



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, 31 MAY 2022
AT 10:00 AM**

DAY 37

**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**

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

<THE HEARING RESUMED AT 10:03 AM

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** Mr Bell, today I appear with Mr Conde, Ms Abdiel and Mr Condylis. Today we have the closing submissions of the counsel assisting team. I understand that there may be some further appearances to announce this morning. Or maybe not.

10 **MR BELL SC:** It seems not, Ms Sharp.

MS SHARP SC: In that event, may I tender another parcel of evidence. You should have before you, Mr Bell, a document marked Part L, which is an index, which refers to 68 tabulated documents. I tender that index and the 68 underlying
15 documents as Part L.

MR BELL SC: Those documents will be exhibit L1 to exhibit L68.

MS SHARP SC: Mr Bell, we will start by outlining the topics we propose to deal
20 with in this closing address, and there are 26 topics. Firstly, we will provide an introduction where we will speak to the terms of reference, summarise or attempt to distil the media allegations and identify the close associates. Secondly, we will make submissions about the casino licence. Thirdly, we will make submissions on suitability. Fourthly, we will make submissions on organisational structure,
25 governance and the risk management framework at Star Entertainment. Fifthly, we will make some submissions on the credit of witnesses who have given evidence to you over 36 hearing days.

Six: we will point to evidence where witnesses acknowledged various risks of
30 running a casino business, including in relation to money laundering. Seven: we will make submissions about important matters of context relating to the international VIP casino market and the rise of junkets. Topic 8 to be addressed is to take you to some relevant provisions of the Casino Control Act relating to the provision of credit. Topic 9 is China UnionPay. Topic 10 is the KPMG reports.
35 Topic 11 will involve us making submissions about what we say is the abuse of legal professional privilege by officers of Star Entertainment.

Topic 12 involves submissions on Star Entertainment's further development of the
40 AML and CTF framework in the aftermath of the KPMG reports in 2018. Topic 13 is Suncity and the events in Salon 95 and later Salon 82. Topic 14 relates to the due diligence conducted by Mr Buchanan and reviewed by Mr Power and Mr Houlihan in relation to Mr Alvin Chau. Topic 15 relates to management's briefing of the board of Star Entertainment in relation to the media allegations that emerged in July and August of 2019. Topic 16 involves the representations that
45 Star Entertainment made to ILGA in the aftermath of those media allegations, and it will be our submission that those representations were quite misleading.

Topic 17 involves submissions on the closure, in December 2017, of the Bank of China bank accounts in Macau. This is important context, Mr Bell, in understanding various new patron payment channels which emerged from early 2019. That brings me to topic 18, which is the interim arrangement involving junket operator Kuan, K-u-a-n, Koi, K-o-i. Topic 19 relates to EEI Services (Hong Kong) Pty Ltd, including the so-called EEIS loans. In topic 20 we will address you, Mr Bell, on what we describe as the fake source of funds letters which various overseas employees of Star Entertainment provided to the Bank of China in Macau in 2017.

In topic 21, we will take you to the findings of Ms Robyn McKern, the forensic accountant who was commissioned by this Review to investigate various money laundering and counter-terrorism financing related issues. In topic 22, we will make some submissions on what I will at this stage describe as a lack of supervision of the international VIP team. In topic 23, we will address you on certain shortcomings of Star Entertainment and The Star in relation to a number of high-value clients.

In topic 24, we will make some submissions about what the evidence establishes in relation to the media allegation that The Star has underpaid duty to the New South Wales Government by shifting local patrons into the international rebate program. In topic 25, we will address you on the role and responsibilities of the directors of Star Entertainment. And in the final topic, topic 26, which is essentially overall conclusions we submit should be drawn in relation to the suitability of The Star and its close associates.

Can I move now to the first topic, Mr Bell, which is where I will make some introductory remarks. Mr Bell, this is an inquiry into the continuing suitability of The Star Pty Ltd, as casino operator, and its close associates to be concerned in, or associated with, the management and operation of The Star Casino in Sydney. On 13 September 2021, you were appointed by the Independent Liquor and Gaming Authority, which I will call "the Authority", pursuant to sections 143 and 143A of the *Casino Control Act 1992* to preside over an inquiry for the purpose of exercising the authority's functions under sections 30 and 141 of the *Casino Control Act 1992*.

In this regard, section 30 of the Act authorises the Authority, and therefore you, to investigate a casino from time to time, while section 141, amongst other things, authorises the authority, and therefore you, to keep under constant review all matters connected with casinos and the activities of casino operators, persons associated with casino operators and persons who are in a position to exercise direct or indirect control over the casino operators or persons so associated with them.

Mr Bell, you will be aware that the last suitability review was concluded in November 2016 and culminated in the written report of Dr Jonathan Horton QC. You are largely concerned with matters that have occurred since the time of that

report, that is, since November 2016, until the commencement of this review. I will call that period "the relevant period" in these submissions.

5 A fundamentally important point of context in these submissions, Mr Bell, is that the casino licence is a privilege, and it is a privilege which confers upon the holder of that licence an ability to earn very substantial revenues. In exchange for that privilege, the casino operator is given a number of very important responsibilities and legal obligations, both by the *Casino Control Act 1992* and by the licence, and that licence is granted with an awareness that casinos, of their very nature, are
10 vulnerable to exploitation or infiltration by crime and, in particular, organised crime. And we say that they are propositions which frame the exercise of assessing ongoing suitability.

15 If I can now, within the first topic, say something of the amended terms of reference. And if I could, please, call those up. They are to be found in exhibit L, tab 9, which is INQ.027.001.0000. Now, the terms of reference were originally published on 13 September 2021, and they were subsequently amended on 14 December 2021. In view of the fact that this is a public hearing, it is as well that I reflect on what these amended terms of reference are, Mr Bell. And you will see
20 that the first term of reference goes to the question of continuing suitability of The Star and its close associates.

The second term of reference goes to the expertise of The Star as the casino operator, including the extent to which The Star has complied with obligations
25 under the Act, under the *Casino Control Regulations 1992*, under its licence and under agreements with the authority and The Star. In the third term of reference, you are required to consider the maintenance and administration of systems by The Star to ensure that the management and operation of the casino remain free from criminal influence or exploitation; also to ensure that gaming in the casino is
30 conducted honestly; and also to contain and control the potential of the casino to cause harm to the public interest and to individuals and families.

The fourth term of reference requires you to consider the presence and detection of illegal and undesirable activities and people in the casino. And if the operator
35 could scroll down, please. The fifth term of reference requires you, Mr Bell, to have regard to the recommendations made by Dr Horton QC in his November 2016 suitability report and have regard to, and not revisit, matters that were the subject of previous suitability reports and, in particular, the report of the Bergin Inquiry which was published in February 2021. You are also required, Mr Bell, to
40 have regard to evidence given by The Star on 4 August 2020 to the Bergin Inquiry about its intentions with respect to junkets.

If I can move - operator, if we can scroll down, please, to the next page. The sixth term of reference specifically requires you to look at the management and
45 operation of The Star's bank accounts. And these have generally been called "the patron bank accounts" in the evidence that you have taken in this matter. And you have been asked to consider the acceptance and deposits from overseas patrons;

the method of withdrawing credits from The Star's bank accounts; the maintenance of records and transaction receipts for international and domestic patrons, including ledger transactions; and the methods and systems by which The Star conducts and monitors transactions through the patron bank accounts. I interpolate
5 that Ms Robyn McKern has addressed a number of matters in her reports.

The seventh term of reference requires you to consider the implementation and administration of gaming harm minimisation programs within The Star. And we note, Mr Bell, that that is an aspect of your responsibilities which has been
10 conducted in private. Operator, could I ask you to scroll down those terms of reference, please. The eighth term of reference asks you to consider a large number of matters, including The Star's management structure and reporting lines and whether there has been compliance with internal management controls and
15 legislation.

You are required to consider The Star's internal reporting mechanisms and follow-up procedures to adequately manage potential breaches of the standard operating procedures. You are required to consider the role and standard of culture within The Star and the effectiveness of its risk management framework and
20 appropriate distribution of staff responsibilities. You're also asked to consider the prevalence of money lending and loan sharking at The Star and any links to VIP patrons, problem gambling and international junkets. You are required to consider the appropriate management of VIP patrons, sometimes called high rollers.

You are required to consider the effectiveness of current surveillance processes and facilities at The Star; the adequacy of know your customer systems and practices and also the use of facial recognition technology; the accountability for management and gambling chips and free bet vouchers at The Star; the execution and management of exclusion orders from The Star; the management of controlled
25 contracts at The Star; and the adequacy of The Star's methods and systems in detecting and preventing money laundering activities from taking place within the casino.
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If I could then scroll down again, please. Mr Bell, you'll see in term of reference 9 the scope of the review is specified as being from the date of Dr Horton's report, which I've already noted is November 2016, up until the commencement of the review. Can I indicate at the outset that the evidence in relation to China UnionPay has gone back beyond the commencement of the relevant period. That has been
35 necessary in order to understand the conduct in relation to China UnionPay that has occurred during the relevant period.
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Now, your instrument of appointment, Mr Bell, left it to your discretion as to the manner in which you conduct your review, and you will be aware that section 143(1) of the *Casino Control Act 1992* stipulates that an inquiry can be held in public or in private. You commenced this review in private, and to that end, Mr
45 Bell, you have inquired into various aspects of the terms of reference to which I have just referred by way of private hearing, interviews and documentary review. I

note that topics explored in the private hearings and interviews include responsible gambling and harm minimisation; the accountability and management of gambling chips and free bet vouchers at The Star; and the management of controlled contracts at The Star.

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Pardon me for one moment. Still within topic 1, I'll move to a further subtopic, which are the media allegations that emerged in 2021. On 8 October 2021, the television program 60 Minutes broadcasted an episode which aired a variety of serious allegations about the conduct of The Star and Star Entertainment. The allegations raised concerns about The Star's susceptibility to money laundering, criminal influence and exploitation. You have a transcript of that broadcast in evidence before you, Mr Bell. That's exhibit B at 3152. I won't take you to it now.

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Thereafter, in the period 10 to 13 October 2021, a number of articles were published in the Sydney Morning Herald and The Age, both elaborating on the allegations made in the 60 Minutes broadcast and introducing further allegations. Again, I won't take you to those various articles now. On 19 October 2021, the authority announced that public hearings of your review would be held in relation to certain matters, including The Star's maintenance and administration of systems to counter money laundering and infiltration by organised crime. I do note that you have also continued your review into other aspects of the terms of reference in private. Insofar as your activities have continued in private, I will not be making submissions in this public forum.

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Given once the public hearings were announced, further media allegations were made against The Star and Star Entertainment, including allegations in February 2022 that The Star had not appropriately paid duty to the New South Wales Government. We will now turn to attempt to distil the key aspects of the media allegations because these have been explored during the public hearings, Mr Bell. So if I can summarise them as follows.

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Firstly, there was an allegation that The Star failed to adequately act on reports prepared by consulting firm KPMG in 2018 which were critical of The Star and Star Entertainment's anti-money laundering and counter-terrorism financing program and practices. It was also alleged that The Star had claimed that the KPMG reports were confidential when AUSTRAC sought their production and that The Star had not provided these reports to the authority.

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The second allegation is that between 2014 and 2018, Star Entertainment, with the knowledge of senior management, allowed mainly Chinese high rollers, to use the vernacular, that is, VIP patrons, to use special debit and credit cards, known as China UnionPay cards, to withdraw hundreds of millions of dollars in funds from The Star's hotel properties in a manner which disguised gambling activity as hotel expenses.

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The media reports also alleged that The Star, or its close associates, did not undertake adequate due diligence and allowed certain high-roller patrons to

continue to gamble despite suspicions about their habits and sources of income, alleged links to organised crime and that they were accused of criminal offences or were politically exposed persons.

5 Specifically, the media identified the following patrons: Mende Trajkoski. In particular, it was alleged that Mr Trajkoski, who was arrested in June 2021 in connection with the importation of three tonnes of cocaine to Australia, had turned over approximately \$175 million at The Star between 2007 and 2021 playing on gaming machines and poker machines, and that The Star had failed to evaluate
10 whether his reported employment status was consistent with his lifestyle. It was also alleged that in the period 2015 to 2021, Mr Trajkoski withdrew around \$18 million in cash from The Star. I will call this allegation 3. Allegation 4 relates to George Nikolic. It was alleged that Mr Nikolic was an associate of Mr Trajkoski and was a convicted drug trafficker. It was further alleged that The Star granted
15 him access to a high-roller VIP area when:

"A basic internet search of this associate would have exposed him as a convicted drug trafficker recently released from jail."

20 And that quote comes from exhibit B3156, which is a 10 October 2021 report in The Sydney Morning Herald. Then - what I will call allegation 5 relates to James Mussillon. It was alleged in the media that whilst The Star identified Mr Mussillon as suspicious, it continued to provide him with incentives to encourage his gambling and recruit others to gamble. It was alleged that Mr Mussillon was The
25 Star's largest patron by way of turnover from the ACT, until he was banned from entering The Star by the New South Wales Police Commissioner.

Mr Bell, it was also reported in the media that two Chinese billionaires who were being pursued by the ATO for tax rorting, Phillip Dong Fang Lee and Zu Neng
30 Scott Shi, both had accounts at The Star which had been frozen following suspicious money movements. More specifically - and I will identify this as allegation 6 - it was alleged that in 2014 and 2015, Phillip Dong Fang Lee used The Star's China UnionPay system to move millions of dollars from China into Australia. And what I will describe as allegation 7 was that the ATO brought
35 Federal Court proceedings against Zu Neng Scott Shi, who was "alleged corporate fraudster", for withdrawing almost \$2 million from ATMs at The Star over a five-year period.

The eighth allegation is that The Star dealt with a junket known as Suncity and its
40 CEO, Mr Alvin Chau, despite Star's competitor, Crown Resorts, being heavily criticised in the media in 2019 for doing so on account of Suncity's alleged links with triads and suspected money laundering. The media also referenced ongoing court proceedings - or proceedings that were ongoing at that time against The Star by a high roller by the name of Guoyi, G-u-o-y-i, Su, who had alleged that in
45 January 2020, The Star encouraged him to deposit millions of dollars into an account operated by Mr Chau and Suncity for gambling purposes, but that he was never paid his winnings by The Star.

5 The ninth allegation is in relation to high-roller patron John Khoury. It was alleged that he was permitted to keep gambling and was wooed by The Star Gold Coast casino with luxury gifts, flights and accommodation, despite the fact that he was banned by The Star - banned or excluded from The Star in Sydney by the New South Wales Police Commissioner in around 2012 on the basis of alleged connections with organised crime.

10 The 10th allegation is that The Star dealt with junkets suspected of links to organised crime and with certain VIP patrons who were also allegedly linked to organised crime, were politically exposed persons or were suspected foreign interference agents. In particular, it was alleged that VIP patron Huang - that's H-u-a-n-g - Xiangmo, which is X-i-a-n-g-m-o, and Tom Zhou and Simon Pan had links to organised crime and were connected with junkets that played at Star which were alleged - and that The Star was alleged to have failed to undertake basic online due diligence in relation to them.

20 Mr Bell, the 11th allegation is that The Star's vice president of premium service operations, Mr Mark Walker, maintained a secret and longstanding relationship with a high-value patron and accused corporate criminal, Mr Michael Gu, G-u. It was alleged that Mr Walker had left the employment of Crown Resorts in the midst of probity investigations, and that while employed at The Star, he was offered a job by Mr Gu. Mr Walker was alleged to have overseen gambling by high-value patrons Mr Gu and Mr Huang, and they were both alleged to have embezzled millions of dollars from the failed corporate group iProsperity, some of those funds of which were allegedly funnelled into The Star.

30 The final allegation, allegation 12, was one raised in a newspaper article on 9 February 2022 and involved the allegation that The Star - Star Entertainment encouraged high-value patrons who were ordinarily resident in New South Wales to falsely claim that they resided outside of New South Wales and encouraged them to obtain documentation to make it appear that they resided overseas or interstate. This was alleged to have been done so that The Star could pay less tax to the New South Wales Government. And in that regard, the applicable rate of duty for the international rebate business and the domestic rebate business is 10 per cent.

40 Mr Bell, also within topic 1 introduction, I will move to a subtopic, which is to address you on the close associates of The Star. There are three corporate close associates that you are considering. They are, firstly, Star Entertainment Group Limited, which is the ultimate holding company of the casino operator, The Star Pty Ltd. I will call that company Star Entertainment in the balance of these closing submissions. The second corporate close associate is Star Entertainment Sydney Holdings Limited, which is a subsidiary of Star Entertainment and which holds the casino operator, The Star Pty Ltd. The third close associate is EEI Services (Hong Kong) Limited, which is incorporated in Hong Kong.

On 17 December 2021, in an email to the solicitors assisting this review, the authority confirmed that the following corporate close associates were excluded from consideration in this review and that they would be separately assessed by the authority and New South Wales Liquor and Gaming. They are, firstly, Chow
5 Tai Fook Enterprises; and secondly, Far East Consortium International Limited. I note that each of those corporations is a shareholder in Star Entertainment.

MR BELL SC: Were they close associates of The Star or business associates of Star Entertainment? My understanding was it was the latter.
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MS SHARP SC: I'll have to have that clarified, if I can, Mr Bell, and I will come back to you on that. Mr Bell, could I call up document ILGA.001.012.0001. I'm showing you a document that was provided to the review by the authority on 20 September 2021, which listed the individuals who it considered to be close
15 associates of The Star as the casino licensee. And I will also now call up exhibit B at 3215, which is CORRO.001.001.0001. I'm showing you a 15 October 2021 letter from The Star and Star Entertainment's solicitors which confirmed that each of the individuals that the authority had identified as close associates were considered by The Star and Star Entertainment to be close associates.
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Now can I bring up INQ.028.001.0592. I'm showing you a document that those assisting you have prepared. I wonder if we could have the whole document shown on the screen, please, operator. There's some colour coding that I need to explain in this document, Mr Bell. This document lists all of the individual close
25 associates of - or people, I should say, who were close associates of the casino operator at the time that the public hearings of this review commenced.

What you will see in green shade, Mr Bell, are the individuals who have resigned at some point during the public hearings. And you will note that a very large
30 portion of this document is highlighted in green. Yellow shading indicates the directors of Star Entertainment who remain directors but have indicated their intention to resign in the near future.

Now, if I may take you through this document, Mr Bell, just to name the close
35 associates at the time these public hearings commenced. The first category of close associates were the current directors of The Star Pty Ltd, the casino operator, and they are Matt Bekier, Harry Theodore as the directors and then Paula Martin as the company secretary. Each of those people resigned during the course of these public hearings.
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The next category of close associates are the directors of Star Entertainment. Now, they are John O'Neill, who was a director and also the chairman. Mr Bell, you will recall that he resigned the Friday before he gave evidence to the public hearings. The next director was also the CEO, and that's Matt Bekier. He resigned after - I
45 think in around the second week of the public hearings. Other directors are Kathleen Lahey, Richard Sheppard and Sally Pitkin. They all indicated in their evidence that they intended to resign.

MR BELL SC: I thought Mr Bradley had also given evidence that he intended to resign in the near future as well.

5 **MS SHARP SC:** Yes. In fact, I think that's right, Mr Bell. So that really should be highlighted in yellow. That leaves Mr Benjamin Heap as the other director. And following the resignation of Mr O'Neill, he has assumed the responsibility as the interim chair of the directors. And Mr Geoff Hogg has assumed the responsibilities of the interim CEO. From this document, Mr Bell, you will note
10 that Paula Martin and Jennie Yuen are the company secretaries of Star Entertainment, and during the course of these public hearings Paula Martin resigned.

The third category of close associates are the executive team at Star
15 Entertainment, and they are Mr Bekier as, until recently, the CEO and managing director. He has now resigned. Mr Harry Theodore, who, until recently, was the chief financial officer. He has now resigned. Ms Martin, who, until recently, was the chief legal and risk officer. She has now resigned.

20 Then there is Kim Lee, who is the chief people and performance officer; Geoff Hogg, until very recently the chief casino officer in Queensland and now the acting CEO; Christina Katsibouba, the chief gaming officer; George Hughes, the chief marketing officer; Peter Jenkins, the group executive of external affairs; Greg Hawkins, until recently the chief casino officer in New South Wales, he has
25 also now resigned; and Damian Quayle, the chief operating officer in Sydney.

Lastly, may I indicate that in relation to one of the corporate close associates, being Star Entertainment Sydney Holdings, the director are John O'Neill, Harry Theodore, Matt Bekier and also, for some of the relevant period, Chad Barton.
30 Paula Martin was also a director and was company secretary.

Still within topic 1, which are my introductory remarks, can I now make some mention of the casino licence. The first version of the licence, which was granted on 14 December 1994, may be found in the evidence at exhibit B3126. There is no
35 need for me to take you to it. I will take you - in fact, I can't take you because it's not yet in evidence, I understand. The amended licence is dated 5 June 2009, and it has a document reference ILGA.001.007.0001.

Now can I move to the second topic, Mr Bell, and - sorry, the third topic, which is
40 the topic of suitability. We submit that the evidence in the public hearing establishes that The Star is not suitable to hold the casino licence and that its close associate, Star Entertainment, is not suitable either. A large number of close associates at the time these public hearings have commenced have, of course, now resigned, and it is, therefore, we say, not necessary for you to make findings about
45 their suitability.

At this point, Mr Bell, can we note a distinction between your terms of reference and those of Commissioner Bergin for the purpose of the Bergin Inquiry. Commissioner Bergin was expressly tasked, by her terms of reference, to make findings and recommendations about what would bring Crown Sydney and Crown Resorts into a state of suitability in the event that she found they were unsuitable. You have not been given this task, Mr Bell.

MR BELL SC: Just pausing there, it was also a provision of the terms of reference in the Victorian and Western Australian Royal Commissions into Crown that they were also tasked with considering the consequences of unsuitability. And as you say, that's not in my terms of reference. If I were to find that The Star is suitable, then the issue doesn't arise. But if I were to find that The Star is unsuitable, does it follow from that that the consequences of unsuitability are reserved for consideration by the authority?

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MS SHARP SC: Yes.

MR BELL SC: Yes. And Commissioner Bergin did note that that issue was exquisitely within the expertise of the authority, which is able to consider the position holistically rather than simply through the prism of the hearings which have been conducted by this review.

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MS SHARP SC: That is so, Mr Bell. Because it was not within your terms of reference, there is limited evidence in any event about what might convert a position of unsuitability into a position of suitability. I've indicated that really towards the end of our address, I will have more to say about suitability. But as a broad proposition, we submit that The Star and Star Entertainment are really only at the beginning of their journey about what has gone wrong within these organisations. And we submit that there has not yet been the period of deep reflection, which, of course, will be necessary in order to develop a concrete plan about what will - well, what, if anything, can bring these corporations into a position of suitability.

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I will have more to say about that when I address you on the final topic, which is topic 26, conclusions about suitability. For now, Mr Bell, within topic 3, suitability, we wanted to make submissions on what the test of suitability is. We say that the starting point in assessing suitability is section 12(2) of the Casino Control Act. Mr Bell, do you have a copy of that to hand, or would it assist if I brought it up on the screen?

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MR BELL SC: No, I have a heavily marked copy in front of me.

MS SHARP SC: I'll just start by noting there is no definition of "suitable person" or "suitability" within the Casino Control Act. But if I can take you, please, to section 12(2). We will see section 12 applies to the original grant of a casino licence, and subsection (2) sets out the matters the authority must consider in determining whether to grant that licence. And we submit that these are all very

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useful indicia of suitability, not just at the time of the original grant of the licence but at all times thereafter. And the particular criteria we wish to draw to your attention are (a), that is, (2)(a), that:

5 "Each of those persons -"

And that is the casino operator and its close associates:

10 "Are of good repute having regard to character, honesty and integrity."

And then if you go to subparagraph (g), the reference to:

"Any of those persons -"

15 Again, that's a reference to the casino operator and any of its close associates:

20 "Whether any of those persons has any business association with any person, body or association who, in the opinion of the authority, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources."

And subparagraph (h) is that - relates to:

25 "Each director, a partner, trustee, executive officer -"

And so on:

30 "Who is associated or connected with the ownership, administration or management of the business activities of -"

The casino operator and its close associates and whether they are suitable to act in that capacity. Now, various periodic suitability reports in this jurisdiction have confirmed that the criteria I have just taken you to in section 12 continues to be relevant when assessing ongoing suitability. In fact, Mr McClellan QC's 1997 report confirmed that position by reference to advice then obtained by the Crown Solicitor of New South Wales. And I won't take you to Mr McClellan's 1997 report, but simply note that what Mr McClellan explained was that the Crown Solicitor had advised that suitability matters, in broad terms, relate to the corporate structure; probity and financial strength of the casino licence applicant; and that commonsense suggests that just as these attributes should be present at the time when the application was granted, so they should be present at all times when the licence is being reviewed.

45 The more recent Bergin reports and Finkelstein reports have also contained what we submit is very useful analysis of the meaning of "suitability". And I might take you, if I can, to the Bergin report findings or analysis in this regard. Justice Bergin's report was divided into two parts. Just, if you will pardon me, I will try to

find the document ID so I can bring this up for you. Could you just pardon me while I get the document ID. I will just get the document IDs for volume 1 and volume 2. If you will just pardon me for a moment, Mr Bell.

5 **MR BELL SC:** I have hard copies of the Bergin report here.

MS SHARP SC: In that case, I will advise you when it becomes known to me what the document numbers are. And in the meantime, if I could take you to the second volume, Mr Bell, which is INQ.028.001.0926. And if I could have the operator bring that up, please. And could I take you, Mr Bell, to page 337 of the report, which is within - starting at paragraph 11. And, Mr Bell, if I draw your attention to paragraph 11 that Commissioner Bergin referred to the expression "good repute having regard to character, honesty and integrity". And Commissioner Bergin said that comparisons had been made with tests such as fitness and propriety and good fame and character. At paragraph 12, Commissioner Bergin said about halfway through that paragraph:

20 "The analysis of the concept of character can become somewhat circular with reference to a person's nature and good character. However, it is clear that a person of good character would possess high standards and conduct and act in accordance with those standards under pressure."

And we submit that that is a correct approach to take. If I could then take you, please, to paragraph 15. Commissioner Bergin referred to some analysis of the Massachusetts Gaming Commission and the challenges when one comes to look at the suitability of a corporation as opposed to an individual. And the Massachusetts Gaming Commission had said that:

30 "The corporate entity is made up of individuals and has no independent character or morality standing alone."

Now, can I flag here, Commissioner Finkelstein took a slightly different approach, and we will take you to that in due course. Just for the moment, in paragraph 15, Commissioner Bergin referred to some remarks of the gaming commission and in particular:

40 "We look to the conduct of senior management, that is, officers primarily responsible for managing the corporation, the directors and the controlling shareholders, if any."

And then if I can take you to paragraph 18 of Commissioner Bergin's report. Commissioner Bergin said about halfway through that paragraph:

45 "It is necessary in assessing character to take an holistic approach of both the licensee -"

That was Crown Sydney:

"And Crown -"

5 And that's Crown Resorts, in other words, the close associate. So it was necessary to take a holistic view of both of those corporate entities:

10 "Including the assessment of the integrity of corporate governance and risk management structures and the adherence to adopted policies and procedures."

15 And we submit that this is the correct approach to take and is consistent with the approach which was adopted by Commissioner Finkelstein. If I could then go to the Finkelstein report. I'm not sure if you have a copy of the Finkelstein report handy. Otherwise, I --

15 **MR BELL SC:** Yes, I do. I do.

20 **MS SHARP SC:** I will just have the document ID brought up for that. The Finkelstein report comes in three parts. And it's INQ.028.001.1361. I think those three separate parts were condensed into the one document for the purpose of this review. Just pardon me for one moment. If I could take you to chapter 18 of Commissioner Finkelstein's report, which appears - the pagination won't be particularly helpful, unfortunately. It's page 56 of the third volume, if that assists the operator. And, Mr Bell, there's a chapter 18, "Suitability and the Public Interest". And if I can take you to page 56, there's a heading "Suitability". And at paragraph 7, Commissioner Finkelstein notes that as with the situation in New South Wales, the term "suitable person" is not defined in the Victorian Casino Control Act. At paragraph 8, it's noted that:

30 "The suitability came from the concern that criminal elements may infiltrate a casino. It is clear, though, that 'suitability' involves much broader considerations. This is plain from the requirement in the Casino Control Act that, in considering suitability, other factors must be taken into account. The most important of those factors are the casino operator's character, honesty and integrity, and its financial standing. Another important factor is the suitability of the directors and officers involved in the administration of casino operations."

40 At paragraph 9, which is at pinpoint 1892, Commissioner Finkelstein said:

45 "Critical to any inquiry into an applicant's suitability for a casino licence is whether they are of 'good character'. Character is an elusive concept. It can be seen indirectly through a person's acts and deeds, and is understood of being indicative of future conduct."

And then at paragraph 12, Commissioner Finkelstein said that:

"The typical assessment of suitability entails -"

And perhaps the operator could bring this up too:

5 "The typical assessment of suitability entails looking for evidence of
misconduct and, if it exists, asking what conclusions may be drawn. It is also
possible from these cases of misconduct to draw up a list of factors that,
either individually or collectively, may indicate a casino operator is
10 unsuitable to hold a casino licence. Such a list would include misleading a
licensing authority; failing to cooperate with a regulator during an
investigation; previous criminal conduct, especially conduct that arose while
carrying out functions permitted by the licence; and failing to comply with
relevant statutory requirements that regulate the licensed activities."

15 And we submit that you should adopt this approach, Mr Bell. In addition, at
paragraph 14, Commissioner Finkelstein said that:

20 "A different approach is preferable when considering whether an existing
casino licensee continues to be suitable to hold its licence. This approach will
look more broadly at the licensee's conduct as a casino operator."

So in addition to those matters, other factors should be considered according to
Commissioner Finkelstein, and he identifies some of those other factors at
paragraph 15, which I'll take you to now, on pinpoint - I've lost the pinpoint, sorry.
25 But at paragraph 15, Commissioner Finkelstein identifies:

"Appropriate norms of conduct to which a casino operator should conform."

30 This is at pinpoint 1892 to pinpoint 1893. And they include that:

"A casino operator must obey the law; act honestly; deter illegal and immoral
behaviour that might take place in a casino; not exploit people who come to
the casino to gamble; take active measures to minimise the harm caused by
gambling; cooperate fully and candidly with the regulator and with
35 government."

And then at paragraph 16, Commissioner Finkelstein said that:

40 "Whether or not there has been adherence to these norms is a better guide to
suitability than considering isolated examples of misconduct to see whether,
when considered in aggregate, they tell us something about the future. So, if a
casino operator infringes any one of the norms, it is on the road to
unsuitability. If a casino operator infringes several of the norms, the end of
the road is near. If a casino operator has infringed most of those norms, the
45 journey is at an end."

And we submit that you should adopt this approach, Mr Bell. Of course, in applying such an approach, inevitably you must consider examples of misconduct to see what they indicate about the norms of behaviour that Commissioner Finkelstein has identified. If I can move on to paragraph 18. Commissioner Finkelstein distinguished between a traditional approach to corporate responsibility and a more nuanced approach to corporate responsibility. And at paragraph 18, he refers to the traditional approach, which involves recognition of the fact that a corporation only acts through its officers and employees, and that the moral responsibility of the corporation is traditionally assessed by looking at the conduct of those who lead the corporation. However, at paragraph 19, Commissioner Finkelstein says:

"This approach has been justifiably criticised in the examination of corporate responsibility."

Then if I could take you, Mr Bell, to paragraph 20. And if the operator could highlight this, please. He refers to the alternative view of Dr Bant, who says:

"That for the purpose of determining corporate culpability, the mind of a corporation is shown by its systems, policies and patterns of behaviour."

So:

"It is the corporate culture of a firm that may direct, encourage, tolerate or lead to non-compliance with relevant laws."

And Dr Bant said that:

"By corporate culture, she meant an attitude, policy, rule, course of conduct or practice existing within the body corporate generally or in the part of the body corporate in which the relevant activities take place."

But we submit that the approaches of Commissioner Bergin and Commissioner Finkelstein, in fact, complement one another. And to form a view of corporate suitability, one needs to have regard to the conduct of the leaders of the organisation, but also situate them within the broader context of the corporation's governance, risk management and culture overall. That is all to say that it is not enough to bring a corporation into suitability simply to terminate the employment of, or part company with, a number of senior officers. There is more to the question of suitability than particular individuals within the corporation.

MR BELL SC: Yes. There seems to me to be a lot of wise guidance provided on this issue by the report of the Perth Casino Royal Commission, which firstly referred to the traditional view that you judge the reputation of a corporation as a reflection of the reputation and character of its principal officers, then also identify the broader approach, which Commissioner Finkelstein is referring to, and recognises that organisational decisions and conduct are more than just a

combination of individual choices, and also reach the conclusion, which I think you're submitting, which is that the traditional and broader approaches are not mutually exclusive but can each be accommodated and are relevant depending upon the nature of the evidence and the conduct in question.

5

MS SHARP SC: That is so, Mr Bell. And, indeed, they feed into each other, really. And culture is a particularly important aspect of assessing suitability. And I might just remind you, Mr Bell, of a speech given by a former ASIC Commissioner, John Price, on 9 December 2019. And I will have - I believe this is in evidence, and I'll have the document number called up in a moment. But what Mr Price said in his 9 December 2019 speech was that:

10

15

"ASIC views corporate culture as the underlying mindset of the organisation, the set of shared assumptions and behaviours that represent the collective values, beliefs and principles of the organisation. In short, culture is 'the way we do things around here'."

20

And in due course, we will be making some submissions about the culture of The Star and Star Entertainment. Just for the transcript, the reference to that speech is INQ.028.001.0185.

25

Can I also say something about assessing suitability in a group context. You have heard evidence that Star Entertainment Group ultimately holds three different corporations that hold casino licences - one in Brisbane, one in the Gold Coast and one in Sydney - and that Star Entertainment is run at a group level. In particular, the directors of the casino operator in Sydney are senior executives of the parent body, Star Entertainment Group.

30

35

This is all to say that for practical purposes, the casino operator is controlled by Star Entertainment. And what this means is that to consider the suitability of The Star as a corporation, it is necessary also to consider the suitability of its controller, Star Entertainment. And that is a distinct thing from simply considering the suitability of Star Entertainment as a close associate. So another way of putting that is that it is necessary to consider the suitability of Star Entertainment, both to ascertain the suitability of The Star as the casino operator and because Star Entertainment is a close associate of the casino operator.

40

Would you pardon me for one moment, Mr Bell. I'm just wondering whether now might be a convenient time - and I appreciate it's a few minutes early, but I'm moving on to topic 4, whether now might be a convenient time to have the mid-morning adjournment?

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

45

<THE HEARING ADJOURNED AT 11:20 AM

<THE HEARING RESUMED AT 11:40 AM

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** Mr Bell, before the break, you asked me a question about Chow
Tai Fook and Far East Consortium. Those assisting with this review understand
that those two corporations are business associates of Star Entertainment. I will
move now to address you on topic number 4, which is organisational structure,
governance and risk management. I've already addressed you on the fact that Star
10 Entertainment operates at a group level and, in fact, holds three separate
companies which, in turn, hold casino licences in various jurisdictions.

There are - in terms of governance arrangements, there is, of course, the board of
directors of Star Entertainment. It's also relevant to consider the four
15 subcommittees of the board, and they are the audit committee; the risk and
compliance committee; the remuneration committee; and the people, culture and
social responsibility committee. I should mention there is also a management risk
and compliance committee which consisted, during the relevant period, of
members of the executive team. However, Mr Paul McWilliams said at day 3,
page 304 and 305 that for a long period of time while he was employed by Star
20 Entertainment, the management risk and compliance committee did not meet, and
regular meetings were only instituted from around mid to late 2018.

Mr Bell, can we refer you to some key governance documents. It will only be
necessary for me to take you to some of them. First of all, of course, is the
25 constitution of Star Entertainment, which is exhibit H413. I won't go to that. There
is next the corporate governance statement, which is exhibit J at tab 75. I won't go
to that. There is next the Code of Conduct. Now, there have been two - at least two
codes of conduct in the relevant period. I will take you now to the Code of
Conduct as at 2018, because that covered a lot of the relevant period. That is
30 exhibit D at tab 7. If the operator could please bring that up.

And you will recall, Mr Bell, that various directors gave evidence that the Code of
Conduct was one of the ways in which they tried to instil particular values and
culture within Star Entertainment. I'm showing you the Code of Conduct as at 1
35 March 2018. Could I ask the operator to turn to the next page, please. And if I
could take you to page 4 of that document. And could I draw your attention to
section 3, which is The Code Guiding Principles, Mr Bell. They are:

40 "(1) we respect the community; (2) we are diverse; (3) we comply with the
law; (4) we are ethical; (5) we are professional; and (6) we work safely."

As we will be submitting in due course, there have been particular problems with
compliance with (3), "We comply with the law," and (4), "We are ethical." Could I
take you to the next page, please. If I can draw your particular attention, Mr Bell,
45 to heading 4.3 We Comply with the Law. The value expressed here is:

"We comply with our legal and regulatory obligations, voluntary commitments, industry standards and company policies and procedures, not only because we are compelled to, but because doing in doing so we protect the interests of the community, our guests and employees."

5

And you will see a little bit further down that page, it says:

"Our employees will comply with the law by -"

10 Relevantly:

"Observing all laws, regulations and standards governing the jurisdictions in which we operate."

15 Then the next dot point:

"Following the policies, procedures and processes designed in support of our legal obligation."

20 Next dot point:

"Immediately reporting any suspicion of unlawful actions."

Next:

25

"Reporting breaches of policies, laws, rules and standards."

And a little bit under that:

30 "Reporting illegal and undesirable activities including but not limited to money laundering."

And then the last dot point there:

35 "Reporting in accordance with the AML/CTF program."

And then, operator, could you go to the next heading, which is "We Are Ethical". And here, you will see it states:

40 "We conduct our business with integrity as this is the basis for maintaining our reputation."

And under the heading Our Employees Are Expected to, could I draw your attention to dot point 3:

45

"Seek management approval before engaging in activities which may be perceived as creating a conflict of interest."

Next dot point:

5 "Disclose all conflicts of interest."

Next dot point:

10 "Not engage in activities which gain or attempt to gain advantage through deception, theft or collusion."

Next dot point:

15 "Refrain from behaviours which could bring Star Entertainment into disrepute."

A few dot points down:

"Challenge and report unethical behaviours or practices."

20 Next dot point:

"Assist investigations into potentially unlawful events as required."

And next dot point:

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

30 Now, we've highlighted these particular entries in the Code of Conduct because we submit that the evidence establishes there has been a falling short in relation to each of those matters. And as I move through subsequent topics in the closing address, I will point that out to you, Mr Bell.

35 On 29 June 2021, the board approved a new version of the Code of Conduct. I understand it's not yet in evidence, but the document number for it is STA.5002.0007.2452. And appendix to that Code of Conduct was a new policy called "do the right thing". Now, again, I'm not sure that's yet in evidence, but the document ID is STA.5002.0007.2773. During the course of the public hearings, we asked numerous witnesses about what they understood "do the right thing" to mean, and different witnesses had different understandings of what it did mean, some less comprehensive than others. It should be noted that in the PwC culture report of January 2022, it was reported to the board that employees did not understand this value.

45 I have been speaking of relevant documents forming the compliance and governance framework. There is also the directors' terms of reference, which is

exhibit J7, and I won't take you to that. And lastly, the compliance policy and framework document, which is exhibit J69.

5 Can I say a little something now about reporting lines and business segments within Star Entertainment. There are a number of different business units that require consideration for the purposes of this Review: firstly, the ranks of the senior executive and, in particular, Mr Bekier, the CEO and managing director; Mr Theodore, the CFO for some of the relevant period; and Ms Martin, who was the chief legal officer and, some time in 2019, also became the chief risk officer, and
10 who is the - or was the general secretary for both Star Entertainment and The Star Pty Ltd.

So that's one segment of the business that requires consideration. The New South Wales casino business also requires consideration. That was relevantly headed by
15 Greg Hawkins, the chief casino officer. There is then the international VIP team. Now, there have been three - or two leaders of that team in the relevant period, Mr John Chong and then Mr Marcus Lim. Initially, the VIP team reported directly to Mr Bekier and later reported directly to Mr Hawkins. And in due course, we will be submitting that the VIP team was not properly supervised and its activities
20 were not properly notified to the board of directors.

It will then be necessary for you to have regard to what I might describe as the compliance and risk segments of the business, Mr Bell. There - of course, there was Ms Martin, who was the chief risk officer, amongst her other responsibilities;
25 there was Mr Brodie; also Ms Arnott, who originally reported in through the compliance team but now - or until her recent resignation, reported into the investigations team. So in terms of the investigations team, it's relevant to look to the head of that team, Mr Houlihan, and to Mr Angus Buchanan, and also later in the piece to Ms Skye Arnott.

30 Another segment of the business that requires your attention during this Review is the legal team, headed by Ms Martin, and two senior officers there are Mr Oliver White, who has now resigned, who was the head of corporate, and Mr Andrew Power, who has now also resigned and had particular responsibilities for The Star
35 in Sydney. As we will submit in due course, there were some practices in the legal team of significant concern and which did amount to unethical behaviour, in our submission. Lastly, Mr Bell, we submit you will need to be mindful of group treasury. For some of the relevant period, group treasury was headed by Mr Theodore and then by Ms Sarah Scopel. Both of them, of course, gave evidence.

40 Can I now move to say something of the risk management framework. It's our submission that there have been very serious failures in the risk management framework, so I will spend some time setting out what that framework comprises. The executives responsible for risk management have changed during the relevant
45 period. Initially - and that is from 7 February 2016 until 31 July 2019 - Mr Paul McWilliams was the chief risk officer - he gave that evidence at day 3, page 299 - and he reported directly to Mr Bekier.

He originally had five functions, which he described in evidence at day 3 from page 301, which were to establish, develop and maintain a framework to effectively identify and manage risks; secondly, to establish, develop and maintain a framework to identify and comply with legal obligations across the company; thirdly, to oversee the internal audit function, and I interpolate he was assisted by Ms Tarnya O'Neil in that regard; fourthly, to manage the company's insurance program; and fifthly, to manage the company's responsible gambling program.

Mr Williams told you in evidence at day 3, page 301 that on 1 January 2017, he was given an additional responsibility of overseeing Star Entertainment's AML and CTF program, and also responsibility for The Star's workplace health and safety program. He also gave evidence at day 3, page 303 that he, as a matter of course, attended both the board's risk and compliance committee and its audit committee. He also identified at day 3, page 303 that it was, as one might expect, the board's risk and compliance committee which was concerned to identify risks to the organisation.

I will now move to say something of the risk management framework during the relevant period. There have been some changes to that framework. Actually, just before I do, I should indicate that when Mr McWilliams left the employment of Star Entertainment in 2019, his responsibilities were transferred to Ms Paula Martin, who became the chief risk officer in addition to being the chief legal officer. You will recall some evidence of the directors to the effect that, in retrospect, it was not a good idea to load all of those responsibilities on to Ms Martin.

If I can move now to the risk management framework. Mr McWilliams gave evidence that he rewrote that framework and that a new framework was adopted by the board in December of 2017. Now, I'll take you to the risk management policy that was adopted at that time. That is exhibit D11 - if I could ask the operator to bring that up - STA.3402.000 2.8118. And, operator, could we go to pinpoint 8120. Now, Mr Bell, can I take your attention to the heading at the top, Approach to Risk Management. This is an articulation of the three lines of defence model that Star Entertainment adopted.

And just to paraphrase this, the first line of defence is the individual business unit who should manage - first of all, identify the risks and then manage them. The second line of defence is the group risk function, and in the relevant period, that was firstly led by Mr McWilliams and then secondly by Ms Martin, and reported in through the board's risk and compliance committee. And the third line of defence was the independent assurance line. Now, that includes both internal audit and external audit. So in the early period, the internal audit was conducted by Tarnya O'Neil. And the third line of defence, of course, reports in through the board's audit committee. So that was the overall framework to managing risk.

While we're in this document, can I show you, Mr Bell, how responsibilities for managing risk were apportioned between the business. If we go to eight - first of all, if I scroll to the bottom of this page, which is pinpoint 8120. You'll see, Mr Bell, there's a heading "Responsibilities". And the board is allocated responsibility
5 for reviewing and approving the risk management strategy and the risk management appetite, and for regularly reviewing those documents.

Next, the board's risk and compliance committee is responsible for reporting changes in risk appetite to the board, as well as whether there are any needs to
10 change the risk management framework or policy. Importantly, it's responsible for monitoring Star Entertainment's risk profile and also for monitoring the effectiveness of Star Entertainment's risk management processes. And we submit that there have been failings in the discharge of those responsibilities. The next set of responsibilities are given to the board audit committee, and they are, as one
15 would think, the auditing of these frameworks.

And then if I can take you over the page, please, Mr Bell. And if I can highlight in particular the responsibilities given to the executive team. If I can highlight that
20 part of the document, please, operator. So the executive team were required to monitor key risks within their individual areas of responsibility, and identify and report to the CEO and chair of the board risk committee the facts and circumstances of any major risk events - we will be submitting that this did not occur - and execute Star Entertainment's strategy with the board-approved risk
25 appetite and demonstrate leadership to foster a risk-aware culture across Star Entertainment. Again, we will be submitting that this did not occur.

The next level of responsibilities are assigned to the management risk and compliance committee. If you could highlight that, please, operator. I've already referred to the evidence of Mr McWilliams that this committee, in fact, did not
30 meet regularly until mid to late 2018. Mr Bell, you will see the next set of responsibilities are assigned to group risk. That was the team headed firstly by Mr McWilliams, later by Ms Martin.

Of relevance, the third dot point, to monitor compliance with the policy, the
35 framework and risk appetite statement; then to report to the board risk committee and the management risk committee on the status of risks; then to monitor emerging risk issues; and to develop and monitor and maintain an effective program of insurance. We submit that there were key failings within the group risk business segment where risks were not identified, and even if they were identified,
40 they were not escalated.

Can I then take your attention to the responsibilities given to the divisional business units. If I could have that highlighted, please, operator.

45 **MR BELL SC:** Who took over the internal audit function after Ms O'Neil left the organisation?

MS SHARP SC: Can I take instructions on that and get back to you?

MR BELL SC: Yes.

5 **MS SHARP SC:** And what you will see in terms of the divisional business units is to identify, evaluate and manage risks that originate within the business unit; and establish and maintain appropriate risk management controls and resources. Now, we submit that there were key failures, both within the international VIP team at not identifying the risks, and certainly not escalating them, but also within
10 The Star back in Sydney. What happened with Suncity and Salon 95 is a very good example, and issues that have emerged in relation to the possible underpayment of duty is another example, Mr Bell.

15 So just to paint a picture of where we're proposing to go in these submissions - because we do submit that one of the key problems here was a failure to - well, a failure in risk management, but this failure - responsibility for this lies within various parts of the organisation. So within divisional business units, within the group risk function, within senior management, within the board risk and compliance committee and all the way up to the board.

20 My instructions, Mr Bell, are that James Gough took over from Ms Tarnya O'Neil in the audit function.

25 Now, Mr Bell, I've taken you to the risk management framework from 2017, but I need to note that it was revised in 2020. And there was a board paper prepared by Ms Martin dated 19 August 2020 introducing the new suite of risk documents. I won't take you to it, but it's exhibit B at tab 2545. And you will find the August 2020 risk management framework at exhibit B at tab 2514, and the August 2020 risk management policy at exhibit B, tab 2515. Mr Sheppard gave evidence at day
30 29 at page 326 that the main purpose of revising the framework and policy at this time was to make the suite of documents simpler and easier to understand.

35 An important part of the risk management framework is the risk appetite statement, and I'll call up a copy of that, which existed as part of the 2017 suite of documents, which is exhibit D at tab 20. And if I could have the operator go over the page, please. And over the page again. And what you see, Mr Bell, at pinpoint 8141, are six different risk categories that have been identified across Star Entertainment - that is, financial, people, strategic, compliance, operational, reputational - and a statement in the right-hand column about what the board's risk
40 appetite is in relation to those risks.

You heard evidence, Mr Bell, from various directors that the risks of junkets and money laundering and counter-terrorism financing fell within various risk categories. We submit that, moving forward, there may be good sense in having a
45 standalone risk category for money laundering and counter-terrorism financing, given the particular vulnerabilities to casinos of their very nature. That is all I wish to say about topic 4, Mr Bell.

Can I move now to topic 5, which is to make submissions on the credit of various witnesses who gave oral evidence to you over the course of 36 hearing days.

5 These are introductory submissions and will be supplemented in various ways when I come to address you on particular topics of concern. What I will do is run through the order of the witnesses now. The first witness was Ms Paulina Dudek, who left employment of Star Entertainment in September 2020.

10 **MR BELL SC:** Is that right? I understood from her evidence that she remains an employee of Star Entertainment.

15 **MS SHARP SC:** Yes. Sorry. I withdraw that submission. You're correct, Mr Bell. She commenced as the assistant group treasurer in the treasury group in August 2020, and prior to that - she commenced employment in March 2019 as a senior treasury manager reporting to Ms Sarah Scopel. She told you, Mr Bell, that she was aware of the "do the right thing" policy. She said it meant calling out anything anybody sees that doesn't sit right with them, no matter their position. She said that at day 1, page 27. And she accepted that being ethical means being honest and not seeking to present a misleading view of the matter - that's at page 30 - and that it is important for a client not to mislead its banking partners, which she agreed to at page 32.

25 Ms Dudek conceded that the responses she provided to NAB in relation to queries about the use of the China UnionPay cards were utterly misleading and that she knew this at the time. And that's pages 53, 54, 59 and 65. Those responses, she said, had been drafted by the lawyer, Oliver White. She conceded that her responses were not consistent with the "do the right thing" policy - that's at page 76 - and were not ethical - that's page 77. She told you, Mr Bell, that she did not fully challenge the responses she was instructed to send because she did not feel comfortable challenging long-held processes at The Star. She said that at page 77.

35 That points to a problematic culture, Mr Bell. Ms Dudek was in a difficult position because she was - while she had some degree of seniority, there were many senior to her who were directing her to do the wrong thing. We submit you should find that Ms Dudek was a truthful witness. She was quick to make concessions as to where her own behaviour was not in accordance with the Code of Conduct. We submit that you would find that she was a credible witness.

40 Can I move now to Ms Sarah Scopel, who left the employment of Star Entertainment in September 2020. She was employed by Star Entertainment from October 2018 to September 2020 as the group treasurer. That, as she agreed, was a position of some seniority. She reported to Mr Barton, when he was the chief financial officer, and then, from mid-2019, directly to Mr Theodore. That comes from her evidence at day 1 at page 97.

45 Mr Bell, Ms Scopel's evidence to you changed significantly when she was probed and tested. She started in her evidence by maintaining that the responses that she

provided to NAB could have been clearer and more direct - that's at page 120 - but she didn't feel it was misleading - that's at page 121 - to a position where she agreed that there was an attempt to distance the usage of the CUP cards from funding gambling, which is at page 126, to agreeing that the response was misleading, at page 126, and that she knew at the time that the response was misleading, which is at page 127. She ultimately agreed that the statement in one of the emails to NAB that the nature of the transactions was non-gaming relating was false. And she stated, at page 127:

10 "At the time, I understood that there was a technical reason that we could make this statement. But with the benefit of hindsight, I agree it was false."

15 She later agreed in evidence, at page 141, that the correspondence that she drafted to NAB was plainly misleading and, at page 142, that she had engaged in behaviours in her dealings with NAB that could bring Star Entertainment into disrepute. Ms Scopel also accepted at page 142 that she breached Star Entertainment's Code of Conduct by failing to challenge or report unethical behaviours, and that her behaviour towards NAB in relation to the queries about the CUP cards was dishonest - that was at page 143 - and unethical. That was also 20 at page 23. While Ms - I'm sorry. That was page 143.

25 Mr Bell, while Ms Scopel eventually made full and appropriate concessions, that was only following fairly lengthy questioning. Ms Scopel agreed that while she had concerns about the responses to NAB, she did not actively challenge the responses with anyone else in management, and that was at page 128 to 129. She attributed this failure to do so to her concern for her ongoing employment. Now, we submit that an excuse of that nature perhaps has more foundation for a more junior employee, like Ms Dudek, than it has for Ms Scopel. However, it still points to a problematic culture within the organisation.

30 **MR BELL SC:** Was she challenged on her evidence that she felt unable to challenge management because of her concerns about her employment?

35 **MS SHARP SC:** I don't think she was, but I will have my learned junior review the transcript and come back to you on that, Mr Bell.

MR BELL SC: Yes.

40 **MS SHARP SC:** Could I then move to the evidence of Ms Tanya Arthur, who has been employed by NAB since 1 October 2016. And she was the head of diversified industries and technologies client coverage within the institutional part of NAB. She had a number of - or three clients for which she was the relationship manager, and up until 11 March 2022, one of those clients was Star Entertainment. She took over from Andrew Bowen.

45 We submit that you should find that Ms Arthur gave direct, credible and consistent evidence to you, even after very searching and, at times, aggressive

cross-examination, and that you should accept her evidence in full and, in particular, that she did not know that the purpose of the CUP transactions was to purchase gaming chips and that she was misled by the responses that were provided to her in emails by various officers of Star Entertainment.

5

We also note that Ms Arthur made appropriate concessions when it was necessary to do so, even when it would have been of benefit to her to deny things. One good example of this is where she frankly said that she could not recall one way or the other whether she had had the telephone call with Ms Scopel and Mr Theodore on 7 November 2019. Now, that was evidence given at day 2 at page 212.

10

Jumping slightly out of order but for the sake of completing that round of witnesses, may I say something about Andrew Bowen, who worked at NAB during 2016 to 2018, and at that time was the relationship manager for NAB - sorry, for Star Entertainment and had dealings with Mr Theodore. Now, you will recall that Mr Theodore gave evidence that he believed that Mr Bowen knew the true purpose to which the CUP cards had been put, and Mr Theodore gave evidence of alleged conversations where Mr Bowen stated that knowledge. We submit that you should reject Mr Theodore's evidence, and find that that evidence was untruthful, and prefer the evidence that was given by Mr Bowen.

15

20

The way in which he came to give evidence to this review was by those solicitors assisting you writing to him, notifying him of the evidence that Mr Theodore had given, both in his statement and in oral evidence, and asking whether Mr Bowen wished to provide any evidence of his own. Now, he was under no compulsion to do that. But once he made that decision, his statement was summonsed and he was then summonsed to give evidence. He gave what we submit is strong and persuasive evidence that he did not know that the purpose of the CUP cards was to purchase gaming chips, and he firmly disputed the account provided by Mr Theodore in relation to his dealings with Mr Theodore. And we submit you should prefer Mr Bowen's account to Mr Theodore's account.

25

30

MR BELL SC: One consequence of the way in which Mr Bowen came to give evidence was that Mr Theodore wasn't able to be challenged directly with Mr Bowen's evidence. What flows from that fact?

35

MS SHARP SC: Well, he was tested - we say nothing because Mr Theodore was vigorously tested on all aspects of his account and, in particular, he was tested on an email that Mr Bowen had sent to him, I think in September 2017, which set out a response which was quite inconsistent with what Mr Theodore said was a conversation that had taken place earlier with Mr Bowen. So it was put to Mr Theodore that the email represented the true position and his account of what Mr Bowen said was not the true position. So Mr Theodore had a full opportunity to deal with that matter.

40

45

Can I then move to Mr Paul McWilliams. I have already made some submissions about his position. He gave evidence not only of the risk management framework

and his responsibilities, but also in relation to the KPMG reports. He gave evidence of Mr Bekier's reaction to executive summaries of the KPMG reports and then what occurred at a subsequent meeting in July 2018 with two representatives of KPMG. We submit that you would accept Mr Williams' evidence of the manner
5 in which Mr Bekier conducted himself at that meeting and that it is consistent with the evidence of the KPMG officers, Mr Alexander Graham and Mr Jeff Sullivan.

Ms Tarnya O'Neil also gave evidence. She worked with Star Entertainment from September 2016 as the general manager of internal audit and assurance. She
10 reported both to the board audit committee and to the chief risk officer at the time, Mr Paul McWilliams. As she said on day 4 from pages 358 to 359, Ms O'Neil left the employment of Star Entertainment in October of 2018, which she said at page 358.

15 Ms O'Neil gave evidence of her recollection of what occurred at the 23 May audit committee meeting in the wake of the KPMG reports at page 370 onwards. We submit that her evidence is consistent with that of Mr McWilliams. And in relation to the later meeting that involved Mr Bekier in July of 2018, it is consistent both
20 with the evidence of Mr McWilliams and with the two KPMG officers. We submit there is no reason why you would not accept the evidence of Tarnya O'Neil.

Could I just divert to answer a question you raised earlier, Mr Bell, in relation to Ms Scopel. At day 22 of the transcript, at page 128, Ms Scopel gave evidence to
25 the effect that, "If I didn't provide the response The Star wanted, it could impact my employment." She was not directly challenged on that evidence. At page 129 of the transcript, she said that she expressed discomfort regarding The Star's approach, but did not challenge it.

MR BELL SC: Yes. Thank you.
30

MS SHARP SC: I can be relatively brief in my submissions about Alexander Graham and Jeff Sullivan from KPMG. Alexander Graham has been a partner of KPMG for a lengthy period. He started with them in about 2014. He worked on
35 the KPMG audit and was engaged in November 2017. He has significant expertise in AML/CTF matters, having worked in the field for about 20 years. That's evidence he gave at day 4, page 385.

He gave evidence of sitting outside the audit committee meeting on 22 May 2018 and not being called upon. He also gave evidence about the behaviour of Mr
40 Bekier at the follow-up meeting in July of 2018, including that Mr Bekier's attitude was one of hostility, and that was a tone which was discerned from what Mr Bekier said, the way he held himself and his flipping through various pages of the report and saying, "Wrong. Wrong," and so on. This evidence was given at day 4 at pages 400 to 401.
45

Mr Graham also gave evidence that the then chair of the audit committee, Mr Zlatko Todorovski, later apologised to him for Mr Bekier's conduct. We

submit that he gave frank and credible evidence to you and that there is no reason that you would not accept his evidence, Mr Bell, particularly given its consistency with that of Tarnya O'Neil, Paul McWilliams and Jeff Sullivan. If I --

5 **MR BELL SC:** The evidence was that the chair of the audit committee apologised to KPMG for conduct without necessarily specifying that he was apologising in respect of Mr Bekier specifically. But perhaps you might just check that.

10 **MS SHARP SC:** I will just have that checked for you and come back with the page - the page number. If I could now move to Mr O'Sullivan. He was the other member of KPMG (indistinct) conducting the audit, and he was cautious and careful in the evidence he gave you. Somewhat effusive, if I may say, than Mr Graham. Again, there's no reason not to accept his evidence, which was entirely consistent with that of Mr Alexander.

15 Can I now turn to make some submissions on Mr Angus Buchanan. He commenced employment at Star Entertainment as due diligence officer and, in around November 2021, was promoted to the position of group manager of due diligence and intelligence. He gave evidence at day 5 at page 427 that he is
20 responsible for all due diligence related matters relating to anti-money laundering and counter-terrorism financing that the business conducts across the three casinos. He reports - well, until very recently, reported to Kevin Houlihan. Initially, when he commenced employment, his formal reporting line was to Ms Martin, but he said, at page 428, that as a practical matter, he reported to Mr
25 Houlihan.

The evidence established that Mr Buchanan was a very experienced investigator, and that prior to his employment with Star Entertainment, he had worked at the Hong Kong Jockey Club as the executive manager of due diligence and research,
30 and managed a team of around 20 to 22 people. That's page 430. He agreed this was a position of significant seniority within the Hong Kong Jockey Club security and integrity department, at page 447. Mr Buchanan also gave evidence of his significant experience working with law enforcement agencies, including with the police in Scotland and the Royal Hong Kong Police Force and the South
35 Australian Police Force in the period March 2007 to July 2015, as well as with the Australian Crime Commission. And that is at page 431 to 432.

He gave evidence of significant levels of training in money laundering and counter-terrorism financing, including training he received with the Australian
40 Federal Police when he worked at the Australian Crime Commission, and training he received with the police in Scotland. He gave that evidence at page 432. He's also indicated in evidence that he undertook the ACAMS training while employed at Star Entertainment in 2020, and he passed his exams. And that's at page 432. We submit that Mr Buchanan came to The Star with good intentions and with a
45 wealth of experience. He did the right thing in making known to his colleagues the existence of the Hong Kong Jockey Club report.

However, you, Mr Bell, would have concerns about Mr Buchanan's judgment. And he is, in our submission, an interesting case study in what workplace culture can do to an individual, and that submission is made good by tracing through the various versions of his due diligence report on Alvin Chau. When he first provided the Hong Kong Jockey Club report to his colleagues, the evidence indicates that he agreed with the findings in that report. Indeed, the evidence is that he was the author of that report.

However, what the evidence shows is that the opinions he expressed about Alvin Chau and Suncity were significantly watered down in the successive drafts he prepared from the period October 2020 through to recommendations he made to an out-of-cycle JRAM meeting in August of 2021. And the evidence shows you that he had a number of meetings with Andrew Power and Kevin Houlihan along the way, and it is our submission that you would conclude that Mr Power and Mr Houlihan applied pressure to him to water down the opinions he expressed in his report. Why this reflects poorly on Mr Buchanan is because he did water down the expressions of opinion in his report, and this is what would cause you to conclude that Mr Buchanan did not exercise good judgment that one would hope for in somebody who held the position of due diligence officer.

It is also of some concern that in his written statement to this inquiry, there were two things that Mr Buchanan did not disclose: firstly, he did not disclose the existence of the Hong Kong Jockey Club report and his role in it and the fact he provided it to The Star; and, second, he did not disclose that after the Buchanan - what are called the Buchanan documents, which are the drafts in the period October 2020 through to January 2021, in fact, there was a further due diligence process that continued in relation to Mr Chau and which culminated in a recommendation on his behalf that it was appropriate to continue dealing with Alvin Chau.

So none of those matters were disclosed. It might be said that he was not specifically asked about those matters. Of course, one can only ask questions when one knows what the position might be. But it's our submission that in the general context of the matters that Mr Buchanan was asked about, there was a lack of candour and transparency in the statement he prepared for this Review.

MR BELL SC: In relation to the submission generally that there was non-disclosure in witness statements, I would need to be persuaded, in circumstances where specific questions were asked, that the non-disclosures were specifically - had a sufficient nexus to the questions that they ought to have been disclosed.

MS SHARP SC: Yes. I, with respect, understand that point. Mr Buchanan is one of the people we make that express submission about, given the context of the content and the context of the questions asked. Another person we will make that specific submission about is Mr Hawkins. Another person we will make that

specific submission about is Mr Houlihan. And I will come to address you on those people.

5 **MR BELL SC:** In relation to that, I would be assisted by being taken to the specific question which, in each case, you say required the disclosures to be made.

10 **MS SHARP SC:** Yes. I might - so as not to take time now, I might take the opportunity over the luncheon adjournment to take you to the particular paragraphs.

MR BELL SC: Yes.

15 **MS SHARP SC:** If I could move now to - just pardon me for one moment. Just in answer to a question you asked a little while ago, Mr Bell, your recollection is correct, with respect, in relation to Mr Todorovski's apology to Mr Alexander Graham but not specifying whether he was apologising for the conduct of anyone specifically. And that is in day 4, page 406 at lines 31 to 42.

20 I will move now to Mr Phillip Dong Fang Lee, who was required to give evidence before you under summons. He, of course, did not prepare a statement to the Review. It was necessary for him to give his evidence through an interpreter. We submit that you would find that the interpreter was highly qualified and highly experienced and highly competent in his translations to you.

25 **MR BELL SC:** You're referring to Professor Qin specifically?

MS SHARP SC: That is Professor Qin.

30 **MR BELL SC:** Yes.

35 **MS SHARP SC:** You will recall that he gave some sworn evidence about his experience and his formal qualifications. Mr Phillip Dong Fang Lee was a high-value patron, sometimes known as a high roller, at The Star in Sydney. His evidence was that he had gambled at The Star for more than 20 years, and he had the highest level of membership, which was a diamond status membership. He gave that evidence at day 6 at page 571.

40 He told you that he was born in China but is an Australian resident who has lived in New South Wales for about 20 years. That was at page 570. He gave evidence that he's always had a relationship manager at The Star who spoke Mandarin. That was at page 572. Mr Lee said that he was provided with credit by The Star so that he could gamble. He said that at page 573. And he said he repaid his debts using either the CUP card or - he described it as "bank notes", at page 574.

45 We submit that he was a generally credible witness. His evidence was consistent with the documents, and he was candid in his evidence about the process that he followed when using his CUP cards at The Star. And in particular, you would note

from his evidence that he said that he remained at the gaming tables when his CUP card was taken from him and swiped. He also confirmed that he did not hold chequing accounts with the overseas banks in China from which the CUP cards were issued, and that's relevant to the notion of the temporary cheque cashing facility, which I will address you on later in these submissions.

MR BELL SC: I think he also gave important evidence, which wasn't challenged, that he never, in fact, stayed at the hotel.

MS SHARP SC: That is so. Thank you for reminding me of that. Now, the next witness is Mr Graeme Stevens, who is a very longstanding employee, having commenced with Star Entertainment in 1995 as an assistant pit manager, and who, during the dealings with the authority about CUP and later Salon 95, was the regulatory affairs officer who was the key liaison point between The Star and the authority.

And it's notable, Mr Bell, that many of the employees who gave evidence are very long-term employees. And in due course, we will submit that that has had an impact on the culture of the organisation and has, to some degree, been responsible for a normalisation of what is plainly unethical and sometimes dishonest conduct.

Now, he told you, at day 6 at page 604, that the "do the right thing" value meant to act in the spirit of the law and to operate in an ethical manner. And he said, at page 605, that he had always adhered to this guiding principle. We submit that, plainly, that is not correct. He agreed that it was necessary to provide complete, honest and accurate information to any regulator and to be open and transparent. He said that at day 6, page 606. And he also agreed that to hold a casino operator licence was a special privilege, at page 606.

He did make some important concessions in his oral evidence. For example, in the context of the CUP card, he said that he did not disclose advice from the law firm King & Wood Mallesons to the authority. He said that at page 646. And at page 647, he described that as an error. He also gave evidence, at day 6, page 661, that he had made a conscious decision not to seek approval from the Authority for the establishment of the temporary cheque cashing facility, even though he had a concern that the temporary cheque cashing facility might be in breach of section 75 of the Casino Control Act. And, again, that was at page 660.

He agreed that he knowingly misled the authority in his submission to the authority about the service desk in Salon 95. That was at page 698. He said, later in his evidence, that it was extremely regrettable that the regulator, that is, the authority, was not informed that Suncity appeared to be operating an unlawful cage in Salon 95 and agreed that that would have been the proper thing to do. And that's at page - that's day 7 at page 718. Now, the context here, of course, is that he was the regulatory affairs manager for The Star at this time, Mr Bell.

He also said that the - what I've described in the evidence as the second warning letter given by Mr Hawkins to Suncity in June 2018 was an extremely serious matter and - I'm sorry. I withdraw that. Let me put that again. He agreed that that second warning letter was not notified to the Authority, and he accepted that
5 failing to notify the authority of that was "an extremely serious matter". And that's at day 7 at page 730.

He also made admissions in evidence that would indicate that he lacked the necessary competence for his role. He agreed that, in failing to finalise a standard
10 operating procedure for Suncity in relation to Salon 95 until May 2018, was an incredibly serious situation. He said that at day 7, page 725. He also agreed that Suncity should have been told that there should be no cash transactions at all occurring in Salon 95. That's at day 7, page 726. And he also gave evidence that
15 despite being aware of the risk with the operation of Salon 95, that there was a controlled contract, he didn't turn his mind to whether that was so in the relevant period. And that's at day 7, page 747.

In relation to his audit conducted on Salon 95, I think dated 23 May 2019, he agreed in evidence that it was not thorough, which he said at day 7, page 748, and
20 admitted that he failed to change or update that report even though his views of risk changed subsequently. And that was at day 7, page 756, 757 and 758. When he was probed on evidence that he did not know that UnionPay prohibited the use of CUP cards to purchase gaming chips, he later accepted that that evidence was
25 wrong, but he did say it was not deliberately untruthful. And that was at day 7, page 771. Mr Bell, it's notable that Mr O'Neill told you that Mr Stevens had been promoted beyond his level of competence. And that's at day 35 at page 3797.

MR BELL SC: I think the evidence is that Mr Stevens has now resigned; is that
30 correct?

MS SHARP SC: That is so. Many of the witnesses who have given evidence resigned during the course of the inquiry, Mr Bell. Another of those who resigned is David Alois, who resigned on 20 May 2022. He was employed, most recently, as
35 Star Entertainment's regulatory manager for New South Wales. He held that position from May 2021. He too was a very long-standing employee, having commenced with Star Entertainment in 1995 as the cashier services supervisor in the cage. He was promoted to a number of positions, including the manager of the
40 cage or sometimes known as the cashier services. He also spent some time in the group treasury unit reporting to Ms Scopel and, after that, resumed his role as the cashier services manager in the cage.

He agreed that holding a casino licence was a special privilege, and that commensurate with that privilege was a need to be honest and transparent in
45 dealings with others, including the regulator, which he said at day 8 at page 801. Despite that evidence, he conceded a number of what I will describe as failings during his oral evidence. He agreed that he believed that the CUP process was an artifice and said that it did cause him some concern at the time and that he raised

that with his manager. He said that at day 8 at pages 810 to 811. He also agreed that it was unlikely that he informed - sorry, that either he or The Star more generally informed the authority that the use of the CUP cards was in breach of UnionPay scheme rules, and that's at day 8, page 828 to 829.

5

And in relation to Mr Phillip Dong Fang Lee's use of the CUP card, he said that he held numerous and serious concerns about the usage of that card - at page 876 and 882 - and he agreed that the controls that were sought to be imposed on Mr Phillip Dong Fang Lee were "a thoroughly deficient response", which he said at day 8 at page 884. He also gave evidence that in the case of Mr Lee, The Star prioritised the making of money over compliance with its own rules and other very serious compliance and regulatory concerns. And that evidence was at day 8, at page 885.

We submit that Mr - you would find that Mr Alois did make concessions where concessions were due, and that he was a generally credible and honest witness. And he sometimes demonstrated a willingness to escalate his concerns. For example, he says he did raise with the manager his concern that the CUP process was an artifice. However, he did appreciate from the outset that the CUP process was in breach of the UnionPay rules.

20

I will now turn to make some submissions about Michael Whytcross.

MR BELL SC: Is it appropriate to take the luncheon adjournment now, then?

25 **MS SHARP SC:** Yes, that would be convenient. Thank you.

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

<THE HEARING ADJOURNED AT 12:59 PM

30

<THE HEARING RESUMED AT 2:04 PM

MR BELL SC: Yes, Ms Sharp.

35 **MS SHARP:** I was going to address you on Mr Michael Whytcross, but first I want to follow up on a question that you asked before lunch, Mr Bell. You asked me to identify any statements in respect of which counsel assisting make the submission that the witness was not candid or lacked transparency. And I just wanted to address you on that insofar as I've already mentioned particular
40 witnesses. Could I start with Mr Angus Buchanan, please. You will find his statement at exhibit A83. If I could have that brought up, please. Again, that's exhibit A at 83.

45 And Mr Buchanan's statement is interesting because he was not constrained by the questions he was asked. In fact, he provided quite a bit of information that he was not asked to provide, and that starts at paragraph 12. If I could take you to that, Mr Bell. And you will see there's a heading Background, paragraph 12, and then,

under that, Background: The Star Entertainment Group's ECCD. Now, he wasn't asked to provide any of that information, but he did so anyway. So we submit what follows from that was he did not feel constrained by the particular questions. Can I now draw your attention, please, to paragraph 11 where he said:

5

"Except for the chronology, each of the Buchanan documents was in draft form when I sent it to the respective recipients and contained a 'draft' watermark. I do not believe I created a final version of these documents."

10 Now, neither here nor anywhere else in the statement does he mention that the next step after the Buchanan documents was preparing the recommendation for Mr Chau and certain other junket-related parties, which was a paper considered at the out-of-round JRAM meeting on around 16 August 2021. Now, if I then go to - first of all, if I can take you to paragraph 27. There's a question above that
15 paragraph:

"Question 1. Please explain why in 2020 and 2021 you prepared each of the memoranda an chronology comprising the Buchanan documents."

20 Now, what he doesn't say here is that the January 2021 version of the draft then morphed into the recommendations document that was considered at that JRAM meeting. So nowhere in the statement do you find that. And if I could take you, please, to paragraph 44. There, Mr Buchanan refers to the 8 January 2021 draft of the Buchanan document. But he says he finalised and circulated the draft, and he
25 regarded it as a final draft. But, again, nothing is said about the next step in the process, which was preparing the recommendations document. And information from that draft clearly fed into the recommendations document. So we say this is not a full and transparent account. Then if I take you, Mr Bell, over the page, above paragraph 45. At question 2, he is asked:

30

"What investigative steps did you take and which people did you consult for the purpose of preparing the Buchanan documents?"

35 Now, there's no reference here - he speaks about the chronology he prepared, and then he speaks about the Buchanan documents and that he searched - you will see in paragraph 45 that he ran email searches over - text searches over particular people's email accounts and so on. So he is setting out all the steps he took to gather information about what information was held about Suncity, but nowhere does he disclose in this document that he had the Hong Kong Jockey Club report
40 and that he provided it to anybody. So we say, again, that is not a full account and not a transparent account.

45 Then if I could take you, please, to paragraph 69. Here, he refers to the January 2021 draft of his report, but he says nothing about the next step in the process, which was the recommendations paper he prepared which was considered in August 2021. I should say nothing came out in this statement at all about that August 2021 document until he was examined at day 5 at page 561. That's the first time we hear evidence from him about the decision which ended up being made in

around August 2021 to continue dealing with Alvin Chau and Suncity. Then if I could take you, please, to paragraph 74. The question 4 is:

5 "In relation to the options you set out at paragraphs 48 to 52 of your memorandum dated 7 January 2021, do you know whether The Star Entertainment Group has made a decision? If so, who made it and when?"

10 Now, this is when we submit his statement moved from a lack of candour to being misleading, and this is when you look at paragraph 74 and then 75, and the important information that should appear but does not between paragraphs 74 and 75. So at paragraph 74, he says:

15 "I became aware in May 2021 that Star Entertainment Group had announced it did not intend to conduct further dealings with junkets."

And then paragraph 75:

20 "On 1 December 2021, I became aware of media reporting in relation to Mr Chau having been detained."

And then explains at that time they decided not to deal with him. So what is completely omitted from this account is what happened in August of 2021 where the decision was made - following the out-of-round JRAM meeting, the decision was made based upon Mr Buchanan's recommendation report by Mr Houlihan and Mr Power, then holding the joint office of AML/CTF compliance officer, to continue dealing with Alvin Chau. Now, I think I --

25 **MR BELL SC:** Was any decision made by Star Entertainment at that JRAM meeting?

30 **MS SHARP SC:** The JRAM meeting was the point at which the - and I'll take you to the relevant documents now, if I can. The JRAM meeting was where senior members of the business came in and participated in some of the meeting, and then - and that included Mr Quayle and Mr Hawkins. And then Mr Buchanan presented his recommendation documents. If you will just pardon me while I - so when I'm speaking of the recommendation document, let me take you to the document I'm referring to. It's exhibit C at tab 256, STA.3428.0005.1401. This is a memorandum from Angus Buchanan to Andrew Power and Kevin Houlihan dated 16 August 2021. You will see it's called Project Congo. And then he says:

40 "The purpose of this report is to provide the findings of the holistic review undertaken on patrons."

45 Of course, the draft Buchanan reports were part of that holistic review. They weren't the end of the story; they were the first part of the story. And then at paragraph 2, he says:

"The review's findings and recommendations, detailed in the accompanying Project Congo spreadsheet, are designed to assist the business in assessing the suitability for Star to continue, or establish, customer relationships with these individuals."

5

Then if I can take you to the next page, pinpoint 1402, it says "Review Recommendations":

10 "To avoid unnecessary repetition, only the recommendations documented in the spreadsheet, not the findings, are detailed below with respect to each person of interest. These recommendations will be discussed at a proposed out-of-cycle joint risk assessment meeting -"

That JRAM:

15

"On 17 August 2021."

And then at pinpoint 1403, recommendations are made with respect to Mr Chau. And it's our submission that the recommendation set down here is a very much watered-down version of what appeared in the various draft Buchanan documents which commenced in October 2020.

20

MR BELL SC: The recommendation is to continue to engage in a business relationship with Mr Chau?

25

MS SHARP SC: Yes. Well, there are - yes. There are two options - to be fair, there are two options that are presented in this recommendation. In that first - sorry, second paragraph, you see:

30

"The first option is to cease the relationship."

And then halfway down the page, it says:

35

"The second option is that The Star continues to engage with the patron."

And one thing - it refers in the second dot point there:

40

"The group compliance officer's audit report, completed in May 2019, found that Suncity were adhering to the mandatory Salon 95 service desk processes. This report provides some comfort that Suncity are capable of operating compliant junket programs."

45

Nothing is mentioned there, Mr Bell, about the series of transactions of concern that were detected later in May and June 2019, notwithstanding the fact that they were referred to in Mr Buchanan's earlier drafts. Then if I can take you over the page, pinpoint 1406 - I beg your pardon, 1404, you will see that the paragraph above the heading "Recommendation" says:

5 "The instances of non-compliance, which occurred at Salon 95 during 2018 and 2019, could be attributed to Suncity's poor internal management and governance systems as opposed to criminal intent. Should the business relationship with the patron continue, he would be required to provide assurances that Suncity would improve the management of their junket programs."

10 Now, a few points about this. This is a completely different opinion to the one that Mr Buchanan provides in earlier versions of his draft. And those earlier versions of his draft were seen by Mr Power and Mr Houlihan, and one of them - I can't remember which one - was also seen by Ms Martin. So these people must all have known that what Mr Buchanan says here is a fundamental change in his position since earlier versions of the draft.

15 Now, you asked me about the JRAM meeting. So this recommendation document refers to the JRAM meeting, and then there are minutes of the JRAM. Just pardon me while I try to locate them, Mr Bell. I might need to have my junior look for those JRAM minutes and come back to it. I can't presently locate them in this document. But none of that is referred to - if we can return to Mr Buchanan's statement, between paragraphs 74 and 75, none of that is referred to. And we submit that was misleading, not simply lacking in transparency.

25 Could I also make some submissions about Mr Stevens' witness statement to this Review. If I could bring up exhibit A at tab 1322. And if I could take you, please, to question 1, which is reproduced at pinpoint - the second page. As you will see, Mr Bell, question 1 is:

30 "Please provide a detailed outline of all reviews and investigations you have conducted of operations in Salon 95 together with relevant supporting documents."

35 The key point here is that it was a request for a detailed outline. Now, there is no disclosure anywhere in the paragraphs that follow of his reservations about his 23 May 2019 audit report of the Suncity junket. And in particular, could I take your attention, please, to paragraphs 20, 21 and 22. And there, Mr Stevens says:

40 "I found no evidence that the practices which raised concerns regarding the operation of Salon 95 in 2018 were continuing, and concluded that The Star now had an effective level of oversight."

45 Can I contrast that with another document, which I'll bring up now, exhibit B1437, which is not mentioned in Mr Stevens' statement. Again, that's exhibit B1437, which is STA.3418.0011.0621. This is an email from Ian Tomkins to Ms Arnott, copied to Graeme Stevens, dated 24 June 2019. No doubt you are familiar with this document as many witnesses were examined about it. It identifies seven separate transactions of concern in the period postdating Mr Stevens' audit - his 23 May audit. It's quite clear he was made aware of a series of concerning incidents after his audit report, but no reference is made to that in his statement.

And in his oral evidence, he agreed that he did have concerns after that audit report, and that they were material, but he did not include them in his statement. He says that was because he forgot about the Tomkins email. Now, that evidence
5 was given at day 7, page 768. So we submit that there is a lack of candour in that regard, unless, Mr Bell, you consider his evidence to be plausible that he forgot about Mr Tomkins' email. And, with respect, it's difficult to see how a regulatory affairs manager could forget being notified of seven separate instances of concern.

10 **MR BELL SC:** Well, not only that, I assume you would submit that he had an obligation to report these matters to the regulator?

MS SHARP SC: Yes, Mr Bell.

15 **MR BELL SC:** Yes.

MS SHARP SC: Now, could I return to the JRAM minutes, which I've now been able to locate. If I could call up exhibit B068 - I'm sorry, 3068. This is the - I think I said the JRAM meetings were 16 August. In fact, they were 17 August 2021.

20 **MR BELL SC:** Yes.

MS SHARP SC: Mr Bell, you'll see that attendees were Paula Martin, Greg Hawkins, Chris Peasley - I think I said Damian Quayle before, it was Chris Peasley - Andrew Power, Kevin Houlihan, Angus Buchanan and Marcella Willoughby. And this is where the recommendations were considered. By this
25 time, it was called Project Congo, Mr Bell. You will see:

30 "The purpose of this meeting is to provide the findings of a holistic review undertaken on patrons."

And then you might notice a bit further in row 1:

35 "Greg Hawkins and Chris Peasley only required to join for first half of meeting. AB -"

That's Angus Buchanan:

40 "Went through the result of the due diligence conducted on the relevant persons of interest."

Mr Bell, of course, the due diligence reports that Mr Buchanan prepared, drafts of which are in evidence, of October 2020, November 2020 and January 2021 form part of that due diligence exercise. Then just to complete the picture, the record of
45 decision that came out of this - so the point of the JRAM meeting was merely to discuss these recommendations. The decision-makers were Mr Houlihan and Mr Power because they were the AML/CTF compliance officers at the time.

And we see the decisions recorded in another document I'll take you to, which is exhibit G at 932, which is a printout of the TrackVia anti-money laundering due diligence review report. If I could call that up. Again, it's exhibit G932. And you will see that this is a document that relates to Mr Cheok Wa Chau, that is,
5 Mr Alvin Chau. And if I can take you, please, to pinpoint 0057. You will see a reference there. It says DD Program Manager Review. And there's an entry for Mr Buchanan dated 11 August 2021, and it says:

10 "Escalate to AML compliance officer."

And then the next page is 0058. And you'll see at the top, it says:

"Update. Following and out-of-cycle JRAM meeting -"

15 This one says 19 August. There must be an error with dates:

"A number of potential risk mitigation strategies were drafted in the event that a decision was made to maintain a business relationship with the patron. Following the meeting, the CLRO -"

20 This's Ms Martin, of course:

"And the GGC -"

25 That's group general counsel. That's Mr Power:

"Agreed with the recommended strategies."

And then number 6 in the entry:

30 "Independent report to be delivered to the AML compliance officer and the chief legal and risk officer for deliberation."

35 And then it's signed off "AB". Now, the independent report is the report of Mr Buchanan that I've taken you to. We submit it is hardly independent, and the evidence shows that there were at least two separate meetings with Mr Power and Mr Houlihan where the only inference reasonably available is that they asked him to change and tone down the contents of the report. And then you will see at the bottom of this page, Mr Buchanan says:

40 "I recommend that should comprehensive and patron specific risk mitigation measures be put in place, The Star could, moving forward, safely maintain a customer relationship with this patron."

45 Now, that is a very different sentiment to the one that Mr Buchanan expressed in the first draft of his report. And right at the bottom of this page, there's an entry referring to the AML Compliance Officer Review. The compliance officer is identified as Kevin Houlihan, the review date is 18 August 2021 and the

recommendation is "approved", that is, to continue dealing with Mr Chau. Now, none of that is referred to in Mr Buchanan's report - I mean his statement.

5 It's of some concern, Mr Bell, the way in which information is recorded in this TrackVia document. It certainly does not convey a fulsome statement of the information that was at that time available to The Star about Mr Chau, and one must ask why it is something very much less than a fulsome account. And it does raise the prospect of a misleading audit trail being left in the AML TrackVia database, which is supposed to be the one-stop shop for understanding the due
10 diligence available about a patron.

So that's just to complete the submissions on Mr Buchanan. That will save some time in what I need to address you on later when we come to more detail about Salon 95 and Mr Chau. I was in the context of making some particular
15 submissions about the credit of particular witnesses, and I think I had come to Mr Michael Whytcross. Could you just pardon me for one moment, Mr Bell?

MR BELL SC: Yes.

20 **MS SHARP SC:** Now, Mr Whytcross gave oral evidence to you, Mr Bell. He was formerly the general manager of finance and commercial at Star Entertainment. As it transpired, he had resigned in December 2021, and he left the business in March 2022. He had commenced at Star Entertainment in 2016 and was originally based in the Hong Kong office. He firstly reported to John Chong until around
25 2017/2018, and then he reported to Mr Hawkins until 2019, and then to Marcus Lim. He gave that evidence at day 9 at page 946.

Mr Whytcross relocated to Sydney in April 2019, and in late 2020 his role expanded to the oversight and responsibility for the credit and collections team.
30 He gave that evidence at page 946. He was the most senior person from a finance and commercial perspective in the Hong Kong office, and he gave that evidence at page 948. The evidence showed that Mr Whytcross was the joint project manager for the EEIS project. That's at page 1036. He also occupied the position of the AML and CTF compliance officer for EEIS (Hong Kong) Pty Ltd. He shared that
35 role with Skye Arnott. That's at page 953.

Despite holding that position, it's our submission that he had a very limited understanding of money laundering and counter-terrorism financing legal obligations, and he indeed conceded such at page 953 of the transcript. He only
40 had limited training in AML and CTF frameworks, which he said at page 951. He said that - or he agreed that one of his duties as the AML/CTF compliance officer for EEIS was to report regularly to the board and to senior management about how the business was meeting its obligations under the AML and CTF Act. But he agreed that he did never make any reports of this nature, and that is at page 1067.
45 He also agreed that he did not undertake any transaction monitoring for the bank accounts of EEIS - that was at page 1070 - and that he left oversight responsibility for EEIS and money laundering to Ms Arnott. And that's at page 1069.

He also said in evidence that at the time, he did not understand that there was a distinction between EEIS and The Star for money laundering purposes, which was at page 1043. He agreed in evidence that, given his position, it was important that he had an understanding of the rules in section 74 and 75 of the Casino Control Act, which restricts the provision of credit. That was at page 967. But despite that, he agreed that he was not familiar with the concept of a patron deposit account in section 75. That was at page 956.

Of particular concern, Mr Bell, Mr Whytcross told the Review in evidence that he did not understand that The Star's Code of Conduct required him to act in accordance with the spirit of the law as well as the letter of the law. That was at page 984. And he said that when he was looking for workarounds to overcome the restrictions in Macau for transferring money out of Macau to casinos, he looked for alternatives that only complied with the letter of the law. And that was at page T-983. We submit that, as a general matter, he was not a forthcoming witness, and he needed to be pressed in order to make concessions that were fairly due. He lacked insight into the shortcomings of The Star and EEIS's money laundering compliance obligations, and he lacked insight into the obligation to behave ethically as well as legally.

I will now move to address you briefly on Mr Kevin Houlihan, who, since November 2021, held the position of general manager for financial crime and investigations. He has recently parted ways with Star Entertainment. As I've mentioned, he was the AML/CTF compliance officer for a period when Skye Arnott was on parenting leave - that was between May 2020 and November 2021 - and he held that office jointly with Mr Andrew Power. Mr Houlihan, until recently, reported to Paula Martin, and he said that at page - day 10, page 1122. Mr Houlihan was formerly a member of the New South Wales Police Force, and he joined Star Entertainment's investigation team in 2016. That's from page 1122. He said in evidence that his experience in the New South Wales Police Force did not include experience with casino operations, with drug trafficking or with money laundering. Could you just pardon me for a moment?

MR BELL SC: Yes.

MS SHARP SC: Mr Houlihan's role included responsibilities for Star Entertainment's AML program, and included identifying and addressing potential or illegal or undesirable activities occurring at Star Entertainment properties, and conducting and overseeing investigations into any alleged criminal or serious misconduct carried out by employees. He gave that evidence at page 1123. He did tell the Review that his duties did not involve identifying whether someone was of good repute, paragraph 1433. That was at pages 1153 and 1343. This evidence was rather remarkable in view of the fact that he was one of the decision-makers for the decision to continue dealing with Alvin Chau.

Mr Houlihan was not prepared, in evidence, to draw a distinction between money laundering risks presented by a patron, on the one hand, and what I'll call suitability risks, and didn't seem to have a clear understanding of the difference

between the two. His consistent oral evidence to you was that a suspicion that a patron had engaged in problematic conduct was not enough to cease having a relationship with them, and his position was that proof was required of that misconduct.

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This included his evidence, firstly at page - or day 10 at page 1151, and also day 11 at 1186, that while there was a suspicion that money laundering occurred at Salon 95, there was no evidence of that occurring. He also said at day 10, page 1161 that when he reviewed the Hong Kong Jockey Club report, he did not see any clear involvement of any criminal enterprises, and he felt he was not provided with evidence and there was no direct evidence of criminal enterprises. We submit that that evidence casts substantial doubt upon his judgment in his capacity as the investigations officer.

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He also said at day 10 page 1163, that in relation to Alvin Chau, the media reports were allegations and suspicion only, and there had been no law enforcement action. He also said that he - and this is at day 11 at page 1234, that in relation to an earlier draft of Mr Buchanan's due diligence report on Alvin Chau, he disagreed because he thought some of the allegations lacked evidence. Again, we submit that this shows poor judgment on his part - in his capacity as an investigations officer. I'll remind you, Mr Bell, of a question that you asked Mr Houlihan. You said:

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"Is it acceptable to continue dealing with patrons who are believed to have associations with triads unless and until there's irrefutable evidence that they are engaged with triads?"

And he answered:

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"Yes."

That was at page 1356 at day 12. He said that it was only after Mr Chau's arrest in December 2021 that he considered that Mr Chau was not of good repute, and that evidence was in day 11 at page 1228.

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As a general matter, Mr Bell, we submit that you should find that Mr Houlihan, at various points, was not a credible witness, and he lacked candour in his answers to you. It was at times difficult to extract concessions from him where they ought properly to have been made. One example was when it was put to him that the management of Salon 95 was inadequate. What he was prepared to say was that risk management processes were not working to their full extent. That was at day 40 10 at page 1153 to 1154.

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He also disagreed that information that he had provided was misleading. We submit that it should be found that that was misleading evidence. This is in relation to Project Congo that I've just taken you to, Mr Bell, and that's at day 12 at 1357. He was somewhat reluctant to concede his own decision-making roles. For example, in relation to Alvin Chau, his position originally was that he was not the decision-maker. Of course, that's contrary to the documents I just took you to in

TrackVia. But he did ultimately concede in evidence that he, and he also said Ms Martin, were the ultimate decision-makers in relation to Alvin Chau. And that was at day 11 at page 1271 and 1275.

5 Just in relation to his statement to this inquiry, it's our submission that he was not forthcoming in his statement, and his statement was like entering a labyrinth. It provided reams and reams and reams of information without any content, leaving one to navigate their way through and attempt to form their own conclusions. So it
10 provided reams and reams and reams of information without any content, leaving one to navigate their way through and attempt to form their own conclusions. So it was not a forthcoming account. In particular, he did not disclose that he was in possession of the Hong Kong Jockey Club report, although, to be fair, it may well be that a question was not asked that would have prompted him to disclose that matter. If I can make some particular submissions about his statement. And if I could call up his first statement, which is exhibit A at 627. If I could go to pinpoint 0175. And you will see at the top of that page, Mr Bell:

15

"Question 1(a): In respect of each of -"

And a number of people are named, including Phillip Dong Fang Lee. He's asked to:

20

"Please describe the history of The Star's dealings with them, including their total buy-in and any special memberships granted to them."

25 We submit that he did not provide a completely transparent account in relation to Mr Lee. If I take you firstly to paragraphs 32 to 37. Mr Houlihan provides some detail of dealings with Mr Lee, but certainly not all dealings. He did provide more information at paragraphs 111 to 117, which I take you to now. But, again, we submit that that is not a fulsome account and, for example, it did not emerge anywhere in this statement that over a three-day period in April 2015, Mr Lee
30 swiped about \$22 million on his CUP card. So it provided some, but not all, of the story. Nor did it mention the many concerns in 2015 about Mr Lee's swipes - the level of his swipes on the CUP card not being commensurate with the level of play.

35 **MR BELL SC:** Was he asked about those matters in his examination? Was he asked whether he knew about those matters?

MS SHARP SC: Yes, I will have to - I will come back to you on that. I'm told I have that here. Just pardon me for one moment, please, Mr Bell.

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MR BELL SC: The reason I asked because the approach which Mr Houlihan seems to have taken is to look at various records that were available to him in his investigatory roles. It's not clear to me that he would necessarily be aware of Mr Lee's gambling unless it was recorded in one of those records.

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MS SHARP SC: Yes. I've just been reminded by those who instruct me that he was asked about Mr Lee's risk ratings at day 12 at page 1311. And he also said, at page 1314, that following a PAMM meeting on 12 February 2015, he was asked to

investigate Mr Lee. Now, that is inconsistent with his statement that no investigations were undertaken by him in relation to Mr Lee. And at page 1325, on day 12, he said that concerns had been raised that Mr Lee was using his CUP card to withdraw cash and winnings cheques, rather than gaming. But that's not referred to in his statement, Mr Bell.

A further area in Mr Houlihan's statement where we submit he did not provide a transparent answer was with his account of investigations into Marcus Lim. And there - if you will pardon me a moment - just pardon me, Mr Bell, and I will turn up the relevant paragraphs. Yes. If I take you to page 21 of the statement and direct your attention to question 5. This is above paragraph 177. Question 5 relevantly asked:

"In relation to each of (b), Marcus Lim, please specify any adverse allegations against them and what steps, if any, have been taken by The Star or Star Entertainment to investigate those allegations, the outcomes of those investigations, and any steps in consequence of those investigations."

Now, Marcus Lim is dealt with from paragraph 181 of Mr Houlihan's statement. And that explanation goes on to paragraph 193. What is not made clear, Mr Bell, is, in fact, there were two separate sets of allegations and two separate investigations. And there - if I can direct your particular attention to paragraph 188 and paragraph 189. And what might alert you - or the careful reader to that fact is the jump in the timeframe. So at paragraph 188, Mr Houlihan refers to information he obtained on 26 March 2018. And then at paragraph 189, the timeframe jumps forward significantly to 9 December 2019.

What is not disclosed here, Mr Bell, is, in fact, a series of very serious allegations were made about Mr Lim in 2019, and I will come to that in more detail when I address you on the lack of supervision in the VIP team. But this is a good example of the labyrinth and the information that Mr Houlihan provides without offering any commentary on that information and skipping over the fact that, in fact, a series of new allegations were made in 2019 and a separate investigation was commenced. He was asked about this in his oral evidence, and some of that he was asked about at page 1341 at day 12. He was also asked about aspects of this - and I will only say this at a very high level - in his private examination.

MR BELL SC: Yes.

MS SHARP SC: Yes. I am just reminded that another matter that Mr Houlihan did not disclose in relation to Phillip Dong Fang Lee in his report was the investigation report provided to him in May 2015 by Skye Arnott, which is in evidence. It's STA.3008.0014.0203. And he was asked about this, day 12 at page 1314. But just to - and that's exhibit G54. As a general matter, we submit that you would find that Mr Houlihan gave a very large number of non-responsive answers to questions asked of him and was not doing his best to provide you with a complete account of matters.

Can I now move to address you on Ms Skye Arnott and her evidence. She resigned on 23 May 2022. Most recently, she was the chief financial crime officer from 1 November 2021. She said this was an AML/CTF specific role, at page 1393 at day 13. At that time, she reported to Mr Houlihan. Ms Arnott was another

5 longstanding employee of Star Entertainment, having worked there for over 10 years. She commenced in the role of investigations analyst, a position she held from 2012 to 2015, and then moved into the position of compliance manager in 2016 through to 2019. That's at page 1370. She initially reported to Mr Micheil Brodie in that role and later to Mr Andrew Power.

10 In the period January 2019 to 31 October 2021, she was the group manager of AML/CTF and financial crime, although she was on a period of parental leave from 16 May 2020 to 31 May 2021. That's at day 12, page 1371. Ms Arnott was the AML/CTF compliance officer from 14 August 2019 until she went on parental

15 leave on 16 May 2020, and she did not resume that position until 1 December 2021.

Just while we're on the topic of the AML compliance officer, Ms Arnott gave evidence that it was important that the compliance officer had a measure of

20 independence from the business so that decisions could be made without having to be concerned about the financial operation of the business. She said that at day 12, page 1371. And she also gave evidence that one of the duties of the compliance officer was taking day-to-day responsibility for the AML/CTF compliance

25 program. That was at page 1373.

Ms Arnott also said that one of the duties of the compliance officer was to report regularly to the board and senior management about how the business was meeting its AML and CTF obligations and to alert them to any situations where it was not

30 meeting its obligations. That was at page 1373. And also at that page, she said that she had attended all meetings of the board's risk and compliance committee while she was the AML/CTF officer.

Ms Arnott gave evidence that she had recently undertaken the ACAMS course in money laundering and counter-terrorism financing, but at the time of her evidence

35 had not undertaken the exams. Other than that, she had not completed any formal training in AML and CTF - the framework - but she said she had engaged in her own study and learnt on the job, including when she was an investigations analyst at the New South Wales Crime Commission. And she said that on day 12 at page 1374 and at day 13 at page 1385.

40 She gave evidence that she wrote most of The Star Entertainment Group's AML/CTF online training package, which she adapted from a stock program from a different provider, and she adapted it to make it more relevant to a casino context. That was at page 1374. We submit that Ms Arnott did not have a good

45 understanding that the Casino Control Act requires that the casino operator only deal with people of good repute. And what Ms Arnott said at page 1380 was:

"I don't have a strong understanding of what the legal requirements are."

And in answer to the question of whether the casino operator should ensure it only does business with those of good repute, said:

5 "I suppose."

And that was at page 1380. She also gave evidence that she had never turned her mind to that question, again at page 1380, which we submit is a matter of some concern, given her decision-making role while she was the AML/CTF compliance officer because --

MR BELL SC: Do we know who the AML/CTF compliance officer is at the moment?

15 **MS SHARP SC:** Well, it was Ms Arnott until her resignation. She --

MR BELL SC: Do we know who it is now, though?

MS SHARP SC: I don't believe there's evidence of that, Mr Bell.

20 **MR BELL SC:** Thank you.

MS SHARP SC: And just to note, she resumed that position in December of 2021. We submit that Ms Arnott was an evasive witness at times and that often she gave answers which were not clear. She sometimes did not make concessions where they were fairly due. So we would submit that you would take care in assessing Ms Arnott's credit.

We submit that she made some poor decisions, firstly in relation to Salon 95. For example, she did not advise the business that the risks were unmanageable when clearly that was the case. We also submit she made some poor decisions in relation to arrangements with Kuan Koi and the risk assessment she undertook in relation to that matter, and I will address you in further detail about that when I come to the patron bank accounts. It emerged in evidence that she too had been provided with a copy of the Hong Kong Jockey Club report. That was at day 13 at page 1476. She gave evidence that she shredded that document, which was of some concern.

30 **MR BELL SC:** I think she said, to be fair, that she either handed it back to someone or she shredded it. She wasn't sure which.

MS SHARP SC: Yes. It's also - and I will address you on this in more detail when I come to it. In relation to high-value patron and junket financier, Mr Sixin Qin, she was the decision-maker in relation to a decision to continue doing business with him. And I will address you on that separately, but we submit that that did not show good judgment.

Now can I make some mention of the three lawyers who gave evidence in this matter. Two of them gave statements as well as oral evidence, and they were Mr Andrew Power and Ms Paula Martin. All three of the lawyers have now resigned. We submit that at times their conduct was unethical and at times dishonest. And that is particularly so with Mr Power when it comes to his dealings with the regulator in August and September of 2019. And I'll address you in more detail in that when I come to Suncity.

If I can start with Mr White. Again, he was a very longstanding employee of Star Entertainment. They all were. He was a very emotional witness, Mr Bell; somewhat broken. He was clearly remorseful for his conduct, but nevertheless at times would not make concessions where they were fairly due. And his evidence was, at times, simply unclear. And one might doubt whether he was doing his best to give a frank account. I'll come to make further submissions about him in the context of CUP, Mr Bell.

Turning now to Mr Power, his statement was another example of a labyrinth-like statement, which appended document after document after document, but did very little to assist this Review in understanding what the correct position was; on the contrary, left the Review to try to discern the position for itself. That is - a particularly good example of that is in relation to the Buchanan reports, and it took a very long time to work out what the correct versions of the Buchanan reports were in order to make sense of the story. And we would submit that you would find there was a deliberate obfuscation there.

Mr Power's oral evidence about the Hong Kong Jockey Club report was unsatisfactory. We submit it shows why you would be careful of relying on Mr Power's evidence where it is not corroborated by other documents. For example, at day 18 at page 1968, he said that potentially he had the Hong Kong Jockey Club report by 7 November 2020, but at other times in his evidence he denied being in receipt of the Hong Kong Jockey Club report. It was a bit of a moveable feast there. If I can take you to his statement, Mr Bell, which is exhibit A at 1186. If we could go to pinpoint 0091. You will see that he was asked in question 1:

"Please explain why Angus Buchanan prepared each of the Buchanan documents."

Again, we submit that there was not a completely frank and transparent answer to that. Certainly he did not disclose, within this context, the Hong Kong Jockey Club report, although, as I've just mentioned, he did concede that he potentially had it by 7 November 2020. In - pardon me for one moment.

MR BELL SC: Are you suggesting that he should have referred to the Hong Kong Jockey Club report in answering question 1?

MS SHARP SC: Well, we submit that would have been a more fulsome answer to that question, but - sorry, I'm just trying to make sure I'm on the right page. The matter of more concern here is - in answer to question 1 where he's asked:

5 "Please explain why Angus Buchanan prepared each of the Buchanan documents."

10 His account stops at the time of the January 2021 draft and does not go on to explain, in the same way that Mr Buchanan did not explain, that it fed into the August 2021 decision-making process. If I could take you in that regard to paragraph 37. And one document that Mr Power does not disclose in this account is the document where he handed over to Mr Buchanan a heavily marked-up version of a draft of Mr Buchanan's report at a meeting he had with Mr Buchanan in December of 2020. So no reference is made to - or that document is not reproduced, and that document was not provided by him but instead was obtained from Mr Buchanan in the course of examination.

15 If I recall correctly, I had to call for production of that document, and Mr Buchanan - I will just have my junior check that, because I don't think the document was referred to in the sense of being annexed to Mr Buchanan's statement. I think we had to call for it. And when it was produced, it showed a very heavy mark-up. But I'm just having that checked by my junior. But certainly it's not referred to in Mr Power's version of what happened, despite the question being:

25 "Please explain why Angus Buchanan prepared each of the Buchanan documents."

30 And Mr Power, in answer to that question, annexes numerous versions of the Buchanan report. I've already made submissions about Mr Power's role with respect to ILGA's questions in late 2019, and I'll come to deal with that in more detail when we get to Salon 95.

35 Can I now turn to Ms Martin's evidence. She was a highly unsatisfactory witness, we suggest - or submit. She was the chief legal officer and the chief risk officer. In her oral evidence, she was extremely pedantic and technical and evasive and non-responsive. One example of this is day 19 of the transcript at page 2093 to 2094, where she was asked whether she recalled saying at a 23 May 2018 audit committee meeting that the KPMG reports were privileged or whether she was just reading from minutes. She eventually conceded that she was just reading from the minutes, but the question had to be put to her four times in order to extract that concession.

45 In oral evidence, she almost entirely failed to make appropriate concessions or take any personal responsibility for conduct. We submit that some of her answers were plainly untruthful. For example, in the context of the misleading responses given to NAB in relation to the CUP transactions, she would not concede that she

knew that the 7 November 2019 response to NAB was misleading, notwithstanding that she personally contributed to that letter - or, sorry, email.

5 She also sought to distance herself from the fact that she settled the 7 November 2019 email to NAB, and she repeatedly said words to the effect that she was rushed and busy and did not have time to properly consider it. And that was notwithstanding that she had the wherewithal to make a specific comment about whether there should be a reference to jet services, and that's what's recorded in the document, which would rather indicate that she had read and absorbed the
10 draft response in quite some detail. I will make further submissions about Ms Martin in the context of CUP, Salon 95 and the patron bank account issues.

The next witness was Mr Micheil Brodie. He, we submit, could be regarded as a truthful - or should be regarded as a truthful witness. His evidence contrasted
15 markedly with the evidence of a number of witnesses who had preceded him because he did not seek to qualify or dissemble, and he fulsomely and directly answered questions asked of him. We submit it should be found that he did his best to assist this Review.

20 If I now turn to Mr Mark Walker. He is the senior vice president of sovereign operations at The Star. He has held that role since October 2019. And he joined Star Entertainment - or The Star in about May 2018 as the premium guest manager, having come over from Crown Resorts. He left the employment of Crown following allegations that he had acted fraudulently in some way. The
25 evidence showed that he reports to Mr Damian Quayle, and his direct reports include the sovereign's operation manager and premium guest managers. He holds a casino special employee licence.

He gave evidence to this Review because he was the subject of media allegations, which I referred to earlier today. Those allegations related to leaving the
30 employment of Crown Resorts when there were some probity accusations and also allegations about his relationship with high roller Michael Gu, who is alleged to have embezzled funds from iProsperity. Mr Walker's evidence to this Review, at page 2459 at day 22, was that he did not hold any concerns about Mr Gu's capacity
35 to pay and that he did not - I beg your pardon. He was not wilfully blind to the prospect that Mr Gu might use the funds of iProsperity to pay down his gambling debts. We submit that Mr Walker was generally an honest and credible witness, and you would accept his account of events.

40 I will now turn to - in fact, I'm looking at the time. It may be - is it convenient to have the mid-afternoon adjournment at this time?

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

45 **<THE HEARING ADJOURNED AT 3:25 PM**

<THE HEARING RESUMED AT 3:40 PM

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Can I just cycle back to a few things before I move on to Mr Hawkins. There are three things. Firstly, I omitted to mention in the context of
5 Andrew Bowen that his evidence was not challenged, despite there being opportunity to do so. He was not examined by counsel for Mr Theodore, and he was not examined by counsel for Star and Star Entertainment. In those circumstances, his evidence should be accepted in full.

10 Secondly, I need to correct something that I said about Mr Power and Mr Buchanan in relation to the marked-up version of the document that Mr Power gave to Mr Buchanan at the December 2020 meeting. Now, that marked-up document was exhibit B at 2701. That document was not referred to by Mr Power, but it was referred to by Mr Buchanan in his statement at paragraph 42. Again, his
15 statement is exhibit A at 83. So I wanted to correct that because I had said we obtained that document from McCall, and that was wrong, and I want to make that plain.

20 Thirdly, I did want to say one more thing about Mr Walker, which is this: that we do submit that he lacked insight when it came to the question of whether he had a conflict of interest. And we say that in the context of the fact that Michael Gu offered him a job when Michael Gu was considering becoming involved in the ACT casino industry. And in particular, we point to evidence of Mr Walker at day
25 22 at page 2481.

With those three observations made, can I move now to Mr Hawkins and his evidence, which we submit was unsatisfactory in various respects. The evidence shows that he commenced working with Star Entertainment in September of 2014 and started in the position of managing director of The Star. In that role, he
30 oversaw junket operations at The Star. In April 2018, he assumed responsibility for the domestic and the international rebate business. He gave that evidence in day 22 at page 2519.

In January of 2019, Mr Hawkins was appointed as the chief casino officer across
35 Star Entertainment, but he retained responsibility for the domestic and international rebate business. And that evidence was given on day 22 at page 2520. Mr Hawkins has had a very lengthy career in the casino industry, including his work at Crown Resorts and the time he spent in the casinos in Macau, which were part of the joint ventures between Crown Resorts and Melco. And we submit
40 that that would have given him very clear insights into the Macau junkets.

Mr Hawkins told you in evidence, at page 2524, that since taking responsibility for the international rebate business and the domestic rebate business, he had kept a close eye on those aspects of the business. It's also worth noting that he accepted
45 in his evidence that money laundering risks were inherent in casino operations and that junkets are high risk, particularly those with junket participants coming from mainland China. And he gave that evidence on day 22 at page 2528.

Of some concern, while Mr Hawkins told you that he had a general familiarity with the provisions of the Casino Control Act because he is a close associate, but that he did not seem to have a very good understanding of the requirement in the Act that the casino operator only have business associations with those of good
5 repute. He said, at page 2532, that he was generally aware of that requirement but had been reviewing that requirement more closely as he prepared for his evidence to you.

10 We submit that there were a number of occasions where Mr Hawkins' evidence was ambiguous at best in relation to topics where, given his role and seniority, he should have had more precise knowledge. One example, Mr Bell, is whether, in the context of exploring the possible underpayment of duty, he said he was unclear as to whether days that the casino was closed could be deducted from the
15 residency calculations for determining whether somebody was ordinarily resident in New South Wales. That was at page 2586. Given his position, one would have thought he would very clearly know that that was not possible. He also said that he didn't think he did disregard the days the casino was closed - that was at page 2573 on day 23 - where the documents show quite to the contrary.

20 In relation to CUP, Mr Hawkins said in evidence that he did not recall being briefed on whether it was permissible to transfer money swiped from the CUP to the front money accounts. That was at page 2653 to 2654. He did agree that the CUP process was structured to conceal the ultimate process of acquiring chips, but he did say that - he simply couldn't say whether he found this practice to be
25 questionable at the time, and that was at page 2657. He agrees he didn't do anything to call out that practice, and that was at transcript 2663.

Mr Hawkins did have a tendency in his evidence to attribute others with having responsibility rather than taking responsibility for the matter himself, and often his
30 explanation was simply that he relied on other members of his team. He gave evidence on a number of occasions that he wasn't aware of a range of matters because they weren't brought to his attention, and that was so notwithstanding those matters were clearly relevant to his role. A good example here is in relation to Salon 95 and the ongoing cash transactions of concern that occurred in May and
35 June of 2019, and in relation to the investigation known as Operation Lunar. And there we refer to his evidence at day 24 at pages 2754 to 2755.

Mr Hawkins gave some concerning evidence in relation to the allegations relating to underpayment of duty. His evidence was inconsistent with Michael Whytcross's
40 evidence in the first place in relation to the original Review, where Michael Whytcross said that he found that a number of patrons were ordinarily resident in New South Wales but Mr Hawkins said that he was advised to the contrary. Mr Hawkins repeatedly told you in oral evidence that he relied on the words
45 "generally 183 days" when he was considering residency status. And he said that at pages 2593, 2598, 2599, 2600 and 2603.

Despite Mr Power advising Mr Hawkins that rebate players who had been in New South Wales - residing in New South Wales for more than 183 days had to be

5 moved to non-rebate player profiles, Mr Hawkins did not liaise with the finance team to cause any adjustments to be made and, contrary to the advice he received from Mr Power, said that he felt confident at the time that those patrons were eligible for the international rebate program. And he said that in day 23 at pages 2625 to 2626.

10 Mr Hawkins also told the Review that he was aware of Mr Phillip Dong Fang Lee's withdrawals from the CUP card not aligning with his level of play at The Star in Sydney, but he was unclear on what action was taken at the time, and that was at page 2669. He did agree that despite being aware of this mismatch between debits and level of play, he did not take any action to direct that Mr Lee not be permitted to use his CUP card. Mr Hawkins did accept in evidence that he took too long to react to incidents of concern in Salon 95, and that was in day 24 at page 2746. And he did accept that Suncity operations should have been reported immediately to the authority, but they were not. And that was at day 24 at 2748.

20 We submit that evidence that Mr Hawkins gave to the Bergin Inquiry, which was drawn to his attention on day 25, is of considerable concern and that he did not have a good answer to that when it was put to him. We do submit that he gave false evidence to the Bergin Inquiry in relation to not being aware of cash transactions of concern happening there and, in that regard, we refer to the transcript at day 25 at page 2807 to 2809. We also wish to draw to your attention a specific area where Mr Hawkins did not give a full and frank account in his statement. If I can call that up. It's exhibit A at 378. And if I could take you, Mr Bell, to paragraph 109. And you'll see that question 22 said:

"Identify compliance issues associated with Salon 95 and Salon 82, and which, if any, of these issues were made known to the board."

30 So he was squarely asked to identify what the compliance issues were. He sets out his account at paragraphs 109 to 118. Could I take you down to paragraph 118. And what you'll see is a reference at 117 to a report to the risk and compliance committee in May of 2019 that no significant issues were found with Salon 95. And then at paragraph 118, he says he wasn't aware of any compliance issues associated with Salon 82. What he doesn't say, probably falling between paragraph 35 117 and 118, is anything about the transactions of concern in late May and June of 2019, nor does he say anything about becoming aware in July of 2019 that the the New South Wales Police Commissioner had excluded from the casino six people involved in the operations of Salon 95.

40 So - and we just add that Mr Hawkins was examined on this at day 25 at pages 2809 to 2810. So this is an example of where a less than complete account has been provided - or an account that lacks transparency. Now, the reason, I should say, that we're pointing out to you, Mr Bell, areas where the written statements lack candour or do less than provide a complete account is because this is how The Star and Star Entertainment dealt with the regulator, you being an emanation of 45 the regulator, up to these public hearings, that is, there remains, up to that point, a culture which is less than completely transparent. And that is a matter, we submit,

ought be taken into account by you in assessing the suitability of both The Star and Star Entertainment.

5 **MR BELL SC:** Is the reference to the paper in paragraph 117 a reference to Mr Stevens' audit report?

10 **MS SHARP SC:** That is not clear, Mr Bell, and I say that for this reason: Mr Stevens' audit report is, in fact, dated 23 May 2019, whereas this risk and compliance committee paper is dated two days before that. It's not known whether Ms Martin consulted with Mr Stevens before preparing that document. But that's the discrepancy in the dates.

MR BELL SC: Yes. Thank you.

15 **MS SHARP SC:** I turn now to make some general submissions about Mr Harry Theodore, the chief financial officer of Star Entertainment until very recently. That was a position he had held since September 2019, and one in which he reported directly to CEO Matt Bekier. He also was a long-term employee of Star Entertainment, having commenced at Star Entertainment in June of 2011 as the head of strategy and investor relations. He was one of two directors of - I think he still might be a director of the casino operator, The Star Pty Ltd, and is also a director of EEI Services (Hong Kong) Limited.

25 Mr Theodore gave evidence that he was a qualified lawyer, and he had worked as a lawyer with law firm Allens Arthur Robinson from June 2004 to 2007. He gave that evidence on day 25 at page 2823. He was also, until very recently, a close associate of The Star. And his evidence was, we submit, of very considerable concern in relation to CUP because of his involvement in what we say was the misleading of NAB and of UnionPay International. He gave an account of his dealings with Mr Bowen, which is inconsistent with Mr Bowen's evidence, and Mr Bowen was not challenged on that evidence. He gave an account of his dealings with Ms Arthur that is inconsistent with Ms Arthur's account. And we submit that Ms Arthur and Mr Bowen's accounts are to be preferred to his.

35 Mr Theodore was very reluctant to make concessions in his evidence when they were fairly called for. He maintained a position that UnionPay International tacitly accepted the use of the CUP cards to purchase gaming chips, where there really was no proper basis for such a contention. When he was questioned about the responses to NAB in relation to the use of the CUP card, his evidence to you was consistently to the effect that it was not misleading or deceptive, and it took a long time in the evidence for him - I should give you the page reference for that. It's day 40 25 at pages 2847, 2894, 2913, 2916, 2933 and 2937. It was only after extensive examination that he conceded that the responses were inappropriate - and that was at page - or day 26 at page 2913 and 2916 - and eventually he conceded that it was 45 not ethical conduct, and that was on day 26 at 2938.

I turn now to make some observations about the evidence of Mr Bekier. He was the CEO and managing director of Star Entertainment from April 2014. He was

also a longstanding employee of The Star, having been the CFO from 2011 and, prior to that, being the CFO of Tabcorp Holdings Limited. The evidence shows that he was responsible for the VIP team until April of 2018 when Mr Hawkins assumed supervisory responsibility there. Mr Bekier became a director of The Star back in August of 2006 and a director of Star Entertainment from March 2011. He was also a director of EEI Services (Hong Kong) Pty Ltd.

As you know, Mr Bell, Mr Bekier resigned about one and a half weeks into the public hearings in this Review. He gave evidence to you that the resignation was of his own volition, and he felt it was best for the company that he take accountability for matters revealed in the evidence of these public hearings. That was on day 26 at page 2991. He said that he ultimately takes responsibility for the structure, processes, policies and risk management framework, as well as for the behaviour of executives at a senior level. He said that at page - I beg your pardon, day 28 at page 3166.

Mr Bekier accepted without equivocation in his oral evidence that there were a number of shortcomings in The Star's management of issues, including CUP and unacceptable money laundering risks with Salon 95. And that was at page 2992 and 2993. He accepted a number of other matters, such as the lack of a proper basis for the claim for legal professional privilege in relation to the KPMG reports and that it was inappropriate of The Star to refuse to provide the report to AUSTRAC.

He expressed concern about a failure to escalate concerns that The Star may have been in breach of the merchant terms in relation to the CUP transactions. That was at page 3061. He quite frankly said that The Star's responses to NAB's inquiries about the use of cards were "completely misleading and deceptive and should not have been sent" - that was at page 3089 - and that there had been a problematic culture at The Star, and that's at page 2999. So he did make a number of very important concessions, and you would generally accept that he was a frank and candid witness.

Now, in relation to the directors, I'll just make some very general observations about them at this stage. All of the directors should be accepted as witnesses of the truth. There is no reason not to accept their evidence. We wanted to single out the evidence of Ms Pitkin because, of all the directors, Ms Pitkin was the director who has reflected most deeply and critically about what has gone wrong within this organisation. And we submit that credit should be given for the fact that she did provide helpful evidence to this Review to try to understand what has gone wrong, and we will have more to say about that in the context of suitability later. But we did want to make that observation at the outset.

Can I now move to topic --

MR BELL SC: Sorry. I just wanted to ask you this: you did challenge all the directors about the ASX releases they made on 11 and 12 December. Is there anything you wanted to say about that?

MS SHARP SC: Yes. Thank you for pointing that out. That is one qualification that I should make to the general remarks. There was a spectrum amongst the witnesses in terms of whether they accepted that the ASX releases on 11 and 12
5 October last year were misleading. We submit they were misleading and that that ought to have been apparent to the directors at the time, and I'll have more to say about that in due course. I should also at this stage point out that we will be making a submission about continuous disclosure obligations and the selective briefing of investors and what Mr O'Neill had to say about that because he did not
10 accept that was a breach of continuous disclosure obligations. But we will be submitting it is open to you to find that there was a breach.

Could I move now to topic 6, which I described in the outline as an acknowledgement of the risks of operating a casino. And the starting point here,
15 Mr Bell, is that almost all witnesses, and certainly all of the directors, acknowledge that, of their nature, casinos are vulnerable to infiltration and exploitation by criminal elements and organised crime and, of their nature, casinos are vulnerable to money laundering if appropriate management is not implemented. These risks are for numerous reasons, including the fact that casinos
20 are cash-intensive businesses and because, at least in relation to the international rebate business, there can be complex value transactions moving across borders and challenges with understanding the source of funds of patrons and junket financiers.

25 Many, if not all, witnesses were taken to some observations that Dr Horton QC made in his suitability report in November 2016, and that is in exhibit B at tab 146. I won't take you to that now, but essentially what Dr Horton said was that junkets did present a risk to the integrity of the casino by reason of the large amount of money involved and the potentially illicit source of funds, and issues
30 relating to junket promoters and their business, and that he considered an obvious risk was money laundering. Now, all witnesses taken to that part of Dr Horton's report agreed with the observations that Dr Horton had made. That is to say that all witnesses were on notice of these risks at all relevant times during the relevant
35 period.

Commissioner Bergin made - I should say Commissioner Bergin extensively considered the risks to casinos associated with junkets and with money laundering and counter-terrorism financing, and it is not necessary for us to repeat that here other than to say we rely upon that. Mr Bell, it has always been the requirement
40 under the Casino Control Act in section 12(2)(g) that the casino operator only have business associations with those of good repute. Some witnesses did agree that that matter was brought into sharp focus during the Bergin Inquiry in 2020 and in Commissioner Bergin's report in February 2021. For example, Mr Power gave that evidence at day 17 at page 1831, and Mr Hawkins gave that evidence at
45 day 22 at page 2532.

In practice, Mr Bell, it seems that due diligence was primarily directed to the question of whether patrons or junket financiers were creditworthy and whether

they presented money laundering/counter-terrorism financing risks, and not to the question of whether they were suitable persons with whom the casino operator could deal. Witnesses accepted that there was some overlap in the requirements of creditworthiness, money laundering risk and suitability. But witnesses also
5 accepted that even where it was considered that money laundering risks could be managed, there were some cases where it was not appropriate to deal with particular people because the casino operator could not be satisfied that they were suitable persons.

10 For example, Ms Arnott agreed to that at day 12 at page 1382, and Mr Hawkins agreed with that at day 22 at pages 2530 to 2531. It's also of note that Mr Bekier accepted in evidence that the VIP area of the business presented the greatest risks in terms of money laundering and counter-terrorism financing, and that was at day 26 at page 3000. And Mr O'Neill also accepted that at day 34 at page 3744.

15 I move now to topic 7, which is the international VIP casino market and the rise of junkets. And this provides important context in understanding The Star and Star Entertainment's conduct during the relevant period. Until May 2022, The Star and Star Entertainment operated an international rebate business and a domestic rebate
20 business. Mr Bell, you will be familiar with the fact that there was an ASX announcement in mid-May this year to the effect that those rebate businesses would cease, and that's exhibit J at tab 157.

25 **MR BELL SC:** I think "suspended" is the precise term that was used in the releases.

MS SHARP SC: Yes. Yes, Mr Bell. That is so. Mr Hawkins gave evidence about the nature of the rebate business at day 22 at 2534 to 2535, and I don't need to go to that in any particular detail other than to say that there are three categories of
30 patron, being the international rebate patrons, the domestic rebate patrons and the local patrons. That division is relevant, including because of the obligation to pay duty. The Star pays considerably less duty in respect of the international and domestic rebate business.

35 In relation to the international rebate business, the evidence established that that was comprised of junkets, premium direct players and premium mass programs, and the evidence established that in recent times there has been increased focus on building the premium mass segment of the market. The key difference with
40 premium mass is a lower level of front money is provided. At page 2535, on day 22, Mr Hawkins said that, until recently, international junket programs represented around 75 per cent of The Star's total international rebate turnover.

45 It is useful to step back and look at developments in the international casino market more generally to track how those have influenced Star Entertainment's business. At the time of Dr Horton's suitability review in November of 2016, he observed that junkets were becoming increasingly important to The Star's operations, and he said that - it's in exhibit B at tab 146 at pinpoint 0132 to 0133.

In relation to this international VIP market, in Australia, Star Entertainment, Crown Resorts and, to a lesser extent, SkyCity compete for a share in that market, and compete very vigorously for a share of that market. Commissioner Bergin described the emergence of the global VIP casino market in some detail in her report at chapter 1.2, which is in exhibit B2791, and I won't repeat any of that but simply say that we rely on that.

We submit that from the time of Dr Horton's suitability report until COVID and the closures due to the pandemic, the VIP segment of the business became increasingly important to Star Entertainment. And just to give you one example of what that meant in revenue terms, Mr Bell, could I take you to - (indistinct) if it's in evidence. It's INQ.001.001.0321. That's exhibit H at 519. If I could have the operator bring that up, please. Yes. I'm sorry. That's the wrong exhibit number, Mr Bell. It's INQ.001.001.0321. Pardon me, Mr Bell. I will just see if we have it in the holdings of the - I'm told that it's not an exhibit, but the operator has it. So if we could bring it up, that would be of assistance.

MR BELL SC: While that's coming, Dr Horton's report also coincided with the Crown China arrests, and it seems that the evidence establishes that Star Entertainment increasingly relied on junkets after that time because it reduced the risks associated with recruiting patrons from China and the risks of debt collection. Is that --

MS SHARP SC: That is so, Mr Bell. And in light of the - what I will call the Crown arrests in October 2016, Star successfully competed for junkets that Crown Resorts had previously dealt with. So whereas there was a dip for Crown Resorts with its market share in the international casino market following the Crown arrests, for Star Entertainment it represented a business opportunity. I don't think, Mr Bell, I'm going to have any luck pulling up that document, so I'll just tell you what it is.

I was going to pull up the Star Entertainment annual report for 2018 and take you to page 89 of that document, which is pinpoint 0411. That is a section of the financial notes which looked in some detail at revenue to each of the casinos in the international VIP market and the domestic casino market. And for example, in 2018 at Star Sydney, the - and this is, of course, just in the casino, that the international VIP revenue was 33 per cent of total gaming revenue. And what I would like to do is pull up - or see if I can call up a document which summarises what the annual reports have said in this regard. If I could call up INQ.029.001.0001.

And this is a table that has been prepared by the solicitors assisting, Mr Bell, summarising information from the annual reports that was located in the financial notes. This is based upon total gaming revenue at The Star in Sydney, and what it shows is the percentage of VIP gaming revenue as a percentage of overall gaming revenue. And what you can see, Mr Bell, is that in 2013, it was about 30 per cent of overall revenue; it grew, by 2016, to 33.5 per cent and stayed at about 33 - 32.9 to 33 per cent in 2018; and then started to decline.

That decline was in line with the tightening of regulatory requirements in Macau, and they're detailed in Commissioner Bergin's report in chapter - I think it's 1.2. And then, of course, the result of 2021 follows from the closed borders as a result of the pandemic. This is all to say that the international VIP segment was a very significant part of overall gaming revenue. And then in terms of overall revenue for Star Entertainment, I believe the evidence is that at one point it rose to about 12 per cent of overall revenue.

10 **MR BELL SC:** Just so I understand this table, does VIP revenue include domestic rebate programs, or are domestic rebate included in domestic revenue?

MS SHARP SC: I understand that the domestic rebate is in domestic revenue.

15 **MR BELL SC:** Yes. Thank you.

MS SHARP SC: Just - I'm told that I can now bring up the 2018 annual report, so I might do that. If I can ask the operator, please, to go to INQ.001.001.0321, just to show you how these figures were (indistinct). And then if we could go to pinpoint 0411. And I'm taking you to the notes to the financial statements, Mr Bell. And if I could have the top half of the document enlarged.

You'll see that it's stated that the group has three reportable segments, and they are each of the casinos. And then for 2018, a distinction is made between gross revenues VIP and gross revenues domestic. And if you look in that first column, you'll see the results for Sydney. And that is where the information has come from that's reproduced in that table I just took you to. So we say that the rise of the international VIP market and Star's attempts to gain some market share is an important matter of context in understanding the conduct here.

30 Another important matter of context is one that Ms Pitkin drew to your attention when asked for her reflections on what went wrong, and she pointed out that she thinks one cause was the reaction to the competitive threat introduced by Crown Resorts obtaining a licence to open Crown Sydney. And that licence was granted, I believe, in 2014. But the history of that licence is also dealt with in Commissioner Bergin's report, and I won't take you to that now.

40 Still within that topic 7, being the international VIP casino market, we wish to make the point that the board was kept briefed on what management's strategy was with the VIP market and how to grow that market, and that will feed into the following submission. While it is correct that senior management failed to escalate a number of risks to the board, and while it was the case that at points senior management misled the board, it was also the case that the board was well aware that the VIP market was where the risks of criminal infiltration and money laundering were at their highest. And the board was kept alert - alerted to particular risks and also particular dealings in the VIP segment.

So this was a situation where you had forces at work from two different perspectives: firstly, there was a failure to appropriately escalate, but we submit that on the other hand there was a failure to bring a questioning mindset to what it was that management did report and a degree of passiveness on the part of the directors against the context that they knew this was the riskiest part of the business. And can I draw to your attention, Mr Bell, a few documents in particular. If I could start with a 25 May 2017 board report, which is exhibit B at tab 367. If I could bring that up, please. You'll see this is a board report prepared by Mr Bekier and Mr Chong. Just pardon me for one moment.

If I can take you to pinpoint 3847. This is a paper that was presented to the board. I asked Mr O'Neill about this paper. You will see, at pinpoint 3848, there is a discussion of what senior management strategy was in relation to VIP, and it was described as the 50-25-25 vision. And this was the idea that 50 per cent of revenue would come from North Asia patrons and junkets, 25 per cent from South Asia and 25 per cent from premium mass. And then if I take you, Mr Bell, to pinpoint 3849. The board was told that the international rebate team, at least at that point, was a very large one, 144.5 full-time equivalent team members.

At pinpoint 3850 - if we can go to that, operator - the board was also told about a number of circumstances which made this a risky business, Mr Bell. For example, Operation Chain Break, which was a campaign to stop the flow of money from high-stakes gamblers; then the arrests of the South Koreans; then the arrests in October 2016 of the Crown employees; an announcement in March 2017 that China was vowing to severely punish people involved in organising tourists to gamble overseas; and more information about Operation Chain Break. Then I won't take you to the documents now, Mr Bell, but remind you that the directors were examined on the following documents and give you references to them.

There was a briefing on 26 September 2017 about the international rebate strategy. That's exhibit B at 435. That document is important because it explains the junkets with which The Star was dealing at that time, including that Suncity was the largest junket; at pinpoint 1491, that Star was focused on strengthening relationships with particular junkets, and they included the Guangdong junket, which is sometimes referred to as the Neptune junket, the Chinatown junket and the junket - I think it's called the Minmin junket that Mr Sixin Qin was the financial backer of.

Then there was a report of - the October 2017 managing director/CEO report, which provided detailed information about the cheque cashing facility process and the top 20 junkets, and also a detailed briefing on Mr Sixin Qin. That's exhibit B at 442. And a number of reports were also given to the board in relation to proposals for reinvigorating EEIS, including that there was a problem because the Bank of China accounts in Macau had been closed down in December 2017, and it was necessary to look for interim payment channels, and that one of those interim payment channels involved an arrangement with a junket operator who would collect money on behalf of high-value patrons - that, of course, was Kuan

Koi - and that that would be an interim arrangement pending getting EEIS up and running to accept patron deposits and also make loans.

5 So these matters were all notified to the board, and the board was told of problems because of the tightening of overseas money laundering laws and the fact that the Macau Government was cracking down on the transfer of money from high-value patrons to casinos outside of Macau.

10 Can I now turn to topic 8, which is to make some submissions about the rules and restrictions in the Casino Control Act on the provision of credit. These rules provide important context for understanding what happened in relation to the payment channels and, in particular, China UnionPay and EEIS. There is, in general terms, significant restrictions on the ability of a casino operator, or its agents, to provide credit to patrons. And this stems from findings of Mr Xavier
15 O'Connor QC in his reports for the purpose of Victoria considering whether to legalise casinos. And if I can just quote from one part of Mr O'Connor's report, he said:

20 "Credit has almost routinely been the principal source of trouble with casinos. Casino management is generally anxious to be in a position to extend credit at its discretion to favoured gamblers. It increases casino turnover, as well as encouraging gamblers to gamble beyond their means. The granting of credit leads to all kinds of problems, particularly related to skimming and collecting the unpaid debts of gamblers who live out of the state. The way to eliminate
25 problems relating to credit is simply to prohibit it."

And that, by and large, is what the original version of section 74 of the Casino Control Act did, although, in recent years, there have been particular amendments with respect to the international rebate business. And a key number of
30 amendments happened, Mr Bell, on 21 December 2018. Can I take you to section 74 of the Casino Control Act as it appeared prior to 1 December 2018. This is in a document in the Law in Order database which is B1215. If I could have that pulled up, please. And, Mr Bell, you will see that subsection (1) provides that:

35 "A casino operator must not, and an agent of the operator of a casino employee must not, in connection with any gaming in the casino."

And then, relevantly, at paragraph (c):

40 "Provide money or chips as part of a transaction involving a credit card or a debit card."

45 And this, in particular, proved challenging in the context of the CUP cards, and I will come back to explain that in more detail in the context of my submissions on CUP. That was amended on 21 December 2018. And in its amended form, paragraph (c) said that - or carved out an exception and said:

"Other than a debit card transaction with a person who is a participant in a premium player arrangement or junket."

5 But, of course, the CUP process was conceived in 2013. Can I also draw to your attention, Mr Bell, what I would describe as a carve-out in subsection (4) where it says:

"This section does not limit the operation of section 75."

10 Now, as I'll take you to in due course, The Star, in accordance with legal advice, treated this provision as meaning that section 75 provided an exception to the prohibition on providing money or chips as part of a transaction involving a credit card or debit card in section 74(1)(c), and that's how the CUP process started life at The Star. Then can I take you to section 75. If I could take you now - it's also
15 been amended and, relevantly, it was amended on 1 July 2018. I'll take you to the pre-July 2018 version, which is, I hope, part B at tab 1081.

Now, section 75 is the provision that allows the establishment of cheque cashing facilities or CCFs. And in practical terms, Mr Bell, that operates as an exception to
20 the prohibition on providing credit. In a sense, the cheque is the collateral for an advance of credit. So looking at the pre-July 2018 version of section 75, in subsection (1) the word "cheque" is given the same meaning as in the *Cheque and Payment Orders Act 1986*. That's now simply known as the *Cheque Acts 1986*, but it's the same Act.

25 Subsection (2) permits a person to establish with a casino operator a deposit account. Now, this doesn't mean a bank account; this means a ledger account. And the evidence emerged that there were two types of deposit accounts: one was a front money account; and the other was a safekeeping account. And it becomes
30 important to note how a deposit account can be established, and what section (2) says is that it can be credited with (a) money - and there's going to be an issue about what "money" means - (b) a cheque payable to the operator or (c) a traveller's cheque.

35 Subsection (3) has the effect that money can't be taken from the deposit account for - sorry, I've put that badly. I will start again. Chips cannot be given - or chip purchase vouchers cannot be given from a deposit account until there is money in credit in that deposit account. This is important because of a requirement that funds clear in the deposit account before chips or chip purchase vouchers are
40 given to the patron. So you can't go into debt, in simple terms. And subsection (4) is what creates the cheque cashing facility avenue. And it provides that:

"A casino operator may, in exchange for a cheque payable to the operator or a traveller's cheque, issue to a person chip purchase vouchers -"
45

And so on. Now, there's an issue in this case in relation to China UnionPay and the so-called temporary cheque cashing facility about whether it was a real cheque cashing facility because there's a question about whether a cheque was ever

provided. And I'll address you on that in more detail when I come to make some submissions about China UnionPay.

5 And then, Mr Bell, if I can just draw your attention to subsection (5). It provides the circumstances in which a cheque can be redeemed. And then at section (6A) - if the operator can take us to that, which is on the next page - this sets out the time periods in respect of which cheques provided to create a cheque cashing facility must be banked by the casino operator.

10 **MR BELL SC:** And that has to be read with subsection (6), I take it --

MS SHARP SC: Yes.

15 **MR BELL SC:** -- which says that it's a condition of a casino licence that the casino operator must bank a cheque accepted by the operator within the period of time required by subsection (6A).

20 **MS SHARP SC:** Yes. That is so, Mr Bell. So that is the background against which the CUP processes ought be understood. It also provides important context in relation to the - what have been called the EEIS loans, and whether, in fact, those loans were permissible under section 74 of the Act. Just pardon me for one moment.

25 **MR BELL SC:** I would be interested to see the amendments to section 75 which introduced subsection (5A) as well.

MS SHARP SC: Yes.

30 **MR BELL SC:** I take it that's what you referred to as occurring after 1 July 2018?

MS SHARP SC: No, I think - I understand that section (5A) of section 75 was already in place --

35 **MR BELL SC:** I see.

MS SHARP SC: -- as at July of 2018.

MR BELL SC: Right.

40 **MS SHARP SC:** If you will pardon me for one moment, I'm just looking for my note on what changed with section 75 after July 2018. Yes. In fact, section 75(5A) was introduced on 27 November 2013 by the *Casino Control Amendment (Barangaroo Restricted Gaming Facility) Act of 2013*. There is one amendment I wish to draw your attention to. The significant amendment to section 74 - I've
45 already indicated one of them, which was the amendment to subsection (1)(c) which permitted debit cards to be used where there was a junket or a rebate arrangement. But there was a second amendment, which was to section 74(5). Now, if I can go back to the pre-December 2018 version of section 74, which is at

B1215. If can I bring that up again, please. Can I ask you to have regard, Mr Bell, to subsection (5). It says:

5 "Despite any other provision of this section, the holder of a restricted gaming licence may, in the case of a person not ordinarily resident in Australia, extend any form of credit."

10 Now, at this early period, that was directed to the holder of a restricted gaming licence. So that was Crown Sydney. It held the restricted gaming licence. So this provision had the effect that Crown Sydney could provide credit to a premium player or a junket, that is, somebody on the international rebate business. Because of concerns about competitive neutrality, subsection (5) was amended.

15 And if I could take you to the version - in fact, I don't need to take you to the version. I can simply tell you the amendment. The amendment replaced the words "restricted gaming licence" with the words "casino licence". And so it thereafter picked up The Star. It had the result that after 1 December 2018, The Star was also permitted to provide credit to junkets and premium direct players in the international rebate business.

20 **MR BELL SC:** Would you perhaps just check that date overnight because my annotation is that that amendment took effect on 1 July 2020. Could you just check that overnight?

25 **MS SHARP SC:** Yes. Mr Bell, I was just checking my notes and indeed you are right. I accept that. And that, of course, has implications for the arrangements that were conceived for the EEIS loans in 2018 because it was not until July 2020 that this prohibition on casino operators or their agents providing credit was lifted from the Act. Now, Mr Bell, I was about to move to a different topic, which was China
30 UnionPay, topic 9. That is a rather large topic. I wonder whether this might be a convenient time to adjourn for the day?

MR BELL SC: Yes. I will adjourn until 10 am tomorrow.

35 **<THE HEARING ADJOURNED AT 4:56 PM**