



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**

**FRIDAY, 3 JUNE 2022
AT 10:00 AM**

DAY 40

**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 with MR D. WONG
as counsel for The Star Pty Ltd**

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

<THE HEARING IN PUBLIC SESSION RESUMED AT 10:01 A.M

MR BELL SC: Yes, Ms Sharp.

5 **MS SHARP SC:** Mr Bell, can I start by making you aware that those assisting this
review have just been made aware of two new documents. I'll leave it to those
representing Star Entertainment and Star to fill you in on the circumstances as to
why these just became available. Can I just bring each document up for you. I
understand they're in Law in Order. Can I call up document STA.3418.0103.8363.
10 And I'll - this is an email from Graeme Stevens to ILGA dated 27 February 2014.
Could I have that marked for identification, please?

MR BELL SC: Yes. That will be MFI71.

15 **MS SHARP SC:** I might just say something about this first document before I
take you to the second. You will recall that it was in June 2013 that Graeme
Stevens made a submission to the regulator for an amendment to internal control
manual in response to some advice received by KWM. The evidence does not
indicate that the advice from KWM was provided to the authority at that time.
20 However, what we see in this email of 27 February 2014 is that Mr Stevens
purports to provide a summary of legal advice sought around the use of debit cards
in association with a front money account. You will note there's no reference to
CUP cards in that cover email.

25 If I could take you over to the second page of the document, Mr Bell. This would
appear to be a summary of the advice prepared by an internal lawyer at Star. It's a
very high level summary of the advice and the interaction between section 74 and
75. You will note that it makes no reference to CUP cards, nor does it make any
reference to the cards being swiped at the hotel or the understanding that the
30 UnionPay International rules prohibited the use of cards in the manner in which
they were used at Star.

Looking at this from a chronological perspective, you will recall evidence, Mr
Bell, that on 22 November 2013, Mr Stevens made a submission to ILGA, which I
35 have described as the first workaround relating to cleared funds. That's in evidence
at exhibit C7. Without more, it's not possible to say definitively how this email fits
in to the relevant course of events, although that's the temporal aspect. Could I
then take you to the second document --

40 **MR BELL SC:** Before you leave this document, Ms Sharp, I take it this document
could have been caught by one of the summonses issued to The Star some months
ago?

45 **MS SHARP SC:** Yes. Same with the next one I will take you to, which is
STA.3040.0001.0014. And can I have this marked for identification, please, Mr
Bell? It's from Mr Stevens to Mr Brearley at ILGA dated 26 May 2014.

MR BELL SC: It will be MFI72.

5 **MS SHARP SC:** And if you look towards the bottom of that page, reference is made by Mr Brearley to a review of submissions and consultation with ILGA's general counsel, and it's noted that Crown solicitors' independent advice will be sought on sections of the Act.

10 Mr Bell, without more, it's not possible to understand precisely where this fits in, but simply to note that, by this time, the submission that encompassed the first workaroud had been submitted. The evidence of Mr Stevens was that ILGA rejected that submission and, by this time, it would appear that the second workaroud, that is, the temporary cheque cashing facility, had been adopted without disclosure to ILGA. And you will recall the advice from Mr White to Mr
15 Bekier and others in February of 2014.

MR BELL SC: Mr Wong, you're representing The Star this morning, are you?

20 **MR WONG:** I am, for a short period, Mr Bell.

MR BELL SC: Well, why is it that these documents are being produced to counsel assisting just as she is finishing her closing submissions?

25 **MR WONG:** They were produced late in substance in error, Mr Bell, for which we apologise. The document that has recently been marked MFI71 was provided to King & Wood Mallesons by The Star on 25 May of this year as part of a dataset responding to a later regulatory notice, and it was identified as responsive to
30 summons 11 today, that is, yesterday, on 2 June. Again, we apologise for the late provision of that document. The document described as MFI72 was provided to King & Wood Mallesons on 4 April of this year, and it was just incorrectly assessed as being not responsive to any summons. And, Mr Bell, you will appreciate I don't seek to justify that as being responsive or non-responsive; the reality was that there was a large document review exercise, and it was one that
35 just was mischaracterised as being not responsive.

MR BELL SC: Yes. I see. Thank you for that. Yes, Ms Sharp.

40 **MS SHARP SC:** Could I tender some new evidence, which is part M. You should have a four-page index in front of you, with documents indexed as documents 1 through to 59. I tender that as exhibit M.

MR BELL SC: Yes. That will be exhibits M1 to M59.

45 **MS SHARP SC:** Mr Bell, this morning, over one hour, we wish to complete our closing submissions. I will address you today on the position of the directors and as well as making some final submissions on the question of suitability.

If I may start with some initial observations, Mr Bell. It is clear from the evidence that many systems failed. The risk management system failed; the AML/CTF system failed; the process of junket due diligence failed, at least so far as Suncity was concerned, and also we say Sixin Qin; and the evidence is that a system of supervision failed, and that was the supervision of the international VIP team. That one is a failure that goes to the very top of the organisation, given that Mr Bekier was in charge of that business until April 2018 and thereafter Mr Hawkins was. We submit that these system failures point to a conclusion that where there were tensions between competing objectives, profit won out. And that was even the case where the tension was with regulatory compliance.

In addition, the evidence before you, Mr Bell, reveals very deep-seated cultural problems, permeating the senior ranks of the organisation. There was a clear cultural problem within the VIP team, Mr Bell. And while it is the case that many problems related to the VIP team, we submit that the cultural problems extended beyond the VIP team and permeated many sectors of senior management. It was a culture, amongst numerous members of senior management, that was characterised by dishonesty; a lack of ethics; a preparedness to court the risk of regulatory non-compliance; a preference for a legalistic or technical approach to the law, rather than a concern with the spirit of the law and with genuine compliance; a disdain for the casino regulator; and a preparedness to mislead the regulator.

It was also a culture that was non-transparent, both to the regulator and to the board. We submit something has gone very seriously wrong within the culture of the senior ranks of Star Entertainment and, of course, The Star itself. It will take some time, Mr Bell, to unpack the reasons for these substantial cultural failings, and it is beyond the scope of this review, and your terms of reference, to unpack the reasons for those problems. We do submit that merely parting company with a number of senior executives and embarking on a program of board renewal is not enough to change the culture of the organisation and, at the very least, there must be a root cause analysis to understand what has gone wrong.

All of the directors gave evidence that they were aware of the risks of the VIP international business and that, in a sense, this was the pointy end for the business in terms of the risks of money laundering and dealings with patrons and other business associates who may not be of good repute. We submit that it should have been clear to the directors that this is where the greatest vigilance was required. We do submit that the board was briefed on certain steps taken by the international rebate business.

The board was kept generally aware of who the key junkets were, what money was coming in to Star Entertainment because of the international rebate business and what strategies were being pursued in the international rebate business. In particular, the board was made aware of the difficulties that occurred in the

5 aftermath of the closure of the Bank of China accounts in Macau in 2017, and the board was briefed on the development of different payment channels that were being proposed. The board was told that these channels were AML and CTF compliant, but we submit that given knowledge of the risks, a more active approach to stewardship was required on the part of the board, and the board was too passive in the face of the development of these payment channels.

10 Members of the board all gave evidence of feeling let down by management, and they were let down by management, Mr Bell. As I've indicated, there was a very problematic culture in the ranks of senior management. However, all members of the board - with the exception of Mr Bekier, all members of the board accepted that the culture of an organisation is set from the top of the organisation, and that means from the board. All board members did accept ultimate responsibility in their evidence, and apart from the specific matters I mention now, you would accept them as credible witnesses who all did their best to assist you, Mr Bell.

20 This all raises a question of what went wrong here, and we submit that the gravity of these problems only became apparent to the board at some point after these public hearings had commenced. What this means, as a practical matter, is that there has only been very limited time for the board and others within the organisation to reflect on what has gone wrong and what needs to be done. And the evidence indicates that some have reflected more than others, Mr Bell, and I will take you to some of those reflections a little bit later this morning.

25 Can I now take you to some exhibits which show some of the reaction of the board in the immediate aftermath of the media allegations made from 7 October onwards. And one of them which may be useful to start with - if I can call up STA.3029.0001.1491. And that's exhibit H471. This is an email exchange where Mr Bekier is passing on to the directors some feedback he has received from somebody outside the organisation from Inside Asian Gaming, who says that the stories are very frustrating and people have little understanding that much of what goes on is standard operating procedure for casinos around the world. At this point, this is a good indication of a lack of acceptance of the veracity of the media allegations, we say.

35 In the immediate aftermath of the allegations, the board released some ASX announcements, and I will there take you to INQ.003.006.0539. And you will see this is an 11 October 2021 announcement. This is exhibit H473. So what was reported to the market is that, in the second paragraph:

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

45 And a little further down, that:

"The Star operates in a heavily regulated industry."

5 So this is not indicative of any real reflection at this point in time, Mr Bell, which is somewhat concerning given that, in September 2021, the board was provided with Mr Seyfort's report on China UnionPay, which did highlight a number of very serious failings on the part of management, including the possibility that a bank had been misled.

10 There was another - just before I go to the second media release, I might take you to exhibit H475. This is an email chain between Mr O'Neill, Mr Sheppard and Mr Bekier. But, again, you can see the tone of the email. If I take you to the bottom one from Mr Sheppard passing on his consultations with somebody else speaking of conspiracy theories.

15 Can I then take you to exhibit H489. And I'm showing you an email chain which starts, if I can go to pinpoint 0067, with Mr Sheppard making a number of suggestions to Mr O'Neill and Mr Bekier in order to further understand the accusations and prepare a response to those accusations. At this stage, we would submit this discloses a misplaced confidence in the processes and procedures at Star. But can I take you to the first page of the email at the bottom where Mr
20 O'Neill responds and says:

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

Now, Mr O'Neill was examined about that, and I rely on the evidence he gave. I take you to this email to make good the submission that the board is at the beginning of its journey in understanding what went wrong here. At this time, it would appear that the chair of the board's main priority was to keep these media
30 allegations from being ventilated in public.

If I can take you, then, to the second ASX announcement, which was released on 12 October 2021. That is STA.3411.0001.7109. And that's exhibit B3176. Now, you will recall, Mr Bell, that the board members were examined about this second
35 ASX announcement. You will see it says:

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

Of course, we know now that the KPMG reports were indeed kept secret when baseless claims of legal professional privilege were made when AUSTRAC sought to share them. This media release focused on - sorry, this ASX release focused significantly on the KPMG allegations, Mr Bell, although, at this time, the
45 allegations were far more wide-ranging than simply in relation to the KPMG report.

Just a few other documents. If I can go to STA.3029.0001.1480. The evidence establishes what we submit is selective briefing of certain investors in the aftermath of these allegations. I'm taking you now to H493. You will see that this is an email from the chair, Mr O'Neill, dated 13 October 2021 that refers to a lift in the share prices. And Mr O'Neill says:

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

In response to the information that the share price has lifted. And we submit that, in the circumstances, you would construe that as Mr O'Neill taking some credit for the share price increasing. Just on that point, could I take you to pinpoint STA.3029.0001.1498. And this is exhibit H494. And what you will see here, Mr Bell, is an email from Mr O'Neill to the other directors dated 13 October 2021 saying:

"This is the briefing note used to talk to investors today."

Mr O'Neill's evidence was that he could not remember which investors he spoke with. The briefing note is in evidence. I won't take you to that now, Mr Bell. Suffice to say that it covered more matters than were covered in the ASX releases to the market. This brings me to some submissions I wish to make about continuous disclosure. You will recall that on Tuesday, I made the submission that the KPMG reports of 16 May 2018 were not disclosed to the market at the time and that there was a question about whether that was a breach of continuous disclosure obligations.

You asked me whether we submit that that is a question for you. We submit that it is not a question for you to resolve, but that it is a question you will note. And I will explain why I make that distinction. It is not a question that you can resolve because there is no admission or expert evidence to assist you in resolving that question of fact and, in particular, whether the information in the KPMG reports had an - or could have an effect on the price or value of the shares for the purpose of section 674 of the Corporations Act and rule 3.1 of the Listing Rules.

However, we say the question should be noted, for two reasons. Firstly, following the media allegations in early October of 2021, Star Entertainment did issue two ASX releases, being the ones I have just taken you to dated 11 and 12 October, and they focused primarily on the KPMG report. Mr Heap gave evidence that this was - that is, the issuing of these was because he recalled that the communication to Star from shareholders who had a concern to understand particularly in relation to the AML and CTF program, that is, this was the particular allegation causing concern to investors, and the investors wanted clarity about that allegation. And that was at day 31 at page 3447.

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Mr Heap also said that the feedback they'd been receiving from investors, and in particular large institutional investors, was focused particularly on questions of anti-money laundering and counter-terrorism financing. That's at page 3448. Ms Pitkin gave evidence to similar effect, we say, which is at day 33 at page 3633. Mr Bell, we accept that Mr Heap's evidence is not an admission that the 16 May 2018 part A report was required to be disclosed to the market, but it is some evidence that investors had a keen interest in that matter.

The second reason why you would note this question is if you have regard to the audit committee meeting minutes of 23 May 2018, and the fact that the KPMG reports were described as being subject to legal professional privilege, Mr Bell, in circumstances where we submit that it was quite clear that there was no proper basis, even at that time, for making that claim.

Just to make some submissions about what I've described as the selective briefing to investors, you will know, Mr Bell, that once a listed company becomes aware of information concerning it that a reasonable person would expect to have a material effect on the price or value of the securities, the entity must immediately tell the ASX that information. And we refer to Guidance Note 8 published by the ASX, which is in evidence at exhibit I340. I won't take you to that now. We submit it stands for the proposition that if a company is going to make disclosures to analysts and investors, then the information needs to either already have been disclosed to the ASX or be materially the same information as has already been disclosed. And we say that Mr O'Neill accepted that proposition in his evidence at day 34 at transcript 3777.

Mr Heap said that the 11 and 12 ASX releases focused on the KPMG reports because that's what investors were principally interested in. Mr O'Neill said that he - at one point, he said he spoke with a large number of investors who requested meetings with him on 13 October 2021, and that's set out on page 3855. He later, however, said that he thought he only spoke to two shareholders - the matter is unclear there - although he did indicate he would have a record in his diary about that, and I must say I'm not aware of whether or not that has been produced to the --

MR BELL SC: It has been produced, Ms Sharp, and my recollection is that it refers to one investor only by name. That's not to say that there was only one investor at the briefing.

MS SHARP SC: Thank you, Mr Bell. Mr O'Neill agreed, at page 3856, that in the meeting with the investor - or investors, he denied that Star Entertainment had turned a blind eye to criminals; he dealt with some staff-related allegations; he dealt with The Star's relationship with junket operators; and he covered the matter of China UnionPay. We submit that that level of detail had not been given to the market at that time. So there is a real question here that there has been a selective briefing of investors in contravention of the continuous disclosure requirements.

Can I turn now to make some further submissions about the investors - I beg your pardon, the directors. The directors were all longstanding, long-term directors at Star, being appointed in the period 2011 through to 2014. The one exception to that is Mr Heap, who only commenced on 23 May 2018. During the relevant period, there have been two other directors who are no longer directors, being Zlatko Todorcevski and Gregory Hayes, and neither of them gave evidence. Mr Bell, you will find that all of the directors who did give evidence were very experienced and brought important skills to the board.

The directors were asked a number of questions in oral evidence about what qualities they thought were important ones for directors to bring to publicly listed companies. And in particular, Mr O'Neill, Ms Lahey, Mr Sheppard and Mr Bradley all accepted that, as the directors, they were in charge of, and were responsible for, the business of Star Entertainment. And all directors agreed that while they could delegate to management, they could not defer to management. All of the directors gave evidence that directors should be curious.

Mr O'Neill, in particular, said at page 3865, day 35, that the qualities a director should bring to a publicly listed company are honesty, integrity, good character, good judgment, intelligence and, depending on the company and its make-up, a particular skill set, discipline, strong level of curiosity and a deep, deep obligation to comply with obligations. Mr Sheppard gave, relevantly, similar evidence. All directors were asked about active stewardship, and Mr O'Neill, Mr Sheppard, Mr Bradley and Mr Heap agreed that active stewardship required the board to hold management to account. And the directors also agreed that, where necessary, directors were required to challenge management and hold it to account.

As we have submitted, Mr Bell, culture is a particularly deep problem in this matter. Mr O'Neill, Mr Sheppard and Ms Pitkin accepted that the culture of an organisation is a set of shared norms of the organisation or a consensus about what things mean and how to get them done. Mr O'Neill and Mr Sheppard, and also Ms Martin, also accepted the proposition that culture is what happens when no one is looking. It was only Mr Bekier who did not agree that that culture was set from the very top, and by that I mean the board of directors.

There are in evidence some articles that Ms Pitkin has written about corporate governance and that Mr Heap has written at - Ms Pitkin was taken to these at pages 3548 and 3549 at day 32, and Mr Heap's contribution may be found in exhibit J59. They provide, we submit, some very useful insights in understanding corporate governance and the board's role in achieving corporate governance and in inculcating the correct culture.

All directors, unsurprisingly, accepted that it was important for a casino licensee to be clear and transparent with the regulator at all times. All directors accepted that there were significant cultural failings within Star Entertainment and that the

board must accept responsibility for these failings. Mr Bekier attributed the cultural failings to a - what he described as a subculture within VIP. We - and I should add that Mr Bekier did accept during questioning that the cultural issues permeated some of senior management. That was at page 3174.

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We submit that the - and I've already foreshadowed this, that the cultural failing goes beyond the international rebate business and permeates many parts of the senior management team. The various directors were asked for their reflections about what had led to these cultural and governance failings. Mr O'Neill said that there was no straightforward answer, in particular as to why the code of conduct was not complied with, and he said that he thought that:

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"The risk and compliance function, and indeed the legal function, did not meet the required standards needed for a business of our nature and, in particular, the international rebate business/money laundering space."

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He also accepted that there had been serious ethical failings on the part of many members of senior management. He also said that bad habits went undetected. He said that he thought it was an industry-wide problem and said:

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"We're not that big an industry, essentially a duopoly, and if we can all look at the standards of today and apply them to five or six years ago, things - there were different standards there."

Mr Sheppard said that there has been a cultural issue affecting significant parts of the senior management team, which caused them to make decisions to either address things by themselves without escalating them or to avoid escalating bad news to the board. He said he didn't think the board could have been clearer in setting the tone for culture. And, Mr Bell, you asked him that, in that regard, how could cultural settings have miscarried so spectacular, and he said at page 3304 that in his view:

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"The board probably made a few mistakes with appointments, in retrospect. It was probably a mistake to combine the chief risk officer and chief legal officer into one role."

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But he said in other places where he's been involved, those appointments have worked entirely satisfactorily. And then he said:

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"The answers are more difficult than the questions."

Which rather underscores the point that we submit that the board is at the beginning of the journey to try to understand what went wrong here.

Ms Lahey reflected in evidence that the relationship with the regulator was particularly poor and that there was a feeling that as long as we follow the letter of

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the law, the spirit of the law - that was something to be put to the side, that is, the spirit of the law. She also said that there was a degree of complacency and that a lot of the senior managers had worked together as a team for 15, 16 and 17 years and perhaps there was "groupthink". Ms Lahey also gave her view that there was a
5 lack of understanding of the risks of the business and a lack of understanding where on that risk Star Entertainment stood between risk aversion and taking risks in a highly regulated industry.

We submit that the reflections of Ms Pitkin are probably the most profound and
10 ones from which you will gain considerable assistance. Ms Pitkin said, at day 32 at pages 3638 to 3639, that she had reflected deeply on the matter - and it was clear that she had - and she would call out three things. Firstly, why there was indifference by some senior leaders to legal and ethical standards from people who you would normally describe as being of good character. And she said that the
15 indifference had come about because of a failure to understand the harm that comes from money laundering. And she said that, culturally, the organisation must understand the harm that comes from money laundering. And she thought about how an organisation might go about doing that, and she said:

20 "Everyone in the organisation, from the board all the way through, needs to hear the stories of the harm that come from money laundering."

She said the second area was the company responding to the competitive threat coming from Crown. And, of course, Crown Resorts competed in the
25 international - what I have, in fact, described as the international VIP segment. But just to interpolate: of course, a licence had been granted to Crown Sydney which was supposed to be an - what might colloquially be described as a high-rollers facility. That's why it's described as a restricted gaming licence. And Ms Pitkin said that the senior leadership had, for a long time, carried the notion that The Star
30 was not like The Crown, that Crown was the company that benefitted from the Packer influence and that Crown had these advantages and that Star was the underdog.

And she thinks that the competitive threat coming from Crown opening in Sydney
35 meant that the VIP business and the voices in the VIP business were the loudest, and that meant that the people in the second line of defence in compliance and legal, who occasionally pushed back, were either silenced or were ignored or were complicit. And she also felt that their surveillance people weren't doing their jobs. And she particularly criticised Mr Hawkins and, with respect, that criticism was
40 well placed.

Ms Pitkin said the third area she reflected upon was there was not a sufficiently
45 high level of capability in some of the very key roles, and that meant that people defaulted to processes and rules without bringing judgment and higher order thinking to the issues.

Mr Heap said that the board had worked hard on change - cultural change. He agreed that culture starts from the top, and he gave evidence that he considered that the building blocks were in place, but he was concerned that there was a particular cultural challenge in terms of transparency and matters not being shared with the board. He gave evidence of being particularly troubled by the evidence of Ms Paulinka Dudek, a junior employee, who felt she was not able to challenge her superiors when she perceived that they were doing something dishonest. Mr Bradley shared that same reflection on Ms Dudek's evidence.

10 I draw those observations to you, Mr Bell, because they show a spectrum of views about what did go wrong here, but also the point remains good that the process of reflection has just begun.

15 Can I move now to indicate that we will make some submissions - just because of time restraints, we will make some submissions in writing in relation to a number of the allegations in the media about The Star dealing with unsuitable patrons or other business associates. I might just make some very high-level comments about that now, and then the balance will be committed to writing.

20 Unlike the Bergin Inquiry, you were not, in your terms of reference, asked to consider the veracity of the media allegations, Mr Bell. However, they are of considerable public interest, and it is appropriate that I make some submissions about what the evidence before you has disclosed in that regard. You will recall, Mr Bell, that when I commenced our opening submissions, I identified 12 media 25 allegations. I won't read them out again, but if I can just start by making these submissions about the first allegation, which relates to the KPMG report.

We submit that, in fact, the evidence shows that Star Entertainment took numerous steps to identify and address inadequacies identified in the KPMG reports about its 30 AML/CTF program and that it improved its suite of AML documents considerably, including the AML program, the track monitoring process and the enhanced due diligence process. Star Entertainment also significantly increased its AML/CTF resourcing and expertise, and introduced the new TrackVia system.

35 However, what the evidence does show you, Mr Bell, is that on some significant issues, there has not been a culture of compliance with AML/CTF requirements and an attendant failure to adequately manage certain risks. That's particularly so in relation to Suncity and Salon 95 and the patron bank account issues. The media claimed that the KPMG part A report was kept confidential, and we submit that 40 was an accurate claim, and we refer to the dealings with AUSTRAC. Additionally, the evidence suggests that it was not until 8 February 2022 that Star Entertainment provided the KPMG report to ILGA.

45 The CUP allegations were at the heart of allegation 2. The evidence has demonstrated that between June 2013 and March 2020, Star allowed 1307 patrons to use CUP debit cards - not credit cards, debit cards - and they withdrew an

amount totalling \$908 million. The transactions were disguised as hotel expenses by the so-called two-stage process, and we've already submitted that sham documentation was involved in giving effect to this process. And we note the evidence that Mr Phillip Dong Fang Lee, the largest users of the CUP cards, did not ever stay at the hotel. A large number of witnesses before you, Mr Bell, accepted that the process was an artifice. The evidence established that senior management were well aware of this, as well as the fact that the UnionPay rules prohibited the use of the CUP cards in the way they were.

10 Allegation 3 embodied an allegation that The Star and Star Entertainment did not undertake adequate due diligence of a number of high-roller patrons and continued to permit them to gamble despite suspicions about source of income, alleged links to organised crime, that they were politically exposed persons and so on. Certain individuals were named. One of those was Mr Mende Trajkoski. There has been evidence in private mode about that because he is currently involved in criminal proceedings.

20 What we can say in public is that Star documentation shows that his turnover at The Star was \$175 million between 2007 and 2021, which was alleged in the media, and that The Star failed to evaluate whether the nature and value of his gaming was consistent with his stated financial position or identified employment status, given that his employment status was variously described as "baggage handler" or "owner of a car yard". We will address the rest of those allegations in private mode.

25 **MR BELL SC:** Will those private submissions be provided by 5 pm on Monday as well?

30 **MS SHARP SC:** Yes.

MR BELL SC: Thank you.

35 **MS SHARP SC:** One of the specific people mentioned was George Nikolic. The Star's documents confirm that The Star knew him to be an associate of Mr Trajkoski and that he was a nominated primary member on Mr Trajkoski's account. We submit he ought to have been subject to further checks by Star.

40 The next person specifically named was James Mussillon. The evidence established that he was a longstanding patron and high roller at The Star from October 1995 until his exclusion by the New South Wales Police Commissioner on 5 October 2017. We submit that The Star was on notice of certain matters that will be addressed in private submissions, and those matters mean that he should have been the subject of enhanced customer due diligence. The evidence establishes that there was no investigation by the investigations team of Mr Mussillon, and we submit that The Star ignored red flags.

Allegation 6 concerned Phillip Dong Fang Lee, who gave evidence to you, Mr Bell. The evidence confirmed that he did use China UnionPay cards to move millions of dollars out of China to Australia. The records produced by The Star indicate that in 2014 and 2015, he debited an amount of \$79 million at The Star. In addition, blished that from 4 to 6 April 2015, he was permitted to swipe an amount of \$22.8 million at The Star using his CUP card. This was at a time when, even under The Star's own policies, he was not eligible to use the card because he wasn't an international rebate player.

Allegation 7 related to Zu Neng Scott Shi. The evidence shows that Mr Shi was a longstanding patron and high roller at The Star from April 1997 until 28 November 2018 when he was issued with a withdrawal of a licence after being found guilty of a crime. Evidence of the ATO in proceedings against one of Mr Shi's companies establishes that he withdraw \$2.6 million from The Star's ATMs on company bank cards. Further evidence will be addressed in private submissions. We submit that the evidence will establish that The Star was on notice of matters which meant that it should have conducted enhanced customer due diligence but did not.

Allegation 8 in the media related to Suncity and Alvin Chau. I've addressed you extensively on that matter already, Mr Bell. I don't think I need to repeat those submissions there.

Allegation 9 related to John Khoury. Mr Bell, it's not disputed that Mr Khoury was permitted to continue gambling at Star Entertainment's Gold Coast casino until 10 December 2021, notwithstanding that he had been excluded by the New South Wales Police Commissioner from The Star in Sydney in 2012. As we will develop further in written submissions, Mr Bell, The Star failed to adequately consider - I beg your pardon, Star Entertainment's casino up in the Gold Coast failed to adequately consider whether Mr Khoury was a person of good repute, and that's particularly so in light of the Commissioner of Police's exclusion of him.

Allegation 10 in the media related to Huang Xiangmo, Tom Zhou Simon Pan, respectively. In relation to Huang Xiangmo, the evidence is that his buy-in at Star Entertainment properties was more than \$1 billion and that the casinos were aware that he held multiple passports with multiple birth dates and that he was a politically exposed person. It does not appear that Star Entertainment's casinos ever investigated his source of wealth. We submit - and this will be further developed in the written submissions - that The Star should have taken steps to exclude Mr Huang well before 13 September 2019.

In relation to Mr Tom Zhou, during the relevant period, he was not a patron of The Star in Sydney and, during the relevant period, The Star in Sydney did not have a relationship with the Chinatown junket with which he was in some way associated. There is no evidence before the review to establish that anyone within The Star or Star Entertainment knew whether or not Mr Zhou was the financial backer of the Chinatown junket. There is the 15 August 2018 briefing paper prepared by Mr Hawkins and Ms Martin which indicates that there was some

connection between Mr Zhou and the Chinatown junket, but that's as high as the evidence rises.

5 In relation to Mr Simon Pan, the evidence shows that he was a junket representative at The Star and that The Star ceased dealing with him in August 2019 following the July and August 2019 media allegations that were levelled against Crown Resorts. For reasons that will be developed in private submissions, we will be submitting that Mr Pan ought to have been, but was not, subject to enhanced customer due diligence before those 2019 media allegations.

10 Allegation 11 related to Star employee Mark Walker and iProsperity. Mr Bell, you will be aware that the review received a written statement from Mr Walker and heard oral evidence from him regarding his relationship with Michael Gu, who was a high-value patron at The Star in mid-2018 through to mid-2019.
15 Mr Walker's evidence was that he initially disclosed a relationship and potential job offer that he received from Mr Gu to The Star in August of 2018; however, Mr Walker did accept in evidence that he did not disclose to The Star the actual job offer that Mr Gu made to him in January 2019.

20 The evidence also showed that in that intervening period, Mr Gu and Mr Walker communicated privately about Mr Gu's planned business regarding a casino on many occasions. Mr Walker did confirm in evidence that he left the employment of Crown Resorts in the midst of a probity investigation into him. We submit the review should accept Mr Walker's evidence, that although he denied the
25 allegations of fraud made against him, he did learn from his mistake at Crown.

The evidence shows that Mr Gu and Mr Harry Huang, both patrons at The Star, were senior executives within the iProsperity Group at the time of its collapse, and there is evidence that they embezzled substantial funds. There is some evidence
30 that they channelled some of those embezzled funds into their gambling at The Star, but there is no evidence to indicate that Mr Walker or anyone else at The Star was aware of this at the time.

The final allegation is the allegation about rebate play and the underpayment of
35 duty. As I indicated in submissions yesterday, Mr Bell, there's insufficient evidence before the review to afford a conclusion that there was a deliberate practice of Star converting local patrons for the purpose of - converting them from local to international for the purpose of minimising the amount of duty payable. There is some evidence that some members of the international and domestic
40 teams attempted to move patrons over because of remuneration arrangements that applied at the time.

We note that the evidence is that Gadens is assisting Star Entertainment conduct a
45 review into these allegations, but the results of that investigation are not known at this time. It has not been finalised, and otherwise I rely on my submissions from yesterday about that.

Can I, in my last five minutes, Mr Bell, say the following things about why Star Entertainment and The Star are not suitable. I've made the submission that there were a number of systems failures and there was a very significant cultural problem within the ranks of senior membership. Their evidence establishes that
5 there were areas where we submit the Casino Control Act has been breached. And even if you do not find that the Casino Control Act has been breached, you would find that The Star and Star Entertainment courted the risk. They took the chance in the hope of not being caught.

10 Examples of this are with the establishment of the China UnionPay arrangement in the first place. We submit that despite the advice received from Mallesons, which we dispute the correctness of, there was a breach in using the cards of section 74(1)(c). We submit there was a further breach when it came to using the so-called
15 temporary cash chequing facility on each occasion where cheques were - I beg your pardon, chips were provided to patrons before funds had cleared because there was, in essence, no real cheque for the purpose of operating as collateral. And I developed submissions about that on Tuesday - Wednesday.

We submit there were further breaches in relation to Suncity and Salon 95 because
20 there was a cage operating in Suncity, and that was a casino within a casino. And to operate a casino in this State, a casino licence is required. If it is the case - and there is some evidence, at least in some cases, to suggest that patrons have been wrongly classified as international rebate patrons and the wrong duty has been paid, then - and The Star was aware of this, and it appears that Mr Hawkins was
25 aware of this, then The Star has failed to notify the authority of these underpayments.

We submit that the EEIS loans were also a breach of section 74 of the Casino Control Act because you would find that EEIS acted as agent of the casino
30 operator and, for that reason, it provided credit in breach of section 74(1).

The evidence - I withdraw that. A further reason for finding that The Star and Star Entertainment are unsuitable is because of the numerous instances where the regulator in New South Wales, that is, the casino regulator, has been misled, and
35 other occasions where there has been a complete absence of transparency in dealing with the regulator.

There are also concerns about the character of Star and Star Entertainment because of its dealings in CUP with its preparedness to create sham documentation; its
40 preparedness to make misleading statements in writing to NAB, knowing that UnionPay would rely upon those statements; and because there is a serious question about whether a criminal offence has been committed, and that is an offence under section 192E of the Crimes Act in New South Wales about obtaining a financial advantage by deception.
45

A further reason why The Star and Star Entertainment are unsuitable is because of their preparedness to deal with business associates bringing large amounts of

turnover into the casino where they could not have been satisfied that those persons were of good repute, and this is despite the requirement which we see in section 12(2)(g) of the Act.

5 Otherwise, Mr Bell, we have addressed you on the system failures, the very
significant cultural failures and our submission that the mere parting of ways with
a number of members of senior management and a process of board renewal are
not in and of themselves sufficient to bring The Star or its close associate, Star
Entertainment, into good repute. Unless there's anything else I can assist with,
10 those are our closing submissions.

MR BELL SC: Yes. Thank you very much, Ms Sharp. I will now adjourn until 10
am on 14 June for submissions from the parties with leave to appear.

15 **MS RICHARDSON SC:** Mr Bell, could I just indicate one thing because it might
be of assistance in scheduling.

MR BELL SC: Yes.

20 **MS RICHARDSON SC:** I think a letter has been written through solicitors that it
would be convenient for my client to go first starting on the 14th. I hope that that
has already been indicated.

MR BELL SC: Yes. Thank you for that.

25 **MS RICHARDSON SC:** And to the extent this might assist other interested
parties, we are conscious of the compression of time that the inquiry faces. We
will endeavour to try and finish our submissions in three days in order to make
more time available to the additional numbers of represented parties that now we
30 understand seek to be heard. That may blow out slightly depending on questioning
and so on, but I will endeavour to be shorter, if possible.

MR BELL SC: Thank you very much for that indication, Ms Richardson. In that
case, I will now adjourn.

35 **MS SHARP SC:** I'm sorry, Mr Bell. Just before you rise, I have to tender two
documents. Those are the two you marked today. Could I tender MFI71 as exhibit
N1 and MFI72 as exhibit N2.

40 **MR BELL SC:** Yes. Those documents will be exhibits N1 and N2.

MS SHARP SC: Thank you, Mr Bell.

MR BELL SC: I will now adjourn.

45 **<THE HEARING ADJOURNED AT 11:14 AM UNTIL TUESDAY, 14 JUNE
2022 AT 10 AM**