will call the CUP arrangement?

45 **MR O'NEILL:** Yes.

MS SHARP SC: Now, in your first statement to this review dated 4 February
2022, you rely heavily on Mr Seyfort's September 2021 report in setting out your
understanding of the China UnionPay process; do you agree?

MR O'NEILL: Yes.

MS SHARP SC: And that you agreed with Mr Seyfort's findings, did you?

5

MR O'NEILL: At that time.

MS SHARP SC: And one of those findings - and I will read it out to you - is that:

10 "Use of CUP to fund gambling expenditure was a breach of the CUP card
 scheme rules of UnionPay."

Did you agree with that finding?

15 **MR O'NEILL:** Yes.

MS SHARP SC: Now, senior counsel for Star Entertainment has taken a number
of objections during the course of these public hearings to the proposition that the
use of the CUP card to fund gambling expenditure was a breach of the CUP card
20 scheme rules of UnionPay.

MR O'NEILL: Sorry, Ms Sharp. There was no direct relationship between Star
and UPI; is that correct?

25 **MS SHARP SC:** Well, that's a matter that will need to be the subject of legal
advice. There's no direct contractual relation between them.

MR O'NEILL: Well, it wasn't - as - as far as the NAB - well, there's UPI, CUP,
NAB and ourselves. We had a relationship with the NAB. We didn't have a direct
30 relationship with either CUP or UPI. I don't think so. Is that correct?

MS SHARP SC: Well, just – just so we understand, Mr Seyfort advised in his
September 2021 report that the use of the CUP to fund gambling expenditure was
a breach of the CUP card scheme rules of UnionPay. Have you accepted that
35 position or not? It's not in this document.

MR O'NEILL: Right.

MS SHARP: Do you want me to show you the document?

40

MR O'NEILL: Well, I think the point that I'm a bit confused about, Ms Sharp, is
that we were not party to the agreement that you're talking about.

MS SHARP SC: Okay. But what Mr Seyfort says here is that:

45

 "Use of CUP to fund gambling expenditure was a breach of the CUP card
 scheme rules of UnionPay International."

Now, do you accept that or not?

MR O'NEILL: That's what Mr Seyfort said.

5 **MS SHARP SC:** Yes. Would you like me to show it to you?

MR O'NEILL: Yes, please.

10 **MS SHARP SC:** Could I call up exhibit B3103 at STA.3002.0009.0292. And I'll direct your attention, please, to the second-last paragraph on that page and have it enlarged. And you can read that first sentence for yourself. Now, do you agree with that first sentence or not?

15 **MR O'NEILL:**

"The use of CUP to fund gambling expenditure was a breach of the CUP card scheme rules of UnionPay International, the licensor of the CUP card scheme."

20 Yes, I agree with that.

MR BELL SC: And, Ms Sharp, I think you should also take Mr O'Neill to the first of the four bullet points on the page ending in point 1461.

25 **MS SHARP SC:** Yes. Thank you, Mr Bell. If I can go over the page to pinpoint 0293. And I'll have enlarged for you the first few paragraphs. And you'll see - and, in fact, I read this out to you a little while ago, but:

30 "The historical use of CUP would not conform to The Star's current corporate culture and risk appetite for at least four reasons."

And the first reason was:

35 "The Star did not adhere to the rules of a major card scheme in which it participated."

Now, do you agree or disagree with that?

40 **MR O'NEILL:** I agree with all four dot points in terms of it would not conform with The Star's current corporate risk appetite for at least four reasons. And - but that's - we're sitting here today. If it was today, it would not conform with Star's current corporate and risk appetite for those four reasons. So I agree with that. If we go back to the first page where the conclusions - if we could just:

45 "The merchant agreement between NAB and The Star under which the use of a range of major international credit and debit cards, including - including CUP, was facilitated had a weak nexus to the UPI card scheme rules. On a thorough examination of the document and extrinsic materials, it is possible

5 to conclude NAB contractually intended that CUP be not made available for gambling expenditure. However, executives of The Star believe that NAB was acquiescent to the types of use that were planned and in fact occurred. NAB established the CUP debit card facility with a principal approved purpose of hotel expenditure."

But it says:

10 "Of which The Star was aware but not directly contractually bound."

MR BELL SC: Mr O'Neill, I think you can leave it to the lawyers to argue about the contractual relationship.

15 **MR O'NEILL:** Yes. Sorry, Mr --

MR BELL SC: What I would like to know is whether you accept what Mr Seyfort said in the first of those four bullet points, that is:

20 "The Star did not adhere to the rules of a major card scheme in which it participated."

Do you accept that?

25 **MR O'NEILL:** Yes, Mr Bell.

MR BELL SC: Well, are you the person who are instructing The Star's lawyers in this review to contend that The Star was not using the cards in breach of the scheme rules?

30 **MR O'NEILL:** I haven't had that discussion, Mr Bell.

MR BELL SC: All right. So you don't know who is providing those instructions to The Star's legal team?

35 **MR O'NEILL:** I would presume it would be one of our internal lawyers, Mr Bell.

MR BELL SC: But you don't know who is providing those instructions to The Star's lawyers in this review; is that correct?

40 **MR O'NEILL:** At - at the moment, it would be James Johnston.

MR BELL SC: But it's not an instruction that has come from you; is that correct?

45 **MR O'NEILL:** Well, it's - it's certainly not an excuse, Mr Bell, but for the last few weeks, I've lost - been performing the executive chairman's role. I've been - it's been difficult to have those conversations.

MR BELL SC: I understand that. I'm just trying to understand who is providing these instructions to The Star's lawyers because Mr Sheppard told me yesterday that, like you, he accepted Mr Seyfort's view that The Star did not adhere to the rules of a major card scheme in which it participated, and he didn't know who was
5 instructing The Star's lawyers to contend otherwise. Is it the case that you also don't know who is instructing The Star's lawyers to contend otherwise?

MR O'NEILL: Well, I'm - I'm kept informed on a daily basis by our internal contact, James Johnston, who does ask me questions that need - need - need to be
10 asked of me. I simply don't recall having been - having had a recent conversation of a specific nature on this subject.

MR BELL SC: So I should understand, should I, that those instructions have not
15 come from you?

MR O'NEILL: Not that I can recall, Mr Bell.

MR BELL SC: Thank you, Ms Sharp.

MS SHARP SC: And may we take it that you are the conduit for the board
20 providing instructions in this matter?

MR O'NEILL: Yes.

MS SHARP SC: Now, have you become aware in recent weeks of information
25 that causes you to conclude that there may be more problems with the China UnionPay arrangements than are referred to in Mr Seyfort's report?

MR O'NEILL: The only additional information that I'm aware of, Ms Sharp,
30 which I became aware of in the course of preparing to give my evidence, was the correspondence between Star and the NAB.

MS SHARP SC: Well, one of the things that Mr Seyfort said in his report at page
35 1 is:

"The practices of The Star did not involve any regulatory contraventions."

Do you agree?

MR O'NEILL: Yes.
40

MS SHARP SC: And are you aware that there has been evidence before this
review to suggest that the so-called temporary cheque cashing facility associated
45 with the CUP card may well have put Star into breach of section 74 of the Casino Control Act in circumstances where chips were made available to patrons before funds from the CUP swipes had cleared in The Star's bank accounts?

MR O'NEILL: No, I was unaware of that.

MS SHARP SC: So do you agree that it may be necessary for the company, and indeed the directors, to revisit the conclusions in Mr Seyfort's report following from this public hearing?

5

MR O'NEILL: If that is - if that is required, Ms Sharp, that will be done.

MS SHARP SC: And of course, you would agree that it is an extremely serious matter if arrangements with the CUP card have exposed the licensee to a risk of breaching the Casino Control Act?

10

MR O'NEILL: Yes.

MS SHARP SC: Now, I just want to understand your evidence on when you first became aware that CUP cards were used at Star Entertainment. Could I take you to your first statement, please.

15

MR O'NEILL: Yes.

MS SHARP SC: And could I take you to paragraph 52. If I could have that brought up, please, operator. Now, I'll just have paragraph 52 enlarged for you. What you said in your statement was that --

20

MR O'NEILL: I have a hard copy here, Ms Sharp.

25

MS SHARP SC: Terrific. You say:

"I was aware from references in board papers that CUP had been in use at casino properties and that its use had ceased, but I was not aware of the details of the arrangement."

30

Now, yesterday in evidence you said that you only became aware that CUP cards were used at all when the Seyfort report was provided to you. So what's the correct position?

35

MR O'NEILL: Paragraph 51 says:

"I do not recall being made aware of the use of CUP cards at The Star's VIP arrival lounge to transfer money to a hotel account and then a front money account for gambling -"

40

That's the arrangement:

"Until receiving the opinion of Anthony Seyfort, partner of Ebsworths, dated 12 September - on about 15 September, a week prior to the September '21 board meeting. Prior to that date, I was aware of references in board papers that CUP had been in use and its use had ceased."

45

That was for clarification, Ms Sharp. There have been very vague and minor mentions of CUP in - in - in largely the managing director's report, which didn't resonate but didn't even, you know, recognise what CUP even stood for. And as I said yesterday, it was during the Finkelstein evidence that - you know, whilst I had an awareness of CUP, I had no idea of what its use was for, and we'd been told that it had been closed down in March 2020. So that caused us to ask for an independent review by Mr Seyfort.

MR BELL SC: Just to be fair to you, Mr O'Neill, yesterday you told me to the effect that the first you heard of CUP cards was during the Finkelstein Inquiry. I should take it, however, that what you say in paragraph 52 is the evidence by which you stand; is that correct?

MR O'NEILL: Yes, Mr Bell. I apologise. I should have been clearer, that there had been a couple of vague references of CUP on - on the way through.

MR BELL SC: Yes.

MR O'NEILL: But it had never been called - called out as such.

MS SHARP SC: You're now aware, Mr O'Neill, that when a patron swiped a CUP card at the hotel terminal, a document would be generated on a hotel letterhead that would refer to the patron and a room number and an arrival date and a departure date and would say nothing at all about the purpose of that transaction being to put money into a front money account?

MR O'NEILL: I've been made aware of all that you've just described, Ms Sharp, in the course of preparing for this - my evidence.

MS SHARP SC: And may we take it you're now also aware that the terminal at which the CUP cards were swiped were given a merchant category code classification which meant that the principal business of the merchant operating the terminal was hotels and accommodation?

MR O'NEILL: Yes, in the course of preparing this –

MS SHARP SC: Do (indistinct) -

MR O'NEILL: - my evidence. Yes. Yes.

MS SHARP SC: Yes. Do you agree that that very process of swiping the CUP card at the hotel terminal and generating that documentation was inherently deceptive?

MR O'NEILL: It was a - certainly a disguise, certainly deceptive. And I - can I just add, Ms Sharp, since - CUP has ended up on our radar, and I've spoken to a number of people in the hospitality business running hotels and become more familiar with that - you know, the CUP itself - or UPI itself is equivalent to

Mastercard and Visa card worldwide. And I know, with my tourism hat on, that pre-COVID, \$100 million Chinese tourists would travel the globe visiting all sorts of places. Australia's share of that \$100 million was \$1.4 million people. But, you know, I'm aware that, you know, Chinese tourists right around the world would access their CUP - a terminal to take money out by credit card or by debit card. None of that, mind you, changes the prohibition on taking it out to use it for gambling, but it's - I've often sort of wondered how - how do all these Chinese tourists - I'm talking about - I'm talking about the non-gaming Chinese tourists, which is such a big market for us, how do they get their money out. And, indeed, I'm now better educated than I was.

MS SHARP SC: Could I just take you to another part of Ms McKern's first report, please, Mr O'Neill. INQ.018.001.0001. And that's exhibit C330. And, operator, could we go to page 21, please. And I will have enlarged for you subparagraph (c) at the start of this page. And Ms McKern is making this observation in the context of CUP. And I just want to know whether or not you agree with it. She says:

"This arrangement was inappropriate from the beginning, because the terms of the CUP facility prohibited its use for acquiring gambling. The fundamental premise of the arrangement put in place by The Star was to subvert offshore regulatory requirements. In our view, this indicates a lack of due regard for the spirit, if not the letter, of the law of the jurisdictions in which The Star was operating."

MR O'NEILL: Ms Sharp, in answering that question, I'll certainly be very cognisant of Mr Bell's advice that leave - that I should leave the law to the lawyers. But I think this McGrathNichol report has been prepared by an accounting firm, not a legal firm. So, you know - and I'm asking this in genuine interest. We have advice from Anthony Seyfort, which we've been talking about, and now we have Ms McKern providing a view which is, in some ways, different to Mr Seyfort's.

MS SHARP SC: Well, what Mr Seyfort said was that:

"The historical use of CUP would not conform to The Star's current corporate culture and risk appetite for at least four reasons."

MR O'NEILL: That's correct, yes.

MS SHARP SC: The fourth reason he - well, the first reason is The Star did not adhere to the rules of a major card scheme. And the fourth is some parts of management felt unconstrained by the spirit of the controls. Is that any difference, in substance, from what Ms McKern is saying?

MR O'NEILL: Probably not.

MS SHARP SC: So do you agree with what Ms McKern is saying there at paragraph (c)?

5 **MR O'NEILL:** In her view, this indicates a lack of due regard for the spirit, not the intent - if not the letter, of the law of the jurisdictions in which Star was operating. Yes, that's correct.

10 **MS SHARP SC:** Now, it's right, isn't it, that Mr Seyfort said nothing in his report about The Star's dealings with the Independent Liquor and Gaming Authority in relation to CUP?

MR O'NEILL: He made some reference to the regulators.

15 **MS SHARP SC:** He did say - and to assist you, he did say at page 3 of his report that:

20 "The use of the CUP card was approved by the Queensland casino regulator. It was made known to the New South Wales regulator in the context of internal control manual changes that were required in 2013 and subsequent discussions."

MR O'NEILL: Yes, that's what I recall from Mr Seyfort's report.

25 **MS SHARP SC:** And are you aware that evidence has now emerged that at the time Star Entertainment procured the amendment to internal control manual 15, it was not disclosed to the regulator that (a) the use of CUP cards to purchase gaming chips was prohibited by UnionPay International rules; and (b) the CUP card would be swiped at the hotel?

30 **MR O'NEILL:** I understand that to be correct.

35 **MS SHARP SC:** And what I'm suggesting to you is that the evidence suggests there has been a lack of transparency with the regulator about the use to which the CUP card would be put at the time the amendment to internal control manual 15 was sought.

MR O'NEILL: It would appear to be that way, Ms Sharp.

40 **MS SHARP SC:** And further to that, the evidence – or - or are you aware that the evidence suggests that the – that Star Entertainment did not disclose to the New South Wales casino regulator that it was proposed to use what is described as a temporary CCF with the CUP card?

45 **MR O'NEILL:** I'm sorry, Ms Sharp, but I'm not familiar with that correspondence between Star and ILGA on this matter. Is that recent?

MS SHARP SC: Well, there wasn't any correspondence was the problem, Mr O'Neill. I suppose the point I'm making is this: that evidence has emerged that Star

was not transparent with the New South Wales regulator about the CUP card. Are you aware of that?

5 **MR O'NEILL:** Well, I haven't been following all the evidence, Ms Sharp. But if that's - if that's what the - as you've said, if that's what the evidence is saying, it may well be we haven't been as transparent as we should have been.

MS SHARP SC: And - and –

10 **MR BELL SC:** Mr O'Neill, I take it that would you agree that it's fundamental that a casino licensee be transparent with the regulator?

MR O'NEILL: Totally.

15 **MS SHARP SC:** And can I just show you this document and seek your comment on whether this should have been elevated to the board. I will show you exhibit B at 124, which is STA.3009.0009.0058. You'll see right at the top, if the operator can scroll down, it says Memo of Key Risks. Can you just scroll that down, operator. Memo of Legal Advice Re Key Risks, and it's dated 11 May 2016. Now, 20 you can take it from me that the evidence is that Mr Andrew Power prepared this and gave it to Ms Martin and also Mr Bekier. And you'll see that issue number 1 is China UnionPay.

25 **MR O'NEILL:** Yes, I see that.

MS SHARP SC: And I'll just have this enlarged for you so you can read it, the issue and background section for China UnionPay.

30 **MR O'NEILL:** Yes.

MS SHARP SC: Now, is your position that Mr Bekier ought to have made these risks known to the board at this time?

35 **MR O'NEILL:** Yes.

MS SHARP SC: Is your position that Mr Bekier should have put a stop to this practice, having knowledge of these risks?

40 **MR O'NEILL:** Yes.

MS SHARP SC: Now, yesterday I asked you this, at page 3781 of the transcript:

45 "Do you accept there has been a misleading of banks by a number of senior members of the management team?"

And you said:

"Ms Sharp, as I said, I signed my witness statement on 4 February, unaware of what occurred with the NAB. And that's - I was very taken aback that we would have correspondence leaving our doors that was untruthful."

5 Now, is it your position that by the time of preparing your witness statement, you were not aware of the content of the emails that had passed between senior representatives of Star Entertainment and the NAB in relation to the use of CUP cards?

10 **MR O'NEILL:** Totally unaware.

MS SHARP SC: Now, can I show you some evidence that Mr Sheppard gave on day 29 and ask for your response. Operator, could we go to the transcript, please, for day 29 and go to page 3297. And this is evidence of Mr Sheppard. I'll direct
15 your attention, if I may, to - there are line numbers that run down the left-hand side. So line 4 through to line 9. If I can have that enlarged. And what Mr Sheppard said is that:

20 "The emails that you're talking about surfaced. I had a discussion with Mr O'Neill - and I'm not sure when that was, maybe around Christmas time - when he said that these emails - he had become aware of some emails which would - had potentially come from senior members - members of the management team and that there would need to be some consequences. And those consequences have now occurred."

25 And I asked:

"And Mr O'Neill told you this last year, did he?"

30 And Mr Sheppard said:

"It was around Christmas. Whether it was early this year or late last year, I can't remember."

35 And I asked:

"Did he show you the emails?"

40 And Mr Sheppard said:

"No."

45 Now, is it correct that at some time around Christmas, you did become (indistinct) aware of emails from senior managers within NAB - I beg your pardon - within Star Entertainment that were sent to NAB that contained misleading content?

MR O'NEILL: No. Unfortunately, Ms Sharp, Mr Sheppard has got his dates wrong. We didn't have any conversation about this matter in December or

Christmas time whatsoever because I didn't know anything about the correspondence. I didn't find out until after the - some time after 4 February, and KWM would actually have a record of when they were actually disclosed to me. But it was, you know, some time after 4 February. I've been, you know, looking at a lot of paper over the last several months. And - and then the conversation with Mr Sheppard took place much, much later. I can't remember the exact date. But it was along the lines that - that there was a lot more - me saying that there was a lot more to the CUP problem than we knew.

5
10 **MS SHARP SC:** And when you did have this conversation with Mr Sheppard, had you seen some emails by that time?

MR O'NEILL: Yes. It was as a result of me seeing, in particular, an email from Sarah Scopel to the NAB. And that was - and there was supporting evidence of invoices and the like. And in witness preparation, I was asked what I thought of it.

15
MS SHARP SC: And what did you think of it, Mr O'Neill?

MR O'NEILL: Shocked and horrified.

20
MS SHARP SC: Did you think it was misleading?

MR O'NEILL: It was untruthful, as I - I've said. And - and, look, it - it - it defies logic why anyone would do it. You know, Harry Theodore has been one of our really terrific, bright, up-and-coming executives promoted to be the CFO and has been, you know, exceptionally good in his role. And - and it was, at best, a grave error of judgment. You know, it was - you can't - you can't manufacture a response like that to your bank.

25
30 **MS SHARP SC:** And you do understand, don't you, that this was not a one-off email, but there were a significant number of emails sent to NAB which deliberately conveyed the impression that CUP cards were not being used to purchase gaming chips?

35 **MR O'NEILL:** That - that is the case, but I haven't seen - I don't recollect seeing any additional emails other than the Sarah Scopel one with - with supporting documentation. As I said, I may have been shown, in the course of preparing for my evidence, other - other emails. But the one that stands out to me is that one.

40 **MR BELL SC:** And, Mr O'Neill, you're aware that the email to which you're referring wasn't just approved by Mr Theodore but also Mr White, a senior lawyer, and also Ms Martin, the chief legal and risk officer. Are you aware of that?

MR O'NEILL: I became aware of it in the course of preparing for my evidence, Mr Bell.

MR BELL SC: And what comment do you have that this conduct was engaged in by members of the senior leadership team from various divisions within the company?

5 **MR O'NEILL:** It's incomprehensible, Mr Bell. In terms of over - the role of in-house lawyers is to save you from yourself. You know, the role of an in-house lawyer is to tell you, "Don't send that letter." You know, you may get overly enthusiastic line management people who are, you know, keen to, you know, make a sale or whatever. But the in-house lawyers are there to safeguard the company
10 and provide advice that is sound, reliable and accurate.

MR BELL SC: And another dimension to these emails is that both Ms Dudek and Ms Scopel told me in relation to various of these documents that they felt unable to challenge senior management, even though they knew that these
15 communications were wrong. What comment do you have on that?

MR O'NEILL: Yes, Mr Bell. I'm aware of that evidence. And it's - it's weighed heavily on me. That is not - that is just not acceptable. If you have a problem, you've got to put your hand up and be heard. And you can't have an environment
20 where people are afraid to speak up. You know, it's a - yes, it's not acceptable practice by any stretch.

MR BELL SC: And do you agree that all of the different strands or dimensions of these communications indicate a serious cultural problem in the organisation?
25

MR O'NEILL: Fundamentally, yes, Mr Bell. And - and we had a start of a conversation about, you know, culture, yesterday, and I'm happy to continue it whenever you think fit. And it - it has some of the - some of the hallmarks and similarities of the issues that occurred in the CBA APRA review. It's - certainly
30 from the board's perspective - and again, I refer to the PwC risk and compliance culture review which said on the one hand our - our - our compliance capability in the - the sort of middle market made gaming (indistinct) quite good. You know, we're pretty good at ticking boxes; less good at identifying risk. But they also made reference to a culture of no bad news. Or another way of putting it is a
35 culture of only good news. And that - that disturbs me and disturbed me ever since that report came out.

And, you know, that's caused me to reflect: did the board give messages to, you know, to the - to the management team and beyond that, "Don't give us any bad
40 news. Only give us good news"? That's certainly not - that's not what I think, you know, but sometimes you can be too close to it. But, you know, I try to run a culture with a collegiate, collaborative emphasis. And that - again, with reflection, that - that relies on inherent trust, that collegiate, collaborative way of working as a team. It requires a high level of trust between all the decision makers. And, you
45 know, I've worked with these people for a long while, and - and you do build up a lot of trust. But with that, there's the possibility and the risk that the collaborativeness and the collegiality can stifle or restrict the flow of information, and it can restrict constructive criticism.

And the success of any organisation, in a sustainable sense, requires the leadership to accept constructive criticism no matter what. And I think culturally, in this particular space we're talking about, that's a no bad - it's, you know, a sad example of, "No bad news and - and don't challenge me." And - and there are consequences - apart from consequences for the company, there are consequences for people. Yes. And there are some - I won't name them, but there are some relatively junior people who have been poorly hurt, badly hurt.

10 **MR BELL SC:** Yes. Thank you for that reflection. Yes, Ms Sharp.

MS SHARP SC: In the Seyfort report of September 2021, the board was told that UnionPay International and NAB might have been misled, but whether they were depends on what each actually knew or perceived about the use of the CUP cards at The Star. The board requested management to provide its own report in answer to the Seyfort report, and Mr Matt Bekier provided that report to the board on about 1 October 2021. That response did not address the issue of whether UnionPay International or NAB had been misled. Wasn't it incumbent upon the board at this time to conduct some further investigations and have a look for itself at what the communications had been?

MR O'NEILL: Look, with the benefit of hindsight, Ms Sharp, that may have been a task that should have been actioned. Look, you know, truthfully - and it's - we've moved well past this. There was, you know, suggestions that the NAB knew, and - and the evidence, you know, doesn't support that. But - because it still doesn't excuse the behaviour. So - so, you know, it sort of - you know, it's been floated around, well, you know, maybe this was a wink and a nod. They've got the central bank of China, you know, asking questions of UPI. UPI, CUP, NAB, us and back - back again. But, no, to your question, you know, we - and we didn't - the board didn't, you know, form a view that the NAB knew. You know, the board knew that this - this review would be taking evidence, and - and the evidence would determine what was truthful.

MS SHARP SC: Although, Mr O'Neill, this issue was apparent to the board in September of 2021, management didn't address it in its report of 1 October 2021. The board did not follow it up after that management report. Isn't this an example of the board being too passive?

MR O'NEILL: No, I don't believe so, Ms Sharp. You know, perhaps we should have, you know, initiated a further investigation into that - to resolve, you know, the issue that Mr Seyfort raised about who knew and who was misled. But I think I gave the evidence earlier that, you know, we got the Seyfort report, we asked for an explanation, we got the explanation. You cannot - you cannot conclude that we were happy with - with the explanation. Indeed, we agreed that there would be consequences that would be addressed, you know, once we had - and once the Bell Review was complete, we - we could then take decisions around consequences. And, indeed, you know, a lot of what - in terms of the departures from the company, in my view, fall under the heading of consequences.

MS SHARP SC: Can I take you to paragraph 54 of your first statement, please, Mr O'Neill.

5 **MR O'NEILL:** Sorry. What one was that, Ms Sharp?

MS SHARP SC: Paragraph 54. And you there say:

10 "Based on the advice contained in the Seyfort opinion, I do not believe the arrangement raises concerns from an AML/CTF perspective."

Does that remain your view?

15 **MR O'NEILL:** Ms Sharp, as you said, based on the advice at that time, and remembering I signed off on this on 4 February - and Anthony Seyfort's work for us has been, in my view, of a very high quality. The use of CUP was not adverse to The Star's compliance with its AML/CTF obligations. Rather than be definitive, I prefer to reflect on whether any further consideration of that situation needs to be considered by the board.

20 **MS SHARP SC:** Well, let me raise this issue with you: you'd agree, wouldn't you, that if a patron directly transferred money from an overseas bank account into The Star casino's bank account, The Star would be required to lodge an IFTI with AUSTRAC?

25 **MR O'NEILL:** That's correct.

MS SHARP SC: Now, with the CUP transactions, The Star did not lodge any IFTIs. Are you aware of that?

30 **MR O'NEILL:** Now we're getting into a level of detail, Ms Sharp, that I can't provide an opinion on.

MS SHARP SC: Were you aware that no source of funds checks were conducted by representatives of The Star when patrons requested debits be made on their CUP cards?

MR O'NEILL: No, I wasn't.

40 **MS SHARP SC:** And are you aware now, from the evidence, that there was a three-day period in April of 2015 where Mr Phillip Dong Fang Lee debited about \$22 million on his CUP card at the hotel at The Star?

45 **MR O'NEILL:** I've only been made aware of that through the evidence in this review. But I'd never heard of that patron.

MS SHARP SC: But you'd agree that the quantum of those debits in that short amount of time raises very serious alarm bells, doesn't it?

MR O'NEILL: It's certainly a lot of money, in anyone's language.

5 **MS SHARP SC:** And have you considered that were a law enforcement agency to look at the patron's bank account of this debit transaction, what that agency would see was a transaction with a hotel?

MR O'NEILL: That's correct.

10 **MS SHARP SC:** And the law enforcement agency would not, without more, understand that, in fact, the patron applied the money to purchase gaming chips?

MR O'NEILL: That's correct. And it - it goes to the - Mr Bell's point about transparency.

15 **MS SHARP SC:** So just based upon what I've raised with you, do you see that there are some money laundering and counter-terrorism financing concerns associated with these CUP transactions?

20 **MR O'NEILL:** Well, Ms Sharp, I - I - I don't think I can be definitive in providing a yes or a no. It's a complex and complicated area upon which I'd like to be able to take further advice.

MS SHARP SC: Now, moving on to the question of Suncity and Salon 95, do
25 you agree that it was entirely inappropriate to have a situation where there was a casino operating within a casino?

MR O'NEILL: Yes.

30 **MS SHARP SC:** And that raises extremely serious compliance concerns, doesn't it?

MR O'NEILL: It certainly does. And - and I should - until - until I received Mr
35 Bell's questions, 21 of them back in December, I really wasn't familiar with Salon 95. I certainly was aware that Suncity had a private salon, and - but the point you make about it being a casino within a casino - and I - I'm told that - out of interest, in the period under review, 142 junket operators visited Star Sydney. 142 in that period of time. And only one had a private - its own branded private gaming
40 room - private salon. The others had the use - and of the 142, they were regular visitors, etcetera. They would have the use of a private salon but not - not - not branded and not with a service desk as Suncity had.

MS SHARP SC: And do you agree that the board ought to have been notified that
45 it was proposed that Suncity would operate a cash desk within Salon 95?

MR O'NEILL: Yes.

MS SHARP SC: And may we take it that if the board was told that, the board would have immediately said, "That is far too risky and we will not permit that to happen"?

5 **MR O'NEILL:** Well - yes. The answer is yes. The - the - the rationale for giving Suncity its own salon, I seem to recall is because that's what Crown had given them in Melbourne. And - and the evidence has already been given as to how large Suncity were, their influence in the junket market. So if Crown were doing it, we should do it. And - but the elevation to the board of some critical arrangements
10 and factors should have been attended to.

MS SHARP SC: Because the board was notified - and I will take you to the document if you need me to. But the board was notified at its 6 December 2017 meeting that:

15 "Fixed room in Salon 95 (Rivers) expected to be completed by 1 January 2018 in order to further cement and secure business."

20 But I take it your position is it ought to have been notified to the board that it was proposed that Suncity operate a cash desk in that room?

MR O'NEILL: Yes. Yes.

25 **MS SHARP SC:** So do you agree that the board was not provided a full picture of what the proposal was?

MR O'NEILL: It was incomplete.

30 **MS SHARP SC:** And you can take it from me, Mr O'Neill, that Graeme Stevens, who was then the regulatory affairs advisor at Star Entertainment, agreed that he knowingly misled ILGA about the purpose of installing a service desk in Salon 95. Are you aware of that evidence?

35 **MR O'NEILL:** Yes, I am.

MS SHARP SC: And what do you say to that evidence?

MR O'NEILL: Unacceptable.

40 **MS SHARP SC:** And are you aware now that on two separate occasions in May and June 2018, Mr Hawkins wrote warning letters to Suncity in relation to transactions occurring at the cash desk?

45 **MR O'NEILL:** I only became aware of that, Ms Sharp, in the course of preparing to give my evidence.

MS SHARP SC: Is that a matter that should have expressly been notified to the board at the time?

MR O'NEILL: At a minimum for information purposes. And I should add that, again, when I received Mr Bell's questions, there was reference to the Buchanan reports. I had to ask Mr Buchanan. But I, you know, since 4 February, have had
5 the ability to - or the time and the request to read the Buchanan reports and the - the - which contains chronological history of what was done or not done with Suncity, Mr Hawkins's letters - warning letters, a compliance review and then an extension of the arrangement.

10 **MS SHARP SC:** Do you agree that by the time of the second warning letter in June 2018, in fact, the only appropriate response of Mr Hawkins was to have shut down the room immediately?

MR O'NEILL: Look, I'm unclear, Ms Sharp, as to - as we've discussed before, you know, the board sets the risk framework and there's delegated authority. So
15 I'm not sure, sitting here, what Mr Hawkins's own delegations were, as the managing director of Star Sydney. But - and it's easy to say sitting here today, but I think the - the better decision would have been to have closed down Salon 95.

20 **MS SHARP SC:** And you're aware now, are you, that on 15 May 2018, Andrew Power advised Mr Hawkins that Suncity's conduct had exposed the casino to an unacceptable level of risk - and Mr Hawkins forwarded that email to Mr Bekier. Do you say that both of those men ought to have made that matter immediately
25 known to the board?

MR O'NEILL: Yes.

MS SHARP SC: Because he had indicated an unacceptable risk. And do you agree unacceptable risks must be made known to the board as soon as possible?
30

MR O'NEILL: Yes.

MS SHARP SC: You're aware now, aren't you, that cash transactions of concern continued in Salon 95 in the period late May to early June 2019?
35

MR O'NEILL: Yes, I am.

MS SHARP SC: And you're aware now, aren't you, that Mr Hawkins and Mr Bekier were aware, as of July 2019, that the New South Wales Police
40 Commissioner had excluded six people from The Star who were associated with the Suncity junket?

MR O'NEILL: In the course of preparing to give my evidence, I have learnt of that.
45

MS SHARP SC: And of course, none of this information was made known to the board at that time, was it?

MR O'NEILL: Not to the best of my recollection.

MS SHARP SC: What do you say to the fact that Mr Hawkins and Mr Bekier did not make this information known to the board?

5

MR O'NEILL: Poor judgment. I mean, there's got to be an attentiveness to elevate an acute awareness of those matters that the board needs to be made aware of and, if appropriate, for the board to make a determination.

10 **MR BELL SC:** Do you think that the "no bad news" culture that you referred to earlier might be a factor here?

MR O'NEILL: Yes.

15 **MS SHARP SC:** And have you reflected on this: was it a not wanting to tell the board bad news, or was it not wanting the board to put a stop to this revenue channel?

20 **MR O'NEILL:** Good question, Ms Sharp. Inevitably, the profitability motive would - would - would feature in the decision-making. But, you know, competitive environment, you know, you don't want to lose a good customer. You know, hard decisions need to be made. And, you know, you see it in other businesses where you get to a - get to a fork in the road and you've got to make the right decision. And I think the - you know, I've said enough - I can say more, but
25 our - our - you know, our IRB business was essentially where our really acute risks resided. And of an AML/CTF perspective, reputational risk, law enforcement risk, you know, the whole sort of be careful who you associate with. And - and - and I mentioned before we did - in my view, we did pick up some junkets from the Crown arrests which would have been preferable if we never had.
30 But, you know, that's - yes. I think the - the - the loss of a - the loss of Suncity's business probably did weigh heavily on the management team.

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

35 **MR BELL SC:** Yes. Can you give me an indication of roughly how much longer you intend to be? I'm also conscious there's a matter you want to raise in private session as well.

40 **MS SHARP SC:** Yes. Thank you for reminding me of that, Mr Bell. I would estimate about half an hour, maybe 40 minutes given the matter in private.

MR BELL SC: All right. Well, Mr O'Neill, I'm afraid you will have to come back at 10 o'clock tomorrow to conclude your evidence.

45 **MR O'NEILL:** Thanks, Mr Bell.

MR BELL SC: I will now adjourn until 10 am tomorrow.

<THE HEARING ADJOURNED AT 4:56 PM