



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**

**THURSDAY, 2 JUNE 2022
AT 10:00 AM**

DAY 39

**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**

*Any person who publishes any part of this transcript in any way and to any person contrary
to a direction against publication commits an offence against section 143B of the Casino
Control Act 1992 (NSW)*

<THE HEARING RESUMED AT 10:02 AM

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** Mr Bell, I thought I would just orient us in terms of where I was
up to in my list of 26 topics. Yesterday afternoon I addressed you on topic 13,
which was Suncity and Salon 95. I skipped over topic 14, which was what we say
was the altering of Mr Buchanan's report because I dealt with that when I made
10 submissions to you under topic 5 about comments on witness credit. I also
addressed you on topic 15, which was briefing the board in relation to the 2019
media allegations, and I finished yesterday afternoon by making some submissions
on what we say was the misleading of the authority in August in 2019 in relation
to its inquiries following the 2019 media allegation.

15 There is one matter I need to come back to in the context of topic 13, Suncity and
Salon 95, to complete the picture of what happened in the aftermath of the media
allegations. Now, what did happen, Mr Bell, we submit, is that Suncity, in light of
these allegations, made the decision to terminate arrangements in Salon 95. And
that is made clear in an email that Marcus Lim sent to Mr Hawkins, which is
20 exhibit B2511. There's no need for me to take you to that. May I also note that Mr
Hawkins, in his first statement, in the table which followed under paragraph 103,
said that Suncity terminated the arrangement for Salon 95.

25 But that was not the end of the Suncity arrangement. What, in fact, happened was
that Suncity moved to Salon 82. And there were really only two principal
differences, which there wasn't the same degree of Suncity signage within the
room, and it wasn't officially an exclusive room, that is, for the exclusive use of
Salon 82. What is particularly concerning that did not happen is that there was no
30 risk assessment, even in light of all of the events that transpired in May, June and
July of 2019 and in the aftermath of the media allegations. You can see that there
was no risk assessment if you have regard to exhibit A2197, which I will bring up,
please, operator. Again, that's exhibit A2197.

35 **MR BELL SC:** Is that a witness statement, Ms Sharp?

MS SHARP SC: It's an exhibit. It's STA.3402.0003.6606. You heard some
evidence that an improvement team met, at least a couple of times, in around July
and August. But if you have regard to number 1, Suncity Risk Assessment, the
owner of that was Ms Arnott. And if you look in the Status column, it states:

40 "This has been deferred."

And that's because of the changed operational arrangements. That changed
operational arrangement was simply moving Salon 95 to Salon 82. We submit
45 that, in the circumstances, that was extremely remiss, Mr Bell.

Can I also take you to exhibit B1556, which is STA.0015.0001.0294. You'll see, Mr Bell, this is an email which is sent from the media liaison person, Mr Jenkins, to Mr Bekier, Mr Theodore, Ms Martin and Mr Hawkins. And it forwards a media article of 16 August with a relationship - I beg your pardon, which included an interview with Mr Bekier. And if I could ask the operator to scroll over the page, please. Mr Bekier said - is quoted as saying - and I took him to this in his examination:

10 "The fixed room of Suncity will be discontinued here. They had a small fixed room. The room is being closed."

There's no mention of the fact that they had simply moved to another small room. And can I draw your particular attention to what is said a little further down:

15 "When asked last week why The Star was still using Suncity, Bekier replied, 'Why not?'"

And we submit that this is demonstrative of what is really the arrogance of The Star at this time in relation to the question of risk and compliance. There was every indication that that room should have been shut down because of the very serious money laundering risks in there, the repeated non-compliance of Suncity and so on. Now --

25 **MR BELL SC:** Was there a service desk of any kind in Salon 82?

MS SHARP SC: I'm told no. Just on the question of the absence of risk assessment, may I also note without - well, in fact, I will - without taking you there at this stage. Ms Arnott, in her first statement at paragraph 43, is somewhat cryptic in that she refers to a risk assessment for Suncity at around this time. But when you dig a bit further into that paragraph, it's clear that the risk assessment did not occur.

Now, at this time, can I draw to your attention what we submit is a clear lack of candour on the part of The Star and Star Entertainment to you, Mr Bell. And solicitors assisting you sent some correspondence to the lawyers for those two corporate entities. Can I take you, please, to exhibit H0467. This is a letter that the solicitors assisting this inquiry sent to Star Entertainment, and to Ms Martin in particular, on 1 October 2021. Can I take you, Mr Bell, to pinpoint 0002. And could I ask you to take note of paragraph 9 and paragraph 11. Paragraph 9 says:

40 "Please state all facts, matters and circumstances which The Star considers may affect the suitability of The Star in the relevant period which has not previously been disclosed to the authority."

45 And paragraph 11 requests:

"Please state any facts, matters or circumstances which Star considers have involved or may have involved a breach by The Star during the relevant period of the following obligations -"

5 And so on. Now, this led to a quite lengthy letter from KWM, on behalf of The Star and Star Entertainment, dated 8 November 2021. This is exhibit B3331. There is no reference, Mr Bell, to the incidents concerning Suncity of which I've just addressed you. And we submit that this reflects an ongoing lack of candour on the part of Star and Star Entertainment.

10

That ongoing lack of candour may also be traced through to the written statements that were provided to you, Mr Bell, in relation to Suncity and Salon 95, and we submit reflects poorly on the credit of the relevant witnesses. Could I take you firstly to Ms Skye Arnott's first statement. I will have the exhibit number brought up. Thank you. Could I take you, Mr Bell, to paragraph 24 of Ms Arnott's statement. And you will note that question 2 asks:

15

"Were you made aware of any money laundering concerns in Salon 95 -"

20 And so on:

"If so, please outline your involvement in detail and provide supporting documentation."

25 This does not comprehensively outline Ms Arnott's involvement in the matter. Ms Arnott certainly does not say that she came into possession of the Hong Kong Jockey Club report. And this, relevantly, goes from paragraph 24 through to paragraph 45. It, we submit, very much minimises the degree of concern that Ms Arnott had at the time relating to Suncity, Salon 95 and the transactions of concern. Can we take you in particular to paragraph 41, Mr Bell. At paragraph 41, you will see that reference is made to Mr Stevens' May - well, she says June. But, in fact, it was his May report:

30

"I was aware through discussions with Mr Stevens at the time that he considered Suncity were complying with the standard operating procedure and The Star had effective oversight."

35

We submit that this leaves you - or it could, had it not been interrogated, have left you with an incorrect and incomplete impression that Suncity was compliant at that time. I do note paragraph 42, but that does not serve, we say, to effectively qualify the impression that Ms Arnott seeks to create in paragraph 41.

40

As I've already mentioned, at paragraph 43, Ms Arnott does not clearly say that no risk assessment did end up being conducted in around July of 2019; rather, she refers to the fact that she emailed Ms Martin, suggesting a risk assessment take place. There's also no reference to the fact that Suncity moved to Salon 82. We

45

submit that that is an incomplete account and is misleading. And I think I've already said there was no reference in that part of her statement to the fact that she came into possession of the Hong Kong Jockey Club report.

5 Now can I take you to what Mr Hawkins said about Suncity. If we can go to his first statement, Mr Bell. Could I take you, firstly, to paragraph 102 of Mr Hawkins' statement. And if you could note at the top of paragraph 102, the question that Mr Hawkins is responding to, which is question 21:

10 "Outline the history of Salons 95 and 82 and the history of the service desk located within them."

We submit an incomplete account was given to this in light of what the evidence establishes was known to Mr Hawkins at the time. You'll see that table that
15 follows from page 103. There's no reference to the legal advice that Mr Hawkins received in May 2018 from Mr Power that Suncity and the service desk exposed The Star to an unacceptable level of risk.

If you have a look, Mr Bell, at page 20 - if we can scroll to that and the table there.
20 Could I ask you to observe the entries for January 2018 and then 23 May 2018. No disclosure there of the numerous difficulties that had emerged, including, of course, Mr Power's advice about the unacceptable risk. This is a highly selective and incomplete presentation of matters as they were known to Mr Hawkins at that time. Mr Hawkins then continues at paragraph 104 by giving some details of Salon
25 89. And here, at question 22 - if I can take you to that, above paragraph 109. You will see question 22:

"Identify compliance issues associated with Salon 95 and Salon 82, and whether these were made known to the board."
30

Can I take you through - if you see at paragraph 113, buried in here is a reference to Mr Power's email. But it's not called out that what Mr Power had, in fact, advised was the risk was unacceptable. And this was typical of Mr Hawkins' statement, that information would be buried rather than it candidly being brought
35 to the Review's attention. Then if I can take you to paragraph 117, the last thing that Mr Hawkins refers to in the context of Salon 95 is a 21 May 2019 risk and compliance committee paper, which he quotes as stating:

40 "Salon 95 Suncity processes: no significant issues found. Suncity have been conducting all transactions through the cage, providing a much higher level of oversight."

This leaves the reader with a thoroughly misleading impression as to what happened with respect to Suncity in the period May until July of 2019, matters of
45 which the evidence established that Mr Hawkins was well aware. This account reflects most unfavourably on his credit, Mr Bell.

Mr Houlihan was not asked a question about Suncity and Salon 95, so I won't go to his statement. I will take you to Ms Paula Martin's statement though, Mr Bell. That's exhibit A0905. And could I start by taking you to paragraph 91. And you will see, Mr Bell, that question 4 is:

"Please explain, to your knowledge, why Angus Buchanan prepared the memoranda and chronology comprising the Buchanan documents."

Again, we submit that an incomplete account was provided here. In the first place, there's no disclosure at all of the fact that Ms Martin was sent the Hong Kong Jockey Club report on 12 June 2019. At paragraph 95, Ms Martin says she doesn't remember whether she saw the first version of the Buchanan memorandum dated 1 October. We submit you would find it was most likely that she did, Mr Bell, based upon her examination. What she does say here, however, is that:

"At this time, I was aware that the legal team was monitoring developments in the Bergin Inquiry, and that Mr Buchanan was updating his enhanced customer due diligence work."

So she does agree that the compass of the Buchanan memorandum is about enhanced due diligence. Then, at the end of that paragraph, Ms Martin says that:

"By the end of September 2020, a decision had been made to halt group rebate programs."

Then, at paragraph 96, she also says that she does not recall having seen a memorandum dated 7 January 2021. This was an updated memorandum from Mr Buchanan. Again, she was examined about this and, again, we submit you would find it is most likely she did, in fact, see that, particularly given that Mr Power and Mr Houlihan reported to her. Ms Martin had in the evidence - well, she said she had very limited recall of many documents, which - even when they were emailed to her, addressed to her and so on. So one would regard her claim with some scepticism that she doesn't remember seeing the report.

But in any event, paragraph 96 is the end of the story that Ms Martin provides here about the Buchanan memorandum. She has acknowledged that it was part of an enhanced customer due diligence process. What Ms Martin does not disclose here was that that due diligence process continued under the auspices of - I think it was called Project Congo, and that, in fact, Ms Martin attended an out-of-round JRAM meeting on 17 August 2021 where Mr Buchanan provided further recommendations and what was essentially an options paper about a decision about whether to continue dealing with Alvin Chau and Suncity. And, of course, Mr Bell, you're aware that Mr Houlihan and Mr Power, as the AML compliance officers at the time, decided to continue dealing with him. So none of that is disclosed to you here.

MR BELL SC: The "Buchanan documents" was a defined term in these questions, which didn't include those later documents, I assume because those assisting weren't aware of those later documents at the time?

5

MS SHARP SC: Yes. That is so. We could only ask questions where we knew the information at that time. We would submit it's open to you to find this is misleading. But at the very least, you would find that this is very much lacking in candour and frankness. And the question she was asked - question 4 is:

10

"Please explain, to your knowledge, why Angus Buchanan prepared the memoranda and chronology comprising the Buchanan documents."

In the context of that question, we submit that it was relevant to provide the full story, and the full story ran all the way up to August of 2021 when that JRAM meeting occurred, and the decision was made to keep dealing with Mr Chau at that time. Can I also, please, take you to question 5, which appears above paragraph 97. And there, Ms Martin was asked:

15

20

"Who to your knowledge was provided a copy of the Buchanan documents? In each case, in what circumstances?"

25

And we submit that fairly reading this question was broad enough to pick up those matters about the JRAM meeting in August of 2021. Again, no reference is made here to the fact that Ms Martin was in possession of the Hong Kong Jockey Club report. It is quite simply remarkable that not one of the witnesses disclosed to you that they had a copy of the Hong Kong Jockey Club report, despite its clear relevance to the terms of reference in this review.

30

While we're in Ms Martin's statement, could I take you back to paragraph 29. And up above 29 you will see the question - question 2. Now, bearing in mind, Mr Bell, not only was Ms Martin at this time the chief legal officer, she was also the chief risk officer of this organisation. Question 2:

35

"Do you consider there were any shortcomings from a risk management perspective during the relevant period in relation to -"

And then:

40

"(b) junkets."

Then if I take you to paragraph 36. You will see from paragraph 36, all the way through to paragraph 41, no mention is made of the Suncity junket.

Can I then take you to Mr Power's statement, which is exhibit A1186. Now, can I take you to paragraph 9 of that statement. Question 1, which appears above paragraph 9, says:

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

And Mr Power explains, at paragraph 9, that in January 2020, he had a discussion with Oliver White and Angus Buchanan, and he requested that a detailed
10 chronology be compared. So he's explaining the origins of the chronology, and then he explains the various drafts of what became known as the Buchanan report. Now - I'm sorry, Mr Bell. We've just lost the computer. Can you hear me?

15 **MR BELL SC:** I can hear you, and I've got the statement in front of me.

MS SHARP SC: Well, I've lost all visual contact, but I shall continue. What you would infer from this account is that Mr Power dealt in detail with Oliver White, Angus Buchanan and Mr Houlihan over various months in relation to Mr Buchanan preparing the chronology and then the Buchanan reports. We submit
20 that in those circumstances, it is completely implausible that Mr Power would not have been made aware of the Hong Kong Jockey Club report when Mr Buchanan was involved in its preparation - and, in fact, the evidence suggests he was the author - and when that document was provided to his supervisor, Ms Martin, and with Mr Power - to Mr Power and to Mr Houlihan.

25 So we submit that you would reject his evidence given to you that he was not provided with a copy of the Hong Kong Jockey Club report. Indeed, his evidence there was a moveable feast. So I think he ended up conceding that he probably did see a copy of the Hong Kong Jockey Club at some point in late 2019. It is
30 completely implausible that he would have forgotten receiving a document like that. The obvious reason why, we say, Mr Power sought to distance himself from that document was because of the letters he prepared to the authority in late 2019.

35 **MR BELL SC:** At some point - not necessarily now - could you give me a transcript reference to where you say that concession was made by Mr Power?

MS SHARP SC: Yes. I think I gave you that transcript reference when I made some earlier submissions about Mr Power, but I'll have my learned junior pull them up for you and I will give them to you when they're available.

40 Can I then continue taking you through Mr Power's statement to paragraph 11 where he says that on 2 March 2020, Mr Buchanan emailed him to say he had had a quick chat with Ms Martin, who:

45 "Suggested we commence another enhanced customer due diligence review."

And that is what Project Congo ended up being all the way out in August of 2021. So it's clear that these Buchanan documents relate to that enhanced customer due diligence process. It did not come to an end in January 2021, yet that is the impression that is left by Mr Power, Ms Martin and - by those two in their statements to you. And if I could take your attention in particular to paragraph 29. He refers to an email dated 8 December 2020, and the email from Mr Buchanan relevantly stated:

10 "In the interim, I will compile and updated enhanced consumer due diligence report and revise existing 'options' paper."

And that's precisely what the August 2021 document with recommendations was; it was an options paper. So it was part of this process, we say, yet it was not disclosed here. And in that regard, can I take you, please, to paragraph 37, which is the end of Mr Power's account about this matter. And you'll see the end of the story, according to Mr Power, comes with the January 2021 draft. We submit that this reflects an ongoing lack of candour on the part of Mr Power and leaves one with a misleading impression.

20 Can I lastly take you to the statement of Mr O'Neill. And I wish to be clear: I am not suggesting that Mr O'Neill lacked candour or sought to mislead, but can I take you to one aspect of his statement. This is his first one. And if I could bring up paragraph 38. And if I could just take your attention, Mr Bell, to the question above paragraph 37. And there, Mr O'Neill was asked:

25 "If you were not aware of the information in the Buchanan documents and have now acquainted yourself with that information, do you consider it appropriate that Star dealt with the junkets associated with Alvin Chau, entered into the arrangement for Salon 95 and later 82 -"

30 And whatnot. What we wish to draw to your attention in the answer that Mr O'Neill provided here is that - even for the purpose of preparing Mr O'Neill to provide this statement with you - the chair of Star Entertainment - no one within the organisation made him aware of the fact that The Star held the Hong Kong Jockey Club report, which he gave evidence about in his statement. It's simply remarkable, Mr Bell.

40 I've just been - if I could just answer one question you asked a little earlier today, Mr Bell. You asked whether there was any service desk in Salon 82. At day 27 at page 3112, Mr Bekier said:

"My understanding was that Suncity would be relocated to a salon without special privileges and, most importantly, a salon without a service desk."

45 And may I also remind you that you inspected Salon 82 earlier this year. Now, that's all we propose to say on Suncity, Salon 95 and Salon 82. I do need to go

back to one aspect of China UnionPay, which was topic number 9, and there are two further matters I wanted to address you on there. First of all, we make the submission that in relation to China UnionPay, The Star and Star Entertainment again misled the authority about that matter in September of 2021. And there, could I take you to exhibit B3100. Now, you'll see I'm showing you a letter from Mr Aloï, who gave evidence to you, dated 10 September 2021, addressed to New South Wales Liquor and Gaming.

And you'll see there's a reference in that first paragraph to a notice to produce issued under section 21 of the GALA Act on 30 August 2021. Now, I'm told that's not yet in an exhibit but soon will be. The document number is STA.3412.0013.3005. That notice asked a series of questions about China UnionPay. This was in the aftermath of the revelations in the Finkelstein Inquiry, Mr Bell. Could I take you to pinpoint 2960. And if I could highlight the top row for question 3:

"Was the regulator informed about the CUP process? If not, why not?"

And the answer provided was:

"Yes. The casino regulator was informed about The Star's intended use of the CUP process as part of a request to update relevant internal controls. ILGA was advised in May 2013 about the proposed introduction of the CUP process and how it would work in a meeting with Graeme Stevens, regulatory affairs manager, and David Aloï, cashier services manager. Approval to change the cheque cashing facility ICM to facilitate the use was granted on 5 June."

And so on. This answer is misleading, we submit, Mr Bell. In the first place, you've seen the documentation about what was submitted to ILGA to obtain the amendment of internal control 15, and there was no reference at all to (a) CUP; (b) that the transaction would occur at a hotel; and (c) that it was a transaction that we say was prohibited by UnionPay International rules.

Secondly, the people who - in this letter I've just taken you to who were referred to as having disclosed these matters to ILGA in 2013 are Mr Stevens and Mr Aloï. But when they were examined by counsel in this Review, they could not support that statement that is given to ILGA in this letter. And, in that regard, can I please take you to Mr Aloï's transcript. I'm wondering if the operator can pull up transcript at page 824. Do you have that, Mr Bell?

MR BELL SC: Yes, I do. Thank you.

MS SHARP SC: Could I take you, please, to line 45, where I said:

"So what we do know is that you and Mr Stevens met with ILGA in May 2013?"

And Mr Aloï agreed. And then on page 825, at the top:

5 "And your recollection is that the proposed introduction of the CUP process was referred to?"

He says:

10 "That's right."

And then I said:

15 "But is it correct that you have no further recollection of what was discussed in that meeting?"

And he said:

"That's right."

20 And I said:

"Because if you did have any further recollection, it would have been included in this response."

25 **MR BELL SC:** What's the response that you were referring to?

MS SHARP SC: The one that I've just taken you to, Mr Bell.

30 **MR BELL SC:** I see. Yes. Thank you.

MS SHARP SC: And then a little further down - if we can go to - the part of the transcript isn't on the page. If we can go to the second half of page 825, please. Then at line 32, I asked him:

35 "Is it right that you have no recollection at all as to whether the authority was informed that the CUP card would be swiped at the hotel?"

And Mr Aloï said:

40 "I don't have a recollection of the conversations as such, but there were subsequent emails, I believe. But I don't recall the specifics of the conversations at that meeting."

45 And then I asked:

"And is it right that you have no recollection of telling the authority during that meeting that China UnionPay, in fact, prohibited CUP cards being used to purchase gambling chips?"

5 And he answered:

"I have no recollection of whether that was discussed or not."

And then you, Mr Bell, said:

10

"Are you saying you have no recollection one way or the other?"

And if I can take you over the page, to 826, Mr Aloï says:

15

"Correct."

And you asked:

20

"If you had told the authority what The Star was proposing was a breach of the UnionPay scheme rules, that is surely something you would remember?"

And Mr Aloï agreed:

25

"Absolutely."

And then a little further down, at line 23, I said:

30

"And given that you felt somewhat uncomfortable about what we've previously described as an artifice, does it stand to reason that it is most likely that you did not tell the regulator that the CUP rules prohibited the CUP card from being used to purchase chips?"

And Mr Aloï said:

35

"Yes. Again, I'm not sure if it's likely or unlikely because I can't recall that conversation taking place."

40 Now, that evidence gives quite a different impression to the one that is given in the answer to the statutory notice under section 21, and it's for that reason that we say that response, which was signed under the hand of Mr Aloï, is misleading.

45

Can I take you to the oral evidence of Mr Stevens. And these are the only people who could have given evidence about what happened at that meeting with ILGA. The evidence shows they were the two representatives at that meeting. Operator, could I call up the transcript at page 636, please. And I should also indicate, just before we go there, Mr Bell, it was put to Mr Aloï, and accepted by him, that the

September 2021 response to ILGA was not clear and transparent. And that was at day 8, page 848 at lines 4 to 19.

5 **MR BELL SC:** And I think he also gave evidence, didn't he, that he believed that the UnionPay rules did prohibit gambling?

MS SHARP SC: I think that's the evidence, yes. I'll have to check that.

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

MS SHARP SC: Now, going to Mr Stevens' evidence about this meeting - and this should be understood, we say, in the context that Mr Stevens agreed that he knowingly misled the regulator in relation to the Suncity so-called service desk. So we submit he is not a credible witness. But in any event, this is what evidence
15 he provided about that meeting with ILGA. If I take you to page 635 at line 5 - I beg your pardon 636 at line 5. I said:

20 "You say you spoke about the advice from Mr Walker in that May 2013 meeting. Are you sure you spoke about advice from Mr Walker at that meeting?"

And Mr Stevens said:

25 "I think so, but I'm trying to remember back 10 years."

And then - and can I interpolate there that that advice from Mr Walker of senior counsel is in evidence and has nothing to do with what was discussed at that meeting. So that simply cannot be right. What it indicates is that Mr Stevens has a faulty recollection of that meeting. Just pardon me while I find the relevant page. I
30 am trying to locate on the transcript - if you'll just give me a minute. Yes. It's page 36 at line 28. I said:

35 "So is it right that you don't have a clear recollection of what was discussed in the May 2013 meeting as compared in the 2014 meeting?"

And Mr Stevens said:

40 "No, I think - no what - what the recollection that I have of both meetings is probably equal."

And then I said:

45 "But your evidence is that the Bret Walker advice was discussed in the first meeting in May 2013?"

And --

MR BELL SC: It's page 636, yes.

MS SHARP SC: And he says:

5

"I believe so."

10 So his recollection is - given that you've seen the contents of Mr Walker's advice, his recollection of having discussed that at the meeting is clearly faulty. So we submit there was no proper basis for the representations that were made to ILGA in the September 2021 letter. Can I indicate it was not put to Mr Stevens that he - that the response provided in the September 2021 document was misleading, but recall that that was a submission made under the hand of Mr Aloï, not Mr Stevens. And in answer to the question you asked a little earlier about Mr Aloï, at 15 day 8 at page 813, Mr Aloï conceded that he understood that the UnionPay rules prohibited purchase of gaming chips.

20 I said there were questions I needed to address you on in relation to CUP. I will move to the second issue now, which goes back to something I said yesterday about when the authority was first provided with a standard operating procedure that disclosed that the CUP card was swiped at the hotel. I think I said yesterday that it was in 2015, and I need to correct that. The evidence indicates that the authority was technically on notice that the CUP card was swiped at the hotel, and of the temporary CCF, by 19 December 2014. And I'll explain why I've used the 25 word "technically" in a moment.

Can I take you, please, Mr Bell, to exhibit G0955. And this is STA.3041.0001.0026. Now, at the bottom of that first page, Mr Bell, you can see that there is an email from the regulatory affairs advisor at The Star, Suzanne 30 Mawer, to ILGA dated 19 December 2014, and Mr Stevens is copied into it, and its subject is Standard Operating Procedure Update, Cheque Cashing and Deposit Facilities. And it says:

35 "Good morning, please be advised the cheque cashing and deposit facilities SOP has been updated. Attached is the current SOP."

40 So, Mr Bell, there's nothing calling out any type of amendment here, and it's necessary to recall that the authority plays no role in approving standard operating procedures. It does approve the internal controls, but not the standard operating procedures.

45 Can I now take you to what was attached to this document, which is exhibit G0956. And this is the version of the cheque cashing and deposit facility standard operating procedure. Can I take you, please, to pinpoint 0038. And just to put it in context, can I take you to the previous page, 0037, please. You will see the task at the bottom is:

"Acceptance of China UnionPay debit card."

And then you'll see that point number 2 is:

5

"CUP debit card transaction is swiped at the VIP hotel."

10 So this is the first disclosure, we say, of the fact that it's being swiped at the hotel, but it's hardly front and centre of the information that's provided to ILGA at this time. Could I take you - and you might also note, while you're looking at this document, that at the bottom of that page, it says:

15 "The Star accepts transfers of fund from China UnionPay for the following purposes: rebate activity only."

15

And this is - earlier, I submitted that the transactions, so far as Mr Phillip Dong Fang Lee were concerned, were contrary to The Star's own policy because he wasn't a rebate player, and that's where the policy comes from.

20 If you look at pinpoint 0038, Mr Bell, you'll see reference to the hotel being where the card is swiped. And then, Mr Bell, if you look at paragraph 7 and 8, this is where you see reference to the temporary CCF. But, again, it's hardly called out to the authority's attention, Mr Bell, in this - I think it's about 20 pages, this document. Nothing is said about it in the cover email. So this document was sent well after the CUP process had been adopted, which we submit was in June of 25 2013, and well after the temporary CCF had been implemented, which was in February 2014.

30 Without further explanation of what the temporary CCF was, it would be difficult, we submit, for the authority to discern that this was The Star's workaround for the issue of uncleared funds. Of course, there's nothing in this document that indicates that there's any prohibition that comes from the UnionPay rules. And in any event, there's nothing in that email correspondence or in this document that shows that the consent of ILGA is being sought to swiping at the hotel or the temporary 35 cheque cashing facility. And could we just note at pinpoint - pardon me a moment. If you - that's all I need to say about that matter, Mr Bell.

40 **MR BELL SC:** Given the way that this casino operator has approached its communications with the regulator, there seems to be a warrant for increasing the supervision by the authority of these processes and requiring their approval. The dichotomy between ICMS, which require approval, and SOPs that don't, and the detail being kept in these SOPs, means that if there isn't a casino operator acting transparently, these problems are likely to arise casino.

45 **MS SHARP SC:** Well, that is so. And there is, in our submission, great merit in a recommendation that it will be necessary for the authority to improve the standard

operating procedures. Under section 124 of the Casino Control Act, the authority must approve the internal control procedures. However, the legislative history to that provision ought be noted. In earlier versions of the Casino Control Act, that was a far more prescriptive provision as to what the internal control manual had to address. And this is a matter that's dealt with in the Bergin Inquiry report.

But over the relevant period, and in light of Mr Peter Cohen casino's modernisation review, the internal control manuals became far more high level. So what it was that ILGA was required to - sorry, the authority was required to approve became far more higher level. And we submit that important detail is no longer required to be drawn to the attention of the authority, which is a problem.

MR BELL SC: Well, it's a problem if you don't have a casino operator that is acting transparently.

MS SHARP SC: Yes. That's all I wanted to say, Mr Bell, to tie up some loose ends with China UnionPay. Yes. Sorry, one more matter. You asked me, Mr Bell, for transcript references about Mr Power in relation to the Hong Kong Jockey Club report. He said at - if I can refer you to day 18 at page 1968 at lines 28 to 48. If we can go there. And I asked him, at line 29:

"If you were so concerned that nothing had been overlooked in The Star's possession relevant to Alvin Chau, surely you were made aware of the existence of the fact that The Star held the Hong Kong Jockey Club report by this time?"

And Mr Power said:

"Potentially, by this time. I don't recall, but I believe that it was incorporated into Mr Buchanan's report."

Now:

"Even if I'm not provided with a copy of it, it's incorporated. It wasn't missed."

And we submit that his evidence moved in relation to whether he was ever provided with a copy of that report. He eventually made that concession. But we submit that in the circumstances of his involvement in the preparation of the Buchanan chronology and the enhanced customer due diligence, it is completely implausible that one of his colleagues, including Mr Buchanan, did not mention it and draw it to his attention.

Now, can I take you, Mr Bell, to topic - I'm going to go a little bit out of order here. I think the better way for me to organise this is to start by addressing you on

topic 20, which are what we've described as the fake source of funds letters provided to the Bank of China in Macau.

5 Now, the evidence establishes that in the period 2013 to the end of 2017, The Star's Bank of China accounts in Macau were heavily utilised for deposits by patrons in Macau, for both the deposit of front money and the redemption of cheque cashing facilities, and we see that in exhibit B3216. We also see in that exhibit that the Bank of China would accept large cash deposits in Hong Kong dollars, and that was one of the attractions of those accounts.

10 We submit the evidence establishes that in the period 2013 to 2017, staff of The Star and, sorry, Star Entertainment, based in Macau adopted a process whereby they would accompany patrons, or people making deposits on behalf of those patrons, where large amounts of cash were being deposited to the bank and provide documentation to the bank to provide an explanation for the source of funds. And that documentation, we submit, was misleading and knowingly so.

20 This - I'll give you one example. If I can take you to exhibit B3399. If I could call that up, please. This is one example of a - what I will call a fake source of funds letter. You will see it's not signed. Apparently - the evidence establishes that the - Star Entertainment and The Star don't hold copies of the documents that were sent over; they just have template documents. And Ms Gabrielle Soares confirmed that those templates were used. This is one of them. It's, as you can see, signed by Jacker Chou. And it's directed to the Bank of China in Macau. And it says:

25 "The purpose of this letter is to provide proof of source of funds in relation to a deposit."

30 And it explains where the money will be coming from, that it was withdrawn from a Star account and it's being put into another Star account.

35 Now, the evidence also suggests that when these letters were provided by officers of Star Entertainment to the Bank of China, the officers of Star Entertainment had not performed any further source of funds or know your customer checks, and that evidence comes from an email exchange between Michael Whytcross and Gabriela Soares. I'm sorry if I'm not pronouncing that correctly. It's exhibit B3216. In evidence, Mr Whytcross said that it was not likely that Bank of China was conducting its own source of funds checks, and he gave that evidence at day 10 at page 1086.

40 Can I take you, please, to exhibit B3402. This is a detailed note that Mr White wrote to himself, dated 29 November 2021, in relation to what he had discovered about this fake source of funds issue at this time. The evidence shows that this file note was sent to a number of people, including Ms Martin. I'll just - if you pardon me, I'll just find the document. If I could bring up - I'm sorry. I don't have the exhibit number. It's STA.3008.0002.2801. You'll see Mr White is emailing this

file note to Ms Martin and Mr Power and Ms Arnott. You'll note the attachments to the email, Mr Bell. This is exhibit B3393.

5 Could I now return to the file note itself, which is exhibit B3402. And I just want to take you through some of the information that Mr White recollects here. Under the heading How Did We Identify This Issue, he says it was in preparation for a response to AUSTRAC in October 2021. Our first submission is that it is of very serious concern that, prior to this time, Star senior management was not aware of this practice, and we will submit it was a widespread practice occurring in the
10 period of - in a number of years up to and including 2017.

And then it's noted that Gabriela Soares at that time was still employed by The Star Entertainment. So she was still fully accessible to ask questions about the matter. And, indeed, the evidence will show that she was interviewed on at least
15 two occasions by Mr Houlihan. She was spoken to by Mr White. And, in fact, external lawyers - it's either HWL Ebsworth - yes, I think it's HWL Ebsworth also participated in interviews with her. Mr White states at paragraph 2 that:

20 "Ms Soares mentioned that certain letters had been provided to Bank of China Macau as part of the deposit process."

And she provided copies of the template letters. And then a little further down, Mr White says:

25 "I flagged Jacker Chou's email with Skye Arnott and Michael Whytcross."

So these officers both knew about this issue by the time of Mr White's file note. Then there's a reference to the template documents, and then there's reference to a 16 October email which attaches the five template documents. And those template
30 documents are each in evidence, Mr Bell. But you'll see how they're described in this letter. The five attachments show five different false reasons of where the funds have come from that are being deposited. So one of them is a winnings letter, another is a letter of demand and so on. And you'll see, if we go to pinpoint 2831. Just above - you'll see there's a heading in the middle of the page, Call of 18
35 October. Just above that, Mr White records:

 "Once reviewed, a call with Gabriela (together with Michael Whytcross, Skye Arnott and Kevin Houlihan) was arranged."

40 And then he recounts --

MR BELL SC: Dot point 2 refers to a cage operated by The Star in Macau.

45 **MS SHARP SC:** Yes. And the evidence shows that The Star never operated a cage - they're false. What they assert is false. And Mr White then recalls what Ms Soares told Mr Whytcross, Ms Arnott, Mr Houlihan and himself during the 18

October conversation about how the process worked. Under those five numbers, he records:

5 "We asked Gabriela whether The Star team asked our customer for SOF -"
That's source of funds:

"Evidence."

10 And a little further along:

"She confirmed The Star team did not ask for this information."

15 And the next paragraph, at the end:

"Gabriela did not appear to be part of the process of preparing the templates. She recalled they were being used when she joined The Star."

20 So that shows the practice was a longstanding one. And you'll note:

25 "With certain responses due to AUSTRAC on 20 October, minor
amendments were made to the draft responses to remove reference to The
Star collecting source of funds information in relation to deposits in Macau,
with only a generic reference in relation to all overseas bank accounts being
retained."

On the next page, under the heading Initial Steps:

30 "Andrew Power and Paula Martin -"

Sorry, I will have to go to pinpoint 2832, please, operator. And, Mr Bell, can you see the heading Initial Steps?

35 **MR BELL SC:** Yes.

MS SHARP SC: So:

40 "Andrew Power and Paula Martin were informed of the details of the
discovery above on a call on 28 October 2021."

I'm pointing out these dates because the evidence before you is that the investigation still hasn't come to any conclusions, and here we are now at the beginning of June. Then:

45 "In addition, I discussed the issue at a very high level with Harry Theodore."

And then there's a reference that:

"HWLE were also informed."

5 Then there's reference to a further call with Ms Soares, the call of 29 October. And then there's a record of further information that was provided by Ms Soares in that call. And if you look at the second dot point, it's recorded:

10 "Credit and collections team would sign the letter (and usually prepare the letter). The Star Entertainment Group team member accompanying the customer to make a deposit into the Macau bank account would provide the letter to the bank, which could be a credit and collections employee (Gabriela, Jacker Chou or Candy Sun). The letter would have the company chop applied to show authenticity."

15

And then there's another dot point:

"Time period covered: Gabriela thought that the process was in place when she joined The Star in Macau, which she couldn't recall if 2015 or 2016."

20

And then Mr White notes:

"Gabriela started on 12 June 2015."

25 And:

"This position would appear to be at odds with the April 2016 email."

30 I'm not sure what that email is a reference to, Mr Bell. Then under the heading "Subsequent Steps", it's stated in relation to the Bell Inquiry:

"High-level mention of the Bank of China Macau issue was made."

35 Yes, that is certainly correct. It was only very high level. That's, no doubt, reference to the letter provided to you dated 8 November 2021, which is exhibit B3331. There's no need for me to take you to that. It's a very fair characterisation to say it was only mentioned at a very high level. We submit it was not a candid outline of all that was known by this time, that is, at the time of that letter.

40 Then you'll see under the heading - sorry, the third dot point on page 2833:

"Further correspondence with Gabriela has confirmed."

45 And that's simply to say that by the time of Mr White's file note, there had been very extensive consultation with Ms Soares in order to understand what had gone

on. And I will contrast this shortly with the evidence Mr Houlihan gave you about the status of these investigations.

5 Under the heading 25 November, you will note there's a reference to another telephone call with Ms Soares and that Ms Skye Arnott was involved in that discussion. So a number of senior members of staff were looking into this matter at that time, Mr Bell.

10 Now, the evidence shows that Ms Soares reported to Jacker Chou over in the Macau office, and he was the vice president of VIP credit and collections. In turn, he reported to Adrian Hornsby, who was the general manager of VIP credit and collections, and that may be seen at exhibit B0482. I don't need to go to that.

15 Ms Soares said that all of the credit and collections staff in Macau were involved in this process of the fake source of funds letter. That's in exhibit B3383. She said that Jacker Chou gave - she said that Jacker Chou was aware of the process, and he would attend the meetings with the Bank of China.

20 Mr Michael Whytcross, who gave evidence to you, agreed in his oral evidence that the source of funds letters were completely false, and he said that at day 10 at transcript page 1088. He also agreed that the false documentation suggested there was a high risk of money laundering, and he said that at page 1093.

25 Ms Arnott was also asked about this matter and agreed that it was a very significant concern because of its obscuring of the source of funds and preventing another bank from doing its due diligence properly. And Ms Arnott said that in day 14 at page 1565.

30 **MR BELL SC:** "Obscuring" is something of a euphemism.

35 **MS SHARP SC:** Indeed. Mr Hawkins denied that he had any knowledge of this practice. He said that at day 25 at page 2800. He became the manager or the supervisor of the VIP team - I think it was in April of 2018. Before that, it was Mr Bekier directly, Mr Bell.

40 To give you some indication of the volume of money moving through that transaction, Mr Bell, could I refer you to exhibit C0030. I won't take you to it, but it was a presentation for the EEIS kick-off meeting dated 24 January 2018. And that document recorded, at pinpoint 1081, that between January and November 2017 alone, the Bank of China accounts in Macau accepted HKD\$1.2 billion, which is about 200 million Australian, in cash. It was also noted, at pinpoint 1081, that the cash redemptions were driven by customers who were seeking to avoid electronic funds transfers in principle, as they were reluctant to transfer to a bank account held in the name of a casino.

45

Now, Mr Houlihan told you in evidence that the investigation into this matter is not - wasn't complete by the time he gave evidence. It seems that what remained to be done was speak to Mr Adrian Hornsby, who was no longer with The Star, but certainly there had been many conversations with Ms Soares.

5

The evidence also shows that Mr Houlihan spoke to Jacker Chou. That's in his oral evidence at day 12 at page 1329. He said also at that page and over into page 1330 he had not spoken to Adrian Hornsby, and he was still in the process of speaking to Jacker Chou and Gabriela Soares. One might ask what was left to ask about, given all of the interactions that he had had, Ms Arnott had had and Mr White had had with Ms Soares by that time.

10

He gave evidence that he had not provided any reports on his investigation to Ms Martin by the time of his evidence, and Ms Martin had not asked how the investigation was proceeding. And that was at page 2133, 21332. He also said HWL Ebsworth had been engaged to assist in the investigation, and that was at page 1333.

15

We submit that this investigation has not been conducted in an expeditious and timely way, and what it indicates is a reluctance to reveal to you, Mr Bell, a full account of what has occurred with respect to this situation, which, on any view of the matter, is extremely concerning having regard to the potential money laundering implications. Fake source of funds letters were provided by a casino to a bank, Mr Bell, and this reflects adversely - very adversely - on the suitability of The Star to hold a casino licence or Star Entertainment to be its close associate.

20

25

Just before the mid-morning adjournment, could I just point out some further evidence that Mr Houlihan gave and contrast that with the evidence that Mr White gave. At day 12 at page 1337 to 1338, Mr Houlihan said his recollection of Ms Soares' response was that these fake source of funds letters happened on two per cent of time where cash was deposited not from a bank account of a customer. And in contrast - we say that's inconsistent with all of the documentation that Ms Soares gave to Mr White and with Mr White's file note.

30

But Mr White said in evidence that he had been informed by Ms Soares and - he had been informed that it was a general practice - and that was at day 16 at pages 1801 to 1802 - and also that while Ms Soares did not directly inform him that Adrian Hornsby, the general manager of VIP collections and credit, had authorised this practice, she said that he was across everything that Jacker Chou did. And Mr White also said, at day 16, page 1802, that he understood, based on his discussions with Ms Soares, that this was a systemic problem, which is quite different to the evidence that it's only in two per cent of the cases. We submit you would not accept Mr Houlihan's evidence on this point.

35

40

45 Would that be a convenient time to have the mid-morning adjournment?

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

<THE HEARING ADJOURNED AT 11:30 AM

5 **<THE HEARING RESUMED AT 11:47 AM**

MR BELL SC: Yes, Ms Sharp.

10 **MS SHARP SC:** Now, bearing in mind that Ms Martin was one of the - was
emailed the file note of Mr White I just took you to, could I take you to the
evidence that Ms Martin gave to you in her written statement. That is exhibit
A0905. If I could bring that up, please, and go to paragraph 51. And, again, this is
the evidence of the then chief risk officer. You'll see above 51, there's a heading
(d) that says:

15

"Disclosures made by The Star to banks about source of funds."

All Ms Martin says about the fake source of funds letters is that set out in
paragraph 51 to 52, Mr Bell. And we submit that that was far from a helpful or
20 transparent response to you. In particular, at paragraph 52, Ms Martin says:

"It is too early to form any concluded view from a risk management
perspective."

25 We submit of course it would have been open to her by the time of this - the
preparation of this statement to have formed a view on risk management and
particularly in view of the fact that she was the chief risk officer, and this evidence
was not candid.

30 Can I also draw to your attention, Mr Bell, what forensic accountant Ms Robyn
McKern had to say about this matter. Her report is at exhibit C0330. That's her
first report. If I could bring it up, please. And, operator, that's the 12 March report.
Operator, could you go to page 81, please. Mr Bell, you will heading 8.6,
Misrepresentation of the Nature of Deposits to Bank of China Macau. And could I
35 take your particular attention to page 82 and, operator, ask you, at page 82, which
is pinpoint 0082, to highlight paragraph 8.6.5. Ms McKern there says:

"We understand Star is continuing to investigate the facts. However, on its
face, the behaviours recorded in Mr White's memo -"

40

And that's the one I took you to, Mr Bell:

45 "Are indicative of (a) a preparedness to do whatever is necessary to meet the
needs of the patron, to the extent of fabricating documents, potentially in
collusion with another reporting entity, to create the illusion that a transaction
is something other than what it is; (b) a lack of understanding of, and total

disregard towards, AML/CTF obligations and the purpose of AML/CTF controls by senior casino officers; (c) inadequate control and supervision of the activities of offshore employees; and (d) inadequate training of less senior staff such that they either did not recognise or were unwilling or unable to raise concerns in regards to the transactions."

5 Ms McKern was made available for examination, but she was not examined on any of those.

10 Can I take you briefly to the evidence that the directors and Mr Bekier gave about this issue, Mr Bell. Starting with Mr Bekier, at day 28 at page 3141, he said that he had no idea about these letters and that it was terrible that it had happened, and that was at page 3142.

15 Mr Heap agreed that it was a very serious allegation that warranted urgent attention, and that if the events had occurred, it inhibited the AML/CTF process. He said that at day 31 at page 3426. And he gave evidence that he only became aware of this issue during his oral evidence and that he found that highly concerning. That's at day 31 at page 3427.

20 Mr Bradley said the matter was very serious and should be investigated promptly. We submit there has not been a prompt investigation, I should interpolate. He gave that evidence at day 31 at page 3475.

25 Ms Pitkin said that she only became aware of this matter in late 2021, and she considered it was serious and it inhibited anti-money laundering processes. That was at day 33 at page 3611.

30 Ms Lahey gave evidence that she first heard about the matter during these hearings and that she regarded it as very serious and it inhibited anti-money laundering processes. That was at day 33 at page 3677.

35 And Mr Sheppard gave evidence that he only found out about this matter during his preparation for the hearing, at day 34 at page 3764.

Mr O'Neill, likewise, said that he only became aware of the matter during his preparation for the hearing, and he also said that it inhibited anti-money laundering processes. That was at day 36 at page 3919.

40 Again, Mr Bell, something has gone seriously wrong with the risk management processes in the fact that, at the time this matter was discovered by senior members of management in late 2021, it was not immediately notified to the board.

45 Now - pardon me. I'm going slightly out of order because I just addressed you on topic 20, what we call the fake source of funds letters. Now I will go back to topic

17, Mr Bell, which was the - or is the closure of the Bank of China accounts in Macau in December of 2017.

5 We say this event was particularly significant because this is what led Star Entertainment to pursue a number of payment channels that were risky - very risky - from an anti-money laundering perspective and which are payment channels which ought not to have been pursued by a casino operator because of the money laundering and counter-terrorism financing risks involved.

10 The closure of these accounts is the - in a sense, the beginning of the story for what happened with the so-called interim arrangement with Kuan Koi and the repurposing of EEI Services so that it accepted front money deposits, CCF redemptions and became a lender in its own right. And I'll now address you on those matters.

15 The first point we wish to make, Mr Bell, is that the directors were kept briefed on the fact that the Bank of China accounts in Macau were being closed and this presented challenges for the business in terms of keeping the flow of funds coming through to the casino. And they were briefed on the reasons why that was making it more difficult and what the new payment channels were that were being explored.

25 And the general submission we will make is a board that was less passive and engaged in more active stewardship would have taken further steps to understand the risks associated with these payment channels, particularly in view of the fact that all of the directors were aware that casinos, of their nature, are vulnerable to money laundering, of the risks associated with junkets and the VIP sector, Mr - I should say the international VIP sector.

30 If I can take you, please, to exhibit B0701. I'm showing you minutes of the meeting of the directors of 22 March 2018. If I can take you to pinpoint 0198.

MR BELL SC: Point 1098, I think.

35 **MS SHARP SC:** Thank you. Can you see there's a heading "EEIS Project Update"?

MR BELL SC: Yes.

40 **MS SHARP SC:** And it's recorded that:

45 "Mr Chong spoke further to the business drivers for the proposed operations and arrangements in Macau in particular. Mr Bekier noted that management is proposing to present a final structure of operational arrangements, along with supporting legal advices -"

And that a paper entitled "IRB-EEIS/MMS Project Status Report" was taken as read. Can I now take you to that report. If we go to exhibit B0699. And this is STA.5002.0004.0764. Now, this is the board paper that was presented by Mr Chong on 22 March 2018 that was taken as read. You'll see that there's a reference to the IRB strategy presentation of September 2017. That's in evidence. I examined the directors and various other witnesses about that. I won't go to it now, but that refers to the problem of the Bank of China Macau accounts about to be closed. You'll see there's a heading here Background. Again, there's another reference:

"Potential closure of Macau bank accounts used to remit funds."

And that that occurred in December 2017. And there's reference:

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

So this problem was squarely drawn to the directors' attention. That reference to an interim solution is the reference to the Kuan Koi arrangement. And Mr Chong explains:

"This is driven by the assumption that junkets and/or premium direct players who have previously repaid outstanding balances in Macau would not visit Star Entertainment properties as frequently."

It's then stated:

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

And it speaks of a proposal that did not end up going ahead, being the MMS. But then can I draw your attention to dot point 2, which we submit is particularly concerning. It states:

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

We submit that the astute reader - and we may assume that the directors were astute readers - would detect here that there was an objective of obscuring the nature of the transactions. That's exactly what is stated here, Mr Bell. And we say that directors who were engaged in active stewardship would have asked questions about what was involved here.

Now, if I could take you to pinpoint 0700. Sorry, I'm not sure I've got the right document there. I won't - operator, could you just bring up the - yes. Thank you. That's what I'm after. So this was the presentation that was then given to the board, and this provided quite significant detail about EEIS and the idea of establishing
5 EEIS loans, Mr Bell. So the board was notified about that matter.

In May of 2018, board approval was sought for the establishment of a \$400 million cheque cashing facility to EEIS, and there - and that approval was given, I should say, and we see that from minutes of the directors' meeting on 24 May
10 2018 at exhibit B0822 at pinpoint 1042. So we submit that that, and other documents that we examined the directors on, shows that they were being updated by management about arrangements that were being structured to overcome the problem of the closure of the Macau bank accounts in - the Bank of China bank
15 accounts.

Just to highlight some of the evidence that was given about the closure of the Bank of China accounts in Macau, at day 13 at page 1490, Ms Skye Arnott said that these - the closure created considerable concern at The Star because it made the repayment of cheque cashing facility debts and remittance of front money more
20 difficult. Mr White gave evidence to similar effect in day 16 at page 1770. Ms Arnott also agreed, at day 13 at page 1490, that those Bank of China accounts in Macau received large cash deposits.

In addition, Ms Arnott gave evidence at page 1491 that by this time, that is, around
25 December 2017, a number of top tier financial institutions were not willing to facilitate transactions on behalf of EEIS in Macau because of the restrictions on the banking sector to not do business with casinos. Mr Theodore also gave evidence, on page 26 at page 2961, that the closure of these bank accounts was a major issue for The Star.

30 Can I move on now to address you on the responses and the development of payment channels in light of the Bank of China closures. The so-called interim response involving Kuan Koi is what I identified as topic 18, and I will move to address you on that now. Mr Bekier said, in his oral evidence of day 28 at page
35 3153, that without the introduction of some new payment channels, The Star's turnover was set to decrease significantly. The evidence shows, at exhibit B0506, that discussions about alternative arrangements were underway by November of 2016. And could I call up exhibit B0506, please.

40 And you'll see I'm showing you an email from Adrian Hornsby to Mr Theodore and Mr Whytcross. It's entitled the "Macau Bank of China Accounts Next Steps". That's of 13 December 2001. Could I go to pinpoint 7734. Sorry, that's 7734. I see. I think I've got the wrong page number here. If we could go to the - you'll see this email is signed off by Mr Whytcross. If I could go to the preceding page, please.
45 So that's pinpoint 7718. You'll see that a number of senior - members of senior management are being consulted about what is to be done about payment channels

in light of the closures. For example, Mr Matt Bekier is on the email chain, Ms Martin is on the email chain and Mr White is on the email chain.

5 The evidence establishes that Simon Chan, who was a senior relationship manager at the Bank of China in Macau, who had a longstanding relationship with The Star collections team, proposed to John Chong that an independent third party could be used to collect cash. In turn, John Chong made this proposal to Michael
10 Whytcross, and Simon Chan and John Chong then met with Kuan Koi, who was a junket operator, to ask whether he would be prepared to collect funds on behalf of Star. That is made clear in this exhibit at pinpoint 7733. There's no need for me to take you to that, but that's exhibit B0506, which is very helpful in understanding the evolution of this payment channel.

15 The idea here, Mr Bell, was that Mr Koi, who was a junket operator, would collect cash deposits from patrons in Macau and then deposit them into his own bank account in Macau and remit them to The Star in Sydney. And they would go into his front money account in The Star in Sydney and then they would be disbursed to the patrons who had made the deposits. So that was the general idea.

20 **MR BELL SC:** The evidence that I recall was that the patrons in Macau would deposit cash with Mr Koi - that was step 1 - and then the final step was that Mr Koi would transfer funds from his front money account at The Star to that patron's front money account at The Star.

25 **MS SHARP SC:** That's right, with respect, Mr Bell. Things ran into a problem - or a problem arose a few months into this arrangement because Mr Koi's bank accounts in Macau were shut down. And then the story becomes a little less clear about what happens. And the evidence is that nobody at Star Entertainment was really sure what happened from that point.

30 **MR BELL SC:** Just going back to that first arrangement, what happened in between the patron depositing cash in Macau with Mr Koi and Mr Koi transferring funds from his front money account to the patron's front money account wasn't, as I recall it, made clear on the evidence. There was no precision about how Mr Koi
35 managed to transfer funds from Macau to Australia.

MS SHARP SC: I think the - I'll ask my learned junior to look up the evidence. My submission is that in its original form, the arrangement involved Mr Kuan collecting the funds in Macau and depositing them into his own bank account in
40 Macau. And then there would be electronic funds transfers of those funds to The Star's bank account, and it would be credited to his front money account and then it would be disbursed to the other front money accounts.

45 **MR BELL SC:** Yes, I see. Thank you.

MS SHARP SC: But as I just indicated, things changed a few months later because his accounts were closed down. Now, that's explained in an email that Oliver White sends to Ms Martin and Mr Hawkins, I think in August of 2019, and I'll come to that a little later in the address.

5

The initial arrangement was the subject of a risk assessment that was undertaken by Skye Arnott. And just to explain, initially the arrangement only involved Kuan Koi collecting repayments of cheque cashing facilities. But shortly after the arrangement commenced, it morphed and expanded to collecting cash for patrons who wished to deposit front money. Now, this changed the risk calculus, we say, because at least where there was a cheque cashing facility in place, The Star had undertaken some due diligence of the relevant patrons. But that was not always the case where it was a front money deposit.

10

15

Can I take you to Ms Arnott's risk assessment. This is at exhibit B0626. The evidence, I should say, indicates that Ms Arnott originally conducted a risk assessment in January 2018. I'm showing you - and that's when the risk assessment only related to the collection of CCF repayments. Ms Arnott slightly revised her risk assessment when the arrangement morphed in February 2018 to encompass deposits for front money. So you can see right at the beginning of this document, it says:

20

25

"Following the closure of Star Entertainment's bank accounts in Hong Kong and Macau, Star Entertainment proposes to begin a new process to facilitate payments."

30

And then there's a heading Typology, and she sets out that there's some similarity with this relationship with hawala-style money remittance service. That's sometimes referred to as underground banking, Mr Bell, because it's based substantially on ledger entries, rather than physical transfer of funds. So that's why she identified that as a similar kind of typology because ledger entries would be involved as well as simple transfers of funds from Mr Koi through to The Star in Sydney. Ms Arnott says here:

35

"The structure proposed by Star does not meet the typical definition of hawala, but there are some similarities, such as transfers occurring outside the traditional banking sector."

40

And that's right, of course, because Mr Koi was going around collecting cash from people. There's then a heading Source of Funds, and Ms Arnott notes the risks associated with these kinds of remittance arrangements where it's more difficult to understand the source of funds. And if I could take you over the page, please, Mr Bell. And at the top of pinpoint 6740, it's noted that there will be requirements for record-keeping. I'll come back to what those requirements were because it's our submission that the evidence shows that while requirements may have been

45

suggested by Ms Arnott, it doesn't appear that those requirements were complied with for very long.

5 In that regard, Mr Bell, what Ms Arnott had suggested was a procedure where
somebody from Star overseas would fill in what was called an international
depositor fund, and that was supposed to give some comfort in relation to source
of funds. But what emerged in the examination of Ms Arnott was that she didn't
check, throughout the process, whether these forms were, in fact, being filled out
10 on a regular occasion, and she hadn't collected them. I think she did at the very
start, but not for very long afterwards. In any event, she speaks through some of
the risks here, and then she identifies operational risks at the bottom of 6740. And
then if we can go over the page, please. She performs a risk assessment and says:

15 "Based on the above typologies and when reviewed from the perspective of
AML/CTF law and Star Entertainment's risk framework, the assessment of
the AML/CTF risk associated with the interim arrangement is low. This is
within Star Entertainment's risk appetite."

20 It is very difficult to understand how someone with Ms Arnott's experience could
have come to the judgment that the risk of this arrangement was low from a
money laundering perspective. And Ms McKern gives more information about
that in her report, and Ms Arnott was examined about that by me. So we say the
risk assessment proceeded on a wrong footing because there were obvious risks
associated with this payment channel and understanding what the source of funds
25 were, but also that these transactions obscured from law enforcement officials
what the true nature of the transactions were.

30 For example, were a third-party law enforcement agency to have a look at the
paperwork, what they would see was a cash deposit by Mr Kuan Koi in Macau to
be transferred to a casino in Australia, and there would be no understanding that,
in fact, Mr Koi was acting as effectively a remitter and was transferring the money
on behalf of somebody else. Now, when I challenged Ms Arnott in her oral
evidence about her assessment of the risk as "low", she stated at day 14 at page
1551:

35 "With hindsight, I think that perhaps that was an error, but it was a genuine
assessment at that time with the assistance of my managers to help me work
through that."

40 We submit it was a very significant error, and one that was surprising in view of
Ms Arnott's level of experience, and particularly in light of the fact that she had
been the AML/CTF compliance officer at The Star.

45 In any event, the only controls that Ms Arnott suggested be imposed to manage the
risks were to ask for a staff member to be present at the time that cash was
provided to Kuan Koi and, secondly, to complete the international depositor form.

It does not appear from the evidence that staff members were routinely with Mr Koi when he collected the cash. It appears that on some occasions he collected the cash from cages in Macau casinos.

5 Now, can I take you, please, to exhibit B0523. This is the initial agreement that The Star and Star Entertainment negotiated with Mr Koi, known as the Client Management Agreement. Clause 1 provided that Mr Koi was to be compensated with a monthly service fee. I think that might be a clause 2 on the next page, Mr Bell.

10 The evidence is that Mr Anthony Seyfort from HWL Ebsworth assisted in drafting this agreement. He was the person who later provided reports to senior management about various patron account issues. But the point we make is that he was involved in the formulation of some of these patron account issues, and that
15 does raise a question about his independence in preparing these reports.

The evidence is that this agreement and arrangement was approved by Micheil Brodie and Paula Martin. Ms Arnott gave that evidence at day 13 at transcript 1493. And at day 16 at page 1773, Mr White gave his account of his
20 understanding of how the arrangement would work. And that goes to the question you answered about how the money would move from Mr Koi. So Mr White said it would be transferred into his front money account in The Star, and that he would make - in order to do that, he would collect the cash and deposit it into his bank account in Macau.

25 Mr Kuan Koi, of course, was not a reporting entity for the purposes of the AML/CTF framework, either in Macau or in Australia, and was under no obligation to conduct know your customer checks or source of funds checks or the like. We submit that the controls that were imposed were quite inadequate. It
30 would appear that this arrangement with Mr Koi was intended initially to be an interim measure until the repurposed EEIS was up and running, Mr Bell. And that may be discerned from an email exchange between Mr Whytcross and Mr Bekier, which is in exhibit B0676.

35 I've indicated previously that the board was notified of this interim arrangement, and that occurred on 8 February 2018. And that is in a board paper, which is in evidence, which is exhibit B0672, and that was a paper entitled "International Rebate Business, Customer Liquidity and Credit Arrangement". I won't go there
40 now.

Now, on - I might take you to this exhibit, exhibit B0531, Mr Bell. You will see there's an email chain that, relevantly, at the bottom of that page, involves an email from Oliver White to a number of officers, including Michael Whytcross and Skye Arnott, who said that it was very important that the payments from patrons to
45 Kuan Koi be monitored and to ensure that The Star receives from Kuan Koi the documentation. And that, in context, is the international depositor documentation.

There is a process map of arrangements with Kuan Koi prepared by Richard Booth - he was one of the EEIS project coordinators - dated 25 January 2018. And that may be found at exhibit B0551. That also refers to the use of the international depositor forms. The evidence shows that it was on about 9 February 2018 that the Kuan Koi arrangement was extended to include the receipt of front money deposits, in addition to the CCF redemptions, and that is clear from exhibit B0624.

MR BELL SC: Even though in this email which you're showing me from Mr White on 17 January, he emphasised that it's very important that it be only used for the payment of outstanding CCF and not for transfers of front money.

MS SHARP SC: That's right, Mr Bell. And that's - the point we seek to make is that the risk profile changed quite significantly, as Mr White clearly indicates here, once it moved to the collection of front money as well because there weren't the same know your customer checks that had been performed by The Star and the same level of due diligence that's performed when a CCF is set up.

The evidence shows that there was difficulty within The Star team in Macau with record-keeping, and that can be seen in email exchanges with Michael Whytcross and, in particular, exhibit B0638. Mr Whytcross was examined about these arrangements, and this is at day 9 at page 1016. He said that while the AML and CTF risks presented by the arrangement rang alarm bells in terms of source of funds, the risk assessment process by Ms Arnott, and the controls put in place, gave him some comfort for the arrangement, although he did agree that, in hindsight, he wasn't sure whether the use of the depositor form gave him comfort, and nor was he sure whether that form was (indistinct) and he gave that evidence at page 1016 to 1017. He --

MR BELL SC: So should I understand that Star Entertainment engaged Mr Kuan Koi effectively as a remitter?

MS SHARP SC: Well, that's what it would appear - that would appear to be the correct classification. Now, that's a different question to whether he was licensed to be a remitter. But what he was doing was collecting funds from others and then transferring them through to Star.

MR BELL SC: That was going to be my next question to you, whether there was any evidence that he was licensed to act as a remitter.

MS SHARP SC: No, there is no evidence in that regard. And the arrangement did change again once his bank account was closed down. I think that was in about May of 2018. He remained involved in the process, but it seems that management lost sight of exactly what his involvement was at that time. And I'll take you to an email from Mr Oliver White shortly.

I just wanted to go back to Ms Arnott's evidence. She said that international depositor forms were received at the beginning of the process. And she said that:

5 "I would have those forms and forward them on to our AML/CTF administrator for the purpose of creating IFTI reports. At some point -"

I think her reference was to Wayne Willett informed her:

10 "That he was getting access to the transaction detail through the cage and that I no longer needed to forward him the forms. So I said they didn't need to continue sending them to me."

15 That is, the international depositor forms. But she was there was a significant period where she was receiving them, and that evidence was at day 13 at page 1494 and also at 1531. However, later in her evidence, at page 1498, she said that she could not recall whether she was still receiving the forms in February 2018. And then at another point, she said that she only received the form personally for around two or three months. And that was at page 1552.

20 So her recollection was not particularly clear about when she received the forms and when she stopped receiving the forms. But the point is that even though a control was imposed, there's no evidence to suggest that it was being complied with for the duration of this arrangement. And this arrangement did continue in one way or another until around August of 2019, Mr Bell.

25 Now, can I take you to exhibit B0707, which shows how the arrangement morphed in March of 2018. And if you look at the bottom of that email from Adrian Hornsby dated 31 March, Mr Hornsby advises Mr Barton, Mr Hawkins, Mr White, Mr McWilliams, Mr Theodore, Mr Whytcross, Mr Lim and Mr Brodie that:

30 "Kuan Koi has advised us that the Bank of China bank in Macau has blocked all his international wire transfers, issuance of cashier orders and personal cheques from all of his Macau accounts and persons related to him. This option has now concluded as Kuan can no longer continue with his contractual arrangements with The Star that he signed at the end of December 2017."

40 So this was drawn to everyone's attention. There was some discussion about whether they might enter into an agreement with the Neptune junket. There was some discussion about whether they could use third-party remitter Regal Crown, and I'll come to say more about it. But this is where it changed. And you can see at the first page of that email that Mr Hawkins responds to it and asks who is behind Regal Crown. So they're actively exploring alternatives.

45

However, the arrangement with Kuan Koi did continue. It's somewhat unclear because it doesn't appear that management had a good understanding of how the relationship continued. But it appears that Mr Koi, after this point, continued to collect, or at least coordinate patrons, in Macau and then cause money to be transferred through money service businesses, including Regal Crown and Silver Express. Now, I won't take you there, but at exhibit - no. Sorry, I don't need to take you any further to that.

If I can go, then, to the memorandum from Mr White. This is dated 26 August 2019, and it's exhibit B1579. You'll see - and I spent some time examining a number of witnesses about this email - sorry, memorandum. It was sent to Mr Hawkins and Ms Martin. And this is Mr White effectively trying to piece together what had happened with the Kuan Koi arrangement. And he sets out, in the background, how the arrangement with Kuan Koi initially proceeded in January 2018, and then he sets out the current arrangements.

And you'll see there are three arrangements set out at the bottom of this page, which is number (a) an electronic funds transfer to The Star's bank account or to EEIS, so that's one way where the patron does that directly; (b) using a licensed remitter in the patron's home jurisdiction to make the transfer to The Star's bank account, who are sometimes the bank account of EEIS, but that's subject to paragraph (c) below, and then I'll take you to that. Now, paragraph (c) is that:

"In some instances and particularly from Macau, who can only pay in cash."

That's because they're reluctant to have it appear that their funds are going into an international casino because of the crackdown in Macau. And that problem is pointed out in the papers that go up to the board at this time. But Mr White there identifies that two money service businesses, or sometimes called third-party remitters, are involved. And in (i), Regal Crown is identified as one of them. It's noted to be a licensed money service operator, but only in Hong Kong. If I take you over the page, Mr Bell, Mr White states:

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

And then at (ii), he refers to KK/Silver Express. Now, in context, "KK" is a reference to Kuan Koi. So Mr White explains that:

"After May 2018, the arrangement with Kuan Koi appears to have continued in an amended form, with the assistance of licensed money service operators in Hong Kong. This process has not been subject to review by the legal or compliance teams."

Now, that's a matter of considerable concern, that there has been no risk assessment here, which has been squarely pointed out to Mr Hawkins and Ms

Martin at this time. Then he explains how it is that Mr Koi continues to be paid a service fee. Mr Bell, you'll see there's a heading Associated Risks. And at (a), it is noted that:

5 "The arrangement outlined above carries a higher AML/CTF risk, as the
funds being used to repay the amounts owing to The Star are originating from
patrons as cash and it is difficult to identify the source of cash being
transferred. While this cash is being transferred to The Star through the
10 banking system electronically, any involvement by The Star in the process in
relation to the cash increases the level of risk for The Star."

I'll just interpolate there: Ms Arnott sends an email to Tanya Arthur at NAB bank
later in 2019 - towards the end of 2019 where she concedes that The Star has
15 relied upon the third-party remitters, that is, the money service businesses, to
conduct the source of funds checks and the know your customer checks. We
submit that all of these matters together are just completely unacceptable for a
casino in view of the intrinsic money laundering risks here. None of them are
disclosed to the authority at the time, Mr Bell. Now, going back to subparagraph
20 (b) here, a further risk is identified:

"The arrangements outlined in subsection (c)(ii) -"

That's the reference to Kuan Koi and Silver Express:

25 "Have further risk incorporated because (i) we have no visibility of where the
payments to Kuan Koi are going; and (ii) there is increased commercial risk
as The Star has no visibility of costs actually incurred by patrons.

And then I won't read it out, but further risks are identified in the --
30

MR BELL SC: Well, subparagraph (c) is an important risk. They say they don't
know whether they're acting lawfully in Macau, these remitters.

MS SHARP SC: Yes. And then further down - it's probably about two-thirds of
35 the way down, under the heading Changes in the Last Month, one matter that's
referred to is that there's increased scrutiny of the VIP gaming because this is at
the time that all the media allegations have erupted against Crown in July and
August, and also at (c) that Mr Kuan Koi gave notice on 13 August that he, in
view of the developments, that is, the adverse media attention, wished to end his
40 arrangements with The Star because he found (indistinct) too risky, Mr Bell. So
that's the Kuan Koi - could you just pardon me. I just need to find a note.

Could I also remind you of evidence at exhibit B0708, which is an email from
45 Micheil Brodie in March 2018, where he said:

"Regal Crown was a very long way from meeting our requirements from an AML perspective."

5 **MR BELL SC:** And no one at a senior level seems to have any idea of how this arrangement was continuing, and the terms on which it was continuing, from mid-2018 to late 2019.

10 **MS SHARP SC:** That's so, Mr Bell. And I'm presently trying to locate an email chain involving Mr Whytcross because he - there's an email that shows that in around July or August 2019, he was liaising with staff to try to piece together what the arrangement was, and why a service fee was still being paid to Kuan Koi. I'm just having a look in my notes. I think Mr Whytcross was examined about that on day 10 at page 1034 or thereabouts. But that was the - I might try to find those --

15 **MR BELL SC:** Yes, you can come back to that.

20 **MS SHARP SC:** I'll come back to that. We also submit that there's no evidence that IFTIs were lodged in relation to any of these arrangements. There is a question about whether there was a legal obligation to lodge IFTIs. Certainly there is a document in evidence which is - was a publication on the AUSTRAC website which set out six scenarios where AUSTRAC expected that casinos would lodge IFTIs, and we say that the scenarios there would have captured the arrangements with Kuan Koi and EEIS. However, that AUSTRAC material was only published on to the website in late 2019.

25 **MR BELL SC:** I don't see how I'm in a position to determine whether IFTIs should or should not have been lodged.

30 **MS SHARP SC:** We accept that. There is evidence, though, that Ms Arnott and Mr White sought legal advice about whether IFTIs were required to be lodged. That you will see in exhibit C0055 and exhibit C0056. Interestingly, that advice was sought from Anthony Seyfort at HWL Ebsworth. Again, we submit that calls into question the independence of reports he provided to management about the patron bank accounts. And that's not to suggest any impropriety on his part, but simply to submit that the requisite independence was lacking because he had
35 advised on some of the transactions as they were unfolding.

40 In the end, it appears that by December 2018, Ms Arnott had conducted some research on her own about whether IFTIs needed to be lodged - and you'll see that at exhibit C0071 - and that external advice was sought from Mr Seyfort in December of 2018, and you'll see that at exhibit C0074. The evidence then discloses that there was some kind of dispute between The Star and Kuan Koi about fees to which he was entitled, and it appears that some settlement was reached with Mr Koi.

45

There's one further email that we wish to draw to your attention, at exhibit B1783, which Oliver White sent to Kevin Houlihan on 29 October 2019 where Mr White said:

5 "Given the lack of oversight of the arrangement with Kuan Koi from May 2018, and the relatively small number of key individuals involved, I think there is a possibility that there could be grounds for a complaint."

10 Now, while this was happening, and Oliver White and others were trying to get to the bottom of what had happened with Kuan Koi and EEIS, we have a situation where NAB is making inquiries to Star Entertainment about transactions occurring in the NAB bank accounts for EEIS. And it may well be that this is why IFTI advice was being sought at the time and why Mr White was investigating at the time what was happening with Kuan Koi and EEIS.

15 Now, the evidence is that it was in 11 September 2018 that the revamped EEIS was registered as a foreign company in Australia. That comes from exhibit B3118. And a little earlier, on 26 April 2018, EEIS had opened five bank accounts with NAB. And the signatories were Matt Bekier, Harry Theodore and Paula Martin.
20 And that comes from exhibit B3466. It was in May 2018 that NAB requested information from The Star about its AML and CTF compliance program, and there were some information exchanges there. You might recall I examined Tanya Arthur on this, and also Skye Arnott. But these initial email exchanges can be seen from exhibit B0859.

25 Ultimately, EEIS - I beg your pardon, NAB commenced asking specifically about EEIS and its AML/CTF program. And there, you will see an email from Ms Arthur to Ms Scopel of May 2019, which is exhibit B1399. And there, an AML/CTF questionnaire was sent to The Star, and that questionnaire was
30 completed by Ms Arnott, who signed off as the AML/CTF compliance officer for EEIS. And she indicated, in the completed questionnaire, that EEIS, while intended to be a licensed remitter, had not, in fact, commenced a licensed remitter service. If I can interpolate: what appears to have happened instead is that other money service businesses/remitters, being Silver Express and Regal Crown,
35 started depositing money into the NAB accounts.

40 Now, Ms Arnott gave evidence to you that there was only limited transaction monitoring occurring of the EEIS bank accounts from 2018 to mid-2019 - and she gave that evidence at day 13 at page 1514 - and that she did not know what the extent of the monitoring was. She said she did not monitor the bank accounts of EEIS, and she gave that evidence at page 1514. She suggested that the transaction monitoring was managed by the compliance officer in Hong Kong, and she gave that evidence at page 1518. That, of course, was Mr Michael Whytcross, who, in
45 his evidence, demonstrated little understanding of what his obligations were as an AML/CTF compliance officer and said that he left it to Ms Arnott and confirmed

that he did not cause anybody to monitor the EEIS bank accounts for AML/CTF purposes.

5 So the evidence leaves the picture that the only thing those accounts were monitored for, until about August of 2019, was to make sure money was getting into those accounts and would be tipped off by the cage. Mr Bell, can you still hear me?

10 **MR BELL SC:** I can hear you.

MS SHARP SC: Thank you. Sorry, we're just having some technical difficulties. In any event, it appeared that the cage was only looking at the bank accounts for the purposes of making sure money got into The Star's and the EEIS bank accounts, but not for questions of whether there was any indicia of money
15 laundering. Would that be a convenient time to have the luncheon adjournment?

MR BELL SC: Yes. I will adjourn now until five to 2.

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

<**THE HEARING RESUMED AT 1:56 PM**

MR BELL SC: Yes, Ms Sharp.

25 **MS SHARP SC:** Mr Bell, before lunch when I was addressing you on Kuan Koi, I said that there was an email from Mr Whytcross in around August 2019 where he was trying to get to the bottom of what was going on with Kuan Koi and why service fees were being paid. That's exhibit B0943. He was also examined about that at day 9 at page 1029.

30 Can I move now to address you on EEIS, and can I start with making some observations about the early years with EEIS. The evidence establishes - that's exhibit B1400 - that EEI Services (Hong Kong) Limited was incorporated in Hong Kong on 7 November 2013. EEI is an acronym for Echo Entertainment
35 International. At the time of incorporation, EEIS's parent company was known as Echo Entertainment Group Limited.

40 Exhibit B3466 establishes that on 8 October 2013, EEIS opened four bank accounts with the Bank of China in Hong Kong. The signatories to those accounts were Matt Bekier and Harry Theodore. I may already have mentioned this, but also on that date, that is, 18 October 2013, EEIS opened five bank accounts with the Bank of China in Macau.

45 I've already mentioned, Mr Bell, that arrangements for EEIS morphed - well, not morphed, were reinvigorated in early 2018 following the closure of the Bank of China accounts in Macau. Just to briefly address you on the intervening period

between when EEIS was first incorporated and when its function was changed somewhat in early 2018. In 2014, EEIS sought approval from the authority to be a close associate, and we see that from a submission prepared by Graeme Stevens dated 11 April 2014 at exhibit C0015. I don't need to take you to that.

5

At that time, it was proposed that EEIS would operate as a - operator, you can take that down. At that time, it was proposed that EEIS would be a corporate junket and that it would enter into rebate agreements with all international premium players and that it would hold two cheque cashing facilities with The Star through which it would offer patrons credit and loan facilities.

10

That submission stated that EEIS would not be an agent of the casino operator. Of course, as you know, Mr Bell, agency is a matter that is determined as a matter of substance rather than form, and I will come back to that proposition. The Star's internal records indicate that in May 2014, EEI Services was approved as a close associate, and I'll refer there to exhibit B0540 and exhibit B3419. However, after that, EEIS was not activated.

15

It appears that there were some anomalous transactions in the EEIS bank accounts in 2015 through to 2017, notwithstanding - and I say "anomalous" because EEIS was supposed to be dormant at this period of time. At exhibit B3146 - and I might take you to that, if I can. You will see there are some email exchanges in relation to the EEIS Bank of China accounts in Hong Kong. And this is an email chain from 7 October 2021. If I could take you over the page, Mr Bell. You can see there's some information in the blue shade - I won't read it out there - but this is where it's reported that there are these anomalous transactions.

20

25

So the situation appears to be that there were eight transactions in 2015, one transaction in 2016 and 10 transactions in 2017 into EEIS's Bank of China accounts in Hong Kong, totalling around AUD\$30 million. And we find that information in a file note prepared by Oliver White on 8 December 2021, which is exhibit B3419, and I don't need to take you there, Mr Bell. These transactions weren't discovered until 2021 by management at Star Entertainment, which does suggest that there was not a careful monitoring of the bank accounts in that intervening period.

30

35

Now, I've addressed you already on the fact that proposals were made in light of the bank account closures in Macau - the Bank of China accounts - and so management gave attention to using EEIS as a payment channel. And the board was notified of this. And I've given you the relevant exhibit numbers. We submit this was always going to be a higher risk payment channel by virtue of the patrons who were being dealt with. These are the high volume transactions from overseas. So the money risk was greater there.

40

But notwithstanding that, it's our submission that until late 2019, there was no transaction monitoring occurring of the bank accounts of EEIS, either overseas or

45

in Australia. And I'll take you through the relevant documents now to make good that submission. This becomes clear when one has regard to the correspondence which passed between Star Entertainment and NAB Bank in 2019 as NAB started to make more and more detailed queries of Star Entertainment about what had happened in the NAB bank accounts for EEIS.

And what the evidence shows is that there were delays in Star Entertainment responding to NAB's queries, and that was because there was a lot of work going on in the background with Skye Arnott, Oliver White, Michael Whytcross, trying to understand what, in fact, had happened in the NAB EEIS accounts.

So to start with, can I take you to exhibit B1399. Here, you will see an email from Tanya Arthur at NAB on 23 May 2019, asking Star Entertainment for more details about the AML program for EEIS. And in the email at the top of the page, you see a response from Sarah Scopel dated 7 June 2019, into which Skye Arnott is copied, and it attaches a completed version of the AML questionnaire for EEIS.

I'll take you now to that completed questionnaire. It's exhibit B1440. And Ms Skye Arnott completed this questionnaire on 5 June 2019, indicating that she was the group manager of AML/CTF and financial crime and an AML compliance officer for EEIS. So in the first page, she was asked to provide a brief description of the business, and she explains that:

"EEIS is extending its business offering to include provision of remittance services to individual clients."

And that:

"The clients can use the remittance service of EEIS to send funds from Hong Kong -"

And so on. Then over the page, at the top, Ms Arnott explained:

"The NAB account is used for transfers to client front money account at a casino owned by Star and the repayment of debts."

And she also says - and this is important:

"EEIS Services has not commenced remittance activity."

So that's what NAB is told at that point in time. Over at - well, a bit further down the page, you will see under the heading General, Ms Arnott declines to provide the bank with a copy of the AML/CTF program. That was on the grounds of commercial-in-confidence. I think the evidence discloses that eventually, following some further prodding from NAB, that program was provided to NAB.

Ms Arnott indicates, at pinpoint 0160, that there is a money laundering reporting officer and AML compliance officer who is responsible for client compliance oversight. While Ms Arnott doesn't name names here, she specifies the officers of herself and Mr Whytcross. It's our submission, though, that the evidence
5 establishes that neither of those people were taking steps at this time to ensure the compliance of EEIS with its AML/CTF program and, in particular, neither of them took any steps at this time to ensure that transaction monitoring was occurring for AML purposes, which makes the statement on the next page rather concerning. If I take you, Mr Bell, to point 0161. There's a heading Transaction Monitoring, and it
10 says:

"Do you have transactions monitoring process in place? Yes."

And it's said to be manual. And a little bit further down:
15

"All transactions that take place in relation to designated services will be monitored for red-flag activity."

We submit that that monitoring was not occurring at the time that Ms Arnott completed this questionnaire. And you will also see at pinpoint 0162, there's a heading Regulatory Reporting. And it says:
20

"Does your program include reporting requirements for suspicious matter reporting -"
25

And so on:

"And international funds transfer instructions?"

30 And it says:

"Yes -"

Ms Arnott said:

35 "Yes."

And then she said the IFTI reporting is manual. In fact, the evidence shows that, at this time, Ms Arnott had no idea whether IFTI reporting was happening or not, and
40 I will take you to that evidence in due course. And then it says - over the page at pinpoint 0163, there's a question at the top:

"What is the frequency of IFTI reporting submission to your applicable regulator?"
45

And Ms Arnott stated:

"Quarterly in Hong Kong and within 10 days in Australia."

5 And just to take one step back, the position of Star Entertainment is that the AML/CTF program of EEIS was compliant with both the laws of Hong Kong and the laws of Australia. And - so that was submitted to NAB at that time. Then --

10 **MR BELL SC:** So at this stage, NAB are being told that there are two types of designated services - loans and remittance services - but that neither of them are yet occurring.

15 **MS SHARP SC:** Yes. As I'm just about to move to, at this time there were a series of deposits by third-party remitters moving into these bank accounts. And what is in evidence, Mr Bell, is some internal correspondence of NAB that has been produced to this Review. And I'll take you now to exhibit C0118. And I'll just have that - this is some internal correspondence at NAB. It's in blue shade, so I won't say too much about it. But if I could take you - if I could just have that scrolled up somewhat for you.

20 And could I direct your attention to point 1 on that 23 September 2019 email. And what is effectively noted here is that the discrepancy between what appears to be taking place in the transactions and what was reported in the questionnaire that Ms Arnott filled in. This led to a telephone call between NAB representatives, Ms Tanya Arthur and Bhawna Bhardwaj, on the part of NAB, and Oliver White, Paulinka Dudek, Sarah Scopel and Skye Arnott on 2 September 2019.

25 There is a file note of that telephone call at exhibit C0095. This is a file note taken by NAB. I might take you to that file note. It's exhibit C0095. It's a little bit difficult to read. I will have it enlarged, if I can, please, operator. We submit this is a reliable document. It's a contemporaneous note of a conversation that took place. It says - it reports that EEIS was registered with AUSTRAC, that there was remittance from various countries and that EEIS was extending its business to offer remittance services. And then it was explained how a remittance could be arranged. Notably, about halfway down that page, what NAB records is.

35 "EEIS has not initiated remittance transaction business."

40 Now, that is something of a discrepancy when NAB came to look at what had actually happened in the EEIS accounts at that time. And it suggests that the AML team at Star did not have a good understanding at that time of what was actually going on with the EEIS accounts.

45 If I can take you now to - sorry. Probably - yes. If I can go to exhibit B1649. That meeting, Mr Bell, is that NAB sends a request for more information in relation to certain transactions. So this is a 4 September 2019 email. And NAB points out that there are some transactions that have been flagged by its AML team. And as you

can see, Mr Bell, more information is requested about these transactions. And I'll just take you to the statement - the bank account statement that NAB sent through. That's B - operator, if we can go to B1650.

5 Now, this is an NAB bank account statement for EEIS, and Ms Arthur indicated in her evidence to you that the red annotations had been made by NAB. It's a little difficult to read this. But if you have regard to, for example, transactions for 11 January 2019, you will see that there are transactions for Silver Express, which is one of the remitters. And then there's - if you look at the 15 January 2019 entry,
10 there's - I think it's IMS Services, and there's a note there, there's a Hong Kong MSB - that's a money service business - and so on. And then over the page - the 5 February 2019 - there are more transactions involving Silver Express, which is a money service business. So that's the inquiry that goes over to Star.

15 **MR BELL SC:** Can I just see the top of that page, please. So perhaps I'm getting ahead of you, but my broad understanding is that some of the transactions into this bank account reflected loans by EEIS, either loan payments or loan repayments, but only a very small number. Then there's a large number of payments using EEIS effectively as a proxy payment channel to The Star, many of which, at least
20 if this bank statement is typical, are coming from third-party remitters in overseas jurisdictions.

But some of them are not from third-party remitters. For example - I won't identify their details, but if you see the entry for 31 January 2019, there's a deposit of
25 \$94,182.91, which doesn't indicate that it's from a remitter. Now, in respect of those payments which were not relevant to loans and were not payments from third-party remitters, why would they not be considered as remittance services provided by EEIS?

30 **MS SHARP SC:** Well, that's our point. We submit that they are remittance --

MR BELL SC: I see.

35 **MS SHARP SC:** Yes. But - and this is the difficulty - Star Entertainment at this very time were telling NAB that they hadn't brought the remittance service online as yet, when clearly what was happening in the transactions suggests otherwise. Or otherwise there had been a proxy remitter because they're allowing a third-party remitter, either Silver Express or somebody else, to do it. This is all to say that until NAB commenced querying what was happening in these accounts, it
40 appeared that nobody at Star Entertainment had a very good idea of what was happening in these bank accounts.

MR BELL SC: And to the extent to which they were conducting remittance services - in other words, where there was no loan activity and a third-party
45 remitter was not involved - that would have been a designated service provided by EEIS, would it not?

MS SHARP SC: That's correct.

MR BELL SC: Yes. Thank you.

5

MS SHARP SC: Now - so that's the query that moves from NAB to Star Entertainment. Now I will go to what happened within Star Entertainment following this query. So what we see later on 4 September - that's the same day - 2019 - and we see this at exhibit B1654 - is Adrian Hornsby sending an email to Star credit and collections, and copying it to Oliver White and Skye Arnott, amongst others, saying:

10

"Please do not allow any more front money deposits into our NAB EEIS bank accounts until further notice. Only for CCF marker redemptions until further notice."

15

So we submit that was in reaction to this query that came through from NAB. Then on 5 September - and this is in exhibit B1702 - Ms Scopel emails Ms Arthur and says in her response:

20

"I have followed up and risk will provide the response on specific -"

Sorry, I've got the wrong page here. Operator, could we go over to the next page. Yes.

25

MR BELL SC: So Mr Hornsby's email is the very same day as the Tanya Arthur query?

MS SHARP SC: That's right. And we submit that that's in reaction to this query. And in a sense, it panicked the horses. So at pinpoint 0365, if you look at the bottom half of that page, you will see an email from Sarah Scopel to Ms Arthur dated 5 September 2019 where she says:

30

"Following the call on Monday, our risk team immediately reviewed the transactions in the account mentioned and found no concerning transactions. We will respond to specific transactions queried."

35

Now, that's sending a different message to the one I've just taken you to from Mr Hornsby. What you see up on this page, and then going back to the next, is Ms Arthur continuing to press Star for a substantive response and The Star continuing to delay in providing that response. And that's because we submit there was something of a mad scramble within Star Entertainment while they tried to understand what had been going on in these accounts.

40

Then - in that regard, there's an email that passes from Mr Oliver White, which is dated 6 September 2019, regarding investigations in those accounts. I don't need to

45

take you to it, but it's exhibit B1681. This revealed that the bank accounts showed that there had been CCF redemptions in there, but also front money deposits and what were described as win/loss rebate top-ups.

5 At exhibit C0115, that's an email from Gabriela Soares to Mr White, and that email indicated that there had been deposits into those accounts from Silver Express, but there had been no source of funds investigations where those deposits had occurred.

10 Ms Arnott gave evidence at day 13 at transcript 1527 that, at this time, the EEIS bank accounts with NAB were being used to advance loans and to collect repayments for cheque cashing facilities and to advance front money, and that she only became aware on 5 September, that is, the day after the NAB query, that
15 EEIS was collecting front money deposits. So that's when she became aware that EEIS had, in fact, been activated as being a remitter. And that's so notwithstanding that she is the AML/CTF compliance officer for EEIS, and she had completed the questionnaire which was submitted to NAB a little bit earlier. She also gave
evidence at page 1522 that by that time:

20 "We hadn't settled whether or not those payments required an IFTI to be submitted to AUSTRAC."

And that may be contrasted with what she said in the questionnaire she earlier submitted to NAB where she said that they did do IFTI reporting, Mr Bell.

25 **MR BELL SC:** Just to be clear, your submission is that when the EEIS payment channel was being used for the purpose of front money account payments, that it was, in fact, acting as a remitter.

30 **MS SHARP SC:** A remitter. That is so. And it was otherwise acting as a proxy remitter when it was receiving moneys from a third-party remitter, that is, a money service business.

Now, on 13 September, David Procter directed, as advised by Mr White, that there
35 should be no deposits for CCF match details. We're not exactly sure what that means, but that direction was issued - that's at exhibit B1688. And that same day, that is, 13 September 2019, Ms Arnott met with Sabrina Yi and requested Ms Yi to lodge IFTIs with AUSTRAC in relation to identified transactions that she considered to be IFTIs. And she says that at paragraph 68 of her first statement.

40 Then, on 17 September 2019, NAB held an internal meeting, which Ms Arthur attended, and there's a file note for that at exhibit - it's either exhibit C0108 or exhibit C0109. I might bring that up, Mr Bell. It's exhibit C0109. And there's a heading Star and EEI at the bottom of that page. Operator, could we have that
45 enlarged, please. And you'll see there's some commentary there in relation to the

EEI transactions. And if I can draw your particular attention, Mr Bell, to the third-last sentence on that first page. It says:

5 "However, transactions in NAB's EEI accounts in January to March 2019 seem to be money service business activities (inward payments from third-party money service business then paid directly to individuals in Australia) rather than payments to Star's account to allow repayment of debt to Star or providing advance to Star's customer."

10 And over the page:

 "EEI/Star AML team did confirm their transaction monitoring control does not include review of the relevant bank account transactions."

15 And this is - we say this is an important admission that was given to NAB, that there was no transaction monitoring by the AML team at this time. And we say that's what comes out of that. That admission that was made at that 17 September 2019 meeting. And then a little further down, it says:

20 "Further to the meeting, some transactions were shared to EEI AML team for review and clarifications on who the payers are, who the recipients are, how these transactions aligned with the EEI activities (or lack of activities as indicated in the AML questionnaire), if they are Star customers what the due diligence and screening has been carried out. Response is still pending. This
25 also creates challenges for a further site visit to review Star's AML program and controls in that the design and effectiveness of the program and controls may not be in line with NAB's expectation and risk exposure, despite what was advised by the client."

30 The concern here is that Star Entertainment had not provided an accurate account to its bank of the purposes for which the EEIS bank account statements would be used, and this is what the internal documentation of NAB appears to suggest, that they felt they had not been given that full account, Mr Bell.

35 Now, I've indicated already that after the 4 September 2019 query from Ms Arthur appending the transaction, Ms Arthur had to follow up on a number of occasions. That response was finally provided two weeks later, which was 18 September 2019, which - it may be found at exhibit B1701. And I'll just - you can see the
40 email of Ms Scopel of 18 September says that Ms Arnott will provide a written response, and then Ms Arnott does provide a written response on 18 September 2019 to explain what the various transactions were in the bank accounts.

45 The next thing that happened - if I can take you to exhibit B1722 - is that NAB sends an email to Ms Scopel on 30 September, advising that NAB wants to revisit the discussion about AML and transaction monitoring for EEIS Services, and it's

asking for a face-to-face meeting with Harry Theodore and Paula Martin as the chief risk officer. So there's a clear escalation on NAB's part.

5 Then, can I take you to exhibit B1738. And this is an email recording an appointment being made for a face-to-face meeting on 14 October 2019 with a series of high-level representatives from NAB and from Star Entertainment, Ms Martin, Mr Theodore, Ms Arnott, Mr White and Ms Scopel. And as you can see at the bottom of that page, there's an agenda for that meeting, and number 2 is transaction monitoring. And what's being put on the agenda is:

10 "EEIS and Star's transaction monitoring process and assessments (and any recent enhancements?)."

15 As well as questions about how Star is managing risks with those accounts.

Then, can I take you, please, to exhibit B1741, which is an email after the meeting has taken place. And this is - and we see two emails here, both back to Ms Scopel, one is from Tanya Arthur and the other is from Steve Blackburn at NAB dated 16 October. And you will note, Mr Bell, that they both thank Star Entertainment for the transparency in the discussions. And we say that is because Star Entertainment admitted at that meeting that it was not conducting any transaction monitoring on the EEIS accounts at that time.

25 Just while I am in the correspondence that occurs between NAB and Star Entertainment, could I take you quickly to exhibit B1784. And this is an email from Ms Arthur after that meeting which tries to confirm some of the statements that were made at that meeting about dealings with Suncity. And you'll see that the note that Ms Arthur had taken of the meeting - and you'll recall I examined her about this, Mr Bell. Her note of that meeting that she wants to run by Ms Arnott is that she was told at the meeting that:

30 "Suncity's VIP room with Star has been closed and a direct relationship with Suncity chief executive Alvin Chau no longer exists. However, Suncity is one of the biggest junket operators globally and has multiple junket businesses -"

35 And so on:

40 "The closure of the Suncity VIP room was a commercial decision driven by slowing demand."

So that's the note Ms Arthur took at the time. Ms Arnott responds to that a few days later, and I'll take you to her response, clarifying what was said, at exhibit B1789. And you'll see here there's an email from Ms Arnott to Ms Arthur dated 31 October 2019. And down the bottom of that email, Ms Arnott sets out what she says was said at the meeting and what becomes the official record in the NAB file notes:

"The Star has withdrawn exclusive access to one of its VIP rooms previously provided to a junket operator associated with Suncity Group."

5 And then:

10 "Suncity is one of the biggest junket operators globally, is listed on the Hong Kong stock exchange and has multiple junket businesses operating under them. The Star maintains a business relationship with Suncity chief executive Alvin Chau. The withdrawal of exclusive access to the VIP room was a commercial decision driven by slower demand."

15 Now, that's just not right. As I've shown you in the evidence earlier today, it was Suncity who terminated the agreement because of its concern about the media allegations. But it is worth noting that there is no disclosure by Star Entertainment to its banking partner at all of the concerns about Suncity and Salon 95 held by Star Entertainment at this time. Would you pardon me for one moment, Mr Bell.

20 Just one other document. It moves a little bit forward in time, but while we're looking at NAB/Star Entertainment correspondence. Could I take you to exhibit B2077. Ms Arnott sends an email to Ms Arthur at NAB on 19 December 2019, more information provided about EEIS. And if you have a look at the second dot point, the text in black was the query from NAB. And it said:

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

And then Ms Arnott answers - that's in the purple text - and says that:

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

And a little further along:

35 "These do not represent remittances conducted by EEIS. The Star conducts due diligence on the customer who is responsible for repaying the debt but does rely on the money service business to conduct the required due diligence on the payee. The Star (and EEIS by proxy) request that our customers only deal with licensed remitters so that we are able to rely on the due diligence
40 conducted by the MSB."

45 Now, two observations about this, Mr Bell: first of all, this is an outsourcing of AML responsibilities, but, secondly, contrast it with the email that I took you to earlier today - sorry, not the email, the memo that Mr White wrote to Ms Martin and Mr Hawkins in August of 2019, pointing out the risks associated with dealing with these third-party remittance services. And I think it was to the effect that Star

had not, by that time, confirmed whether or not the remittance was lawful in Macau. So just to contrast those two different tones and sentiments.

5 **MR BELL SC:** Just going back to the meeting that occurred with NAB representatives in October, you've taken me to one area where NAB sought clarification of one issue relating to Suncity. Is there any other record of what occurred at the meeting, that is, is there anything that occurred there that's relevant?

10 **MS SHARP SC:** Yes. There is a full file note of that meeting. I will just ask my learned junior to pull up that file note. It's an NAB file note that NAB produced to this Review.

15 **MR BELL SC:** Yes.

MS SHARP SC: So if I can come back to that (indistinct).

MR BELL SC: Yes, of course.

20 **MS SHARP SC:** Now, can I return to some evidence that Ms Arnott gave to you. She agreed in evidence at day 13 at page 1524 that third-party remitters depositing funds into these bank accounts increased money laundering risks:

25 "To some extent -"
She said:

30 "But they were licensed remitters and we were comfortable with the acceptance of those transactions."

Contrast that with what Mr White said in his August 2019 document. That said, there's no evidence that Mr White gave that memo - that particular memo to Ms Arnott, but just contrast those two different views. Ms Arnott also told you, at page 1524, that The Star was comfortable with Regal Crown:

35 "To an extent, although I do believe we had some concerns about some aspects of Regal Crown's transactions."

40 And she also said that a problem of remitters depositing funds into the accounts is you cannot be sure of where the money is really coming from, and she agreed that it increases the source of funds risks. And I asked her about what steps Star had taken to verify the lawfulness of the remittance processes used by Regal Crown in Macau.

45 And at page 1589 to 1590, Ms Arnott said that her understanding was that Star had asked for quite a significant amount of information, and that while Regal Crown

assured Star that it was lawful, they didn't want to provide the commercial processes to Star. But she said it still gave Star comfort that Regal Crown was a licensed money services provider in Hong Kong.

5 Mr Brodie said at day 21 at page 2418 that he thought it was difficult for Star
Entertainment to assess whether Regal Crown was a suitable partner as Star didn't
understand its approach to anti-money laundering and that he was aware that
AUSTRAC rated them as a high-risk business from a money laundering
10 perspective. And I think, in that context, he didn't mean Regal Crown in particular,
but money service businesses more generally.

Now, exhibit - I don't need to go to it, but exhibit B1700 is an email from Skye
Arnott dated 18 September 2019 to the cage that advises that:

15 "We will report front money related transactions through EEIS as IFTIs."

And:

20 "We have not yet finalised the process for accepting these payments. Moving
forward -"

She said:

25 "I ask you notify the AML team if there are any front money transactions
through EEIS as soon as possible so we can organise reporting."

We submit that this email confirms that, until that time, there had not been
transaction monitoring by the AML/CTF team. And we submit that the cage
30 looking at bank account transactions for the purpose of making ledger entries is
not the same as the AML team monitoring those bank accounts for suspicious
transactions.

Can I also refer you, Mr Bell, to exhibit B1720. I might bring this up, if I can. This
is important because it again confirms that the AML team had not been monitoring
35 the bank account statements because it did not have access to them prior to this
time, Mr Bell. The 26 September 2019 email from Ms Arnott to Ms Dudek in
group treasury - and recall that group treasury controlled the bank accounts - says:

40 "As discussed, could you please make Michelle Chiu (in our Hong Kong
office) and Wayne Willett (from our Sydney AML team) - add them to the
EEIS bank account with read-only permissions."

So it was only from that time that the AML team could, in fact, have access to the
EEIS bank account statements.

45

MR BELL SC: Mr Aloï gave some evidence, as I recall it, that his team had been doing some sort of monitoring for the EEIS accounts.

5 **MS SHARP SC:** Yes. We submit that there was a tendency on the part of both Ms
Arnett and Mr Aloï to overstate the level of monitoring that had been conducted
by the cage. And we submit that, properly understood, all the cage was doing until
that point in time was looking for money and money out to see how the ledgers
were to be adjusted for the various patrons and didn't have an eye to AML risks. I
10 can't put my finger on the exhibit number now, but in evidence is a change to the
cage procedures. And it was only a fairly recent cage procedure where it went into
far greater detail about what money laundering risks had to be monitored for. And
I will try to - I will see if one of my juniors can pull up --

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

MS SHARP SC: -- the document there. So that's really to paint a picture of what
we submit was an inappropriate level of monitoring of the EEIS accounts,
notwithstanding that, of their nature, they involved higher risks.

20 **MR BELL SC:** And the transactions that were apparently occurring were wholly
different to what the board had been told was going to be occurring.

MS SHARP SC: That's right, Mr Bell. There's another aspect of EEIS that we
25 need to address you on, though, and that's in relation to the EEIS loans. And the
board were told that EEIS was being set up to provide loans. The evidence
indicates - and here, the relevant document is a letter - I might - I'm not sure that's
the correct entry. I've got exhibit B3331, but I might need to check that, Mr Bell.
But the solicitors for Star and Star Entertainment advised this inquiry that in the
30 period 2019 to 2020, EEIS provided loan facilities to five patrons. One of those
was Sixin Qin, the junket operator, and it is explained that there were around 40
drawdowns, and the last drawdown occurred in March of 2020. The loans were
recorded in an EEIS receivable control master sheet. The largest loan was to Sixin
Qin, who was the junket operator.

35 We submit that there are serious concerns with the whole idea of the EEIS loan
arrangements because there simply was no commercial purpose to these loans.
There was some evidence to you that it allowed a later repayment date to the
customers, and this was the commercial justification. However, we submit that an
obvious implication of these loans was that it would change the appearance of the
40 transactions and give comfort to patrons that money moving through their bank
accounts would not be connected with casinos. And we submit that this was the
underlying reason for the EEIS loans. And that was stated as much by John Chong
in his paper to the board where he said to the board, "This will change the
appearance of the transactions." And we say that was the purpose of those
45 transactions.

Ms McKern analyses these transactions in her first report, Mr Bell. She describes them as window-dressing. If I take you to her report - and she was not challenged on any of this evidence, despite the fact that there was full opportunity to do so. If I can take you to exhibit C0330. This is the first report. And can I take you, Mr Bell, to page 16. And if I can highlight the second half of that page, Mr Bell. I'll start in the left-hand column. And this is Ms McKern's CUP section. She goes into more reasons in the body of her report. But she says:

10 "The design and promotion of the China UnionPay cards and the EEI loan arrangements indicate that Star was prepared to engage in window-dressing so as to navigate potential legal, regulatory and contractual obstacles. While we have no evidence of these practices involving actual money laundering, we are of the opinion that they put The Star at grave risk of."

15 Dot point:

"Failing to mitigate, manage and report the risk of money laundering and terrorism financing; and/or potentially being complicit in enabling the placement, layering and integration of illicit funds."

20

And:

"Further, these risks are heightened by our conclusions in regard to The Star's lack of curiosity and rigour in relation to the patron's source of wealth/funds."

25

And in the right-hand column, Ms McKern says:

30 "Both the CUP process and the EEIS loan arrangements involve complex, but precise, processes and documentation which obscured the simple underlying transaction of shifting funds from offshore to the casino."

MR BELL SC: Well, I suppose you have to analyse why it was that EEIS was reactivated. What had occurred up till the end of 2017 was that customers in Macau were making large cash payments into the Bank of China Macau account, which, through The Star's facilitation, were disguised as payments by The Star to itself, when they were, in fact, payments from customers. And so up until the end of December 2017, patrons in Macau were able to disguise payments to The Star through the fake documentation, as you've called it.

40 That came to a sudden jarring stop. And leaving to one side the interim arrangement with Kuan Koi, it was EEIS which was designed to, and did, in fact, deal with that problem, namely, customers in Macau wanting to disguise the fact they were making large payments to The Star. So if you analyse it in terms of the problem that was being sought to overcome, it does seem that it was - that that was
45 the very problem. And it was achieved by using a proxy payment channel that was through a company that had no apparent relationship with The Star.

MS SHARP SC: Yes. And when you look at the very name, EEI Services, any third-party law enforcement agency looking at bank account statements would have - without more, would have no understanding that the substance of the transaction was to move money to a casino, Mr Bell.

And the concern here is that the board was given some notice about this. I've referred to what Mr Chong said in the cover page to his memorandum, but the board was also told, "We have a problem here in moving money because the Bank of China Macau accounts have shut, and we have another problem because our patrons are reluctant to have it appear on their bank account statements that they're moving money to a casino." And this is where we say there was a need for more active stewardship on the part of the board to interrogate what the money laundering and terrorism financing implications of this arrangement were.

In any event, we submit you would have some - against those circumstances, which we have just discussed, you would have some scepticism in accepting the evidence of - I think it was Mr Whytcross and Mr Theodore, that the reason for these loans was to extend the time for repayment.

MR BELL SC: Well, there were a number of witnesses who gave evidence to that effect, including, as I recall, Mr Bekier. But it may be that these EEIS loans served more than one purpose.

MS SHARP SC: Yes, that is - that could be, although I rely on the circumstances I've just outlined to you. There is another problem, we submit, with the EEIS loan arrangements, and that comes in relation to a breach of section 74 of the Casino Control Act. It was not until July of 2020 that section 74 was amended so as to permit casino operators to provide credit to junkets and rebate - I think the language is junket or rebate player or premium player.

That meant that, in practical terms, the only way of providing credit in a way that would not infringe the prohibition in section 74 was through the cheque cashing facility procedure in section 75. The prohibition in section 74 - and can I take you to section 74 of the Act, Mr Bell. It doesn't matter which version of the Act you use; this part hasn't changed. Mr Bell, do you have section 74 in front of you?

MR BELL SC: Yes.

MS SHARP SC: So it provides, section 74(1):

"A casino operator must not, and an agent of the operator must not, in connection with any gaming in the casino, (b) lend money."

Now, it's our submission that the facts establish that EEIS was an agent of the casino operator. While it is the case that EEIS stated in its application to become a

close associate in around 2014 that it was not an agent for the casino operator, merely stating that does not make it so.

MR BELL SC: It was also in the context of it proposing to be a junket itself.

5

MS SHARP SC: Yes. And arrangements had changed - I think that's the point you're making, Mr Bell. Arrangements had changed by 2018/2019. One needs to look at what the substance of the arrangements are, and the substance of the arrangements were that this company was entirely controlled by Star

10 Entertainment, in terms of the benefit of Star, to funnel money into the casino and to repay debts for the casino to fund gambling.

The credit and collection was undertaken on behalf of - or it was undertaken by Star. Indeed, credit assessment was undertaken by Star. The directors, I think, were executives of - the directors, if I recall correctly, were Mr Theodore and Mr Bekier, who were senior executives, of course, for Star Entertainment, and also the directors of the casino operator. And it acted - EEIS acted entirely for the benefit of the casino operator. It had no capital of its own. The only reason it made loans was for the purpose of equipping junket operators or patrons to gamble in the casino.

15

20

And when one looks at those facts, one, we submit, would reasonably conclude that there was an agency relationship. The concern here is that it does not appear that any consideration was given to the question of whether this arrangement could breach the prohibition in section 74(1). And there is no evidence before you to suggest that, in 2018 and 2019, advice was taken about whether EEIS might be regarded as the agent of the casino operator for the purpose of the prohibition in section 74(1). And we submit that, once again, shows a courting of the risk of regulatory contravention.

25

30

MR BELL SC: Yes. I think Mr Theodore also told me that any decision by EEIS to make a loan had to be made by him as the CFO. But I also recall that there were at least one, perhaps two, agreements that were entered into between EEIS and The Star at the time that EEIS was activated. Are you going to take me to the terms of those agreements?

35

MS SHARP SC: I can take you to the terms of those agreements. I might need a short adjournment so I can locate those agreements. Would that be convenient, if we had the mid-afternoon adjournment now, Mr Bell?

40

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

<THE HEARING ADJOURNED AT 3:08 PM

45

<THE HEARING RESUMED AT 3:30 PM

MR BELL SC: Yes, Ms Sharp.

MS SHARP SC: Just before I forget, Mr Bell, you asked about the file note made by NAB of the meeting on 16 October 2019. It is at exhibit C0135.

5

Can I now move to address you more fully on the submission that EEIS was, in fact, an agent for the casino operator. There are a number of documents I need to take you to, Mr Bell. I'm just wondering where it's best to start. I will start with the - if I could call up exhibit B1096. What I'm showing you here is the EEIS loan facilities standard operating procedure. So this was the procedure that applied to EEIS. Could I take you to pinpoint 0517 - I beg your pardon, 0508. And to the heading Background. It states in that second paragraph:

15 "EEIS provides loan facilities to customers exclusively for the purpose of funding play at one of SGR's properties."

So that's the sole purpose, is to fund gaming. That's point number 1. Then it says:

20 "The credit exposure approval process is the same as Star Entertainment for the approval of the CCF. The approval limits also follow the same Star Entertainment delegated authorities policy limits used for the CCF."

And in practice, they were - those credit checks were conducted by Star Entertainment. Then it provides that:

25

"The EEIS loan is only approved if the customer provides a signed personal cheque payable to EEIS."

30 This is the distancing, Mr Bell. Instead of a cheque made out to the casino, the cheque is made out to EEIS. And then, Mr Bell, if you look in this second-last paragraph, it says:

"The customer may draw down on the loan facility -"

35 And so on. But it says:

"The loan is repayable to EEIS within 30 calendar days of program settlement."

40 That's the same amount of time as the repayment of the cheque cashing facility.

MR BELL SC: That's inconsistent with some of the oral evidence that was received.

45 **MS SHARP SC:** I beg your pardon? I missed that, Mr Bell.

MR BELL SC: That statement is inconsistent with some of the oral evidence that was received concerning --

5 **MS SHARP SC:** Yes. And some of the witnesses were taken to this in - I'm sorry, I can't remember who off the top of my head. Could I now take you to pinpoint 0517. And right at the bottom, you'll see 2.0, Buy-in. And it says:

"The buy-in process is a two-step process."

10 Bearing in mind this is EEIS, not the casino, but here it is in the standard operating procedure talking about the buy-in process. And over the page, at pinpoint 0518, it says - number 1 is:

"The signing of all loan documentation."

15

And then number 2 is:

"The buy-in at the cage, which includes the drawdown on the EEIS cheque cashing facility."

20

Now, if I can just take you forward to --

25 **MR BELL SC:** Sorry. Just before you do, this SOP has an effective date of 1 February 2015. Is the evidence that it remained in force and was operating in 2018 and 2019?

MS SHARP SC: I can't answer that directly. I'll have to --

30 **MR BELL SC:** Have that on notice too.

30

MS SHARP SC: Yes. Thank you. Now, just while we're on pinpoint 0518, you will see towards the bottom of that page, at 2.1.1, that:

35 "The personal cheque will be stamped with the EEI Services name and is signed by the customer."

40 And it's then held by the cage for safekeeping. Then, on pinpoint 0523, at 4.0, there's reference to the EEIS sweep. And then if I can take you to the final page, which is pinpoint 0529. You'll see all of the delegations are to officers of Star Entertainment who act for the benefit of The Star. So you'll see tier 1, the board-approved signatories are the general manager of VIP credit and collections, the manager of VIP and so on. And then tier 2, you'll see the delegations in New South Wales are to the casino cash services duty manager and so on.

45 So that's the first thing we wanted to take you to. The second thing we wanted to take you to was analysis of Ms McKern in her first report, which is exhibit C0330.

And I'm not sure - it's exhibit C0330. This is Ms McKern's first report. Operator, could we go to pinpoint 0022. And, Mr Bell, you will see a heading in the middle of the page "Findings: Other Overseas Payment Channels". And could we draw your attention to paragraph 2.7.3 where Ms McKern says:

5

"The EEIS arrangement involved the provision of loans to certain international patrons who had a CCF approval. The patron would enter into the loan agreement, provide a personal cheque as collateral and execute a drawdown request on the loan. At the cage, these documents would be presented and, at the same time, an EEIS counter cheque would be executed by The Star (payable to The Star, drawn on EEIS)."

10

And then the patron - the chips or the chip purchase voucher would be issued. And then at 2.7.6, Ms McKern says:

15

"The underlying transaction is simply a patron transferring funds from overseas to Australia for the purpose of gambling."

And Ms McKern says:

20

"The standard operating procedure -"

And that's the document I just took you to:

25

"Associated with the EEIS loan arrangement runs to 24 pages, with complex documentation, scripts and processes which have the effect of obscuring the simple underlying transaction, apparently in order to avoid scrutiny and potential breaches of law and regulation."

30

And then if I can take you to Ms McKern's second report, which is at exhibit H0634. This is the report of Ms McKern dated 26 April 2022. Could I take you to page 50 of that report. And the point here is that no money physically moves anywhere, Mr Bell. So if you have regard - at the bottom of the page, it says 6.8 Conclusions. And Ms McKern says:

35

"The findings of our review of the EEIS loan documents and associated front money and bank accounts are."

And then if I could highlight what appears on pinpoint 0051. Ms McKern says that:

40

"The loans entered do not involve any transfer of funds from EEIS directly to the patron. The credits made to the front money accounts of the borrowers reflect a liability of The Star Pty Ltd to that patron and as noted at section at 8.7.6 of our first report, The Star held the collateral for that loan in the form of a counter cheque executed by EEIS in favour of The Star. In the case of

45

each loan, the credit to the front money accounts was immediately redeemed."

And then:

5

"The EEIS receivables control spreadsheet indicates the loans were repaid as follows."

10 And then sets that out. So no money moves, that is, is physically transferred anywhere; it's all ledger entries. And then if I could take you to two further documents. I apologise - yes. The two other documents I need to take you to are exhibit G0813 - and this is a loan facility and guarantee deed between Star Entertainment and EEI Services and The Star. So Star is guaranteeing these loans, and that's made clear if you go to the recitals or the background at pinpoint 0055.

15

And then can I take you, Mr Bell, to exhibit G0812. And this is a memorandum of services agreement between Star Entertainment and EEI Services. Now, this was an agreement for - the services were in relation to marketing and credit checking and so on. I just wanted to draw your attention to pinpoint 0042 at clause 3.2. Mr Bell, our screens have just gone blank. Can you hear me?

20

MR BELL SC: I can hear you. I can see you. I have the document in front of me.

25 **MS SHARP SC:** All right. Thank you. This is - I can't see anything, but pinpoint 0042 at clause 3.2, there's a heading Relationship, and it says:

"The service provider is engaged to provide the services as an independent contractor."

30 Of course, the law is quite clear that the terms of the contract and their description of the relationship is not determinative of what the relationship is, and one must look to substance when it comes to analysing the agency - whether there is a relationship of agency. But our submission is, in all the circumstances, there was a relationship of agency. And that means that the prohibition in section 74(1)(b) of the Casino Control Act was enlivened. So the issue is that there's no evidence to suggest that The Star or EEIS or Star Entertainment took any advice about that matter, and it's another example of courting the risk of breach of the Casino Control Act.

35

40 **MR BELL SC:** Even if you gave this memorandum of services agreement full weight in accordance with its terms, the services that are dealt with are ancillary services. It doesn't touch on the question of the capacity in which EEIS is making the loans and whether that's as principal or as agent.

45 **MS SHARP SC:** Quite. Quite. You asked a question about the SOP and the fact that it had the date of 2015 on it. Mr Theodore's first statement addresses this

issue. I won't take you to it, but just to note for the transcript it's exhibit A1339 at tab 35. He says that - if you just pardon me for one moment. Yes. He says that the SOP EEIS loan facilities, which was exhibit B at 1096, was effective from 1 October 2018, although some of the footers say 1 February 2015.

5

MR BELL SC: I see.

MS SHARP SC: And just for completeness, he says that at exhibit B1095 will come into effect in February 2019, although the footers say October 2018 and February 2015. Would you just give me one minute to change some notes, Mr Bell.

10

MR BELL SC: So you've now concluded topic 19?

MS SHARP SC: Yes. Now, I've said all I need to say to call out Ms McKern's conclusions. They are at - that was topic 21. I'm very conscious of the time and that we're almost at the end of day 3. What we propose to do is to commit to writing our submissions on topic 22, which relate to the supervision of the VIP team, and topic 23, which I identified as certain shortcomings with high-value clients.

20

In terms of the - just in broad brushstroke, the issue with the VIP team, which was reporting to Mr Bekier until early 2018 and thereafter to Mr Hawkins, is that there were a number of examples where it appeared that there were simply no supervision - effective supervision - of those teams. We've already taken you to the example of the fake source of funds letters that were given to the Bank of China. But evidence has emerged that there were serious problems with two of the heads of those teams based overseas: firstly, John Chong; and secondly, Marcus Lim. And that neither - both of whom, in the end, resigned, but where there were very serious concerns about their conduct and management of the overseas VIP teams.

25

30

And, Mr Bell, you will recall the detailed note from Kim Lee in human resources which indicates a very high level of turnover within the international VIP team under the management of Mr Chong and the fact that there was a toxic culture there, and then she recorded the email of Mr Hawkins which said, well, the numbers are incontrovertible, which rather suggested that financial performance was prioritised over conduct within that team. There was very limited reporting to the board about Mr Chong moving on.

35

40

The evidence established that the next head of the VIP team, Marcus Lim, was subject to a range of very serious allegations in 2018 and again in 2019. That comes from the written statement of Mr Houlihan, as well as his oral evidence, and that, ultimately, the 2019 investigation into Mr Lim was not finalised, and he was given the opportunity to resign and put on what was described as gardening leave for six months. And nothing about that was reported to the board.

45

And then there was the situation with Simon Kim, who was the second in charge overseas and, the evidence shows, was the relationship manager for Suncity. A number of allegations were recorded against him, including that he embezzled funds relating to Suncity. And the evidence discloses that he disappeared and his employment was terminated.

Now, none of these matters were reported to the regulator, Mr Bell, and we submit that had there been a clear and transparent relationship with the regulator, these matters should have been reported. In any event, we'll develop that submission in writing.

MR BELL SC: The submissions you've made about Kuan Koi and EEIS as it progressed over time also bear, do they not, on the topic of the supervision of the VIP business?

MS SHARP SC: Yes, they do, because they show that nobody was keeping a very clear eye on what was happening in the accounts.

MR BELL SC: So you propose to supplement what you've said about this topic and the next topic, shortcomings in relation to high-value clients, in written submissions; is that correct?

MS SHARP SC: Yes. That's correct. The submissions I have made about Mr Chong, Mr Lim and Mr Kim, so far as the VIP team is concerned, and then certain shortcomings in relation to high-value clients, and that will include some submissions in relation to Huang Xiangmo, John Khoury and so on - they're some of the subjects of the media allegations.

MR BELL SC: Just summarise in very broad and brief outline what your submission is in relation to that topic.

MS SHARP SC: Simply that sufficient attention was not given to AML risks that were presented by these customers or suitability risks that were presented by these customers. And to take Mr John Khoury as an example, while he was excluded from - and this relates more to Star Entertainment, being a close associate. But while he was excluded in New South Wales because - I think the Police Commissioner ordered his exclusion because of concerns about his links with organised crime, he continued to gamble at Star Entertainment's Queensland casinos for some years after that.

And for example, in relation to Huang Xiangmo, that it wasn't detected that he was a politically exposed person. No source of funds requirements appeared to have been conducted notwithstanding the enormous level of turnover, in the billions in his case, and this showed a disregard for AML and CTF requirements, Mr Bell.

MR BELL SC: I would ask you to provide any written submissions on those two topics to me and to the parties with leave to appear by 5 o'clock next Monday, please.

5 **MS SHARP SC:** Yes. We will do that, Mr Bell. Then I'd like to move to the topic of allegations made in relation to the underpayment of duty. And could you just pardon me for a moment while I get the relevant documents. Now, Mr Bell, I don't think I need to take you to the duty - the relevant duty agreements. I'll just indicate where they are in the evidence. There's the 2008 duty agreement, which is exhibit
10 B0005, and there's the 2020 current duty agreement, which is at exhibit B3432.

The essential points coming out of those agreements are that a lower level of duty is payable by The Star Pty Ltd to the New South Wales Government for rebate revenue. And that's international rebate and domestic rebate. And you will recall
15 that there's a distinction between international rebate, domestic rebate and local players. And additionally to that, the responsible gambling levy, which I think is 1.5 per cent, is not payable in relation to the rebate business. So there's a significant difference in what the casino is due to pay to the New South Wales Government. An allegation was made in the media on 9 February 2020 that - and
20 this is exhibit B3648:

"Australian casino giant Star Entertainment encouraged local high rollers to falsely claim they lived outside New South Wales as part of a scheme that minimised the amount of gaming tax that the casino paid to the state
25 government."

These allegations were considered at a meeting of the board on 10 February 2020, and I'll take you to the minutes. They're at exhibit H0545.

30 **MR BELL SC:** 10 February this year, 2022?

MS SHARP SC: And you'll see there's reference to the media article in the purpose of the meeting, and then Mr Bekier provided a summary of the key points in the article. Could I take you to the next page, please. You'll see the minutes
35 record that Greg Hawkins spoke at the meeting and:

"Noted that the company's standard operating procedures have control processes regarding rebate program eligibility checks, patron residency checks and know your customer -"
40

And so on:

"Mr Hawkins provided assurance that the alleged practice of employees falsifying the residential status of patrons is unauthorised and that, at the
45 present time, he has no knowledge of such a practice as that alleged occurring."

Now, there's no record here - and one may therefore assume there was no information provided by Mr Hawkins at that meeting - to the fact that ILGA had made inquiries about what had happened during the COVID period in relation to how it was that, given that the borders were locked down, a number of players were counted as being international rebate players. And you heard evidence from that - from Mr Whytcross and from Mr Hawkins. And Mr Whytcross said, in his analysis, he was concerned that some of the players did not meet the criteria for the international rebate duty. And I'll go to that momentarily.

The evidence is that Star Entertainment has retained the law firm Gadens to conduct further investigations into the merits of these allegations, Mr Bell. By the time the evidence closed in this matter, there was no evidence that the Gadens' review had been finalised. Ms Pitkin did tell you, on day 33 at page 3613, that she understood that the report from Gadens would be available within the next couple of weeks. On the evidence that appears before you, there was not clear evidence to support the Sydney Morning Herald allegation. And without having the benefits of the more full Gadens' conclusions, it's not possible to express a concluded view about that.

What the evidence does establish is that there was likely a practice of the interstate and international sales team poaching players and - poaching local residents and converting them to rebate players, and that was because of certain commission arrangements that appertained. We also submit that the evidence established that there were inadequate and incomplete supporting documentation in relation to the categorisation of a number of formerly local players into interstate or international rebate players and that this showed that The Star's own standard operating procedures had not been complied with in terms of always having a completed residency checklist and having the supporting documentation with that list.

And you'll recall that there was the example of - I think it was 14 separate players where ILGA had made specific requests of - sorry, by ILGA, I mean the authority, had made specific requests. And Mr Power and Mr Hawkins had liaised about that request, and Mr Hawkins had directed Mr Whytcross to assist in finding supporting evidence. And Mr Whytcross gave you evidence that he could not find the supporting evidence in all cases. That was the first round of ILGA - the authority's inquiries, Mr Bell.

There was a second round of inquiries following from the COVID shutdown and the query as to how people had been categorised as international rebate players when they had been in the country for more than 183 days. This showed that the operating procedures of The Star were to use the 183-day test as the proxy test of whether somebody was a local resident or a domestic player, that is, an interstate player, or an international player. There is no guidance in the rebate agreements about how one calculates who is local, who is domestic and who is international.

But as a matter of taxation law, one of the approaches is to apply the 183-day rule, which is half a year, Mr Bell.

5 In any event, when Mr Whytcross assisted with that second analysis, certain shortcomings were identified in the analysis, including that The Star simply didn't count, for the purpose of applying that residency test, the days when the casino was shut. And there was no basis for deducting days of residency simply because the casino was shut, Mr Bell. We submit that what has been exposed by the evidence before you is evidence of non-compliance by The Star with its own
10 standard operating procedures in terms of the application of the residency checklist. So that's one issue.

A further issue is that advice was sought by Mr Power - external advice was sought from King & Wood Malleasons, who advised that it would be preferable to
15 adopt a different approach to measuring whether a patron was a local patron or not, rather than simply applying the 183-day rule. So a more nuanced approach was necessary. And you will see in evidence that there is a very recently adopted standard operating procedure where the residency calculation is changed.

20 **MR BELL SC:** That wasn't in force at the time that Mr Hawkins did his review of those patrons, though.

MS SHARP SC: No. No, it wasn't. It wasn't, Mr Bell. If you could just pardon me for one moment. Just to give you some document references to the submissions
25 I've just made, insofar as the initial inquiries were concerned in relation to the authority's requests about 14 nominated patrons, the findings are recorded in an email from Andrew Power to Mr Hawkins dated 12 August 2020, and that's at exhibit B3275. And that highlighted a number of patrons of interest and where there appeared to be some documents missing from those calculations.

30 And I won't take you to the schedule that Mr Whytcross and those under him prepared, but exhibit B0965 indicates where there was - in fact, I will bring it up to show you. Exhibit G0965. And this records where there was not the requisite documentation held by Star. In terms of the advices that King & Wood
35 Malleasons --

MR BELL SC: This document doesn't relate to the initial 14 patrons, does it? Isn't this an extract from the second review with Mr Hawkins' handwriting on it? I remember Mr Hawkins giving evidence about this document.

40 **MS SHARP SC:** Yes. Yes. Yes. With respect, you're correct. My note here is that this was Mr Whytcross' note of where there was not supporting documentation for 12 patrons who had been in Australia for over --

45 **MR BELL SC:** Yes.

MS SHARP SC: Or in New South Wales for over 200 days. And the blue shade indicates compliance, and the white shade indicates non-compliance there.

5 **MR BELL SC:** These are 12 patrons from the second set of patrons who were being analysed?

10 **MS SHARP SC:** Yes. And there were 21 patrons who were analysed there. I'm just trying to turn up the document. I hope this is the right document. If I can take you to exhibit A0623 . This is the full list. It's a little difficult to read. You will see that there are 25 patrons here.

MR BELL SC: Yes.

15 **MS SHARP SC:** And just to remind you, about midway through the columns, there's a column entitled "Casino Closed Days", and they were taken into account in the Adjusted Days column. Maybe if I could have the operator scroll along to the right. You will see there, Mr Bell, that it says Casino Days Closed and Adjusted Days, and it was only - patrons who exceeded 183 days, once those days were deducted, were the only ones who Mr Whytcross examined.

20 This is all to say, Mr Bell, that there are certainly indications in the evidence that patrons have been incorrectly classified as international rebate players using The Star's old test of 183 days. We are not in a position to know how widespread this practice is because the Gadens' investigations, so far as we understand it, has not
25 been concluded. But we submit that the evidence is such that you would be justified in recommending that a full audit take place of these classifications so that it can be understood one way or the other whether the international rebate players have been appropriately categorised as such for the purpose of paying duty to the New South Wales Government.

30 **MR BELL SC:** And what submission do you make in relation to the specific 23 patrons, if that's the correct number, where there was non-compliance by Mr Hawkins in applying the SOP that was in force at the time of his review? I think you did tell me that there was no justification for him to depart from the terms of
35 the standard operating procedures in reaching his decisions.

40 **MS SHARP SC:** That's right. And can I take you, please, to exhibit B3277. If I can bring that up. There's an email here from Greg Hawkins to Andrew Power dated 8 October 2020, and Mr Hawkins said that - he referred to the current COVID situation and said it:

"Unfortunately exposed some administrative confusion regarding the status of a number of rebate classified players. As per your guidance on point 3 -"

45 And that was guidance that Mr Power provided, summarising advice he had received from King & Wood Mallesons. But Mr Hawkins says:

"When this was identified we immediately transitioned any rebate player who had been in New South Wales for greater than 183 days on to a non-rebate player profile."

5

But he also says:

"I have reviewed the records of the identified customers in some detail and I am reasonably satisfied that each of them is a New South Wales non-resident."

10

Now, that, with respect, is not correct. The documents that he reviewed indicated that they should have been classified as being - as satisfying the 183-day test. So that's just not right. But Mr Hawkins told Mr Power, even though he thought it was correct, he has moved them anyway to --

15

MR BELL SC: That deals with the situation prospectively, but - and I appreciate what you say about the wider issue and how that's imprecise at the moment. But why shouldn't there be an adjustment of duty in relation to the specific patrons which Mr Hawkins accepted, I think, were misclassified - or had been misclassified?

20

MS SHARP SC: There, the evidence suggested there had been no adjustment, and this is despite what Mr Power writes to Mr Hawkins in the email at the top of this chain. If I can take you to that. So this is an email that Mr Power sends to Mr Hawkins on 17 October 2020. And three lines in, he says:

25

"I will leave it to you to liaise with the finance team to ensure that the monthly rebate duty reports are in order and any necessary adjustments have been made."

30

But Mr Hawkins was not in a position to tell us whether - I withdraw that. Mr Hawkins told us he did not cause those adjustments to be made. And that is at day 23 at page 2625 at lines 29 to 32.

35

MR BELL SC: And do you submit that there was an underpayment of duty, in that respect at least?

MS SHARP SC: Yes. There was clearly an underpayment of duty.

40

MR BELL SC: And that amount could be precisely identified, I take it?

MS SHARP SC: Yes. I think it was precisely identified in one of the schedules. I'm seeing if I have a copy of it with me, if I will pardon me. Yes. If I can take you back to exhibit A0623. And if we enlarge the - if we go to the right - the columns

45

on the right, you'll see there's one column that says 10 per cent and one column that says 27.5 per cent.

MR BELL SC: Yes.

5

MS SHARP SC: And you will note - so these are the precise calculations, Mr Bell.

MR BELL SC: Yes.

10

MS SHARP SC: And you will note that one of them - this is - it's the second line. This relates Guoyi Su, but it was a very significant difference in the duty payable of over \$2 million.

15 **MR BELL SC:** So is your submission that this document shows an underpayment of duty of the figure identified, which is approximately 2.5 million, but that this was potentially a very small subset of the whole of the cases where there may be an underpayment and that that would require a full audit?

20 **MS SHARP SC:** That is why we make the submission that there should be a full audit. There's enough of a concern here on the face of this document to indicate that the appropriate amount of duty was not paid and there has been an underpayment. Mr Guoyi Su is obviously the largest example, of just over \$2 million, but there are a number of differences indicated in this list of 25.

25

MR BELL SC: And do you also submit these duty agreements with the state government require more precision in terms of identifying residency for the purposes of the payment of duty?

30 **MS SHARP SC:** That could only be of benefit, Mr Bell --

MR BELL SC: Surely it shouldn't be left to the unilateral interpretation of the duty payer?

35 **MS SHARP SC:** No. And there is - I'm just - if I could just take you to two advices of KWM which may provide some assistance in this regard. Exhibit B3301. If I could bring this up. This is, with respect, a useful document because it shows how the requirement to pay duty interacts with the licence conditions to which the casino operator is subject. So that's useful for that regard. And what
40 you'll see at the bottom of page - the first page is that very last line. It says:

"The upshot is that in my view The Star has an obligation to notify ILGA if Star becomes aware that it has incorrectly classified a person as a rebate player by reason of their normal residency."

45

And then there's a further letter - what I will describe as the second KWM advice, which is at exhibit B3270. If I can take you to that. And this is a 2 September 2020 advice, and this indicates at the bottom of page 1 and over to page 2 that it's because there is no - if you look at the second page, Mr Bell, it says:

5

"Discussion. There is no definition of 'duty' in the duty agreement of the meaning of the concept of 'not normally resident in New South Wales'."

And therefore, because of that absence of a clear definition, it's necessary to analyse the revenue case law. King & Wood Mallesons here recommends that a different approach should be adopted, and that's what we submit informed the recent amendment to the residency requirements. But this level of uncertainty would be done away with if the agreements were amended to make clear provision for how one classifies a resident as local, domestic, or international.

15

If I could just finish up on this point, Mr Bell, and just take you to exhibit B2571. This is Mr Power advising Mr Hawkins in September 2020 that an urgent stocktake needs to be done during July and through to September, as it turns out, of who was normally resident in New South Wales. And Mr Power says:

20

"Given serious consequences arise if a person is mischaracterised for the purpose of rebate duty, care should be taken in undertaking this assessment."

And what Mr Hawkins did not do following this advice and following his own analysis, which we say established that the classification as international could not be justified, is cause an amendment to be made to the duty terms.

25

If I could return to my - in terms of the topics that I submitted I would address you on, Mr Bell, that brings me to the position of the directors. If I could just make some short observations on that now and then, if it's convenient, ask that we come back for one hour tomorrow to finalise these submissions. But just to - I've made a submission already that there's a tension here because we have senior management, which is not adequately reporting to the board, but at the same time, a board that is not engaging in active stewardship and being curious. So that's the dynamic here and part of the culture of the organisation.

30

35

We did wish to submit that there were signals that we submit the board ought to have picked up on to suggest to it that more care needed to be taken and more questions asked. And those signals - and the directors were examined on these signals. There were the Crown employee arrests in October of 2016, which highlighted risks of the VIP business. There was notification that there was a crackdown in mainland China on gamblers and that that had consequences for Macau, and the money laundering framework in Macau was tightening. And the board was being briefed on these matters.

40
45

There were then the allegations in the media against Crown Resorts in July and August of 2019, and allegations made about the very same junkets that Crown Resorts was dealing with, Star was dealing with. And, indeed, a consequence of the arrests of the employees of Crown Resorts in October 2016 is that Star Entertainment picked up some market share, and junkets that had formerly been more active at Crown Resorts came over to Star, including Mr Sixin Qin, for example.

There was then, of course, Commissioner Bergin's inquiry. There was evidence in public throughout the year in 2020, and Commissioner Bergin - the report was released and made public in February of 2021. Issues there were identified - serious issues - with respect to criminal associations of large junkets, including Suncity, and also with the real risk of money laundering in patron accounts and Crown Resorts' failure to adequately monitor its accounts. And that does give rise to the question of whether the board should have been more forceful at that time in asking the question, "Could these problems be happening here?" And we submit that active stewardship required that more penetrating questions be asked.

Then the evidence shows that the Finkelstein Inquiry got underway and that serious problems were identified with the use of China UnionPay at Crown Resorts. And Mr Seyfort provided a report to the board, which the board reviewed in September of 2021. And while we submit this was a slightly sanitised version of what, in fact, did happen at Star, alarm bells should well and truly have been ringing once the board read this report in September of 2021. In particular, it was suggested that a bank may have been misled by conduct of officers of The Star and that the practices of Star Entertainment were not in accordance with current expectations of how staff members should conduct itself.

It was in all of those circumstances, Mr Bell, that the media allegations were made against Star in October of 2021, starting in - I think it was 7 October. And there, there was, we submit, somewhat of a culture of denial which emerged when those allegations were first made known to Star Entertainment. Taking a step back for a moment, the board did take some steps to obtain more detailed briefings on what had happened with junkets and patron accounts, and that was under the rubric of Project Zurich.

And the evidence shows that the kick-off meeting of Project Zurich was in April of 2021. But this was well after the Bergin Inquiry had reported, well after the public hearings of the Bergin Inquiry and well after the media allegations in 2019. We submit the response was altogether too slow in revealing what had been occurring within Star Entertainment. And it does seem that it's really only been in the course of these public hearings that the board has developed real insight into the conduct of senior management and the extent of unsuitable associations and uncontrolled money laundering risks.

Now, with those observations, Mr Bell, I'd like to come back tomorrow and make some more specific allegations following on - not allegations, submissions following on from that context and then make a few final submissions about why we say Star and Star Entertainment are not suitable.

5

MR BELL SC: And you will be able to do that, conclude that in an hour?

MS SHARP SC: In one hour.

10 **MR BELL SC:** Very well. I will adjourn these public hearings until 10 am tomorrow. But Ms Richardson and Ms Sharp, I would like to have a discussion with you both in private mode now, please. If we could go into private mode, please, operator.

15 **<THE HEARING IN PUBLIC SESSION ADJOURNED AT 4:31 PM**

<THE HEARING IN PRIVATE SESSION RESUMED AT 4:31 PM

<THE HEARING ADJOURNED AT 4:38 PM