



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**

**TUEADAY, 29 MARCH 2022
AT 10:00 AM**

DAY 9

**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 P. HOLMES
and MR D. WONG as counsel for The Star Pty Ltd**

**Star Witnesses
MR DAVID ALOI
MICHAEL JAMES ALLAN WHYTCROSS**

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

<THE HEARING RESUMED AT 10:00 AM

MR BELL SC: Mr Aloï, you remain bound by the affirmation you made last Friday.

5 **<DAVID ALOI, ON FORMER AFFIRMATION**

MR ALOI: Yes.

<EXAMINATION BY MS ABDIEL:

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MS ABDIEL: Mr Aloï, do you recall yesterday you gave some evidence to the review in relation to the use of the temporary cheque cashing facility in conjunction with the China UnionPay?

15 **MR ALOI:** Yes.

MS ABDIEL: And do you recall that you gave some evidence that you were given some advice in relation to the use of the temporary cheque cashing facility?

20 **MR ALOI:** Yes.

MS ABDIEL: If the operator could go to document ID STA.3034.0001.0590.

25 **MR BELL SC:** Would you like to read out that document ID again, Ms Abdiel.

MS ABDIEL: Yes, I will. Sorry, Mr Bell. STA.3034.0001.0950. Pardon me, Mr Bell, I'm just trying to locate the document. Mr Bell, apologies. I believe there has been some issue in relation to the uploading of these documents. Could we please take a short adjournment to straighten the matter out?

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MR BELL SC: Yes, I will take an adjournment. Thank you.

<THE HEARING ADJOURNED AT 10:03 AM

35 **<THE HEARING RESUMED AT 10:19 AM**

MR BELL SC: Yes, Ms Abdiel.

40 **MS ABDIEL:** Thank you, Mr Bell. Mr Aloï, I would like to show you a document. The document identification number is STA.3034.0001.0589. And this is an email dated 11 September 2014. Do you recall receiving - or sending that email?

MR ALOI: Not particularly, no.

45 **MS ABDIEL:** The email states:

"See attached memo from Oliver to the hierarchy. Dave P -"

Was that David Procter?

MR ALOI: Yes.

5

MS ABDIEL:

"Advised it was approved and he will
send me any correspondence when he is
back in the office."

10

And if I could take you to the attachment to that email, which is
STA.3034.0001.0591. And this is an internal memo from Oliver White to John
Redmond, Matt Bekier, Adrian Hornsby and Paula Martin. Do you see that?

15

MR ALOI: Yes.

MS ABDIEL: And it has a date of 3 February 2014?

20

MR ALOI: Yes.

MS ABDIEL: And when you gave evidence to the review yesterday in relation to
the advice that you had seen for the introduction and use of a temporary cheque
cashing facility, is this the advice to which you were referring?

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MR ALOI: That was the memo, yes.

MS ABDIEL: And did you read that advice when you were sent it?

30

MR ALOI: Yes.

MS ABDIEL: And did you discuss that advice with anyone?

MR ALOI: I can't recall if I did.

35

MS ABDIEL: And this is the advice that gave you comfort that the temporary CCF
was permissible under the Casino Control Act?

MR ALOI: Yes.

40

MS ABDIEL: Mr Aloï, at all times, you knew, didn't you, that in relation to the
temporary cheque cashing facility, it was proposed that no personal cheque would be
provided by a patron?

45

MR ALOI: That's correct.

MS ABDIEL: And at all times from the time of this advice onwards, you were
aware that overseas banks would not honour counter cheques?

MR ALOI: Yes.

5 **MS ABDIEL:** But, Mr Aloï - and I can give you a moment to review the memo if you cannot recall - there was no reference in this memo as to whether or not overseas banks would accept counter cheques? Mr Aloï, I actually withdraw that. Would you turn your attention to the heading Interaction with Prohibition on Credit?

10 **MR ALOI:** Yes.

MS ABDIEL: And do you see that under the second bullet point it states that:

15 "House markers are generally only recognised and banked by Australian banks."

MR ALOI: Yes.

20 **MS ABDIEL:** And:

"It is this prohibition on credit which results in Echo requiring a patron with an overseas bank account to sign a blank cheque on drawdown on the CCF."
25

MR ALOI: Yes.

30 **MS ABDIEL:**

"So that Echo knows it has an instrument which is capable of being banked and honoured in accordance with the requirements of section 75 of the Casino Control Act."
35

MR ALOI: Yes.

40 **MS ABDIEL:** Mr Aloï, this memo is drawing specific attention to the fact that a counter cheque would not be honoured and, therefore, would not be payable to the casino operator in relation to - I withdraw that. Mr Aloï, this memo is drawing specific attention to the fact that counter cheques would not be honoured by overseas banks issuing China UnionPay cards. Do you agree with that?

45 **MR ALOI:** Yes.

MS ABDIEL: And so I put it to you that this could not have possibly offered you any comfort that, in fact, the temporary CCF would be permissible because there

would be a counter cheque that would be capable of being honoured by an overseas bank.

5 **MR ALOI:** There was subsequent communication from the credit team, and Oliver White, that allowed the issuance of a counter cheque for a CUP swipe.

MS ABDIEL: And when was that communication?

10 **MR ALOI:** Some time in 2014. I can't recall.

MS ABDIEL: And it was by email?

MR ALOI: Yes.

15 **MS ABDIEL:** But, Mr Aloï, you stated that this was the memo from which you drew some comfort that the temporary cheque cashing facility would be permissible under the CCA?

20 **MR ALOI:** Yes. That's right.

MS ABDIEL: And are you suggesting that under a subsequent communication, there was something additional that was drawn to your attention that made the temporary cheque cashing facility permissible?

25 **MR ALOI:** Yes.

MS ABDIEL: And what was that additional thing?

30 **MR ALOI:** As I stated previously, it was an email from Oliver or the credit team - or the credit manager at the time to permit the use of a counter cheque for CUP swipes.

35 **MS ABDIEL:** And, Mr Aloï, it's not the case that any subsequent communication, however, stated that somehow the position had changed and that overseas banks would accept counter cheques and would honour them; that's right, isn't it?

MR ALOI: I was just - I was seeking guidance from the legal team, and they allowed the temporary CCF without a cheque to - to go ahead.

40 **MS ABDIEL:** Mr Aloï, could you please answer my question. It's not the case that any subsequent communication, however, put to you stated that somehow the position had changed and overseas banks would now accept and honour counter cheques, is it?

45 **MR ALOI:** No, that position has never changed. That's correct.

MS ABDIEL: And so neither this memo nor any subsequent communication could possibly have offered you any comfort that the temporary cheque cashing facility

would be permissible under the Act because there would be a cheque made payable to the casino operator in conjunction with that cheque cashing facility?

5 **MR ALOI:** I had comfort in the legal team in their - in their correspondence that allowed this type of transaction to proceed.

MS ABDIEL: Mr Aloï, have you reviewed the subsequent communication to which you were referring, recently?

10 **MR ALOI:** Yes, I have.

MS ABDIEL: And do you understand whether it was produced to the review?

15 **MR ALOI:** I'm not aware either way.

MS ABDIEL: And when did you review that document?

MR ALOI: Recently.

20 **MS ABDIEL:** When?

MR ALOI: Over the past month.

25 **MS ABDIEL:** I call for that document.

MS RICHARDSON SC: I will make inquiries.

30 **MS ABDIEL:** Mr Aloï, when the China UnionPay card was first introduced in 2013, it was restricted to rebate players only; is that correct?

MR ALOI: Yes.

35 **MS ABDIEL:** I will show you a document. This is STA.3034.0001.0884. This appears to be an email from yourself to yourself; possibly you were filing it?

MR ALOI: Most likely.

40 **MS ABDIEL:** And it's dated 19 February 2014, and it forwards to yourself an email from Graeme Stevens to Jocelyn Smith at ILGA?

MR ALOI: Yes.

MS ABDIEL: And you're copied to that email?

45 **MR ALOI:** Yes.

MS ABDIEL: And that email says - from Graeme Stevens:

"Hi all, please see the proposed amendments to the ICPs and SOP."

MR ALOI: Yes.

5

MS ABDIEL: And there's - Mr Stevens is responding to a further email - and I'll take you to dot point 0898 - and that is an email from Jocelyn Smith at the Independent Liquor and Gaming Authority to Hariharan - Mohan Hariharan, also at ILGA, and copies Mr Stevens. Do you recall receiving that email?

10

MR ALOI: I don't recall it, no.

MS ABDIEL: Is it likely that you would have read it at the time, given that you forwarded it to yourself?

15

MR ALOI: Likely.

MS ABDIEL: And under the heading Cheque Cashing Deposit Facilities and under control number 16, it states - and this is from Jocelyn Smith:

20

"Debit fund transfers will be restricted to International Premium Players and must be deposited into a Front Money account and have an approval status on the Merchant Copy of the transfer prior to making the funds available to the patron."

25

And do you recall that this email was sent in conjunction with a submission by The Star to have debit funds treated as cleared upon the approval of the merchant receipt?

30

MR ALOI: Yes.

MS ABDIEL: And do you recall whether or not you had any involvement in a discussion with the authority in relation to the restriction of debit fund transfers to international premium players?

35

MR ALOI: I don't recall specifically the discussion, but I know there was a meeting that took place.

40

MS ABDIEL: Were you present at that meeting?

MR ALOI: Yes, I believe so.

MS ABDIEL: And do you recall that at that meeting it was discussed and agreed that debit fund transfers would be restricted to international premium players?

45

MR ALOI: I don't recall the - the detail of that meeting, so I can't recall that point.

MS ABDIEL: But you recall, prior to that, that versions of the cage standard operating procedure contained restrictions of the use of China UnionPay facilities to rebate players?

5

MR ALOI: Yes.

MS ABDIEL: And in 2015, this requirement was removed out of the standard operating procedure?

10

MR ALOI: Yes.

MS ABDIEL: I will take you to that document, which is STA.3034.0003.0003. And this is an email - I will take you to the email at the bottom of the page, which is a 16 December 2015 email from you to Suzanne Mawer. Do you recall that email?

15

MR ALOI: Yes.

MS ABDIEL: And who is Suzanne Mawer?

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MR ALOI: She works in the compliance team, or reg affairs at that time.

MS ABDIEL: And the subject heading is Cage SOPs and Cheque Cashing Deposit SOPs. And it says:

25

"Hi Suz, can you please remove the wording of 'rebate play only' for the acceptance of China UnionPay debit card on the below SOPs?"

30

MR ALOI: Yes.

MS ABDIEL: And then it refers to the cage operations SOP page 23 and cheque cashing deposit facility SOP page 10. And do you recall why that requirement was removed out of the SOPs at that time?

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MR ALOI: Because we had a cash player transacting CUP and discussions with the regulator at the time - they were aware that the cash player was playing, hence the recommendation to remove the rebate play.

40

MS ABDIEL: Well, Mr Aloï, this is an email internally. Are you suggesting that this amendment was discussed with the regulator in December 2015?

MR ALOI: No, I think it was earlier than that.

45

MS ABDIEL: And when was it discussed?

MR ALOI: I think it was May or June, thereabouts.

MS ABDIEL: And were you involved in those discussions?

MR ALOI: Yes, it was - it was an on-site discussion.

5

MS ABDIEL: And are there any documents that recorded the outcome of those discussions?

MR ALOI: Not that I can recall, no.

10

MS ABDIEL: So it's your evidence that there was some verbal communication with the regulator around the removal of this restriction of the use of China UnionPay?

MR ALOI: There was a verbal communication. However, there were - the only comms I can recall was they made inquiries about cash chips being outstanding due to CUP activity.

MS ABDIEL: Mr Aloï, are you sure that there was some communication with the regulator around the removal of this requirement for the SOP?

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MR ALOI: I discussed it with the regulator at the time, absolutely. But I'm not sure it was documented, as such. But there was - there was comms with the regulator asking questions about the outstanding chips at the time related to CUP and other cash chips.

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MS ABDIEL: And who at the regulator were you having this discussion with?

MR ALOI: Mohan Hariharan.

30

MS ABDIEL: And did you keep any records of that discussion?

MR ALOI: No.

MS ABDIEL: And so the only record of the possibility of this discussion having taken place was in relation to the cash chips?

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MR ALOI: Yes. Outstanding cash chips that Mr Lee was holding.

MR BELL SC: So it was Mr Phillip Dong Fang Lee, was it, that this discussion related to?

40

MR ALOI: Correct.

MS ABDIEL: Do you recall what precipitated - I withdraw that. Excuse me, Mr Bell. Could you give me one moment?

45

MR BELL SC: Yes, of course.

MS ABDIEL: Mr Aloï, are you suggesting that you informed the regulator that Mr Phillip Dong Fang Lee had been utilising the China UnionPay card?

5 **MR ALOI:** They were aware, yes.

MR BELL SC: That wasn't the question you were asked, I don't think, Mr Aloï.

10 **MR ALOI:** Can you repeat the question, please?

MR BELL SC: The question was whether you informed the regulator that Phillip Dong Fang Lee was using a China UnionPay card.

15 **MR ALOI:** I believe I did.

MR BELL SC: Do you have a record of that communication?

MR ALOI: I'm not sure if I do or not.

20 **MR BELL SC:** Do you agree that it's important that communications with the regulator need to be clear and unambiguous?

MR ALOI: Yes.

25 **MR BELL SC:** And in relation to important matters, ought to be recorded in writing; do you agree?

MR ALOI: Yes.

30 **MR BELL SC:** And you are saying that this didn't occur on this occasion, are you?

MR ALOI: If - if anything, it was more of an informal discussion as opposed to an actual meeting.

35 **MR BELL SC:** Yes, Ms Abdiel.

MS ABDIEL: Thank you, Mr Bell. Mr Aloï, I will take you to exhibit B3100, which should be STA.3401.0006.2956, and pinpoint 2960. And Ms Sharp took you to this response yesterday. Do you recall that, Mr Aloï?

40 **MR ALOI:** Yes.

MS ABDIEL: And this response is in relation to a question put to The Star:

45 "Was the regulator informed about the CUP process?"

And:

"If not, why not?"

Do you see that?

5

MR ALOI: Yes.

MS ABDIEL: And this response does not contain any reference to an approach by The Star in relation to removing the requirement of the China UnionPay facility being restricted to rebate players?

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MS RICHARDSON SC: I object to that question. I think the particular part of this request for information that it's said called for that information ought to be pointed out to the witness.

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MR BELL SC: Ms Abdiel.

MS ABDIEL: Mr Bell, the question in the document is:

20

"Was the regulator informed about the CUP process?"

And a component of the CUP process contained within the standard operating procedure is that it's restricted to rebate players only.

25

MR BELL SC: Perhaps you could make the question to the witness a little bit clearer, please.

MS ABDIEL: Thank you, Mr Bell. Mr Aloï, would you agree - I withdraw that. Mr Aloï, this question was asking whether the regulator had been informed about the CUP process?

30

MR ALOI: Yes.

MS ABDIEL: And at the commencement of the CUP process in 2013, it was a requirement, was it not, that it be restricted to rebate players; is that correct?

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MR ALOI: That's what was stated in that SOP. That's right.

MS ABDIEL: And that requirement was later removed; correct?

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MR ALOI: That's right.

MS ABDIEL: And it was removed to allow Mr Phillip Dong Fang Lee to take advantage of the China UnionPay facility?

45

MR ALOI: He was the main player. Correct.

MS ABDIEL: And neither that fact nor the fact of the removal of the requirement in relation to rebate play was disclosed within this document?

5 **MR ALOI:** Is there the second page of the document, please, that I can view?

MS ABDIEL: Yes, certainly.

10 **MR BELL SC:** While that is happening, Mr Aloï, am I understanding you correctly that The Star's standard operating procedures, until 17 December 2015, restricted the use of CUP cards to rebate players? Is that correct?

MR ALOI: Yes. Yes.

15 **MR BELL SC:** And do I understand from the email to which Ms Abdiel took you, that on 17 December 2015, you requested that the standard operating procedures be amended to remove the requirement that the CUP user be a rebate player?

MR ALOI: Yes.

20 **MR BELL SC:** Does it follow from that, that until 17 December 2015, Mr Phillip Dong Fang Lee's use of the China UnionPay card was in breach of The Star's own standard operating procedures?

25 **MR ALOI:** Yes. The SOP wasn't updated at that time, early on, when he was using it.

MR BELL SC: Yes, Ms Abdiel.

30 **MS ABDIEL:** Mr Aloï, I will take you to a document, which is exhibit B, tab 966, STA.3422.0020.8296. This is an email from you to Graeme Stevens dated 19 July 2018, and it contains a number of attachments. And these attachments - I will take you to one of those attachments, which is exhibit B - sorry, I will first ask you: do you recall sending that email to Mr Stevens?

35 **MR ALOI:** I do recall seeing this email, yes.

MS ABDIEL: And it shows at the email at the bottom of the page that:

40 "The attached records are as requested for Lee, Phillip Dong Fang."

MR ALOI: Yes.

45 **MS ABDIEL:** I will take you to an attachment to that email, which is exhibit B, tab 988. This is STA.3422.0020.8993. And this is a native document, so it will be an Excel spreadsheet. And do you see this document?

MR ALOI: Yes.

MS ABDIEL: Did you prepare this document?

MR ALOI: No.

5

MS ABDIEL: Did you have it prepared for you?

MR ALOI: From the cage team, yes.

10 **MS ABDIEL:** And you will see this is a document that has in it a number of columns, including a column which states "patron name"?

MR ALOI: Yes.

15 **MS ABDIEL:** And the patron name in that column is Phillip Dong Fang Lee?

MR ALOI: Yes.

20 **MS ABDIEL:** And the first date of the first entry is 12 June 2014?

MR ALOI: Yes.

25 **MS ABDIEL:** And would you agree that Mr Phillip Lee commenced using China UnionPay facilities - sorry, I withdraw that. I will draw your attention to the second column - second row, which is row number 3, with the date 19 November 2014. And at column M is what's called Account Ref, and it says "NAB CUP". Do you see that?

MR ALOI: Yes.

30 **MS ABDIEL:** And would you agree that it was in or around mid to late 2014 that Mr Phillip Lee commenced using the China UnionPay facility?

MR ALOI: It looks that way on the information, yes.

35 **MS ABDIEL:** And if we scroll down to the bottom of the entries, we will see that Mr Phillip Lee - or at least there is an entry up to 2017. Do you see that?

MR ALOI: Yes.

40 **MS ABDIEL:** And scrolling back up, if I may, your evidence to Mr Bell earlier was that a change - I withdraw that. I did ask you, Mr Aloï, yesterday, whether or not you had any recollection or knowledge as to whether Mr Lee was classified as an international rebate player at any time in his patronage at The Star. Do you recall that?

45

MR ALOI: Yes.

MS ABDIEL: And there is a column in this document at column F --

MR ALOI: Yes.

MS ABDIEL: -- which says "IRB". Do you see that?

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MR ALOI: Yes.

MS ABDIEL: And it says "Y/N"?

10 **MR ALOI:** Yes.

MS ABDIEL: Does this - and throughout that column, there are variously Ys and Ns. Would you agree that those indicate a yes or a no?

15 **MR ALOI:** Yes.

MS ABDIEL: And would you agree that the term "IRB" is the term "international rebate business"?

20 **MR ALOI:** Yes.

MS ABDIEL: And does this refresh your recollection as to whether Mr Lee was playing on an international rebate program at various times in the periods 2015 and 2016? If it could be scrolled down to 2016 also.

25

MR ALOI: Mr Lee didn't play on any rebate programs. These were manual data entries that were captured on the frontline, and they should all be Ns or no.

MR BELL SC: Are you saying that this record of The Star is in error?

30

MR ALOI: This - this column, yes, should be all N for no.

MR BELL SC: Operator, could you scroll back to the top of the page, please. Mr Aloï, do you agree that Mr Lee is described as a non-international rebate player, it would appear, until a date on 8 April 2015 when \$11,800,000 was recorded as being deposited by him?

35

MR ALOI: Yes.

40 **MR BELL SC:** And for the first time it would appear, according to this record, when that substantial deposit was made, he was treated as an international rebate player. Can you explain that?

45 **MR ALOI:** No, that - as I said previously, he was a local player with his - using a CUP swipe. He was not a rebate player at all.

MR BELL SC: So can you explain this record?

MR ALOI: The record captured on this information - it's a lot of different hands that go on to creating this spreadsheet, so it's not just one person. Most likely a - a cashier would have developed or added this data into the spreadsheet, and they may or may not have known what "IRB yes/no" is and just left it as it was.

5

MR BELL SC: It would be a pretty important error, wouldn't it?

MR ALOI: Yes. That's correct.

10 **MR BELL SC:** So does no one check these records?

MR ALOI: There are people checking records, but they wouldn't have maybe thought it was that important. But it is important.

15 **MR BELL SC:** Yes. And were you the person responsible for checking that these records were correct?

MR ALOI: I was checking to ensure that - I mean, it came through me.

20 **MR BELL SC:** Were you the person responsible for checking that these records were correct?

MR ALOI: Yes. I - I would say so, yes.

25 **MR BELL SC:** And are these the records that are used for the calculations of gaming duty payable to the New South Wales Government?

MR ALOI: No.

30 **MR BELL SC:** Are you sure about that?

MS RICHARDSON SC: Could I --

35 **MR BELL SC:** Can you just answer that question. Are you sure about that, Mr Aloï?

MR ALOI: This is an internal cage TT spreadsheet only.

40 **MR BELL SC:** Sorry. Did you have an objection, Ms Richardson?

MS RICHARDSON SC: Could I raise a matter quickly in private session, if I may?

MR BELL SC: Yes, of course. We will move into private mode.

45 **<THE HEARING IN PUBLIC SESSION ADJOURNED AT 10:54 AM**

<THE HEARING IN PRIVATE SESSION RESUMED AT 10:54 AM

<THE HEARING IN PRIVATE SESSION ADJOURNED AT 10.56 AM

<THE HEARING IN PUBLIC SESSION RESUMED AT 10.56 AM

5 **MR BELL SC:** Yes, Ms Abdiel.

MS ABDIEL: Thank you, Mr Bell. If the operator could take that document down, please. Mr Aloï, I will show you another. It's STA.3034.0001.0884. This is the document I took you to earlier. If we could go to pinpoint 0899. Are we able to go to
10 point 0899, operator, please? Mr Aloï, I can ask you this question directly. The document that I will hopefully take you to states that:

"Funds on debit transfer go direct to
Star bank account."

15

Could you explain, once a CUP card was swiped, where funds would be deposited?

MR ALOI: Into The Star hotel account.

20 **MS ABDIEL:** Can I take you to exhibit D, tab 40, which is a spreadsheet. I took you to this document yesterday. This is STA.3009.0007.0605. And scrolling down to - within the Existing Accounts rows, scrolling down to the second-to-last row for The Star Pty Limited, which is row 24. Is that corporate chequing account with numbers ending 30 the hotel account into which CUP transactions would be
25 deposited?

MR ALOI: Yes.

30 **MS ABDIEL:** And once those funds hit that account, would there be an internal transfer from that account to any of the gaming accounts held by The Star?

MR ALOI: No. I believe not.

35 **MS ABDIEL:** Mr Aloï, we discussed at length yesterday with you the introduction of the temporary cheque cashing facility to bridge the gap between the time that the China UnionPay card was swiped and the time that the funds hit The Star's accounts. Are you able to shed any light as to where that delay occurred and whether it was - I withdraw that. Are you able to shed any light as to where the delay occurred?

40 **MR ALOI:** It was through the banking channels. That's all that I know of.

MS ABDIEL: So to your knowledge, it was a delay that occurred in relation to either the funds coming from China UnionPay or UnionPay International to the National Australia Bank account - somewhere within that process there was that
45 delay?

MR ALOI: That's right.

MS ABDIEL: Once the funds hit The Star's accounts, then the internal ledger entries to the front money or safekeeping accounts would be made?

MR ALOI: Yes.

5

MS ABDIEL: Mr Bell, I have nothing further for Mr Aloï.

MR BELL SC: Yes. Thank you, Ms Abdiel. Yes, Ms Richardson.

10 **MS RICHARDSON SC:** Thank you.

MR BELL SC: I'm sorry. Ms Abdiel, you did put a number of documents to --

MS ABDIEL: Yes.

15

MR BELL SC: -- Mr Aloï which I don't think are in evidence. As I counted, there were four such documents.

MS ABDIEL: Yes.

20

MR BELL SC: Is it convenient that they all be allocated one MFI?

MS ABDIEL: Yes, Mr Bell. Apologies.

25 **MR BELL SC:** All right. So MFI23 will be STA.3034.0001.0589, STA.3034.0001.0591, STA.3034.0001.0884 and STA.3034.0003.0003. Yes. Thank you.

MS ABDIEL: Thank you, Mr Bell.

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

<EXAMINATION BY MS RICHARDSON SC:

35 **MS RICHARDSON SC:** Thank you. Mr Aloï - just one moment. Could exhibit B332 be brought up, please. If we could go to pin site 4218, please. Sorry, if we could just see the bottom of the previous page to see the start of this email. Scroll down the bottom of 4217, please. Do you see there there's an email from Andrew Haberley of NAB to you dated 13 March 2013?

40 **MR ALOI:** Yes.

MS RICHARDSON SC: You've been taken to this email before. Did you read that email at about the time you received it?

45 **MR ALOI:** Yes, I did.

MS RICHARDSON SC: And do you see there it says:

"Further to our phone conversation, I have spoken with our merchant team and also China UnionPay."

5 **MR ALOI:** Yes.

MS RICHARDSON SC: What was your understanding at this time in relation to Andrew Haberley of the NAB having spoken to China UnionPay about Star's proposal to use CUP cards?

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MR ALOI: If I recall, it was to do with the MCC being allocated as per where the terminal location was --

MS RICHARDSON SC: In the hotel?

15

MR ALOI: Yes.

MS RICHARDSON SC: And if we could go to page 4217, please. We see in the middle email an email from you responding to Andrew Haberley on 13 March at 8.39 am. Do you recall writing that email?

20

MR ALOI: Yes.

MS RICHARDSON SC: So it's the case, is it, that you disclosed to the NAB that there would be a small proportion of room cost and the vast majority be swiped and transferred to a front money account?

25

MR ALOI: Front money account or playing accounts, one of those - I used that language.

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MS RICHARDSON SC: Thank you. And if we could go to the email in response, it's at the bottom of page 4216. And do you see there - well, do you recall receiving that email from Andrew Haberley?

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MR ALOI: Yes.

MS RICHARDSON SC: And if I just - the second paragraph:

40

"There is no transaction limit assigned by UnionPay but NAB have a terminal limit of -"

That amount:

45

"In regards to your request below around withdrawing the funds from customer's cards as they transact at the hotel, UnionPay advised me this is fine

5 as long as the MCC merchant category
code is not restricted or subject to
transaction limits, which in this case it
should not be based on the below
document."

MR ALOI: Yes.

10 **MS RICHARDSON SC:** So what was your understanding as to, at this point, what
UnionPay had advised the NAB about whether The Star could proceed with its
proposal in relation to the CUP cards?

15 **MR ALOI:** That as long as the terminal location allows - was affiliated with that
particular MCC, that type of transaction is permitted. That's how I read that.

MS RICHARDSON SC: And you proceeded that that was the basis upon which
both China UnionPay and the NAB were operating; is that correct?

20 **MR ALOI:** Yes.

MS RICHARDSON SC: Could the following document be brought up. It doesn't
yet have an exhibit number, I think. STA.3034.0001.1514. Thank you. Could we go
to pin site 1518, please. Now, I will take you to emails after this that show this was
on a chain that you ultimately received. Do you see there an email from Jack Tsai,
25 T-s-a-i, to Eva Xia, X-i-a? Do you see that email?

MR ALOI: Yes.

30 **MS RICHARDSON SC:** Do you recall reading that as part of this chain at the time?

MR ALOI: Yes, it was a very long chain.

MS RICHARDSON SC: And you see there question 3 is raised:

35 "If the patron win, will we credit back
his front money to his card or can he
take the cash?"

40 And various questions are posed by Eva Xia. So did you know her to be an
international marketing manager at The Star?

MR ALOI: Yes.

45 **MS RICHARDSON SC:** And then if we could go to page 1517, please. And we see
an email from Saro Mugnaini to you. Do you see there he has, in effect, pasted in
questions from staff and is proposing an answer? Is that how you understand this
email?

MR ALOI: Correct.

5 **MS RICHARDSON SC:** And then we see - if you could go to the top of that page, please. I'm sorry, if you could have the bottom of 1516 to see the sender of this email. Do you see down the bottom of the left-hand page, you are sending an email to Andrew Haberley of the NAB? Do you see that?

MR ALOI: Yes.

10 **MS RICHARDSON SC:** And then if you look on the right-hand page, you're saying:

"Hi Andrew -"

15 Which is Andrew Haberley of the NAB:

20 "Is the below answers OK and can we have someone on site to go through the CUP debit process with staff? Thanks. Refer answers below."

Do you see that?

MR ALOI: Yes.

25 **MS RICHARDSON SC:** So is it the case that you forwarded through to Andrew Haberley of the NAB the questions and answers that I took you to at the bottom of page 1517 - you forwarded that on to him?

30 **MR ALOI:** That's correct.

MS RICHARDSON SC: And if you could go to page 1516, please, to the middle of the page, you see there in response you received an email from Andrew Haberley of the NAB to you:

35 "All looks well below."

MR ALOI: Yes.

40 **MS RICHARDSON SC:** So what did you understand Mr Haberley to be communicating to you when he wrote that "all looks well below"?

MR ALOI: That the proposed answers are okay.

45 **MS RICHARDSON SC:** And then if we go to the top of page 1516, please. And you respond to Andrew Haberley:

"Thanks for the prompt response. Do you have someone in the merchant POS -"

5 Does that mean point of sale?

MR ALOI: Yes.

MS RICHARDSON SC:

10

"That can have a quick session with marketing VIP team on how to process this type of transaction?"

15 **MR ALOI:** That's right.

MS RICHARDSON SC: Is it the case that NAB did provide people in their merchant POS team to do a session with the marketing VIP team?

20 **MR ALOI:** It was proposed, but they were tied up so I don't think they attended.

MS RICHARDSON SC: Could the following document please be brought up, STA.3034 - sorry, 3034.0001.0672. If we could go to pin site 0673, please. We see in the middle an email from Kim Ko, K-o. Do you know who she was?

25

MR ALOI: He was a treasury manager at the time, and he managed the relationship from a business perspective with NAB.

MS RICHARDSON SC: And we see up the top a response from Andrew Haberley to The Star:

30

"The merchant category code can be allocated at an EB level."

35 Do you see that?

MR ALOI: Yes.

MS RICHARDSON SC: Now, you have given evidence before that your understanding was "EB level" means it's based on the location of the terminal; is that correct?

40

MR ALOI: Yes.

45 **MS RICHARDSON SC:** So what was your understanding as to why the NAB had allocated the particular merchant category code to The Star that it did in relation to the Astral terminal?

MR ALOI: I think it was because it was permitted to transact on - with CUP.

MS RICHARDSON SC: Could MF111 please be brought up.

5 **MS ABDIEL:** Mr Bell, if I may, it may be that a document identification number --

MS RICHARDSON SC: I can do that. STA - that's it. Mr Aloï, if you just see the heading of this, Minutes of Meeting Held on 17 October 2013 at ILGA Offices, you see the attendees; you are not listed as an attendee?

10

MR ALOI: Yes, that's right.

MS RICHARDSON SC: Do you recall having seen these minutes before?

15 **MR ALOI:** No.

MS RICHARDSON SC: If you could look at the heading to paragraph - section 5 on the right-hand page, please. What do you understand "IRB" to mean in that context?

20

MR ALOI: International rebate business.

MS RICHARDSON SC: Thank you. I'm just identifying STA numbers on the documents I referred to in relation to Mr Lee that were produced on Friday. I don't know whether they have been uploaded by the solicitors assisting. Would it be convenient to have the morning tea break and we can communicate offline about these documents, as to whether or not they are in the system and can be brought up?

25

MR BELL SC: Yes. Just before you do, you have shown Mr Aloï two new documents. Would you like them marked for identification?

30

MS RICHARDSON SC: Yes, please.

MR BELL SC: Yes. I will mark for identification 24, STA.3034.0001.1514 and STA.3034.0001.0672. And I will now adjourn for 15 minutes.

35

<THE HEARING ADJOURNED AT 11:18 AM

<THE HEARING RESUMED AT 11:44 AM

40 **MR BELL SC:** Ms Richardson, I've been notified by those assisting the review that those assisting you have provided four documents which you wish to examine Mr Aloï upon, but we were first given notice of that about half an hour ago. I would remind you of paragraph 34 of the procedural guidelines which require:

45

"Any person wishing to have a document placed before the public hearings to notify the review by providing a copy."

In order to avoid inefficiencies in the future, I would ask that if you are proposing to take a witness to new documents that you give at least 24 hours' notice in future.
Thank you.

5

MS RICHARDSON SC: I certainly will be mindful of that. The reason why I have to re-examine on these documents is that junior counsel assisting took certain documents to Mr Aloï seeking to impeach him and didn't take him to other documents which had been produced to the review. So I apologise for the
10 inconvenience, but it's only because it wasn't dealt with in-chief that I'm then put in a position of having to do it in re-examination.

15

MR BELL SC: Yes. I will allow you to do it today, but in future can we try and give 24 hours' notice, otherwise it is productive of inefficiency. Thank you.

MS RICHARDSON SC: I accept that. I just want to go back to another document, please. It's - could the following document be brought up, please, 3034.0001.0672.

20

MR BELL SC: Is the prefix for that STA?

MS RICHARDSON SC: Yes, it is.

MR BELL SC: So STA.3034.0001.0672.

25

MS RICHARDSON SC: If we go to pin site 0673, please. Mr Aloï, I took you to this before. We see in the middle an email from Kim Ko to Andrew Haberley of the NAB saying:

30

"Hi Andrew, can you confirm the merchant categories for our terminals. I assume they will be different dependent depending on the location of the terminal."

35

Do you see that?

MR ALOI: Yes.

40

MS RICHARDSON SC: And up the top, Mr Haberley of the NAB responds:

"The merchant category code can be allocated at an EB level."

45

MR ALOI: Yes.

MS RICHARDSON SC: Correct? Which you've separately given evidence means it's based on the location of the terminal; is that correct?

MR ALOI: That's correct.

MS RICHARDSON SC: And if we can see --

5 **MR BELL SC:** What does "EB" stand for, Mr Aloï?

MR ALOI: I'm not sure. That's likely a banking term.

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

MS RICHARDSON SC: If we could go to the bottom of the previous - of page 0672, please. And we see a response from Mr Haberley to Kim Ko saying:

15 "Hi Kim, see attached."

And that follows on to the email:

20 "See attached the merchant category code can be allocated at an EB level."

Do you see that?

MR ALOI: Yes.

25 **MS RICHARDSON SC:** And you ultimately received this chain of emails; is that correct?

MR ALOI: That's correct.

30 **MS RICHARDSON SC:** I just want to take you to the attachment. Could the following document be brought up, 3034.0001.0675.

MR BELL SC: That has the prefix STA, does it, Ms Richardson?

35 **MS RICHARDSON SC:** Yes. Thank you. I think we will need the native document because it's an Excel spreadsheet. Thank you. Do you recognise this as the attachment to the email that Mr Haberley of the NAB sent?

40 **MR ALOI:** Yes.

MS RICHARDSON SC: And we see in column I, EB Name, and then MCC; correct?

45 **MR ALOI:** Yes.

MS RICHARDSON SC: And I want to take you, please - if the third page could be brought up, please. It might be sheets - if we could scroll down to The Star Pty Ltd, please. Thank you. Keep going. Stop. So you see up the top, for example, at row 245,

which we have seen previously seen, connected to The Star Limited. Thank you.
Row 235 we see over the right, "Astral MCC 7011"?

5 **MR ALOI:** Yes.

MS RICHARDSON SC: Was that the relevant merchant code, or was it a different one?

10 **MR ALOI:** I believe it was row 255.

MS RICHARDSON SC: Is it your understanding that the different rows in this spreadsheet correspond to different electronic banking terminals at The Star or the various entities?

15 **MR ALOI:** Yes.

MS RICHARDSON SC: Is it the case that "EB" may stand for "electronic banking"?

20 **MR ALOI:** Likely.

MS RICHARDSON SC: Do you know one way or the other, or you're not sure?

25 **MR ALOI:** Yes. Correct.

MS RICHARDSON SC: I want to switch topics and ask you some questions about Mr Phillip Lee. You were asked some questions about whether he was ever a rebate player; do you recall that?

30 **MR ALOI:** Yes.

MS RICHARDSON SC: I just want to bring up some documents to ask you about them, please. Document STA.3031.0002.0244. Do you see up in the top left-hand side it says "Star IRBMS"?

35 **MR ALOI:** Yes.

MS RICHARDSON SC: What does that stand for?

40 **MR ALOI:** International rebate business management system.

MS RICHARDSON SC: And what does this system show?

45 **MR ALOI:** A dashboard of all programs related to rebate.

MS RICHARDSON SC: And on the left under Program Name, you see a particular number there starting with 44?

MR ALOI: Yes.

MS RICHARDSON SC: Do you see that?

5 **MR ALOI:** Yes.

MS RICHARDSON SC: I want you to assume that that's the patron number of Mr Phillip Dong Fang Lee.

10 **MR ALOI:** Yes.

MS RICHARDSON SC: So could you explain, please, how this system works. If a patron - Mr Lee's patron name is plugged into the program name data field there and we see no results on the screen, what does that tell us?

15

MR ALOI: There was no programs allocated to Mr Lee.

MR BELL SC: What period of time does this relate to, Mr Aloï?

20 **MR ALOI:** Depends what tick box is closed, but it will be captured across all dates.

MR BELL SC: So what period of time does this relate to?

25 **MR ALOI:** Since inception, though closed programs - you have got active programs is live, inactive is - is programs that are not live and closed are historic.

MR BELL SC: So when you say "since inception", since what date?

30 **MR ALOI:** Since Synkros. Late 2009.

MR BELL SC: Thank you.

35 **MS RICHARDSON SC:** Perhaps it is on the next page. It's a page entitled Inactive Programs. Thank you. Sorry. Go back, please. Thank you. Do you see down the bottom half of that page, Mr Aloï, if you can read it, we have got the same patron number on the left. I want you to assume that's Mr Lee's patron number. And the title is Inactive Programs. And could you explain, please, what that page tells us? Where the patron name - the patron ID has been entered and we see no results, what does that tell us from the database?

40

MR ALOI: There were no programs at all for Mr Lee.

MS RICHARDSON SC: What type of programs --

45 **MR BELL SC:** Why does this one say "inactive" - I'm sorry, Ms Richardson. I've cut you off. But I wanted to understand, Mr Aloï, why in this version the box ticked is "inactive" rather than "closed" in the earlier version?

MR ALOI: They move - when a program is live, it's "active". And when it's - when it's recently closed off, it goes to "inactive". And "closed" itself is historical data.

MR BELL SC: Yes. Thank you.

5

MS RICHARDSON SC: Could the next page of this document be brought up, please. What database is this an extract from?

MR ALOI: Synkros.

10

MS RICHARDSON SC: Is this a database you are familiar with as part of your work at The Star?

MR ALOI: Yes. It's a Synkros dashboard of programs.

15

MS RICHARDSON SC: So if you could just explain to us how this works. I want you to assume that the patron number entered is Mr Phillip Lee's. And we see on the top left "program for", and we've got "junket" is ticked off. Do you see that?

20

MR ALOI: Yes.

MS RICHARDSON SC: Could you please explain to Mr Bell what these search results tell us.

25

MR ALOI: These search results - the bottom left-hand box says "your search returned no data" under the category of "junket". And you have to obviously type in the number to bring up that respective patron's ID to see if there's any programs for that individual.

30

MR BELL SC: I can't see the patron number on this screen, Mr Aloï. Can you help me with that?

MS RICHARDSON SC: Mr Bell, we are going to have to produce a different version of this that proves that link. So I'm asking the witness to make the assumption and explain what the database means on that basis.

35

MR BELL SC: Is this one of the documents you have only recently notified you would be taking Mr Aloï to?

40

MS RICHARDSON SC: It was produced on Friday, and I indicated today that I would seek to take the witness to it in re-examination.

MR BELL SC: Yes. I see. And, Mr Aloï, is it the data in Synkros which is used to determine the gambling duty that's payable to the New South Wales Government?

45

MR ALOI: That's where it comes from. Correct.

MR BELL SC: And who is responsible for determining that amount of duty on behalf of The Star?

5 **MR ALOI:** That would be the revenue audit finance team.

MR BELL SC: And who was in charge of that team between 2013 and now?

MR ALOI: Several people have changed. The CFO would be - all report to the CFO at the time.

10 **MR BELL SC:** I see. Thank you. Sorry, Ms Richardson. I interrupted you.

MR ALOI: So this is, yes, a snapshot of what a search would look like, once you type in the number of the guest.

15 **MR BELL SC:** So is this document telling me - assuming this relates to Mr Lee, is this document telling me that he was not on a junket program?

MR ALOI: That is correct.

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

MS RICHARDSON SC: If we could go to the next page, please.

25 **MR ALOI:** The same information, with no data --

MS RICHARDSON SC: So we see on the left that "premium" is now ticked - "program for premium". Could you explain to Mr Bell what "premium" means, please?

30 **MR ALOI:** Premium means an individual program.

MS RICHARDSON SC: Do you mean an individual rebate program?

35 **MR ALOI:** Yes.

MS RICHARDSON SC: Could we go to the next page, please. And we see on the top left "program for" ticked "individual". Do you see that?

40 **MR ALOI:** Yes.

MS RICHARDSON SC: So what does this page tell us, assuming it's the patron ID of Mr Lee?

45 **MR ALOI:** This relates to VIP domestic programs.

MS RICHARDSON SC: Does "domestic" mean Sydney or some other State?

MR ALOI: Some other State.

MR BELL SC: And how should I understand the reference to "status inactive" on this page?

5

MR ALOI: Sorry, can you repeat that?

MR BELL SC: Do you see on the left-hand side of the document it says "status inactive"? Do you see that?

10

MR ALOI: Yes.

MR BELL SC: What does that mean?

15 **MR ALOI:** That it was active at one point and it's moved to inactive.

MR BELL SC: And how do I find out when that change occurred?

20 **MR ALOI:** If a program showed up on this page, you will see a timeframe of when it was moved across.

MR BELL SC: And who at The Star was responsible for managing the Synkros program between 2014 and now?

25 **MR ALOI:** That will be managed by the VIP team.

MR BELL SC: Who is in charge of that team over that period?

30 **MR ALOI:** It's changed hands - the general manager of VIP, early 2000s - 2012, '13, '14, '15, was Saro Mugnaini.

MR BELL SC: Yes.

35 **MR ALOI:** After that, I can't recall who may have been in that position.

MR BELL SC: Yes. Thank you.

40 **MS RICHARDSON SC:** So when I - I took you to the language "program type VIP-DOM".

MR ALOI: Yes.

45 **MS RICHARDSON SC:** Can you explain what that label means in relation to The Star at Sydney?

MR ALOI: A - a VIP domestic program.

MS RICHARDSON SC: So what does that mean in terms of the residency of the person?

5 **MR ALOI:** Not a - not a resident of New South Wales.

MS RICHARDSON SC: So assuming this page is connected to the patron number of Mr Lee, what does this result tell us? What does this page tell us about him at The Star?

10 **MR ALOI:** That he had no program under this category.

MR BELL SC: At any time?

15 **MR ALOI:** At any time.

MR BELL SC: Even though it uses the expression "inactive", which I thought you told me meant that it had changed at some point. Have I misunderstood?

20 **MR ALOI:** "Inactive" - "active" means it was open at some point. "Inactive" means closed. Then you have got the "closed" option as well.

MR BELL SC: Does "inactive" mean it was open at some point?

25 **MR ALOI:** Yes.

MR BELL SC: So at some point, he was regarded as VIP domestic, meaning not a resident of New South Wales. Have I got that right?

30 **MR ALOI:** No. If it showed up - if he had an active program at some point, it would be in this category, if he was from interstate.

35 **MS RICHARDSON SC:** So, Mr Aloï, to sum up, I've taken you to extracts from Synkros where, firstly, "junket" was ticked, then "premium", then "individual" - sorry, I should take you to the next one where "group" is ticked. Could we go to the next page, please. Could you explain what "group" means, please?

MR ALOI: It's not a box that I'm familiar with, "group". But looking at the program type, it's the same as "individual".

40 **MS RICHARDSON SC:** So I've taken you to four pages where you see the four boxes of "junket", "premium", "group" and "individual" where it has involved ticking one of each of those boxes. Are you able to tell Mr Bell what those four pages together mean in terms of their results, assuming they're connected to the patron number of Mr Lee?

45 **MR ALOI:** That Mr Lee was not on any program that we're aware of, according to this information.

MR BELL SC: At any time?

MR ALOI: Correct.

5 **MS RICHARDSON SC:** And when you say "program", you mean rebate program; is that correct?

MR ALOI: That's right.

10 **MS RICHARDSON SC:** And is this in relation to The Star Sydney?

MR ALOI: Yes.

15 **MS RICHARDSON SC:** I want to take you to some records in relation to The Star Gold Coast. Could the following document be --

MS SHARP SC: Sorry to interrupt. Mr Bell, might it be convenient to mark that document for identification?

20 **MR BELL SC:** Well, there have been three documents that Ms Richardson has taken Mr Aloï to. Would you like them all to be marked, Ms Richardson?

MS RICHARDSON SC: Yes.

25 **MR BELL SC:** I will mark all three of them as MFI25, STA.3034.0001.0672, STA.3034.0001.0675 and STA.3031.0002.0244.

30 **MS RICHARDSON SC:** Could the following document be brought up, please, STA.3031.0002.0249. I want you to assume that these are Synkros records from The Star Gold Coast. As part of your job, would you ever have contact with Synkros records for the Gold Coast?

MR ALOI: No.

35 **MS RICHARDSON SC:** What's your understanding about whether Mr Phillip Dong Fang Lee ever played on a rebate program in Queensland at The Star?

MR ALOI: I'm not aware at all.

40 **MS SHARP SC:** Is it possible - pardon me for interrupting. Is it possible for the operator to enlarge the document so that we can read it? I'm afraid I can't.

MS RICHARDSON SC: Is this a database - these results you are familiar with, Mr Aloï, or not?

45

MR ALOI: Yes. The same - it's the same Synkros system, different databases.

MS RICHARDSON SC: Are you able to tell Mr Bell - and it may be you need to scroll down - what these records are? What they reveal, or not?

5 **MR ALOI:** You have got address details on that first snapshot.

MS RICHARDSON SC: The bottom snapshot might need to be enlarged, but are you able to give an - it's not very clear. Are you able to give an overview about what these records are revealing?

10 **MR ALOI:** That snapshot on the screen is rated play.

MR BELL SC: I can't read it at all, Ms Richardson. It's all very blurred. I'm wondering if it might be more efficient - it's a matter for you, but I wonder if it might be more efficient for Mr Aloï to provide us with a supplementary statement dealing with Mr Lee's status so that this could be done in a more efficient way. It's a matter for you.

MS RICHARDSON SC: No. We accept that. Those are my questions. Thank you.

20 **MR BELL SC:** Yes. Ms Sharp, do you have any questions arising from that? I do think it would be preferable for this to be done in a more orderly way. It's an important issue, and Mr Aloï is entitled to tell us in an orderly way about this point.

25 **MS SHARP SC:** Mr Bell, in light of the fact that a supplementary statement will be put on, I won't ask any questions about MFI25 as I expect they will be addressed in the supplementary statement.

30 **MR BELL SC:** Yes. I will add to MFI25 the last document, STA.3031.0002.0249. Mr Aloï, it's quite likely that your examination will continue at some later point, but that's all for now. So thank you very much for your evidence.

MR ALOI: Thank you.

<THE WITNESS WAS RELEASED

35 **MR BELL SC:** Yes, Ms Sharp. Who is the next witness?

MS SHARP SC: The next witness, Mr Bell, is Michael Whytcross.

40 **MR BELL SC:** And, Ms Richardson, do you need a minute or two to get ready for that?

MS RICHARDSON SC: Yes, please.

45 **MR BELL SC:** We will adjourn for a couple of minutes.

<THE HEARING ADJOURNED AT 12:11 PM

<THE HEARING RESUMED AT 12:15 PM

MR BELL SC: Mr Whytcross, am I pronouncing your name correctly?

5 **MR WHYTCROSS:** Yes, you are. Thank you.

MR BELL SC: Yes. And would you prefer to take an oath or affirmation?

10 **MR WHYTCROSS:** An affirmation. Thank you.

<MICHAEL JAMES ALLAN WHYTCROSS, AFFIRMED

MR BELL SC: Thank you, Mr Whytcross. Yes, Ms Sharp.

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

MS SHARP SC: Mr Whytcross, could you tell the review your full name, please.

20 **MR WHYTCROSS:** Michael James Allan Whytcross.

MS SHARP SC: And your address is known to those assisting this review?

MR WHYTCROSS: Yes, it is.

25 **MS SHARP SC:** You are presently the general manager finance and commercial at Star Entertainment Group?

MR WHYTCROSS: Yes, I am.

30 **MS SHARP SC:** And Star Entertainment Group is your employing entity?

MR WHYTCROSS: Yes, it is.

35 **MS SHARP SC:** Could you please tell us your post-secondary professional qualifications.

MR WHYTCROSS: I have a Bachelor of Commerce, and also as a chartered accountant.

40 **MS SHARP SC:** Now, I would like to explore your employment history before you arrived at The Star. It's correct that you commenced at The Star in August of 2016?

MR WHYTCROSS: I believe it was a little later than that, in October 2016.

45 **MS SHARP SC:** Prior to that, you were the commercial manager at Crown Resorts?

MR WHYTCROSS: Yes, I was. I also, I think, had a few different titles in my time at Crown Resorts.

MS SHARP SC: Well, could you talk us through your employment history at Crown Resorts, please.

5 **MR WHYTCROSS:** Sure. I was initially employed as a commercial manager. Throughout my time at Crown, was also - the position was changed to be group manager of international business development.

10 **MS SHARP SC:** And they were the only two job titles you held there?

MR WHYTCROSS: Yes, I believe they were.

MS SHARP SC: And where were you based?

15 **MR WHYTCROSS:** I was based in Melbourne.

MS SHARP SC: And is it correct you held those positions from April 2013 to July 2016?

20 **MR WHYTCROSS:** Yes, I believe that's correct.

MS SHARP SC: And what were your key responsibilities in each of those positions, or were they the same position with different job title?

25 **MR WHYTCROSS:** It was largely the same position with a different - different job title, and it was to provide finance and commercial support to the international business.

30 **MS SHARP SC:** And by "the international business", do you mean the international junket and premium direct business?

MR WHYTCROSS: Yes, that's correct.

35 **MS SHARP SC:** And could you explain how you provided financial support to that segment of the business?

40 **MR WHYTCROSS:** It was - involved financial analysis around the operations of the - the international business, was the - the large component of my role on a day-to-day basis.

MS SHARP SC: And what did that financial analysis consist of?

45 **MR WHYTCROSS:** It - it would involve analysing the overall performance of the international business, in addition to performing detailed analysis on individual customers and junkets as well.

MS SHARP SC: That anticipated my next question. Did you become familiar with some of Crown Resorts's larger junkets?

MR WHYTCROSS: Yes, I did.

5 **MS SHARP SC:** And did you become familiar with some of Crown Resorts's larger patrons?

MR WHYTCROSS: By name, yes, I did.

10 **MS SHARP SC:** Now, prior to your employment at Crown Resorts, is it correct that you were at KPMG from June 2008 to April 2013?

MR WHYTCROSS: Yes, that's correct.

15 **MS SHARP SC:** And at that time, you were based in the United Kingdom?

MR WHYTCROSS: It was a combination of Melbourne and in Edinburgh. I did a two-year secondment to the Edinburgh office.

20 **MS SHARP SC:** And what was your role at KPMG?

MR WHYTCROSS: I was a part of the transaction services team.

MS SHARP SC: What sort of transactions?

25 **MR WHYTCROSS:** It involved mergers and acquisitions.

MS SHARP SC: And prior to your employment at KPMG, you were employed at PwC?

30 **MR WHYTCROSS:** Yes, I was.

MS SHARP SC: And that was between January 2006 to June 2018?

35 **MR WHYTCROSS:** Yes, I believe that's correct.

MS SHARP SC: And you were employed as a senior accountant?

MR WHYTCROSS: Yes, I was.

40 **MS SHARP SC:** And you were based in Melbourne?

MR WHYTCROSS: Yes. Correct.

45 **MS SHARP SC:** Now, since you joined Star Entertainment in the second part of 2016, has your job description changed?

MR WHYTCROSS: No, I don't believe it has. My role has changed, and I believe a position description was drafted but never finalised.

MS SHARP SC: Can you provide us, please, with a general overview of your position as general manager finance and commercial.

5 **MR WHYTCROSS:** Yes. So when I joined The Star, I was based in Hong Kong, in the Hong Kong office, and provided finance and commercial support to the international business at - at that point in time. That continued until April 2019 when I relocated from Hong Kong to Sydney. And after that time, in - I believe it was late
10 2020, my role was expanded to provide oversight and responsibility of the credit and collections team, in addition to the procurement team.

MS SHARP SC: And why is it that you were based in Hong Kong?

15 **MR WHYTCROSS:** At the time when I was recruited to - to The Star, the decision was made for me to be based in Hong Kong as I reported to the president of international sales at the time, and a large component of my role at that point was to provide finance and commercial support to him.

20 **MS SHARP SC:** And who was the president of international sales?

MR WHYTCROSS: That was John Chong.

MS SHARP SC: And did the president of international sales change over the time you were in Hong Kong?

25 **MR WHYTCROSS:** Yes, it did.

MS SHARP SC: And who was the first - or the next president of international sales?

30 **MR WHYTCROSS:** I - I believe - my recollection was that after John left the - the business, my own reporting line changed to Greg Hawkins, and then Marcus Lim became the president of international sales.

MS SHARP SC: So I just want to understand the times at which you reported to these various people. Is it the case that you firstly reported to John Chong?

MR WHYTCROSS: Yes, that's correct.

40 **MS SHARP SC:** And in what period of time was that?

MR WHYTCROSS: I can't recall specifically, but it - it would have been from when I started at The Star until Mr Chong left the business. Unfortunately, I can't recall the exact date.

45 **MS SHARP SC:** All right. Can you give us a year?

MR WHYTCROSS: I believe that would have been around 2017, 2018.

MS SHARP SC: And next you reported to Mr Hawkins, did you?

MR WHYTCROSS: Yes, I did.

5 **MS SHARP SC:** And for what period of time did you report to Mr Hawkins?

MR WHYTCROSS: I believe that was from the transition from John Chong around the 2017/18 period until - it was after I returned to Sydney, so that would have been in - in a 2019 period.

10

MS SHARP SC: And was John Chong based in Hong Kong?

MR WHYTCROSS: Yes, he was.

15 **MS SHARP SC:** Was he located in the same offices as you were?

MR WHYTCROSS: Yes, he was.

MS SHARP SC: Was Marcus Lim based in Hong Kong?

20

MR WHYTCROSS: No, he was not.

MS SHARP SC: Where was he based?

25 **MR WHYTCROSS:** Marcus Lim was based in the Singapore office.

MS SHARP SC: How many other people were in the Hong Kong office with you while you were there?

30 **MR WHYTCROSS:** The - the number of people would have changed and - and grew and - and declined over time. I believe when I started it - it would have been approximately 10 people. But that increased - I would be estimating here - to a maximum of 15 to 20 at its peak.

35 **MS SHARP SC:** And is it correct that - you have mentioned that Marcus Lim was based in Singapore. Were there any other SEG staff members based in Singapore?

MR WHYTCROSS: Yes, there were.

40 **MS SHARP SC:** How many?

MR WHYTCROSS: I - I do not know specifically, unfortunately.

MS SHARP SC: Could you give us your best estimate, please.

45

MR WHYTCROSS: I would estimate that it would be approximately 15 to 20 people as well, at its peak.

MS SHARP SC: And when was its peak?

MR WHYTCROSS: I believe that was around the 2017 to 2018 period.

5 **MS SHARP SC:** And is it correct there were also Star Entertainment staff members based in Macau?

MR WHYTCROSS: Yes, there were.

10 **MS SHARP SC:** And how many staff members were based in Macau during the period you've been employed as general manager finance and commercial?

15 **MR WHYTCROSS:** That would have changed over time. And from an estimating point of view, at the same period, I would have assessed that at between five to 10 people.

MS SHARP SC: Did you travel to the Singapore office from time to time in the course of your work?

20 **MR WHYTCROSS:** Yes, I did.

MS SHARP SC: How frequently, would you estimate?

25 **MR WHYTCROSS:** I would estimate that at once or twice a year, at maximum.

MS SHARP SC: And did you travel from time to time to the Macau office during the course of your employment?

30 **MR WHYTCROSS:** Yes, I did.

MS SHARP SC: And how frequently did you travel there?

MR WHYTCROSS: I would suggest that would be maybe once a quarter.

35 **MS SHARP SC:** How senior were you within the Hong Kong office?

MR WHYTCROSS: From a - from a finance and commercial perspective, I was most definitely the more senior person in that office.

40 **MS SHARP SC:** Do you mean the most senior person in that office?

45 **MR WHYTCROSS:** From a finance and commercial perspective, yes. However, the sales team reported separately to me. So, therefore, I wouldn't have considered myself the most senior person in that office.

MS SHARP SC: Were there any credit and collections people in that office?

MR WHYTCROSS: Yes, there were.

MS SHARP SC: And do you count them as falling within finance?

5 **MR WHYTCROSS:** They - at that point in time, they were within finance, but they did not report to me.

MS SHARP SC: Who did they report to at that time?

10 **MR WHYTCROSS:** They reported to Adrian Hornsby.

MS SHARP SC: And who did he report to?

MR WHYTCROSS: He reported to the CFO, Chad Barton, at that point in time.

15 **MS SHARP SC:** Now, how did the finance - well, I withdraw that. You were the general manager of finance and commercial. Is that a distinct business unit within Star Entertainment?

20 **MR WHYTCROSS:** My apologies. Would - would you be able to repeat the question?

MS SHARP SC: You are the general manager of finance and commercial. Is finance and commercial a separate business unit within Star Entertainment?

25 **MR WHYTCROSS:** No, it's not. The finance - my title was finance and commercial, was to provide support to the international business. However, there is other finance and commercial capability within The Star.

30 **MS SHARP SC:** How did your role fit in with the credit and collections team?

MR WHYTCROSS: My role - I would best describe that as working alongside the - the credit and collections team at that point in time.

35 **MS SHARP SC:** And, I'm sorry, what does that mean?

MR WHYTCROSS: So I viewed the credit and collections team as colleagues. There was a separate reporting line for the credit and collections team, and - and they reported directly into the - the CFO.

40 **MS SHARP SC:** And how did you support the credit and collections team?

MR WHYTCROSS: I didn't provide direct support at that time. Throughout - throughout my time in Hong Kong, I was asked to provide ad hoc support for specific initiatives, but it wasn't an ongoing requirement of my role at
45 that point in time.

MS SHARP SC: When you say "at that point in time", what point are you referring to?

MR WHYTCROSS: Until the credit and collections team fell under my responsibility in late 2020.

5 **MS SHARP SC:** And how did your role fit within The Star Entertainment Group treasury team?

MR WHYTCROSS: It did not. The treasury team, I understand, was completely independent and reported separately into the CFO.

10

MS SHARP SC: So just if I can cycle back to this. Could you provide me with a general overview of your position and its responsibilities until the point where you assumed direct responsibility for credit and collections?

15 **MR WHYTCROSS:** Yes. So I provided finance and commercial support to the international business. Now, that included a number of strategic projects, commercial advice, commercial input around performance and profitability, and that was the large component of my role.

20 **MS SHARP SC:** And has that role changed now that you have direct responsibility for the credit and collections team?

MR WHYTCROSS: Yes, it has.

25 **MS SHARP SC:** And how has that changed?

MR WHYTCROSS: So now - currently, the credit and collections team report directly to me, and I have - and have had - oversight of that team since late 2020.

30 **MS SHARP SC:** Does that have any consequence for the type of advice you provide to the business?

MR WHYTCROSS: Not specifically. It - it is - just been an expansion of my role to include that department.

35

MS SHARP SC: So is it fair to say that your role has remained constant but the teams that you supervise have expanded?

40 **MR WHYTCROSS:** Yes. I would agree with that, with the caveat of the procurement team. I think that also reported under me from late 2020, and that was a fundamental shift in my role at that point in time.

MS SHARP SC: Did you have general familiarity with the bank accounts into which international patrons could deposit funds?

45

MR WHYTCROSS: I had a very small understanding at that point in time.

MS SHARP SC: Has that changed now?

MR WHYTCROSS: Yes, it has.

5 **MS SHARP SC:** When did that change?

MR WHYTCROSS: Since the department fell under my responsibility from late 2020.

10 **MS SHARP SC:** Did you have any role with respect to administering bank accounts into which patrons could deposit funds?

MR WHYTCROSS: No, I did not.

15 **MS SHARP SC:** Did you have any role with respect to supervising the way into which such accounts could be dealt with?

MR WHYTCROSS: No, I did not.

20 **MS SHARP SC:** Have you ever undertaken any anti-money laundering and counter-terrorism financing training?

MR WHYTCROSS: Yes, I have.

25 **MS SHARP SC:** When was that?

MR WHYTCROSS: I cannot recall specifically. However, throughout my time at The Star, there is online AML training which I have completed.

30 **MS SHARP SC:** Is that the first time you've ever completed AML training?

MR WHYTCROSS: I believe I would have completed similar training in my previous employment.

35 **MS SHARP SC:** And that's your employment at Crown Resorts?

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: All right. Let's start there. What training did you receive there?

40 **MR WHYTCROSS:** My apologies. I can't recall specifically. However, I have a general recollection that there was training that was completed around AML.

45 **MS SHARP SC:** Can you give us any further assistance with what training you undertook there?

MR WHYTCROSS: Again, given the timeframe, my recollection on the specifics of that is - is quite sketchy. However, I recall it would have been around the risks of AML.

MS SHARP SC: Let's move to your training while you've been employed at Star Entertainment. You said you have undertaken some online training. Anything other than online training?

5

MR WHYTCROSS: No, I don't believe so.

MS SHARP SC: When did you first undertake this online training?

10 **MR WHYTCROSS:** I - I'm not aware specifically of the timeframe that I would have taken that training.

15 **MS SHARP SC:** Let me try to focus your mind by reference to your evidence that you commenced working with Star Entertainment in around October of 2016. How long after you commenced did you undertake your first online training?

MR WHYTCROSS: I'm not aware specifically. However, I would expect that that training would have occurred within the first 12 to - 12 months.

20 **MS SHARP SC:** Well, at all times you have provided financial and commercial support and advice to the international business, haven't you?

MR WHYTCROSS: Yes. Yes, I have.

25 **MS SHARP SC:** Well, in light of that, when do you think it was that you first undertook anti-money laundering and counter-terrorism finance training at The Star?

30 **MR WHYTCROSS:** I - I'm not aware specifically of the date. However, I would expect that that would have been within the first 12 months of my employment at The Star.

MS SHARP SC: And what did that online training consist of, exactly?

35 **MR WHYTCROSS:** That training consisted of identification of the risks of money laundering, predominantly.

MS SHARP SC: How long did that online training take?

40 **MR WHYTCROSS:** I believe quite short, within - I would expect that was a half an hour training session.

MS SHARP SC: Have you had any training since that time?

45 **MR WHYTCROSS:** I believe, throughout my employment at The Star, I have completed similar training through an online portal.

MS SHARP SC: On how many occasions?

MR WHYTCROSS: I cannot recall specifically.

MS SHARP SC: Could you give me your best estimate, please.

5 **MR WHYTCROSS:** I would expect that it would be another two to three times throughout my time at The Star.

MS SHARP SC: And how long did each of those training sessions take?

10 **MR WHYTCROSS:** I believe they were the same, around a half an hour training session.

MS SHARP SC: Could you please describe the level of understanding you have of Australia's anti-money laundering and counter-terrorism financing legal framework.

15

MR WHYTCROSS: I have a very limited understanding of - of the - the framework.

20 **MS SHARP SC:** And that's the case even though you work to provide advice to the international business?

MR WHYTCROSS: Yes, that's correct.

25 **MS SHARP SC:** Has that concerned you at all, that given you provide financial and commercial advice to the international business, you have a very limited understanding of Australia's anti-money laundering framework?

MR WHYTCROSS: Not specifically, given the additional expertise within The Star.

30

MS SHARP SC: Are you familiar with the concept of a reporting entity?

MR WHYTCROSS: I have a general understanding of a reporting entity.

35 **MS SHARP SC:** Tell me, aren't you the AML and CTF compliance officer for EEI Services (Hong Kong) Limited?

MR WHYTCROSS: Yes, I was.

40 **MS SHARP SC:** But you only have a very limited understanding of Australia's anti-money laundering framework?

MR WHYTCROSS: Yes, I do.

45 **MS SHARP SC:** So upon your appointment as compliance officer of EEI Services, do we understand that you did not take any time to further familiarise yourself with Australia's anti-money laundering framework?

MR WHYTCROSS: Not - not to a - a detailed extent. No, I did not.

5 **MS SHARP SC:** And did you, at that time, take any time to familiarise yourself with the requirements of Hong Kong's anti-money laundering and counter-terrorism financing framework?

MR WHYTCROSS: Yes. At - at that point in time, yes, I - I did.

10 **MS SHARP SC:** And what did you do there?

MR WHYTCROSS: Through - at that point in time, I familiarised myself with the requirements of the - the Hong Kong obligations and, through that time, sought input and support from the wider team at The Star to increase my knowledge in that area.

15 **MS SHARP SC:** And what steps did you take to familiarise yourself with the Hong Kong framework?

20 **MR WHYTCROSS:** There was support and - and conversations that I had with team members of The Star to increase my knowledge in that area, and also undertook self-review and self-study to ensure that I had a better knowledge of those requirements.

MS SHARP SC: So what self-review and self-study did you undertake?

25 **MR WHYTCROSS:** I recall at the time that I reviewed, at a very high level, the requirements under the Hong Kong legislation.

MS SHARP SC: How did you do that?

30 **MR WHYTCROSS:** I recall that I - I simply reviewed that online independently.

MS SHARP SC: What did you review, I'm sorry?

35 **MR WHYTCROSS:** I - my recollection with that is I had a high-level review of the legislation and the requirements.

MS SHARP SC: And what did that high-level review of legislation involve?

40 **MR WHYTCROSS:** That was a - scanning and reading the requirements and legislation independently by myself.

MS SHARP SC: So did you scan the legislation or read it?

45 **MR WHYTCROSS:** I would have scanned it.

MS SHARP SC: So is it right that you didn't very thoroughly familiarise yourself with the Hong Kong anti-money laundering regime?

MR WHYTCROSS: Yes. I - I wouldn't have described that as a thorough familiarisation.

5 **MS SHARP SC:** Would you describe your level of understanding of the Hong Kong anti-money laundering system as very limited?

MR WHYTCROSS: Yes, I would.

10 **MS SHARP SC:** Now, returning to the Australian money laundering framework for a moment, are you familiar with the concept of designated services?

MR WHYTCROSS: I have a very general understanding of the concept of designated service.

15 **MS SHARP SC:** Does that mean you don't know what designated services The Star's casino entities provide?

20 **MR WHYTCROSS:** Not specifically. Throughout my employment at The Star, I have heard references to designated services quite often. However, that would be the extent of my knowledge.

MS SHARP SC: So the answer to my last question is no?

25 **MR WHYTCROSS:** Yes, that's correct.

MS SHARP SC: How about the designated services provided by EEI Services (Hong Kong) Limited? Do you know what they are?

30 **MR WHYTCROSS:** Yes. So the - the designated services was the provision of loans within Hong Kong.

MS SHARP SC: Do you know what the requirements of "know your customer" are in Australia?

35 **MR WHYTCROSS:** Yes. So my understanding of the KYC requirements in Australia is that The Star has a responsibility and an obligation to undertake sufficient assessments to satisfy itself of the nature and - of the individual - apologies.

40 **MS SHARP SC:** Are you familiar with the requirement of enhanced due diligence - I withdraw that. Are you familiar with the requirement of enhanced customer due diligence?

45 **MR WHYTCROSS:** I'm aware of the concept of enhanced due diligence, but not the specific requirements.

MS SHARP SC: Do you understand the situations in which a casino operator must undertake enhanced customer due diligence?

MR WHYTCROSS: Not specifically. No, I'm not.

5 **MS SHARP SC:** Are you familiar with the requirements of transaction monitoring for the purposes of anti-money laundering law?

MR WHYTCROSS: I'm familiar with the concept of transaction monitoring.

10 **MS SHARP SC:** Do you have much understanding of what it requires?

MR WHYTCROSS: Not a detailed understanding, no, I don't.

15 **MS SHARP SC:** Do you understand the Australian money laundering regime is based on a risk-based system?

MR WHYTCROSS: Yes, I was aware of that.

20 **MS SHARP SC:** Do you understand that means that it is necessary to accurately identify risks and evaluate them?

MR WHYTCROSS: Yes.

25 **MS SHARP SC:** Do you understand that proper controls can only be implemented to manage risks if they are correctly identified and evaluated in the first place?

MR WHYTCROSS: Yes, I'm aware of that.

30 **MS SHARP SC:** Now, it's correct, isn't it, that Star Entertainment and its subsidiaries provide financial services that facilitate the movement of money into and out of the casino environment?

MR WHYTCROSS: Yes, I'm - I'm aware that money is transferred in and out of The Star. Correct.

35 **MS SHARP SC:** And those transfers are often of very high value?

MR WHYTCROSS: Yes. I - I'm aware that those can be of high value.

40 **MS SHARP SC:** And those transfers can occur across borders?

MR WHYTCROSS: Yes, I am aware of that.

45 **MS SHARP SC:** You are also aware, aren't you, that cash is used extensively in relation to gaming services at the casinos?

MR WHYTCROSS: Yes.

MS SHARP SC: And do you agree that the ownership of cash is less transparent than other forms of money?

MR WHYTCROSS: Yes.

5

MS SHARP SC: And, therefore, do you agree that cash raises particular anti-money laundering vulnerabilities?

MR WHYTCROSS: Yes, I do.

10

MS SHARP SC: And have you at all times during your employment with Star Entertainment understood that casinos are exposed to significant money laundering vulnerabilities?

15 **MR WHYTCROSS:** Yes, I have been.

MS SHARP SC: Is it a red flag for you, in terms of money laundering, if a patron turns up at The Star in Sydney with hundreds of thousands of dollars in cash?

20 **MR WHYTCROSS:** Yes, it would be.

MS SHARP SC: Is it a red flag for you, in terms of money laundering, if a patron turns up at The Star in Sydney with tens of thousands of dollars in cash?

25 **MR WHYTCROSS:** Yes, it would be.

MS SHARP SC: Is it a red flag for you, in terms of money laundering, if a patron overseas presents to a bank with hundreds of thousands of dollars in cash and seeks to deposit it?

30

MR WHYTCROSS: Yes, it would be.

MS SHARP SC: Do you understand that money service businesses provide particular risks in terms of anti-money laundering?

35

MR WHYTCROSS: My apologies. Can you clarify "money service business"?

MS SHARP SC: I will call it a remitter. Do you understand that terminology?

40 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: A third-party remittance business?

MR WHYTCROSS: My apologies. Could - could you repeat the question?

45

MS SHARP SC: Yes, I will, Mr Whytcross. Are you familiar with the concept of third-party remitters?

MR WHYTCROSS: Yes, I am.

MS SHARP SC: And have you heard them referred to as money service businesses in the past?

5

MR WHYTCROSS: No, I don't believe I have.

MS SHARP SC: I will use the language of "third-party remitter". It's right, isn't it, that some banks are reluctant to deal with third-party remitters because of the anti-money laundering risks they present, isn't it?

10

MR WHYTCROSS: I was not aware of that.

MS SHARP SC: Are you aware of any enhanced risks that are associated with third-party remitters?

15

MR WHYTCROSS: I - I was aware that third-party remitters present a higher risk, yes.

MS SHARP SC: And why is that, that they present a higher risk?

20

MR WHYTCROSS: I'm not aware specifically, but I - I did have a - or I do have an awareness that remitters do present a higher risk.

MS SHARP SC: But you cannot tell us any reason why?

25

MR WHYTCROSS: I - not specifically. However, I would assess that it's a third party and, therefore, that increases the risk of knowledge of where the origination of funds have come from.

30

MS SHARP SC: So there's a money laundering risk with third-party remitters because there's some obscurity with the source of funds, isn't there?

MR WHYTCROSS: Yes, I would agree with that.

35

MS SHARP SC: Is that something of which you have been aware at all times while you've been employed at Star Entertainment?

MR WHYTCROSS: No, I don't believe so. It's certainly something I've - I've been more aware of in the past period since I've taken responsibility for the credit and collections team.

40

MS SHARP SC: So have you only become aware of that risk since about October 2020?

45

MR WHYTCROSS: I would assess my - my knowledge of - of the risk has increased significantly since October 2020.

MS SHARP SC: And why did your knowledge of that risk increase at that time?

5 **MR WHYTCROSS:** That - that was associated with my - the credit and collections team falling under my responsibility and, therefore, that increased my knowledge to - to ensure that I - I knew the operations of - of the credit and collections team in detail.

10 **MS SHARP SC:** But didn't you know the operations of the credit and collections team in detail before that time?

MR WHYTCROSS: No, I did not.

15 **MS SHARP SC:** Didn't you provide advice to that team before you assumed responsibility for it?

MR WHYTCROSS: No. I provided ad hoc support to that team, but that team largely operated independently at that period.

20 **MS SHARP SC:** Are you aware that one of The Star's core values is "do the right thing"?

MR WHYTCROSS: Yes, I am.

25 **MS SHARP SC:** When did that value - I withdraw that. When was that value introduced at The Star?

MR WHYTCROSS: I believe that has been introduced over the past 12 months.

30 **MS SHARP SC:** And what (indistinct) does that value mean?

MR WHYTCROSS: For - for me, doing the right thing embodies calling it out and being able to have the - the direct conversations when needed.

35 **MS SHARP SC:** Anything else?

MR WHYTCROSS: I think it's - it's also to act in a - in a moral and ethical way.

40 **MS SHARP SC:** At all times while you've been employed by Star Entertainment, have you been aware of the Star Entertainment code of conduct?

MR WHYTCROSS: Yes, I have.

45 **MS SHARP SC:** Do you agree that the code of conduct sets out the guiding principles which shape the way decisions are to be made by employees of Star Entertainment?

MR WHYTCROSS: Yes, I - I'm aware of that.

MS SHARP SC: At all times while you have been employed at Star Entertainment, have you been aware that one of the rules of the code of conduct is that "we comply with the law"?

5 **MR WHYTCROSS:** Yes. I'm aware of that.

MS SHARP SC: And are you aware that another of the rules is that "we are ethical"?

10 **MR WHYTCROSS:** Yes. I have been aware of that.

MS SHARP SC: And do you agree that one aspect of being ethical is being honest?

15 **MR WHYTCROSS:** Yes.

MS SHARP SC: Have you been aware at all times while you have worked at Star Entertainment that one requirement of the code of conduct is that employees refrain from behaviours that could bring Star Entertainment into disrepute?

20 **MR WHYTCROSS:** Yes. I was aware of that.

MS SHARP SC: And have you been aware at all times since you've been employed at Star Entertainment that one or another requirement of the code of conduct is that employees challenge and report unethical behaviour or practices?

25 **MR WHYTCROSS:** I wasn't aware of that throughout the time, but in a recent review of the code of conduct, I - I am aware of that now.

MS SHARP SC: And when did you become aware of that requirement?

30 **MR WHYTCROSS:** Very recently.

MS SHARP SC: Prior to that, did you think that employees did not have any responsibility for challenging and reporting unethical practices?

35 **MR WHYTCROSS:** No. I certainly understood that there was a requirement to do that.

MS SHARP SC: Did you understand at all times while you've been employed at Star that the code of conduct requires employees to provide complete, honest and accurate information to any regulator who lawfully requests information?

40 **MR WHYTCROSS:** Yes, that's - I was aware of that.

45 **MS SHARP SC:** Mr Whytcross, do you agree that holding a casino operator licence is a special privilege?

MR WHYTCROSS: Yes, I would.

MS SHARP SC: And is it right that with that special privilege come commensurate responsibilities?

5 **MR WHYTCROSS:** Yes, I agree with that.

MS SHARP SC: And is it the case that one of those responsibilities is in ensuring the integrity of casino operations?

10 **MR WHYTCROSS:** Yes, I would agree with that.

MS SHARP SC: And another is in ensuring honesty, integrity and transparency when dealing with others?

15 **MR WHYTCROSS:** Yes, I would agree with that.

MS SHARP SC: And in particular, regulators?

20 **MR WHYTCROSS:** Yes.

MS SHARP SC: Now, could I show you a document, please, Mr Whytcross. If I could call up part B, tab 435, which is STA.5002.0003.1476 at pinpoint 1481. And for the operator, this is exhibit B at tab 345.

25 **MR BELL SC:** 435 or 345?

MS SHARP SC: I'm sorry. 435.

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

MS SHARP SC: Yes. It's 435, Mr Bell. Well, Mr Bell, I see it's very close to 1 o'clock. Perhaps now is appropriate to have the luncheon adjournment and, in that time, I will see what is happening with this document.

35 **MR BELL SC:** It is on my screen, but in the circumstances I will now adjourn until five to 2.

MS SHARP SC: Thank you, Mr Bell.

40 **<THE HEARING ADJOURNED AT 12:55 PM**

<THE HEARING RESUMED AT 1:58 PM

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

MS SHARP SC: Mr Whytcross, I will show you exhibit B, tab 435. This is a document of 26 September 2017.

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: Operator, could you please go to pinpoint 1481. Do you have an organisational chart in front of you, Mr Whytcross?

5

MR WHYTCROSS: Yes, I do.

MS SHARP SC: Now, I just want to ask you whether this chart correctly depicts your reporting line as at September 2017.

10

MR WHYTCROSS: Yes, I believe it does.

MS SHARP SC: So is it correct that at - I withdraw that. Now, can I show you a different chart, please. Operator, if we can go to exhibit B, tab 1093, which is STA.5002.0004.2733. And just for your information, Mr Whytcross, you will see that's an international rebate strategy update, 26 September 2018?

15

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: And you see your name is on the front of that document. Right. If we could go to pinpoint 2736. Now, could I ask you to have regard to that organisational chart. Does that correctly depict your reporting line as at September 2018?

20

MR WHYTCROSS: Yes, I believe it does.

25

MS SHARP SC: And what is now absent is John Chong?

MR WHYTCROSS: Yes, in addition to Tiernan Kundla.

30

MS SHARP SC: Thank you. And is it right that when John Chong left you commenced directly to Mr Hawkins for a period?

MR WHYTCROSS: Yes, that is correct.

35

MS SHARP SC: I will take you to another organisational chart, if I can. Could we go to exhibit B, tab 442, STA.0025.0001.0922. If you just have regard to the front page, Mr Whytcross, you will see it is dated October 2017.

MR WHYTCROSS: Yes. Thank you.

40

MS SHARP SC: Could I go to pinpoint 0947, please. Now, you are not depicted on this organisational chart, Mr Whytcross, but I want to know is this chart correctly depicting the reporting responsibility up to Adrian Hornsby as at October 2017?

45

MR WHYTCROSS: Yes, I believe it does.

MS SHARP SC: Jacker Chou, that's a man, is it?

MR WHYTCROSS: Yes. Jacker is a - is a male.

5 **MS SHARP SC:** Did Jacker Chou have any reporting line to you at that time?

MR WHYTCROSS: No, he did not.

MS SHARP SC: And how do you fit into this organisational chart, if at all?

10 **MR WHYTCROSS:** At that point in time I did not fit into that chart at all.

MS SHARP SC: And this chart indicates that Adrian Hornsby is the general manager. What was he the general manager of?

15 **MR WHYTCROSS:** He was the general manager of the credit and collections team.

MS SHARP SC: And do you know who he reported to?

20 **MR WHYTCROSS:** He reported to Chad Barton.

MS SHARP SC: And that was a time where Chad Barton was the CFO?

MR WHYTCROSS: Yes, that's correct.

25 **MS SHARP SC:** Is it right that Adrian Hornsby is no longer an employee of Star Entertainment?

MR WHYTCROSS: Yes, that's correct.

30 **MS SHARP SC:** To your knowledge, what were his responsibilities?

MR WHYTCROSS: He managed the credit and collections team.

35 **MS SHARP SC:** And is it right that he left Star Entertainment in around August of 2020?

MR WHYTCROSS: Yes, I believe it was in the second half of 2020.

40 **MS SHARP SC:** Do you know why he left?

MR WHYTCROSS: No, I don't.

45 **MS SHARP SC:** Now, on this chart we have Jacker Chou. He is the vice president Hong Kong. Are you able to indicate what his responsibilities were?

MR WHYTCROSS: My understanding was Jacker was responsible for the Hong Kong credit and collections side of things, and - and also held relationships with financial institutions in Hong Kong.

MS SHARP SC: And was Jacker Chou based in Hong Kong?

MR WHYTCROSS: Yes, he was.

5

MS SHARP SC: So he was in the office with you, was he?

MR WHYTCROSS: Yes, he was.

10 **MS SHARP SC:** And were you two on the same floor or different floors, or how did that work?

MR WHYTCROSS: Yes, we - it was a relatively small office, and we were in the same office floor.

15

MS SHARP SC: Did you have your own offices, or did you all work in the one room?

20 **MR WHYTCROSS:** No, we had - there was a small number of offices, and both myself and Jacker had our own dedicated office.

MS SHARP SC: Is it right that you would see Jacker Chou most days that you were in at the office?

25 **MR WHYTCROSS:** No. Jacker wasn't in the office most days. He was there periodically but not every day.

MS SHARP SC: How frequently was he there while you were there?

30 **MR WHYTCROSS:** I would estimate he was in the office maybe two to three days per week.

MS SHARP SC: So did you come to know him reasonably well?

35 **MR WHYTCROSS:** Yes, I did.

MS SHARP SC: Is he still employed by Star Entertainment?

MR WHYTCROSS: No, he's not.

40

MS SHARP SC: When did he cease employment with Star Entertainment?

MR WHYTCROSS: I'm not aware specifically, but I believe it was prior to Adrian Hornsby leaving The Star.

45

MS SHARP SC: So some time before August 2020?

MR WHYTCROSS: Yes, I believe so.

MS SHARP SC: And do you know why he left?

MR WHYTCROSS: No, I don't.

5

MS SHARP SC: Do you keep in contact with him?

MR WHYTCROSS: I have kept in semi-regular contact with Jacker, yes.

10 **MS SHARP SC:** Is he a friend of yours?

MR WHYTCROSS: I would consider him an associate. I wouldn't call him a friend.

15 **MS SHARP SC:** And Gabriela Soares, she is still employed by Star Entertainment, isn't she?

MR WHYTCROSS: No, she is not.

20 **MS SHARP SC:** When did she cease employment with Star Entertainment?

MR WHYTCROSS: Quite recently, within the last two months.

MS SHARP SC: Do you know why she left?

25 **MR WHYTCROSS:** There was a restructuring and she was made redundant.

MS SHARP SC: Now, was she based in Macau or in Hong Kong?

30 **MR WHYTCROSS:** She was based in Macau.

MS SHARP SC: And how frequently did you deal with her?

35 **MR WHYTCROSS:** Not - not frequently at all until late 2020 when I took over the credit and collections team.

MS SHARP SC: And are you still in contact with her?

40 **MR WHYTCROSS:** Since Gabriela has left The Star, I have had one or two emails with her and - in terms of returning company property, but that is it.

45 **MS SHARP SC:** Now, could I take you to a different document. This is a confidential one. It is exhibit B, tab 2903, STA.5002.0007.2621. And this is a - you will see on the front page - it's not your document, Mr Whytcross, but you will see it's dated 27 May 2021?

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: Could I go, operator, to pinpoint 2653, showing you another organisational chart, Mr Whytcross. Now, this depicts a new structure in which you are involved. Does this organisational chart represent the current structure of the employment - I withdraw that. It was badly put. Does this organisational chart reflect your current responsibilities?
5

MR WHYTCROSS: No, it doesn't. This organisational chart represented, from a credit and collections perspective, the two international employees reporting under me in the credit and collections team.
10

MS SHARP SC: And one of those employees was Gabriela Soares?

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: But this organisational chart was accurate as at May 2021?
15

MR WHYTCROSS: Yes, it was.

MS SHARP SC: And how is it different now insofar as your reporting line is concerned?
20

MR WHYTCROSS: The only difference from a credit and collections perspective with the international team members is that Gabriela Soares is no longer with the business. However, this only depicts the international employees rather than my full reporting line.
25

MS SHARP SC: And do you have a reporting line to Greg Hawkins?

MR WHYTCROSS: No, I do not. I report to Harry Theodore.
30

MS SHARP SC: And is that with respect to all of your responsibilities and not just credit and collections?

MR WHYTCROSS: Yes, it is.
35

MS SHARP SC: Is it correct that Star Entertainment has a credit committee?

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: Are you a member of that committee?
40

MR WHYTCROSS: Yes, I am.

MS SHARP SC: How frequently does that committee meet?
45

MR WHYTCROSS: That committee meets monthly.

MS SHARP SC: Who are the other members of that committee? Can you state their name and their job title, please.

5 **MR WHYTCROSS:** Harry Theodore as the chief financial officer; Greg Hawkins as the chief casino officer; Aozhi Shen, who is the vice president of credit and collections, based in Singapore; David Procter, who is a - my apologies. I can't recall his accurate title. However, he is part of the credit and collections team based in Sydney. It also includes Oliver White, who is part of the legal team. Joanne Moore is the financial controller. It also includes Chris Peasley, who is the president of
10 domestic and international casino marketing; and Alex Gorman, who is the general manager of domestic and international marketing; and, at times, Paul Monaghan, who leads the local sales team, is also a part of that credit committee.

15 **MS SHARP SC:** Have you always, during your employment with Star Entertainment, been a member of this committee?

20 **MR WHYTCROSS:** No, I don't believe I have. I - during my time in Hong Kong, I believe I attended some of the credit committee meetings. However, I was not present for all of them.

MS SHARP SC: How frequently would you attend before you became what I might describe as a full-time member of this committee?

25 **MR WHYTCROSS:** I would say infrequently, probably one a quarter.

MS SHARP SC: What was the purpose - or what is the purpose of this committee?

30 **MR WHYTCROSS:** The primary purpose of the committee is to discuss outstanding debts with The Star.

MS SHARP SC: Are minutes taken of this committee?

MR WHYTCROSS: Yes, they are.

35 **MS SHARP SC:** In your role at Star Entertainment, is it important that you have an understanding of sections 74 and 75 of the Casino Control Act in New South Wales?

MR WHYTCROSS: Yes, I - yes, it is.

40 **MS SHARP SC:** Have you reviewed these provisions before?

MR WHYTCROSS: Not recently. However, I have reviewed those provisions.

45 **MS SHARP SC:** You are familiar with the concept of a patron account as defined in section 75?

MR WHYTCROSS: No, I am not.

MS SHARP SC: You're familiar with a cheque cashing facility for the purpose of section 75?

5 **MR WHYTCROSS:** Yes, I am aware of a cheque cashing facility.

MS SHARP SC: And are you familiar with the prohibitions on the provision of credit by the casino operator and its agents to patrons in connection with gaming at the casinos in certain circumstances?

10 **MR WHYTCROSS:** Yes, I am aware of that.

MS SHARP SC: Can you tell us what a front - I withdraw that. Are you familiar with the idea of a deposit account for the purposes of section 75?

15 **MR WHYTCROSS:** I have a general understanding of a deposit account. However, it is general in nature.

MS SHARP SC: What's your general understanding, Mr Whytcross?

20 **MR WHYTCROSS:** My understanding is a deposit account or what I would consider a front money account is what a patron uses to access funds for the purposes of gaming.

25 **MS SHARP SC:** Do you know what a safekeeping account is?

MR WHYTCROSS: I'm aware of the concept of a safekeeping account, and my understanding with that is it's similar to a front money account where patron - patrons can store funds.

30 **MS SHARP SC:** So are you able to tell us what the difference is between a safekeeping account on the one hand and a front money account on the other?

MR WHYTCROSS: No, I'm not.

35 **MS SHARP SC:** Do you know what a counter cheque is?

MR WHYTCROSS: I have a general understanding of a counter cheque but not specifically, no.

40 **MS SHARP SC:** Is it the same thing as a marker?

MR WHYTCROSS: My apologies. I - I am unsure.

45 **MS SHARP SC:** Can you tell us what your general understanding of a counter cheque is?

MR WHYTCROSS: My understanding of a counter cheque is that, from a cage perspective, that - that is what's used to facilitate a cheque cashing facility.

MS SHARP SC: And do you know how it is used to facilitate a cheque cashing facility?

5 **MR WHYTCROSS:** Not specifically, no.

MS SHARP SC: Are you aware that the Chinese Government restricts the flow of capital outside of mainland China?

10 **MR WHYTCROSS:** I - I'm aware that there is sensitivities in that area, yes.

MS SHARP SC: Is it right that one longstanding restriction has been that individuals are restricted to exchanging the equivalent of US\$50,000 in foreign currency in any one year?

15 **MR WHYTCROSS:** I'm - I'm aware that that was generally accepted, yes.

MS SHARP SC: And you've been aware of that at all times since you commenced working at Star Entertainment?

20 **MR WHYTCROSS:** Yes, I have been.

MS SHARP SC: At all times since you commenced working at Star Entertainment, have you also been aware that there are restrictions on how much currency people from mainland China can withdraw from ATMs?

25 **MR WHYTCROSS:** No, I was not.

MS SHARP SC: Really?

30 **MR WHYTCROSS:** No, I was not.

MS SHARP SC: Even though you lived in Hong Kong?

35 **MR WHYTCROSS:** Yes, that's correct.

MS SHARP SC: So you weren't aware that there were yearly limits on how much money could be withdrawn from ATMs?

40 **MR WHYTCROSS:** To clarify, from a Chinese national?

MS SHARP SC: From a Chinese national drawing on a Chinese bank account?

45 **MR WHYTCROSS:** No, I was not aware of that.

MS SHARP SC: And you were not aware that there were daily limits on how much a Chinese national could withdraw from an ATM, drawing on a mainland Chinese bank?

MR WHYTCROSS: No, I was not aware of that.

5 **MS SHARP SC:** Are you familiar with the concept of underground banking?

MR WHYTCROSS: I - I'm aware of a concept, but my - my understanding is quite general.

10 **MS SHARP SC:** That's the same as what is sometimes described as shadow banking?

MR WHYTCROSS: I've heard the term "shadow banking" before, but I - I can't explain the specifics of that means.

15 **MS SHARP SC:** Have you heard of the term "hawala banking"?

MR WHYTCROSS: No I have not.

20 **MS SHARP SC:** What is your general understanding of underground banking?

MR WHYTCROSS: My understanding of that is financial transactions which are not put through banks or financial institutions.

25 **MS SHARP SC:** And how are those transactions maintained if they are not put through banks or financial institutions?

MR WHYTCROSS: I'm - I'm not aware.

30 **MS SHARP SC:** Could I take you, please, to exhibit D at tab 2, INQ.014.001.0179. I'm showing you a newspaper article, Mr Whytcross. Could I ask you, operator, to go to pinpoint 0181. Now, this is a newspaper article dating from 2016. You will see at paragraph zero - I beg your pardon, at pinpoint 0181, there's a heading Underground Conduits?

35 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And under that heading, it says:

40 "Alternatively, underground channels in Macau or Hong Kong were available to get money out of the country."

45 Now, is it the case that at all times while you have worked at Star Entertainment, you have been aware that, given the restrictions on currency outflow in mainland China, underground channels have existed in Macau and Hong Kong to get money out of mainland China?

MR WHYTCROSS: I - I wasn't aware of that, and I haven't seen this article before.

MS SHARP SC: Well, leaving aside this article, are you aware that people often find it difficult to get currency out of China?

5 **MR WHYTCROSS:** Yes, I am aware of that.

MS SHARP SC: And because of that difficulty, a number of informal methods have sprung up to assist people in getting money out of mainland China?

10 **MR WHYTCROSS:** When - when you refer to "informal methods" - can I ask for a clarification what you mean by "informal methods"?

MS SHARP SC: Yes. I'm referring to underground banking channels. Does that assist?

15

MR WHYTCROSS: I'm not aware of any underground banking channels that - that have existed, no.

20 **MS SHARP SC:** Are you aware that there are methods that exist that don't rely upon financial institutions to move money out of mainland China?

MR WHYTCROSS: No. I - I was aware that there has been the use of money remitters for the purpose of that, but I'm not aware of any underground banking as referred to in this article.

25

MS SHARP SC: All right. Well, I will put this article away, if I could. Thank you, operator. Are you aware that methods exist to move money out of mainland China that do not rely upon the formal financial system?

30 **MR WHYTCROSS:** No, I don't believe I was aware of those methods.

MS SHARP SC: Really? In the entire time you've worked for Crown Resorts and now Star Entertainment, you're not aware of any such methods?

35 **MR WHYTCROSS:** I don't believe I've been made aware of any methods which haven't used either a - a third-party remitter.

MS SHARP SC: What about shadow banking?

40 **MR WHYTCROSS:** In my time at the - The Star or Crown, I haven't heard or been aware of any - of the concept of shadow banking.

MS SHARP SC: Have you heard of the concept of shadow banking?

45 **MR WHYTCROSS:** I may have heard it in passing, but that is the extent of my knowledge.

MS SHARP SC: Well, what is your knowledge about shadow banking?

MR WHYTCROSS: I - I do not have any specific knowledge around shadow banking. But as I stated, I - I believe I've heard it as a concept, but unfortunately I can't provide any specifics.

5

MS SHARP SC: Can I ask that another document be shown to you. This is confidential, so please take care not to read any of it on to the transcript. Could I ask, operator, to go to exhibit B at tab 2903. This is STA.5002.0007.2621. Now, you can see that this is a board paper, Mr Whytcross?

10

MR WHYTCROSS: Yes, I can. May I please ask for it to be enlarged?

MS SHARP SC: Yes. And what I'm going to do is show you this first page and then what sits behind it. Operator, could you scroll to the top of the document, please.

15

You will see that it's dated 27 May 2021?

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: And you see the subject with which it deals?

20

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: Could I then, operator, ask you to scroll to pinpoint 2624. You will see this is the commencement of a slide presentation?

25

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: Did you assist Mr Hawkins in any way in compiling this document?

30

MR WHYTCROSS: Yes, I believe I did.

MS SHARP SC: How did you assist him?

35

MR WHYTCROSS: I believe I was a part of preparing the PowerPoint presentation.

MS SHARP SC: And how do you mean you were a part of it?

40

MR WHYTCROSS: There was a group that included the sales team and myself and members of my team that all contributed to this document.

MS SHARP SC: Did you draft parts of it?

45

MR WHYTCROSS: Yes, I believe I did.

MS SHARP SC: Did you draft all of it?

MR WHYTCROSS: No, I did not.

MS SHARP SC: Did you read all of it before it was finalised?

5 **MR WHYTCROSS:** I believe I did read all of it before it was finalised.

MS SHARP SC: Did you sign off on it?

10 **MR WHYTCROSS:** I don't believe it required any formal sign-off from myself, but I - I believe that I read the entire document.

MS SHARP SC: And when you read it, were you satisfied that it was correct?

15 **MR WHYTCROSS:** Yes. I - I don't recall any concerns I had with the document at that point in time.

MS SHARP SC: Could I take you, please, to pinpoint 2630. And again, I want to remind you that this is a confidential document. Now, did you draft this page?

20 **MR WHYTCROSS:** I believe I contributed to this page, yes.

MS SHARP SC: How did you contribute to it?

25 **MR WHYTCROSS:** I believe that the - all parties that were involved in the preparation of this entire pack contributed to this page. It wasn't one individual that drafted the - the whole slide.

30 **MS SHARP SC:** Is it right that you had a detailed familiarity with the topics the subject of this page?

MR WHYTCROSS: Yes, that's a fair assessment.

35 **MS SHARP SC:** Could I take you to the heading on the left-hand side in the bottom left corner.

MR WHYTCROSS: Yes. Thank you.

40 **MS SHARP SC:** Now, you were aware, weren't you, that there has been compliance and legislation developing since 2015?

MR WHYTCROSS: Yes, I was aware of that.

45 **MS SHARP SC:** And you have also been aware that there have been moves to restrict capital outflow in China?

MR WHYTCROSS: Yes, I was aware of that.

MS SHARP SC: And do you see there's a reference to "shadow and retail banking" there?

MR WHYTCROSS: Yes, I do see that.

5

MS SHARP SC: Are they the words you used?

MR WHYTCROSS: No, I do not believe I drafted that sentence.

10 **MS SHARP SC:** All right. But you know what they mean, don't you?

MR WHYTCROSS: I understand the capital outflow restrictions. However, the - the reference to "the shadow and retail banking" is a concept that is foreign to me.

15

MS SHARP SC: So you don't understand that expression as it appears in this document that you worked to present?

20 **MR WHYTCROSS:** I understand the concept of capital outflow restrictions, but the continuation in terms of shadow and - and retail banking, that's a concept which is foreign to me.

MS SHARP SC: Are you telling us you don't understand what shadow and retail banking is?

25

MR WHYTCROSS: Retail banking - I understand the - the concept as I - I would expect ATM transactions. However, the concept of shadow banking - I have heard of that concept. However, I'm - I'm not aware in detail what that refers to.

30 **MS SHARP SC:** Well, in whatever detail you are aware of it, can you tell us what it means, please.

MR WHYTCROSS: My apology. I - I don't have a knowledge of what shadow banking is referring to.

35

MS SHARP SC: Are you doing your best to assist Mr Bell at the moment, Mr Whytcross?

MR WHYTCROSS: Yes, I am.

40

MS SHARP SC: Could it be that shadow - I withdraw that. Is shadow banking a reference to underground banking?

MR WHYTCROSS: It - it may well be a reference to underground banking, yes.

45

MS SHARP SC: Well, this is a document you contributed to, isn't it?

MR WHYTCROSS: Yes. I - I did contribute to this document. However --

MS SHARP SC: And you contributed to this page, didn't you?

MR WHYTCROSS: Yes, I did contribute to this page.

5

MS SHARP SC: Well, is that what it's a reference to?

MR WHYTCROSS: I'm - I'm not entirely sure what that reference to shadow banking is referencing.

10

MS SHARP SC: Can I take you to a different document, please, Mr Whytcross. This is exhibit B at tab 1093, which is STA.5002.0004.2733. Now, it's my understanding that this is not a confidential document. Do you see it's dated 26 September 2018?

15 **MR WHYTCROSS:** Yes, I do. Thank you.

MS SHARP SC: Is IRB - international rebate?

MR WHYTCROSS: Yes. Thank you.

20

MS SHARP SC: So this is International Rebate Strategy Update?

MR WHYTCROSS: Yes. Thank you.

25 **MS SHARP SC:** And may we take it from the fact that your name appears on the front page that you contributed to this slide presentation?

MR WHYTCROSS: Yes, I did.

30 **MS SHARP SC:** And this slide presentation is a presentation to the board meeting on 26 September 2018?

MR WHYTCROSS: Yes, I - I believe it was.

35 **MS SHARP SC:** What was your role in preparing this document, Mr Whytcross?

MR WHYTCROSS: Consistent with the previous document, I - I recall I was a contributor of this document with Mr Hawkins and Mr Lim.

40 **MS SHARP SC:** Did you draft this document?

MR WHYTCROSS: I recall I drafted a lot of the document. However, it was contributed to by the two other individuals named there.

45 **MS SHARP SC:** And given that it was presented to the board, before that happened, did you review it to carefully assess whether everything in it was correct?

MR WHYTCROSS: I believe I would have reviewed the - the document, yes.

MS SHARP SC: And can we take it you ensured that it was consistent with your understanding?

5 **MR WHYTCROSS:** Yes, I - it would have been consistent with my understanding at that point in time.

MS SHARP SC: And you, in fact, were one of the presenters of this document when it went to the board on 26 September 2018, weren't you?

10

MR WHYTCROSS: Yes, I - I believe I spoke to some of the slides in that meeting.

MS SHARP SC: Can I take you, please, to pinpoint 2748. Did you draft this page, Mr Whytcross?

15

MR WHYTCROSS: Yes, I believe I did.

MS SHARP SC: Could I take you to the last dot point that says:

20

"The Chinese Government launched Operation Chain Break in late 2015 which sought to stop the flow of funds into foreign casinos."

25 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: So what happened there?

30 **MR WHYTCROSS:** My apologies. Can you clarify what - what do you mean by "what happened there"?

MS SHARP SC: What was Operation Chain Break that sought to stop the flow of funds into foreign casinos?

35 **MR WHYTCROSS:** My understanding at that point in time was Operation Chain Break was something which the Chinese Government had introduced to reduce the capital outflow from mainland China.

MS SHARP SC: And how did it reduce the capital outflow from mainland China?

40

MR WHYTCROSS: I'm - I'm not aware of how they would - the - the processes that were being undertaken to achieve that.

45 **MS SHARP SC:** Are you aware of what restrictions were imposed in order to achieve that goal?

MR WHYTCROSS: No, I don't believe I was.

MS SHARP SC: So there was part of this report that you weren't able to explain to the board if any questions were asked of you about it?

5 **MR WHYTCROSS:** The - my understanding at the time was that we were seeking to communicate that there was a process to reduce or stop capital outflow from mainland China. However, I don't believe ever investigating or being queried as to how that was to be achieved.

10 **MS SHARP SC:** Well, can you assist us in understanding in any way what restrictions were imposed that made it harder for funds to flow out of China?

MR WHYTCROSS: No, I don't believe I can.

15 **MS SHARP SC:** Could I take you to pinpoint 2753. Did you draft this page of the presentation to the board?

MR WHYTCROSS: I can't recall if I drafted that independently or whether that was contributed to by other members of the team.

20 **MS SHARP SC:** The first dot point says:

25 "The collection of outstanding funds and transfer of money remains the largest challenge faced by management following the closure of Macau Bank of China accounts in December 2017."

That was consistent with your understanding, was it?

30 **MR WHYTCROSS:** Yes, it was.

MS SHARP SC: Right. Why was the collection of outstanding funds and the transfer of money a challenge faced by management following the closure of the Macau Bank of China accounts in December 2017?

35 **MR WHYTCROSS:** My understanding at the time, with the closure of the Macau Bank of China accounts, was that that was a significant manner in which customers repaid The Star, and the closure of those accounts created a significant challenge. And I recall at the time that that was quite significant.

40 **MS SHARP SC:** Could we put the - operator, take the slide down for a moment, please. So what was the problem here, Mr Whytcross?

45 **MR WHYTCROSS:** My recollection at the time was that it was - given those accounts were closed, that meant the customers were unable to repay The Star, therefore creating a significant concern.

MS SHARP SC: Why weren't they able to repay The Star?

MR WHYTCROSS: My understanding at the time was that they had a - customers had a preference to repay through the Macau Bank of China accounts.

5 **MS SHARP SC:** And why was that, Mr Whytcross?

MR WHYTCROSS: My understanding at the time was that it was easier for the customers and it was a customer preference for them.

10 **MS SHARP SC:** Okay. Could you explain what your understanding was, please, Mr Whytcross. We will get through this a lot more quickly if you do.

15 **MR WHYTCROSS:** At - at the time, my - my understanding was that it was easier and it was more efficient for customers to repay in - in a Macau Bank of - Macau bank account rather than transferring funds to Australia.

MR BELL SC: Why was it easier?

20 **MR WHYTCROSS:** My apologies.

MR BELL SC: Why was it easier?

25 **MR WHYTCROSS:** I believe there was a combination of ability to repay in cash was - was easier, and also the ability to not have transactions doing international cross-border were my understanding of the - the two reasons for that.

30 **MS SHARP SC:** Well, let's focus on the cash reason to start with. Prior to the closure of the Bank of China accounts in Macau, is it correct that patrons were depositing large amounts of cash into those accounts?

MR WHYTCROSS: Yes. I - I had a general understanding that customers were depositing cash into the Macau Bank of China accounts.

35 **MS SHARP SC:** And they were depositing very large amounts of cash into the Bank of China Macau accounts, weren't they?

MR WHYTCROSS: Yes.

40 **MS SHARP SC:** That was your detailed understanding, wasn't it?

45 **MR WHYTCROSS:** I - I had an - yes, I had an understanding that there were significant amounts of cash being deposited in - in the Macau Bank of China accounts. However, individual transactions and customers that were going through that process, I was not aware of that.

MS SHARP SC: Following the closure of the Macau Bank of China accounts, were customers experiencing difficulties in trying to deposit large amounts of cash in other bank accounts?

MR WHYTCROSS: I'm - I'm not aware of them facing difficulty. But through feedback from the credit collections and the sales team, I understood that there was customer concern that we did not have that ability to accept funds in that way any
5 more.

MS SHARP SC: Well, that - sorry, Mr Bell.

MR BELL SC: No, you go ahead.
10

MS SHARP SC: You spent a significant amount of time in 2018 trying to work out options for customers to deposit large amounts of cash so they could find their way into the casino operator's accounts, didn't you?

MR WHYTCROSS: Yes, I did.
15

MS SHARP SC: All right. What were the problems with depositing large amounts of cash in bank accounts in Macau in late 2017?

MR WHYTCROSS: The - the issue was that the accounts were closed in 31 December '17, meaning that - The Star did not have a bank account that was able to accept cash repayments, and that was the - the major concern.
20

MS SHARP SC: Well, why didn't The Star open another bank account that could accept cash repayments?
25

MR WHYTCROSS: It - it sought to open bank accounts in that period of time after the Macau Bank of China accounts were closed.

MS SHARP SC: And is it correct that it was unable to open other bank accounts that would accept large cash deposits?
30

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: And why was that?
35

MR WHYTCROSS: I - through conversations that I had in Hong Kong that the gaming transactions were considered high risk and, therefore, that was the reason that the bank accounts were unable to be opened.
40

MS SHARP SC: And what were they considered high risk of?

MR WHYTCROSS: Money laundering.

MR BELL SC: And why was the Macau Bank of China account closed?
45

MR WHYTCROSS: My understanding at the time was that it was closed for a compliance reason, and that was the communication that we had received.

MR BELL SC: Do you mean by that that the Bank of China closed the account?

MR WHYTCROSS: Yes. That's my understanding.

5

MR BELL SC: And what do you mean by "a compliance reason"? Can you be specific?

MR WHYTCROSS: So at - at the time, Mr Bell, I don't recall understanding the actual specifics of the - what - what the compliance issue was. All I understood was that the accounts had been closed or were due to be closed due to a compliance issue.

MS SHARP SC: But Star was desperate to open a bank account in Macau that accepted cash, wasn't it?

15

MR WHYTCROSS: I - I wouldn't suggest desperate, but there was significant work being undertaken in both Macau and Hong Kong seeking to open up a bank account during that period to act in the way that the Macau Bank of China account did.

MS SHARP SC: And were you involved in those significant efforts, weren't you?

20

MR WHYTCROSS: Yes. I was asked to be involved simply because I was in Hong Kong.

MS SHARP SC: Given you were involved in those significant efforts, didn't you seek to obtain a good understanding of the compliance reasons explaining why the Bank of China Macau accounts were shut?

25

MR WHYTCROSS: No. At the time, I didn't. My focus and - and efforts were placed on trying to find an alternative for the Bank of China accounts.

30

MS SHARP SC: As you sit here today, could you tell us your best understanding of why the Bank of China Macau accounts were closed?

MR WHYTCROSS: My best understanding today was that the - the manner in which The Star had operated those Bank of China accounts were incorrect and, therefore, that was the reason in which the - the accounts were closed.

35

MS SHARP SC: And what was that incorrect manner in which The Star operated those bank accounts?

40

MR WHYTCROSS: Very recently I became aware, through conversations with the AML, legal and credit and collections team, that the process of depositing funds involved documentation that was incorrect.

45

MS SHARP SC: Just to be clear, you were aware that the Bank of China accounts in Macau were closed at the time they were closed, which was December 2017, right?

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: Were you aware at that time that they were closed because of a compliance issue?

5

MR WHYTCROSS: I was aware that they were closed for a compliance issue. However, I wasn't aware whether that was something specifically to do with The Star or something to do with the wider gaming industry. And at that point in time, I don't recall ever investigating further as to the - the reasons for that closure.

10

MS SHARP SC: Can I return, please, to the document which is STA.5002.0004.1056 - I withdraw that. I've got the wrong document, I'm sorry. Could I return, please, to exhibit B, tab 1093, which is STA.5002.0004.2733. And could I take you, please, to pinpoint 2753. Now, this second dot point, is it right that as at late 2017 an initiative was being considered by Star Entertainment to establish a Macau marketing subsidiary via EEI Services (Hong Kong) Limited?

15

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: And what was that strategic initiative being considered at that time?

20

MR WHYTCROSS: So this was a - an initiative which sought to create a entity in Macau which would enable accounts to be opened and enable customers to be able to repay funds in Macau, similar to what the Macau Bank of China accounts were.

25

MS SHARP SC: So was this an initiative that would permit customers to make large cash deposits?

MR WHYTCROSS: Yes, the - yes. The intention was, at that point in time, to explore an initiative which would enable customers to repay in the same manner that they had previously.

30

MS SHARP SC: Is it correct that this initiative did not go ahead, that is, the one involving the Macau marketing subsidiary?

35

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: Now, this third dot point says:

40

"Due to continued tightening of Macau's regulatory environment, this did not occur."

45 What was that continued tightening?

MR WHYTCROSS: I don't recall specifically. However, my recollection at the time was that the increased focus of the Macau requirements for transferring funds outside of Macau was a major reason why that didn't progress.

5 **MS SHARP SC:** Was a major reason why that didn't progress that the Macau Government were restricting transfers of funds to casinos?

MR WHYTCROSS: Yes. I believe that was a reason for that.

10 **MS SHARP SC:** That was the main reason, was it?

MR WHYTCROSS: Yes, I believe so.

15 **MS SHARP SC:** Was another reason that the Macau Government was cracking down on cash payments?

20 **MR WHYTCROSS:** I wasn't aware that there was a crackdown on cash payments, but I was certainly aware that there was a restriction placed on transfers to foreign casinos.

MS SHARP SC: And what you endeavoured to do, in late 2017 and early 2018, was look for workarounds to this restriction on transferring money to casinos; is that right?

25 **MR WHYTCROSS:** Yes. There was a number of initiatives that were explored through that process, as alternatives, that would allow customers to - to continue to engage with The Star.

30 **MS SHARP SC:** And to be clear, at all times, the ultimate objective was to get the money to the casino?

MR WHYTCROSS: Yes. At - at all times, the - the objective was to do that in a - in a compliant manner.

35 **MS SHARP SC:** Well, how could it be compliant if there was a restriction on transferring money to casinos and you wanted to transfer money to a casino?

40 **MR WHYTCROSS:** So through that, any initiative that was explored, prior to rolling out, we would seek legal and regulatory compliance assurance to be comfortable that that adhered to all The Star's requirements.

MS SHARP SC: So was that a matter of complying with the letter of the law rather than the spirit of the law?

45 **MR WHYTCROSS:** My apologies. When you say "the spirit of the law", are you able to clarify what you mean by that?

MS SHARP SC: Do you really not understand what that means?

MR WHYTCROSS: I - at that point in time, I would have taken guidance from our legal team as to whether or not that was appropriate.

5 **MS SHARP SC:** I will put the question again. Does that mean that you were looking for devices which may have complied with the letter of the law but not the spirit of the law?

10 **MR WHYTCROSS:** Yes. In that time, we would have been looking for alternatives that complied with the letter of the law.

MS SHARP SC: And that was not consistent with the code of conduct applicable at that time at Star Entertainment, was it?

15 **MR WHYTCROSS:** No, I - I believe that at all times I have followed the code of conduct of - of The Star.

20 **MS SHARP SC:** So you believe that looking for devices that followed the letter of the law but not the spirit of the law was consistent with the code of conduct that bound you at that time?

25 **MR WHYTCROSS:** I - I would have taken comfort from our legal and regulatory team to ensure that any initiative that we were being - that was being considered adhered to the code of conduct.

MS SHARP SC: Did that mean that you did not need to consider for yourself whether your actions complied with the code of conduct applicable to you?

30 **MR WHYTCROSS:** In - in hindsight, I would have focused solely in the letter of the law rather than the spirit of the law.

MS SHARP SC: So you didn't comply with the code of conduct at that time; is that right?

35 **MR WHYTCROSS:** No, I --

40 **MS RICHARDSON SC:** Well, in fairness to this witness, the code of conduct hasn't been put to him. In my submission, it should be put to him so he understands what he is being asked.

MR BELL SC: I thought Ms Sharp had spent some time going through that, had you not, Ms Sharp?

45 **MS SHARP SC:** Yes, I did. And I think I put that very - if you could just permit me to look at the transcript, Mr Bell.

MR BELL SC: I have a recollection, but I allow the question, Ms Sharp.

MS SHARP SC: I've forgotten the question. I will just have to look at the transcript. Yes. I said:

5 "Did that mean you did not comply with
the code of conduct at that time?"

MS RICHARDSON SC: No, it's whether - just wait. I - well, I understood you were checking to see whether this aspect of the code of conduct was put to the witness.

10 **MS SHARP SC:** If you could pardon me for a minute, Mr Bell. I will just go to the relevant part of the transcript. Sorry, it keeps moving.

15 **MS RICHARDSON SC:** I've searched the transcript and I can't find a reference to "spirit of the law" by reference to the code of conduct.

MR BELL SC: I think we can save some time, Ms Sharp, if you simply ask some more questions about this issue and establish whether this witness did understand that the code of conduct required him to act in accordance with the spirit of the law as well as the letter of the law.

20 **MS SHARP SC:** Can you address that question that Mr Bell has asked you, Mr Whytcross?

25 **MR WHYTCROSS:** I certainly understood my requirements under the code of conduct was to follow the letter of the law. However, as I'm not a legal expert, I would have taken guidance from our legal and regulatory teams as to regard to the spirit of the law for initiatives such as this.

30 **MR BELL SC:** Mr Whytcross, I would like a direct answer to this question, please. Did you understand that The Star's code of conduct required you to act in accordance with the spirit of the law as well as the letter of the law?

MR WHYTCROSS: No, I did not.

35 **MR BELL SC:** That comes as a complete surprise to you, does it?

MR WHYTCROSS: My - my understanding as an employee was to adhere to the letter of the law.

40 **MR BELL SC:** And did you ever read the code of conduct?

MR WHYTCROSS: I have read the code of conduct more recently. I do recall reading the code of conduct earlier in my employment but not in detail.

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

MS SHARP SC: Can I return to this page, pinpoint 2753. The second-last dot point says:

5 "As a number of top tier financial institutions were not willing to facilitate transactions on behalf of EEIS in Macau, management has successfully opened accounts with Well Link."

10 Are you able to assist us in understanding why a number of top tier financial institutions had not been willing to facilitate transactions on behalf of EEIS in Macau?

15 **MR WHYTCROSS:** Yes. This was a piece of work which was undertaken by the treasury team. However, I - I was involved, given that I was in Hong Kong, and - and can recall some meetings which I was attending. My recollection with that was predominantly that gaming was considered high risk and, therefore, a number of financial institutions had a blanket restriction on engaging with gaming organisations.

20 **MS SHARP SC:** Did you attempt to negotiate with any financial institutions to see whether they would open accounts on behalf of EEIS in Macau?

MR WHYTCROSS: In Macau, I don't I believe I was a part of any negotiations or discussions in Macau. I do recall having meetings in Hong Kong, however.

25 **MS SHARP SC:** And did you experience the same difficulty in Hong Kong as had been experienced in Macau?

MR WHYTCROSS: Yes, I did.

30 **MS SHARP SC:** Now, you - I withdraw that. At pinpoint 2753, it is stated that:

"Management have successfully opened accounts with Well Link Bank."

35 Is that Well Link Bank in Macau?

MR WHYTCROSS: Yes, I believe it was.

40 **MS SHARP SC:** Were you involved in those negotiations with Well Link Bank?

MR WHYTCROSS: I believe I was partly involved but not directly. I understood that that engagement was led by the treasury team.

45 **MS SHARP SC:** But you knew that it was happening?

MR WHYTCROSS: Yes, I did.

MS SHARP SC: Did you direct that it happen?

MR WHYTCROSS: I do not believe I did.

5 **MS SHARP SC:** And it is right that the reason that accounts were being opened with Well Link Bank was so large amounts of cash could be deposited at that bank?

10 **MR WHYTCROSS:** Yes. The intention - and I don't believe it was ever utilised, but the intention with opening the account with Well Link was to act in the manner that the Macau Bank of China account did.

MS SHARP SC: Can I take you now to the board minutes at which this paper was presented. This is STA.5002.004.1056.

15 **MR BELL SC:** Is this an exhibit, Ms Sharp?

MS SHARP SC: Yes. I'm just waiting for the exhibit number to be revealed to me, Mr Bell. Pardon me, Mr Bell. I will come back to you on what the exhibit is. You see on that front page these are minutes of the meeting of the directors of Star Entertainment?

20 **MR WHYTCROSS:** Yes, I do. May I please ask for it to be zoomed in just a - thank you. Yes. Thank you.

25 **MS SHARP SC:** And do you see that in attendance you're noted as one of the people who attended for part of the meeting?

MR WHYTCROSS: Yes, I do.

30 **MS SHARP SC:** And could I take you to pinpoint 1057. Can you see there's a reference at the top to the - in fact, out of fairness, I probably need to take you to the bottom of the first page. If we can go back there, please. Do you see at the bottom of that first page there's a reference to the international rebate business strategy paper?

35 **MR WHYTCROSS:** Yes, I do. Thank you.

MS SHARP SC: And do you see it's recorded in the minutes that you joined the meeting for this item?

40 **MR WHYTCROSS:** Yes, I do. Thank you.

MS SHARP SC: And could I take you, then, to pinpoint 1057. And can you see - operator can you take down the blow-up, please. Do you see about a third of the way down there's a reference to you?

45 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And it says you:

"Spoke in further detail to the historical performance of the international rebate business."

5 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And you would agree that you were present while this discussion was going on and you participated in it?

10 **MR WHYTCROSS:** Yes, I agree with that.

MS SHARP SC: Can I take you to the bottom third of this document, please. And do you see it says in the minutes, fourth paragraph from the bottom:

15 "Management spoke also to the key related challenges in the market currently, notably collection of funds and funds transfers in Macau and Hong Kong."

20 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: Can you tell us what those discussions were?

25 **MR WHYTCROSS:** My recollection of the discussion was that it was focused on the closure of the Macau Bank of China accounts and that customers were having challenges to repay The Star, and that was the - the key focal point.

30 **MS SHARP SC:** Did you also - was there also discussion that customers were having challenges getting their money into The Star for the purpose of front money?

MR WHYTCROSS: I - I don't recall specifically. However, there may have been.

35 **MS SHARP SC:** Well, that was a problem at the time, wasn't it?

MR WHYTCROSS: My understanding at the time was predominantly the issue was for repayment of outstanding CCF, and that was the - the focal point, however acknowledge there may have been discussion around transferring funds into front money accounts.

40 **MS SHARP SC:** Now, do you see the third-last paragraph of these minutes says:

45 "Management noted the opening of the Well Link Bank account, which is not in use yet, pending due diligence being carried out on a financial institution, noting it does not meet all aspects of the company's treasury policy."

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: Do you remember that discussion?

5

MR WHYTCROSS: I have a vague recollection of that discussion, yes.

MS SHARP SC: What were the aspects of the company's treasury policy that Well Link did not meet?

10

MR WHYTCROSS: My recollection of the - the treasury policy was the rating of the bank, and - and this is not my area of expertise. However, I understood that it wasn't a sufficient rating in line with the treasury policy.

MS SHARP SC: Are you able to explain what you mean by "rating"?

MR WHYTCROSS: No, I'm not. I don't - I just - I recall that Well Link didn't meet the requirements of the treasury policy at that point in time.

MS SHARP SC: Will you pardon me for one moment, please, Mr Bell. Now, Mr Whytcross, is it correct that towards the end of 2017 you were aware that Star Entertainment was having difficulty receiving into its accounts large cash deposits from Macau and Hong Kong by its patrons or on behalf of its patrons?

MR WHYTCROSS: Yes. My - my understanding was that after the accounts were - were closed, that then that was the - the challenges being faced.

MS SHARP SC: And it's right, isn't it, that you were involved in workarounds to this problem - or in developing workarounds to this problem?

30

MR WHYTCROSS: I - I wouldn't refer to them as workarounds. It is more creating alternatives to the - the issue.

MS SHARP SC: Could I show you, Mr Whytcross, exhibit B, tab 540, which is STA.3423.0001.5513. Now, you're familiar, of course, with the EEIS/MMS project?

35

MR WHYTCROSS: Yes, I am.

MS SHARP SC: Now, this is a slide presentation. I will just show you this cover page and then the second page with an executive summary on it. You can take it from me that this dates from January 2018. Were you involved in the preparation of this document?

40

MR WHYTCROSS: I can't recall specifically. I believe we have - had a project manager. I know we had a project manager appointed. However, I may have been involved in this.

45

MS SHARP SC: You've seen this document before?

MR WHYTCROSS: I can't recall specifically. However, it is highly likely that I've seen this document.

5 **MS SHARP SC:** Can I take you to pinpoint 5514. And in the second - I beg your pardon. The first dot point refers to the Macau Bank of China accounts being closed, and the second dot point refers to an interim arrangement being established with Kuan, K-u-a-n, Koi, K-o-i?

10 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: Now, you were involved in the establishment of that interim arrangement with Kuan Koi, weren't you?

15 **MR WHYTCROSS:** Yes. Alongside the credit and collections team and the legal team, I was a part of the - a working group that established that.

MS SHARP SC: And who is Kuan Koi?

20 **MR WHYTCROSS:** Kuan Koi is a - previously a customer of The Star.

MS SHARP SC: He is based in Macau?

25 **MR WHYTCROSS:** I'm not entirely sure of his residential address, but believe it was either Hong Kong or Macau.

MS SHARP SC: He had bank accounts in Macau?

30 **MR WHYTCROSS:** Yes, I - he did have bank accounts in Macau.

MS SHARP SC: Operator, take down that document, please. And is it right, an interim arrangement you were involved in developing at The Star sought to utilise those bank accounts?

35 **MR WHYTCROSS:** Yes. There was an agreement that was developed between Kuan Koi and The Star for that purpose.

MS SHARP SC: Could you tell us what the agreement was, please.

40 **MR WHYTCROSS:** The agreement which was proposed was that Kuan Koi would assist The Star in the collection of outstanding CCFs initially. However, that progressed from that point. So the customers willing - wishing to repay funds in Macau would be referred to Kuan Koi, who would assist with the repayment of those outstandings.

45 **MS SHARP SC:** And is it right that the attraction of using Kuan Koi is that he would accept large amounts of cash from these patrons?

MR WHYTCROSS: I - I wasn't aware of the attraction being from cash, but - I can understand and see that now.

5 **MS SHARP SC:** Well, you understood that at the time, didn't you?

MR WHYTCROSS: Yes, I did.

10 **MS SHARP SC:** Now, those large cash deposits found their way into casino front money accounts, didn't they?

MR WHYTCROSS: Yes, I - I believe in time. Initially, the arrangement was to repay outstanding CCFs. However, I - I believe the arrangement developed to include - sorry, apologies, to include pre-payments prior to play.

15 **MS SHARP SC:** So I'm interested in understanding how the mechanics of this arrangement worked. It's right that Kuan Koi had a bank account in Macau?

MR WHYTCROSS: Yes, I believe he did.

20 **MS SHARP SC:** Would he transfer funds from that bank account to a Star bank account?

25 **MR WHYTCROSS:** My understanding how the engagement or relationship progressed was that Kuan Koi would have funds in Australia, he would then - if there was a customer who was wishing - willing - wanting to repay in Macau, then The Star sales team would refer them to Kuan Koi. Then Kuan Koi would accept cash payment and then subsequently transfer funds - or make funds available in Australia to repay that debt.

30 **MS SHARP SC:** So I'm just trying to understand how the money flowed through the bank accounts. So if we look at where they ended up, they ended up in the casino's bank account?

MR WHYTCROSS: Yes, I believe so.

35 **MS SHARP SC:** And that's, relevantly, a bank account operated by The Star Pty Ltd?

MR WHYTCROSS: Yes.

40 **MS SHARP SC:** From what account were they transferred?

MR WHYTCROSS: I'm not aware specifically, but I believe they were transferred from an Australian bank account that Mr Kuan Koi had to The Star.

45 **MS SHARP SC:** And were you aware that - as to whether Mr Koi was transferring money from a Macau bank account into his Australian bank account?

MR WHYTCROSS: I was not aware of that.

MS SHARP SC: Well, where did you think all of this money was coming from that was in Mr Koi's Australian bank account?

5

MR WHYTCROSS: I - I do not believe I considered that at the time. Although I didn't have specifics, I understood that it was being transferred from Macau to Australia.

10 **MS SHARP SC:** Surely where Mr Koi was getting the money from would have been front and centre of your consideration at the time?

15 **MR WHYTCROSS:** No, I don't believe it was at the time. I think the - if I recall the current thinking of those involved, it was to focus solely on getting a solution available to allow customers to repay funds, and this was a process which was presented and subsequently endorsed.

20 **MS SHARP SC:** Are you saying you didn't care at all where the money came from that found its way into Mr Koi's Australian bank account?

MR WHYTCROSS: No, I'm not saying I didn't care. It was certainly something which I - I didn't turn my mind to at that point.

25 **MS SHARP SC:** Well, surely, consistent with the anti-money laundering obligations of The Star, you would have considered where all this money was coming from that ended up in Mr Koi's Australian bank account?

30 **MR WHYTCROSS:** Yes, I did and - and we did and believe there was an AML risk assessment done through the - the process, and I understood at the time that there were appropriate controls put in place to identify the source of funds for that purpose.

MS SHARP SC: Just to be clear, you were driving this process, weren't you, Mr Whytcross?

35 **MR WHYTCROSS:** No, I wouldn't say I was driving this process. I believe this process was driven by the credit and collections team, and I was a part of that.

40 **MS SHARP SC:** So who do you say within credit and collections drove this process?

MR WHYTCROSS: Adrian Hornsby and Jacker Chou.

MS SHARP SC: You had a decision-making role in this process, didn't you?

45 **MR WHYTCROSS:** May I clarify, when you say "decision-making" --

MS SHARP SC: You had a say in whether or not this arrangement with Mr Koi was pursued, didn't you?

MR WHYTCROSS: Yes. I - I did have a say in whether it was pursued.

5 **MS SHARP SC:** And this was the interim arrangement that was being pursued by Star Entertainment prior to EEIS Service arrangements coming on line, wasn't it?

MR WHYTCROSS: Yes, that was the intention at the time.

10 **MS SHARP SC:** And you were driving that project, weren't you?

MR WHYTCROSS: I was a part of that project, yes.

MS SHARP SC: You were driving it, weren't you, Mr Whytcross?

15 **MR WHYTCROSS:** At the - I was the project manager of that process and was tasked with driving that on behalf of The Star.

20 **MS SHARP SC:** All right. It's hard to think of anyone else driving a process but the project manager, isn't it?

MR WHYTCROSS: Yes.

25 **MS SHARP SC:** So let's return to where these funds came from that ended up in Mr Koi's Australian bank account. The arrangement was, wasn't it, that patrons who wanted to deposit money would instead give that money to Mr Koi?

MR WHYTCROSS: Yes.

30 **MS SHARP SC:** All right. And what was your understanding of what happened there?

MR WHYTCROSS: I believe those funds were deposited in Macau and then Mr Koi made funds available for the repayment of that CCF in Australia.

35 **MS SHARP SC:** So is it right that patrons deposited money into Mr Koi's bank account in Macau?

40 **MR WHYTCROSS:** I'm not aware specifically. I - I understood customers - actually, I apologise. My - my understanding was that customers would be referred to Mr Koi. The - Mr Koi would then assist with the repayment of that outstanding in Macau, into a bank account of Mr Koi's, and then subsequently make available funds in Australia to repay an outstanding CCF.

45 **MS SHARP SC:** So to your understanding, how did Mr Koi make funds available into his Australian bank account?

MR WHYTCROSS: I'm not aware.

MS SHARP SC: Wasn't Mr Koi essentially acting as a remitter?

MR WHYTCROSS: I - yes, I can see how Mr Koi was acting in a similar way to that.

5

MS SHARP SC: Well, he was transferring money to the casino's accounts on behalf of other people, wasn't he?

MR WHYTCROSS: Yes, he was.

10

MS SHARP SC: He was never licensed as a remitter, to your understanding?

MR WHYTCROSS: I don't believe he was licensed as a remittance agent in Macau, no.

15

MS SHARP SC: Who exactly was it at Star Entertainment who was responsible for organising and implementing this arrangement with Mr Koi?

MR WHYTCROSS: There was a - it was a group of people that were responsible, including myself; the credit and collections team, being Adrian Hornsby and Jacker - Jacker Chou; and we also sought legal and AML input into the arrangement.

20

MS SHARP SC: And that was from Ms Skye Arnott, wasn't it?

MR WHYTCROSS: Yes, it was.

25

MS SHARP SC: And did you look at that AML input?

MR WHYTCROSS: Yes, I believe I did.

30

MS SHARP SC: She conducted a risk assessment, didn't she?

MR WHYTCROSS: I believe she did, yes.

MS SHARP SC: And did you review that risk assessment?

35

MR WHYTCROSS: I - I believe I reviewed that risk assessment at the time.

MS SHARP SC: Now, could I show you exhibit B, tab 499, which is STA.3014.0002.0992. I will start at the end of this document, if I can. It's an email chain. If we could start at pinpoint 0993 and look at the bottom of that email. You will see that's an email from you dated 29 November 2017?

40

MR WHYTCROSS: May I ask for it to be scrolled down to the bottom?

45

MS SHARP SC: Yes. Well, I'm showing you the very bottom of the page, the last four lines.

MR WHYTCROSS: My apologies. Yes. Thank you.

MS SHARP SC: Now, this is an email you sent to Matt Bekier, Chad Barton, Paula Martin and John Chong?

5

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: And if we go over the page, do you see that's copied to Adrian Hornsby and Oliver White?

10

MR WHYTCROSS: Yes, I do. Thank you.

MS SHARP SC: Okay. Now, can I ask you to have a read of that email to yourself?

15

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: Is it right that what you're looking for here is an option where an independent third party could transfer funds to an Australian NAB account?

20

MR WHYTCROSS: Yes.

MS SHARP SC: And you're looking at this option after you've spoken with some representatives from - I withdraw that. You are looking at this option after somebody has spoken with representatives of Bank of China in Macau?

25

MR WHYTCROSS: Yes. I - I believe this came from that discussion.

MS SHARP SC: And was it you who spoke with those representatives from Macau?

30

MR WHYTCROSS: No, it was not.

MS SHARP SC: Who was it?

MR WHYTCROSS: I believe it was John Chong and Jacker Chou.

35

MS SHARP SC: Could I then take you to the next email in this chain, which is pinpoint 0993. Now, this is an email from John Chong to Matt Bekier, Chad Barton, Paula Martin, Oliver White, Harry Theodore, Marcus Lim and you?

40

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: And you will agree it refers to a meeting with Kuan Koi?

MR WHYTCROSS: Yes.

45

MS SHARP SC: In the presence of Bank of China representative Simon Chan?

MR WHYTCROSS: Yes.

MS SHARP SC: And it refers to Simon Chan originally suggesting this approach to cash-based settlements? Yes?

5 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And you understood at all times that there would be cash-based settlements with Kuan Koi, didn't you?

10 **MR WHYTCROSS:** Yes, I did.

MS SHARP SC: Were you at this meeting with Kuan Koi?

15 **MR WHYTCROSS:** No, I was not.

MS SHARP SC: Did you ever meet him, by the way?

MR WHYTCROSS: No, I've - I've never met Kuan Koi.

20 **MS SHARP SC:** Now, if we look at the dot points which record the discussion, the first dot point is:

25 "If we could come to an agreement on this before our Bank of China Macau account closes, Kuan could easily deposit the first batch of 'collateral fund' to be transferred to our cage."

30 **MR WHYTCROSS:** Yes.

MS SHARP SC: And then the next dot point - I beg your pardon. The last dot point there is:

35 "Through Kuan's channels, there is flexibility in how patrons could settle: cash, cash chips and inter-junket accounts."

40 **MR WHYTCROSS:** Yes.

MS SHARP SC: And was it your understanding at all times that Mr Kuan could receive funds in these various ways?

45 **MR WHYTCROSS:** No, it was not.

MS SHARP SC: What was your understanding?

MR WHYTCROSS: My understanding was that Mr Kuan would accept cash in Macau, not through any other means.

5 **MS SHARP SC:** Can I take you, please, to exhibit B, tab 523, which was STA.0012.0001.0001. What I am showing you is the original client management agreement dated 15 January 2018 with Kuan Koi. Have you seen this agreement before?

10 **MR WHYTCROSS:** Yes, I have.

MS SHARP SC: And why is it that you've seen this agreement before?

15 **MR WHYTCROSS:** This was the original agreement which I recall reviewing and reading at the time.

MS SHARP SC: Did you read it before it was signed, or after?

MR WHYTCROSS: I believe I would have read it before and after.

20 **MS SHARP SC:** Can I take you to pinpoint 0009. Do you see it was executed by Chad Barton, the CFO of Star Entertainment Group?

MR WHYTCROSS: Yes, I do.

25 **MS SHARP SC:** Can I take you back to the first page, pinpoint 0001. Are you able to explain why Chad Barton signing Star Entertainment Group when the agreement is expressed as being with The Star Entertainment Group International Pty Ltd as one of the counterparties?

30 **MR WHYTCROSS:** No. I'm - I'm not aware as to why that is different.

MS SHARP SC: Did you have any role in drafting this agreement?

35 **MR WHYTCROSS:** No, I did not.

MS SHARP SC: Do you know who did draft this agreement?

MR WHYTCROSS: My recollection is Oliver White drafted this agreement.

40 **MS SHARP SC:** And can you see the first recital at (A) is that:

"The Star Entertainment Group has a number of VIP individual customers."

45 **MR WHYTCROSS:** Yes.

MS SHARP SC:

"That reside or have their centre of lives
in Macau."

5 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: And (B):

10 "The service provider is an individual
that is knowledgeable of the casino
gaming industry."

MR WHYTCROSS: Apologies. I can't see (B) on the screen.

15 **MS SHARP SC:** Operator, could you show (B), please.

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: And the service provider was Kuan Koi?

20 **MR WHYTCROSS:** Yes, Kuan Koi.

MS SHARP SC: And recital (C):

25 "The Star wishes to engage the service
provider -"

That is Kuan Koi:

30 "To assist in management of
relationships."

MR WHYTCROSS: Yes.

35 **MS SHARP SC:** And if I could take you to the Scope of Services in clause 1 on
pinpoint 0002. Do you see that clause 1.2 says:

"Manage payments on behalf of
customers."

40 **MR WHYTCROSS:** Yes.

MS SHARP SC: And that's:

45 "In respect of amounts due and owing to
The Star."

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: Now, the reason it's expressed in that way is that, originally, Mr Koi was only to accept payments made in order to redeem cheque cashing facilities?

5 **MR WHYTCROSS:** Yes. I was aware that there were two agreements and --

MS SHARP SC: Well, I will come to the second one. I'm asking you about the first one.

10 **MR WHYTCROSS:** My apologies. May I ask you to repeat the question?

MS SHARP SC: You were aware that, originally, Mr Koi was to receive payments from patrons who sought to pay off their cheque cashing facilities?

15 **MR WHYTCROSS:** Yes. That was my understanding.

MS SHARP SC: And in exchange for the services Mr Koi provided, he was to be paid the money indicated in clause 2. And I will have the operator show you clause 2 now.

20 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And that was - I withdraw that. Could I take you now to clause 3.3 on pinpoint 0004. Now, this clause provides that Mr Koi was to transfer HKD\$90 million to his front money account with Star Sydney?

25 **MR WHYTCROSS:** Yes.

MS SHARP SC: But it, in fact, wasn't for the purpose of him advancing money for him to play at Star Casino?

30 **MR WHYTCROSS:** Yes, that's correct.

MS SHARP SC: All right. But you were using his front money account?

35 **MR WHYTCROSS:** Yes, I believe that was the intention.

MS SHARP SC: Any problems with that?

40 **MR WHYTCROSS:** Not that I was aware of, no.

MS SHARP SC: What about from an AML perspective?

45 **MR WHYTCROSS:** My understanding was that this would have been considered under the normal AML processes and risk assessment that was undertaken.

MS SHARP SC: And that risk assessment was undertaken by Skye Arnott, was it?

MR WHYTCROSS: Yes.

MS SHARP SC: Now, you would agree that the starting point was that Mr Koi would transfer HKD\$90 million in The Star's front money account for him?

5 **MR WHYTCROSS:** Yes.

MS SHARP SC: And then it's right that as that front money account was drawn on for other patrons, he was to top up his front money account?

10 **MR WHYTCROSS:** Yes. My recollection was that was the original intention.

MS SHARP SC: And we see that reflected in clause 3.4 and 3.5, do we? I will have those shown to you.

15 **MR WHYTCROSS:** Thank you.

MS SHARP SC: And could I take you to clause 4.2 on pinpoint 0005. Now, here, the service provider agrees to provide The Star with information to the extent that such information is necessary or useful for The Star to comply with its legal and regulatory obligations; do you agree?

20 **MR WHYTCROSS:** Yes.

MS SHARP SC: But there's nothing stated here specifically about the service provider needing to conduct any know your customer checks with the patrons he dealt with?

25 **MR WHYTCROSS:** Yes. However, I understand --

30 **MS SHARP SC:** Well, I will just ask you to attend to the contract for a moment. You can tell me your understanding later. There's nothing in the contract, is there?

MR WHYTCROSS: My apologies. No.

35 **MS SHARP SC:** And there's nothing at all in the contract about Mr Koi being obliged to verify the source of funds of the patrons with whom he dealt?

MR WHYTCROSS: Yes, I agree with that.

40 **MS SHARP SC:** Could I take you now to exhibit B, tab 582, which is STA.3423.0002.5770. And, operator, could you just enlarge the top half of that first page, please. Now, this is an email from Adrian Hornsby, dated 1 February, into which you're copied?

45 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And may we take it you read that email at the time?

MR WHYTCROSS: Yes. I believe I - I would have read that at the time.

MS SHARP SC: And this describes the process that is being followed with this Kuan Koi arrangement, doesn't it?

5

MR WHYTCROSS: May I please have a couple of minutes to read the email?

MS SHARP SC: Please take your time.

10 **MS RICHARDSON SC:** I note the time. Is that a convenient point for afternoon tea and the witness can read this document?

MR BELL SC: Does that suit you, Ms Sharp, or did you want to finish this document?

15

MS SHARP SC: No, that's fine, Mr Bell.

MR BELL SC: All right. Well, I will adjourn for 15 minutes.

20 **<THE HEARING ADJOURNED AT
3:35 pm**

**<THE HEARING RESUMED AT
3:49 pm**

25

MR BELL SC: Yes, Ms Sharp.

OPERATOR: Sorry. My apologies. We may need one more second. Mr Bell, unfortunately, we are having a brief technical glitch with the screen. We will resolve that shortly, however, and advise you.

30

MR BELL SC: Well, in that case, I will adjourn until we are ready to proceed.

OPERATOR: Thank you.

35

**<THE HEARING ADJOURNED AT
3:50 pm**

**<THE HEARING RESUMED AT
3:57 pm**

40

MR BELL SC: Ms Sharp, we have lost quite some time today due to technical issues, so I will continue until 5.15 this afternoon.

45 **MS SHARP SC:** Yes, Mr Bell.

MR BELL SC: Yes. Please proceed.

MS SHARP SC: Just before I go to this document with you, Mr Whytcross, was it your understanding that Kuan Koi was a junket operator?

MR WHYTCROSS: Yes, it was.

5

MS SHARP SC: Did you understand that The Star had any kind of junket operator agreement with Mr Koi?

MR WHYTCROSS: My understanding was that he entered into junket operator program agreements on a - a program by program basis but not an overarching agreement.

MS SHARP SC: This arrangement that was entered with Mr Koi was not a junket arrangement, though, what it?

15

MR WHYTCROSS: No, I - I do not believe so.

MS SHARP SC: Now, could I return to this document, which is exhibit B, tab 523. And I asked you to read that first email to yourself. Have you done so, or do you need some more time?

20

MR WHYTCROSS: No, I've done so. Thank you.

MS SHARP SC: Now, it says in the first dot point that:

25

"Ideally we would like to expand the arrangement to include front money collections as well."

MS SHARP SC: Now, you understand that, in fact, the arrangement was extended to include front money deposits as well?

30

MR WHYTCROSS: Yes, I understood that.

MS SHARP SC: And you will see that the second dot point is:

35

"Cash payment is made to Kuan Koi junket account either with Suncity or other junket most convenient. Kuan has accounts with most large Macau junkets."

40

What did you understand that to mean?

MR WHYTCROSS: I don't recall reading this at the time, and I understood that the cash payments were being made directly into an account of Kuan Koi. But in re-reading this, I - I understand that payments would have been made into a junket account in Macau.

45

MR BELL SC: You would have read it at the time, though, I take it?

5 **MR WHYTCROSS:** Given - Mr Bell, given the email wasn't addressed to me, I - I may have scanned it. I don't recall reading that second bullet point at the time.

MR BELL SC: You didn't have a practice of reading emails of a business nature into which you were copied?

10 **MR WHYTCROSS:** I - I seek to. However, given the extent of things that I'm - I'm copied in on, I tend to focus on those which are - are directed to me. So with this one, I - I do not recall reading the reference to the Suncity or - or depositing into junket accounts.

15 **MR BELL SC:** But this related to a project you were managing; isn't that what you've told me?

MR WHYTCROSS: Yes, it - it did.

20 **MR BELL SC:** The likelihood is that you read it at the time, isn't it?

MR WHYTCROSS: It is. I - I may have read it at the time. However, my understanding is that this point in time, the agreement had been signed and - and moved on and - and I was under the impression it was shifting into an operational mode.

25 **MR BELL SC:** So I wonder if you could just answer my question. It is likely that you read this email at the time?

30 **MR WHYTCROSS:** Yes, it is.

MR BELL SC: Thank you.

35 **MS SHARP SC:** Now, do you see the third dot point from the bottom says:

"Kuan Koi at a time of his choosing will withdraw funds from his junket accounts in cash and deposit to his Bank of China personal account in Macau."

40 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: So was it your understanding that those funds that were available in Mr Koi's Australian account came from a Bank of China account in Macau that he held?

45 **MR WHYTCROSS:** Yes, it was.

MS SHARP SC: So isn't the - or at least part of the arrangement that patrons could transfer money to Kuan Koi through junket accounts in Macau and then Mr Koi would take that money out in cash and turn around and deposit that cash into his Bank of China account in Macau?

5

MR WHYTCROSS: Yes.

MS SHARP SC: And that was your understanding at all relevant times?

10 **MR WHYTCROSS:** The only clarification was at - at the point in time I understood that payments were being made directly into the Bank of China account. However, in re-reading this, I understand this was the process.

MS SHARP SC: Is this the first time you've become aware of the process?

15

MR WHYTCROSS: No, it's - it's not. This is largely consistent with my understanding. However, I wasn't aware that the payments were being made through junket accounts at that time.

20 **MS SHARP SC:** So you weren't aware that cash was being pulled out of junket accounts?

MR WHYTCROSS: No, I wasn't.

25 **MS SHARP SC:** Because you wouldn't have any idea where the cash had come from if it was pulled out of a junket account, would you?

MR WHYTCROSS: My understanding was that there were appropriate controls in place --

30

MS SHARP SC: But that wasn't my question. You wouldn't have any idea of where the cash came from if it came out of a junket account, would you?

35 **MR WHYTCROSS:** I'm not aware if there was - there would be sufficient processes to be able to validate where that source of funds came from.

MS SHARP SC: Well, what's your understanding, having worked in the Crown international rebate business for years and at Star in the international rebate business since 2016?

40

MR WHYTCROSS: It would be difficult to ascertain the source of funds.

MS SHARP SC: And do you see that there's a statement - fourth line down in the dot points:

45

"My staffer Jacker Chou or Gabriela Soares will be present at the deposit and

will receive a receipt to confirm deposit made."

5 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: So was the proposal that those staff members be present when deposits were made into Mr Koi's Bank of China accounts?

10 **MR WHYTCROSS:** I'm not aware if - if that was the process at the time.

MS SHARP SC: Right. So you can't assist us in any way in understanding whether Jacker Chou and Gabriela Soares were ever present when deposits were made into bank accounts?

15 **MR WHYTCROSS:** No, I cannot.

MR BELL SC: Isn't that what this email is saying the process is going to be?

20 **MR WHYTCROSS:** My understanding in - in reading the second bullet point, Mr Bell, was that Jacker Chou or Gabriela Soares would be present when the deposit is made at the - with either Suncity or the most convenient junket. I wasn't aware of the procedures in terms of depositing those funds in Bank of China.

25 **MR BELL SC:** I see. Thank you.

MS SHARP SC: Your concern ultimately were the funds got through to the casino operator?

30 **MR WHYTCROSS:** Yes. My - my focus would have been in terms of the - the repayment of the outstanding.

MS SHARP SC: So during the time that this channel with Kuan Koi was open, how much, approximately, did move this channel?

35 **MR WHYTCROSS:** I'm - I'm not aware of the exact amount. However, I am aware it was a material amount.

MS SHARP SC: And how much?

40 **MR WHYTCROSS:** I - I do not know specifically.

MS SHARP SC: Well, I don't need a specific answer; I want your best approximation.

45 **MR WHYTCROSS:** I believe it was in the millions.

MS SHARP SC: Well, it was more than one or two million, wasn't it?

MR WHYTCROSS: Yes, I believe it was.

MS SHARP SC: All right. What's your best estimate of how much money went through this channel?

5

MR WHYTCROSS: I - I do - I don't feel comfortable putting a number on it because I don't want to be incorrect with the amount that - that went through this - this process. However, I - I understand it was multiple millions per month.

10 **MS SHARP SC:** Well, does it sound about right to you that, in the period September 2018 until July 2019, AUD\$76 million went through?

MR WHYTCROSS: No, that wouldn't surprise me.

15 **MS SHARP SC:** And of course, this scheme was in operation from January 2018?

MR WHYTCROSS: Yes.

20 **MS SHARP SC:** So you would be comfortable, would you, to say that at least AUD\$76 million moved through this channel into The Star's casino account?

MR WHYTCROSS: I - I believe that's a fair assessment.

25 **MS SHARP SC:** And indeed, in all likelihood, it was very much more than that?

MR WHYTCROSS: I don't believe - I can't comment that it would be much more.

MS SHARP SC: Is that something you could find out for us?

30 **MR WHYTCROSS:** Yes, it is.

MS SHARP SC: How long do you think it would take to ascertain that?

35 **MR WHYTCROSS:** I would need to consult members of - of the wider finance team to assess that, but I - I would be able to provide that by tomorrow, I would assume.

MS SHARP SC: And you would be happy to do so?

40 **MR WHYTCROSS:** Absolutely.

MS SHARP SC: Well, I might ask you about that tomorrow, then, Mr Whytcross. Could I just return for a moment to exhibit B at tab 499. If I could take you please to pinpoint 0993. And do you see that last dot point. -I've asked you about it previously:

45

"Through Kuan's channels, there is flexibility in how patrons could settle:

cash, cash chips and inter-junket accounts."

MR WHYTCROSS: Yes.

5

MS SHARP SC: Now, can you tell us, with the arrangement as it happened in practice, was it just cash, or did Mr Koi also accept cash chips and movements in inter-junket accounts, or do you just not know?

10 **MR WHYTCROSS:** No. Unfortunately, Ms Sharp, I - I do not know.

MR BELL SC: This is what was envisaged though, was it, Mr Whytcross?

15 **MR WHYTCROSS:** My understanding was what was envisaged was cash. However, in assessing the information that has been shown to me today, I do not know whether cash chips and inter-junket accounts were used.

20 **MR BELL SC:** But this email was from Mr Chong to you, Mr Bekier, Mr Barton, Ms Martin, Mr Hornsby and Mr White and others; correct?

MR WHYTCROSS: Yes.

MR BELL SC: You would have read it at the time; correct?

25 **MR WHYTCROSS:** Yes.

MR BELL SC: Right. And it refers to flexibility in how patrons could settle cash, cash chips and inter-junket accounts, doesn't it?

30 **MR WHYTCROSS:** Yes.

MR BELL SC: So I should understand that that is what was contemplated at the time, shouldn't I?

35 **MR WHYTCROSS:** Yes. I - I believe Mr Chong would have been wanting to contemplate that at the time. However, my understanding was it only progressed to cash and - and not cash chips and - and inter-junket accounts. The email of 7 December, I believe, was prior to the - the agreement being finalised, which is why I understood it - it was only cash.

40

MR BELL SC: Thank you.

MS SHARP SC: Now, this arrangement with Kuan Koi was up and running by January 2018, wasn't it?

45

MR WHYTCROSS: Yes, I believe it was.

MS SHARP SC: And initially, of course, it was only for the purpose of repaying what I might describe as cheque cashing facility debts?

5 **MR WHYTCROSS:** Yes. That was the original intention and the original agreement.

MS SHARP SC: And it's right that, by February of 2018, it had expanded so as to include patrons providing Mr Koi with funds for front money?

10 **MR WHYTCROSS:** Yes, that's correct.

MS SHARP SC: Could I take you to exhibit B at tab 594, please. This is STA.3414.0006.7088. Now, can I take you to pinpoint 7091 at the bottom of that page. Do you see there's an email from yourself? Operator --

15 **MR WHYTCROSS:** Yes, I do. Thank you.

MS SHARP SC: Yes. Operator, could you take the pinpoint to point 7091, please. Now, what I'm showing you, Mr Whytcross, is an email from you dated 30 January 2018?

20 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And you are sending that to Adrian Hornsby and Jacker Chou, copied to Oliver White and Richard Booth?

25 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: And you are referring to a discussion with Oliver White?

30 **MR WHYTCROSS:** Yes.

MS SHARP SC: Now, do you remember sending this email?

35 **MR WHYTCROSS:** Not specifically, but I remember the period of time.

MS SHARP SC: And what you say is:

40 "Discussed the below point with Oliver.
Only using the client management
agreement arrangements for the
repayment of outstanding moneys under
the cheque cashing facility and not for
45 transfers of front money prior to play."

And then you state:

5 "We recognise the impact that this is
 having and will seek further advice.
 However, for now, please ensure that
 payment is only for outstanding cheque
 cashing facility."

By this time, had there been any problem with people paying money over to Kuan Koi for use as front money?

10 **MR WHYTCROSS:** When you say "any problem", are you able to - to clarify what you mean by that?

15 **MS SHARP SC:** Yes. Had there been any instances where people had paid money to Kuan Koi to use as front money?

20 **MR WHYTCROSS:** Not - not to my knowledge. The - the genesis and the origination of - of the request was that the sales and credit and collections team had asked that this could be - or whether this could be expanded. I was not aware of - that any repayments through the Kuan Koi agreement had occurred for front money prior to this.

25 **MS SHARP SC:** If we go up the chain of emails, could you then have a look at the response from Adrian Hornsby, which starts at pinpoint 7090 and continues to the next page. Now, you see that's an email sent to you?

MR WHYTCROSS: Yes. Thank you.

MS SHARP SC: And what Mr Hornsby advises is:

30 "Unfortunately we had to turn away a
 200K cash deposit for front money last
 night, and we are unable to collect
 payments in relation to -"

35 A particular junket:

40 "Whom like to start with a large front
 money deposit. Oliver, could you please
 expand the decision on why AML
 affects our contract in place with Kuan
 Koi and are there any 'workarounds'
 prior to EEIS launch expected July 1."

45 Are you able to shed any light on what the issue was here?

MR WHYTCROSS: My understanding at the time was that, historically, the Bank of China accounts were used for front money deposits, then shifting to the arrangement with Kuan Koi was only for the ability to repay cheque cashing

facilities and, therefore, there was a commercial impact, which is why I believe Adrian has sent this email.

5 **MS SHARP SC:** In particular, Mr White was asked to expand on the decision why AML affects the contract with Kuan Koi. Are you able to expand upon that?

MR WHYTCROSS: I'm not sure what Adrian is referring to on that email.

10 **MS SHARP SC:** Could I take you to Mr White's reply, please, at pinpoint 7089. Do you see the email from Mr White, dated 31 January 2018, sent to you and Mr Hornsby?

MR WHYTCROSS: Yes, I do. Thank you.

15 **MS SHARP SC:** Given it was sent to you, we may take it that you read it at the time?

MR WHYTCROSS: Yes.

20 **MS SHARP SC:** And Mr White says:

"Thank you for seeking my legal advice on this. We did not look into this more complex issue previously."

25 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: Did you seek any legal advice from Mr White about this?

30 **MR WHYTCROSS:** I recall asking Mr White whether this was possible and whether it could be explored.

MS SHARP SC: So did you seek legal advice from him?

35 **MR WHYTCROSS:** I sought his advice. In terms of specific legal advice, I'm not aware of the - the difference in terms of a technicality of that.

MS SHARP SC: Right. So to the best of your recollection, you did not seek legal advice from him?

40 **MR WHYTCROSS:** To - to the best of my recollection, I asked for his advice. I'm unsure if that clarified and is considered legal advice or not.

45 **MS SHARP SC:** Do you know whether Mr Hornsby sought legal advice from Mr White at this time?

MR WHYTCROSS: No, I do not.

MS SHARP SC: Now, Mr White advises that:

"We did not look into this more complex issue."

5

Is it right that that more complex issue was the deposit of front money through this arrangement?

MR WHYTCROSS: Yes, I believe it was.

10

MS SHARP SC: And do you see Mr White advises below the dot points:

"Our external counsel is urgently considering what steps would be required for The Star Entertainment Group and potentially Kuan Koi himself for the client management agreement to be used in the context of pre-payments. My working assumption is that, given Kuan Koi is resident in Macau and operates his business in Macau (and not Australia), any resolution to this issue which would require Kuan Koi to register with the Australian AML/CTF regulator would be commercially unacceptable."

15

20

25

MR WHYTCROSS: Yes.

30

MS SHARP SC: Now, given you were involved in the formulation of this arrangement with Mr Koi, why is it that an arrangement which required Mr Koi to register with AUSTRAC would be commercially unacceptable?

35

MR WHYTCROSS: I'm - I'm not sure what Oliver is - or Mr White is referring to in "commercially unacceptable". However, my knowledge of customers and experience in this space would suggest that Kuan Koi would not want to go through a process to register with the AML/CTF regulator.

40

MS SHARP SC: And why was that?

MR WHYTCROSS: I'm not sure, but I - I would agree with Mr White's assessment that the individual would not want to go through that process.

45

MS SHARP SC: Is it because this was a bit dodgy?

MR WHYTCROSS: No, I would not agree with that.

MR BELL SC: Well, why would Mr Koi have any problem registering with AUSTRAC, as you understand it?

5 **MR WHYTCROSS:** I can't comment for - for Mr Koi. But my experience with junket operators is having a - a reluctance to go through administrative paperwork, and I feel that would be a reason why Mr Koi would not want to go through that process.

10 **MR BELL SC:** Just a matter of paperwork, is it?

MR WHYTCROSS: I - I feel that would be a factor, yes.

15 **MR BELL SC:** Surely what you are really saying is that you understood they didn't want the kind of scrutiny that would be involved if they registered with AUSTRAC; is that correct?

MR WHYTCROSS: I - I believe that's a fair assessment as well.

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

MS SHARP SC: Mr White refers to external counsel urgently considering the matter. Are you aware as to whether external counsel did consider the matter?

25 **MR WHYTCROSS:** I - I recall that there was advice given. I don't believe I saw the advice, but I believe from subsequent emails that - that that did occur.

MS SHARP SC: And who was that advice given by?

30 **MR WHYTCROSS:** I do not know.

MS SHARP SC: I call for that advice.

MS RICHARDSON SC: I will make inquiries.

35 **MS SHARP SC:** Now, it may assist in that call if I take you to pinpoint 7088. You see there's an email from Mr White to you dated 3 February 2018 where Mr White says:

40 "We have received the Australian advice."

MR WHYTCROSS: Yes, I see that.

45 **MS SHARP SC:** Is that the advice you were referring to in your last answer?

MR WHYTCROSS: Yes, it was.

MS SHARP SC: And Mr White says that that Australian advice:

"In turn pointed to a potential Macau issue."

5 **MR WHYTCROSS:** Yes.

MS SHARP SC: Did you know what that was?

MR WHYTCROSS: No, I don't believe I did.

10

MS SHARP SC: Can I take you to exhibit B, tab 648, which is STA.3417.0017.3058. Can I take you to pinpoint 3061. And do you see that's an email from Mr White dated 8 February 2018 to you?

15 **MR WHYTCROSS:** Yes. I --

MS SHARP SC: It's also copied to Micheil Brodie, Paula Martin, Chad Barton, Matt Bekier and Richard Booth?

20 **MR WHYTCROSS:** Yes, I see that. Thank you.

MS SHARP SC: And do you see that Mr White refers to attaching a supplemental agreement?

25 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC:

30 "Which will facilitate the pre-payment of funds into front money accounts by Kuan Koi on a customer's behalf."

MR WHYTCROSS: Yes, I see that. Thank you.

35 **MS SHARP SC:** And:

"I will arrange for Matt or Chad to sign tomorrow."

40 **MR WHYTCROSS:** Yes.

MS SHARP SC: And if I can take you down to the heading number 1. Do you see Mr White states:

45 "It is a strict requirement that pre-payments transferred by Kuan Koi must be used for gaming."

MR WHYTCROSS: Yes.

MS SHARP SC: All right. Why was that?

5 **MR WHYTCROSS:** My understanding was that the transfers must be used for gaming and, therefore, were unable to be cashed out at that point in time.

MS SHARP SC: And do you see it says:

10 "If the funds are dispersed without
having been used to acquire chips, this
could mean that a remittance has taken
place."

15 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC:

20 "For which Kuan Koi would need a
licence in Macau."

And that was consistent with your understanding at the time, was it?

25 **MR WHYTCROSS:** Yes, it was.

MS SHARP SC: And the email continues:

30 "I understand that Michael Whytcross
has been liaising with relevant teams to
ensure the operational steps to support
the requirements for funds so
transferred to be used for gaming."

35 **MR WHYTCROSS:** Yes. So off the back of that, I liaised with the credit and
collections team, who had the procedural responsibility for that, and asked them
to - to ensure that those operational steps were put in place as well.

MS SHARP SC: And do you see that Mr White also says under number 2:

40 "Another issue that has been highlighted
is that Kuan Koi cannot make an
Australian front money transfer in
relation to a pre-payment unless he has
already received the funds. If he does
45 so, he will have extended gaming credit
in Macau."

MR WHYTCROSS: I am still seeing the sub-bullet 1 in front of me - thank you. Yes. Thank you.

5 **MS SHARP SC:** Now, you were aware that was an issue at the time, were you?

MR WHYTCROSS: Yes, I was.

10 **MS SHARP SC:** Did you have any understanding as to whether Kuan Koi was, in fact, receiving money from patrons before making funds available to The Star in respect of those particular patrons?

MR WHYTCROSS: No, I was not.

15 **MS SHARP SC:** You understand, don't you, that at all times this arrangement was in place, Kuan Koi was acting as the casino operator's agent in receiving the moneys?

MR WHYTCROSS: I'm not aware of the definition of a casino agent, but I understood that he was acting in a manner to receive the funds on behalf of The Star.

20 **MS SHARP SC:** And he was acting on the instructions of The Star?

MR WHYTCROSS: I believe he was acting - yes.

25 **MS SHARP SC:** Well, you and your team were giving him instructions, weren't you?

MR WHYTCROSS: I was - no. To clarify, I was not giving him instructions, nor - nor my team. It was something which was managed on a day-to-day basis by the credit and collections team.

30 **MS SHARP SC:** Now, I will take you to that supplemental agreement, if I can. We will bring up exhibit B, tab 650. This is STA.3417.0017.3065. Now, you see this client management supplementary agreement is dated 9 February 2018?

35 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: Have you seen this document before?

40 **MR WHYTCROSS:** Yes, I have.

MS SHARP SC: When did you first see this?

MR WHYTCROSS: At the time it was prepared.

45 **MS SHARP SC:** Could I take you to the final page of the agreement. You see that it is executed by the then CFO, Chad Barton?

MR WHYTCROSS: Yes, I do.

MS SHARP SC: And if I can take you back to the first - and just to be clear, it is right that Mr Barton was a director of The Star Pty Ltd at that time?

5 **MR WHYTCROSS:** I'm - I'm not aware if Mr Barton was a director at that time.

MS SHARP SC: Just returning to the front page of the agreement - in fact, the second page of the agreement, pinpoint 3066. And recital (D) says:

10 "The service provider now proposes to
assist customers in the advance
purchase of non-redeemable gaming
chips to be used by such customers
while they are present in Australia."

15 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: And that was consistent with your understanding of the way in which arrangements with Mr Koi had been varied as at this point in time?

20 **MR WHYTCROSS:** Yes, it was.

MS SHARP SC: And can I take you, please, to pinpoint 3068. Do you see there's a - if we can go to 3068. Do you can see there's a clause 3, Recordkeeping?

25 **MR WHYTCROSS:** Thank you. Yes, I do.

MS SHARP SC: You would agree, wouldn't you, that there is no reference at all to records for the purpose of know your customer requirements?

30 **MR WHYTCROSS:** Yes, I would agree with that.

MS SHARP SC: And there's no reference there to a requirement to keep records specifically for the purpose of establishing the source of funds, is there?

35 **MR WHYTCROSS:** No, there's not.

MS SHARP SC: Mr Whytcross, do you see any anti-money laundering or counter-terrorism financing problems with the arrangements that Star Entertainment had with Kuan Koi?

40 **MR WHYTCROSS:** I - I see a heightened risk with the arrangement. However, the controls that were put in place in terms of the international depositor form and the AML risk assessment that was done by The Star's AML team gave me comfort that
45 this agreement - or - or those processes mitigated that risk.

MS SHARP SC: Sorry. What control was put in place for this arrangement?

MR WHYTCROSS: My understanding was that there was a - a form that was required - a international depositor form, which - any time the Kuan Koi arrangement was used, that documentation was - was required to be completed, and that information was then communicated to our AML team on property.

5

MS SHARP SC: So this international depositor form, who completed that form?

MR WHYTCROSS: My understanding was that it was completed - can I clarify with that? I'm - I'm not aware whether it was completed by Mr Koi or the customer, or a member of The Star's team in that process.

10

MS SHARP SC: So even though you don't know who completed the form, that control still gave you comfort?

15

MR WHYTCROSS: Yes, it did. The - the day-to-day operations of this agreement did fall within the credit and collections team, therefore I do not recall turning my mind to - to this in extensive detail.

20

MS SHARP SC: Did you just not care what anti-money laundering and counter-terrorism financing risk this arrangement presented?

MR WHYTCROSS: No. No - I did - I did care. I did care.

25

MS SHARP SC: This was super high risk, wasn't it?

MR WHYTCROSS: It would - although I'm not an AML expert, I can see how this arrangement is - is high risk.

30

MS SHARP SC: This rings alarm bells everywhere in terms of source of funds, doesn't it?

MR WHYTCROSS: Yes, it does ring alarm bells in terms of source of funds. However, the risk assessment and the processes and controls that was put in place by others within The Star gave me comfort for this arrangement.

35

MS SHARP SC: Well, I just want to explore your comfort for a minute. You do agree that this arrangement raised red flags in terms of source of funds?

MR WHYTCROSS: I believe --

40

MS SHARP SC: Yes or no?

MR WHYTCROSS: Yes.

45

MS RICHARDSON SC: Well, the witness is interrupted. He should be entitled to give his answer freely, in my submission.

MR BELL SC: Well, Ms Richardson, my observation was that the witness wasn't answering the question. I think an interruption was warranted. Yes, Ms Sharp.

5 **MS SHARP SC:** I will put the question again. This raised red flags for source of funds, didn't it?

MR WHYTCROSS: Yes, it did.

10 **MS SHARP SC:** And the one control you can articulate is that somebody filled in a depositor form?

MR WHYTCROSS: That's correct.

15 **MS SHARP SC:** But you don't know who filled in the deposit form?

MR WHYTCROSS: That's correct.

20 **MS SHARP SC:** How can that give you any comfort at all that addresses that red flag?

MR WHYTCROSS: In hindsight, I - I'm not sure.

25 **MS SHARP SC:** Well, do you agree now that that control was completely inadequate to guard against the AML/CTF risk that this arrangement presented?

MR WHYTCROSS: I - given the control and the operations of the control were not something that - that was the responsibility of either myself or my wider team, I'm not sure whether that control was effective.

30 **MS SHARP SC:** Did you ever see one of these completed forms?

MR WHYTCROSS: I - I may have. I - I can't recall specifically.

35 **MS SHARP SC:** But do you know if The Star ever collected these forms?

MR WHYTCROSS: My understanding is that they did.

40 **MS SHARP SC:** Do you know if they completed them for the duration of the time this arrangement was in place?

MR WHYTCROSS: I - I'm not sure whether it was completed for the duration.

MS SHARP SC: You never took steps to check that?

45 **MR WHYTCROSS:** No, I did not.

MS SHARP SC: So you have no idea whether that form was completed and submitted to Star during the duration of this arrangement?

MR WHYTCROSS: No, I do not.

5 **MS SHARP SC:** In fact, wasn't it the case that you were - I withdraw that. Isn't it the case that The Star was relying on Mr Koi to conduct a source of funds assessment for all of these deposits?

10 **MR WHYTCROSS:** In terms of the processes, I'm - I'm not aware on the procedure as to whether reliance was placed with Mr Koi for that.

MS SHARP SC: Do you accept that this arrangement lacked transparency from the perspective of a person trying to ascertain where front money accounts deposited into the casino had come from?

15 **MR WHYTCROSS:** In - in hindsight, yes, I do accept that.

MS SHARP SC: And do you accept that this arrangement lacks transparency from the perspective that people viewing The Star's bank accounts would simply see a transaction coming from Kuan Koi and would not understand where Kuan Koi had received the funds from?

20 **MR WHYTCROSS:** Assuming the controls that we'd spoken about were ineffective, yes, I can see that.

25 **MS SHARP SC:** But you have no way of knowing whether the controls were effective or not, do you?

MR WHYTCROSS: No, I do not.

30 **MS SHARP SC:** Do you think that is a matter that you ought to have explored at some point while this arrangement was on foot?

MR WHYTCROSS: No, I do not believe so.

35 **MS SHARP SC:** Who do you think was responsible for confirming that matter?

MR WHYTCROSS: The processes at that point in time fell under the credit and collections team.

40 **MS SHARP SC:** So you suggest they had responsibility for that?

MR WHYTCROSS: Yes, I do.

45 **MS SHARP SC:** But weren't you providing advice to the credit and collections team about this?

MR WHYTCROSS: I was supporting the credit and collections team and helping establish this process. However, I do not believe I was responsible for the ongoing day-to-day procedures for the agreement.

5 **MS SHARP SC:** But were you, in your capacity as the general manager of finance and commercial, responsible for the initial implementation of this arrangement?

MR WHYTCROSS: No. The - I was responsible for the commercial side of it and supporting it. The rollout and the implementation was the responsibility of the credit
10 and collections team at the time.

MS SHARP SC: But weren't you one of the people who decided to implement this arrangement, Mr Whytcross?

15 **MR WHYTCROSS:** Yes. I was a part of the group, yes.

MS SHARP SC: Can I take you to exhibit B at tab 582. This is STA.3423.0002.5770.

20 **MR BELL SC:** Operator, can this be blown up, please.

MS SHARP SC: Yes. And can I take you, please, to pinpoint 5771. And can I have that email from Skye Arnott dated 1 February 2018 blown up. Now, you see this is an email from Ms Arnott to Richard Booth and Adrian Hornsby?
25

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: And you're copied into it?

30 **MR WHYTCROSS:** Yes.

MS SHARP SC: Do you think, given it's about Kuan Koi, you would have read it at about the time it was sent?

35 **MR WHYTCROSS:** Yes.

MS SHARP SC: Now, can I take you to a further email. This one is in pinpoint 5770. This was another email from Ms Arnott into which you were copied. I will have it expanded for you. Do you see Ms Arnott is saying:
40

"Regarding documents for top-up deposits into Kuan Koi's front money account, it would be good to understand how this money is being received."
45

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: Now, the arrangement was already on foot by 1 February 2018, wasn't it?

MR WHYTCROSS: I believe it was, yes.

5

MS SHARP SC: So it would appear that the compliance manager was not aware of the ways in which the money was being received by Kuan Koi at this time; do you agree?

10 **MR WHYTCROSS:** Yes, I do.

MS SHARP SC: And what Ms Arnott goes on to say is that:

15

"My understanding of the transactions so far is that part of the money has come as foreign counter cheques that operate in the same way as bank cheques and that these have been deposited into our NAB bank account onshore."

20

Now, you told us earlier that you thought that Mr Koi was simply obtaining cash from people, didn't you?

MR WHYTCROSS: Yes, I did.

25

MS SHARP SC: Now, this information that Ms Arnott is relaying is inconsistent with your understanding, is it not?

30

MR WHYTCROSS: I'm unaware if this is referring to funds that Kuan Koi has sent to Australia. However, I'm very unclear.

35

MS SHARP SC: Now, you've mentioned that Ms Arnott did a risk assessment. Is it right that, in fact, she did two risk assessments: one at the time when the arrangement simply involved payments for a cheque cashing facility; and another at a time the arrangement was expanded to also include front money deposits?

MR WHYTCROSS: I was aware there was a risk assessment done initially. I do not believe I was aware there was a second risk assessment done.

40

MS SHARP SC: Well, I will take you to the risk assessment that's available to this review, if I can. It's exhibit B, tab 626, STA.3415.0002.6738. And, I'm sorry, I gave the wrong exhibit number there, Mr Bell. In fact, it's exhibit B, tab 626. Is this the - and if you need this scrolled in order to answer my question, but is this the risk assessment you were referring to?

45

MR WHYTCROSS: I - I can't recall specifically, but I believe it is.

MS SHARP SC: Can I just draw your attention, please, to the second sentence that says:

5 "These payments will be for repaying
cheque cashing facilities or making
funds available for cash buy-ins."

MR WHYTCROSS: Yes, I see that.

10 **MS SHARP SC:** Did this suggest to you that this risk assessment was an
amendment to the original one when the arrangement was simply for repaying
cheque cashing facilities?

15 **MR WHYTCROSS:** I cannot recall specifically. However, reading that second
sentence suggests that, yes, it is.

MS SHARP SC: Did you read - you say that you read a risk assessment at some
stage. Does this appear to be the risk assessment that you read at the time?

20 **MR WHYTCROSS:** My apologies. I - I think it is. However, I - I cannot be certain.

MS SHARP SC: Can I take your attention, please, to source of funds. I now want to
ask you some questions about whether propositions put in this document are
consistent with your understanding at this time. At pinpoint 6739, it is stated - and
25 this is under the heading Source of Funds - that:

30 "The benefit to a group wishing to
launder money is that money remitters
will accept large cash transactions with
a limited know your customer or
customer due diligence procedure. The
nature of remitters, both in the hawala
or traditional remittance sectors, is to
35 provide only remittance or currency
exchange services which limits their
interaction and knowledge of their
customers. This invites the use of
money mules or false identity
40 documents to obscure the source of
funds. Remitters in Hong Kong and
Macau where Star Entertainment is
looking to introduce these services are
unlikely to conduct inquiry into the
45 source or beneficial owner of the funds
involved and, if these inquiries were
completed, the visibility of this
information to Australian regulators
would be limited."

Now, is this observation consistent with your understanding of the money laundering risk that third-party remitters presented?

5 **MR WHYTCROSS:** It - it is now. At the time my knowledge was a lot more limited than what it is currently.

MS SHARP SC: And, sorry, when did your understanding change?

10 **MR WHYTCROSS:** Predominantly late October 2020 when the credit and collections team fell under my responsibility.

MS SHARP SC: Now, I will take you to another part of Ms Arnott's risk assessment, immediately underneath:

15

"Under the previous arrangement where money was deposited directly into Star Entertainment's international bank accounts, the collection of identification was conducted by the banks at which Star Entertainment held accounts. Under the interim arrangement, Star Entertainment requires, through use of the international depositor form, identification of the depositor, beneficial owner and any other third parties involved in the transaction. Information relating to the relationship between the parties is also required in the Star Entertainment process. Star Entertainment proposes to report the transactions and all relevant know your customer information through AUSTRAC as an IFTI, in addition to complying with the reporting obligations in the Macau jurisdiction."

20

25

30

35

Now, you don't know who the international depositor form was completed by, do you?

40

MR WHYTCROSS: No, I do not.

MS SHARP SC: So you don't know who was undertaking any know your customer assessment, do you?

45

MR WHYTCROSS: No, I do not.

MS SHARP SC: Do you know whether The Star did lodge IFTIs in respect of these transfers when the money moved from Mr Koi's international bank accounts to his Australian bank account?

5 **MR WHYTCROSS:** I'm not aware if - if that occurred.

MS SHARP SC: Do you see at pinpoint 6740, under the heading Criminal Infiltration - if we can go there. Do you see there's a paragraph that begins:

10 "The compliance team proposes to
conduct additional AML/CTF training
with the international team."

Now, did you ever receive additional AML/CTF training?

15

MR WHYTCROSS: There was one international trip where Skye Arnott attended the Hong Kong, Singapore and Macau offices, and training was completed, yes.

MS SHARP SC: Did you receive that training?

20

MR WHYTCROSS: Yes, I was a part of that training.

MS SHARP SC: You didn't mention that previously when I asked you about your AML training?

25

MR WHYTCROSS: Yes. My apologies. I did not recall at that point.

MS SHARP SC: Now, it's right, isn't it, that at a certain point during this arrangement, Mr Koi ran into trouble with his Bank of China Macau accounts?

30

MR WHYTCROSS: I recall emails from Mr Hornsby suggesting that there was issues being faced by Mr Koi.

MS SHARP SC: And this caused the arrangement to change again, didn't it?

35

MR WHYTCROSS: I'm not aware of the arrangement changing again.

MS SHARP SC: Well, didn't it change such that third-party remitters started giving their money to - I withdraw that. Third-party remitters started depositing money in Mr Koi's account which he, in turn, transferred to the casino operator?

40

MR WHYTCROSS: I was not aware of that.

MS SHARP SC: Are you sure you weren't aware of that?

45

MR WHYTCROSS: Yes, I am.

MS SHARP SC: Could I take you to exhibit B at tab 707. This is STA.3410.0043.7608. I will start at the back of this email. Can I take you to pinpoint 7608. Halfway down the page, do you see there's an email from Adrian Hornsby, dated 31 March, into which - well, you are a recipient?

5

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: And do you see it says:

10 "Please be advised that overnight Kuan
Koi has advised us that the Bank of
China bank in Macau has blocked all his
international wire transfers, issuances of
cashier orders and personal cheques."

15

MR WHYTCROSS: Yes, I see that.

MS SHARP SC: And do you see it says:

20 "This option has now concluded as
Kuan can no longer continue with his
contractual arrangement with The Star."

25

MR WHYTCROSS: Yes.

MS SHARP SC: But in fact, your arrangement Kuan Koi continued to July 2019, didn't they?

30

MR WHYTCROSS: Yes, I - I believe they did.

MS SHARP SC: Now, if I can take you to the next page of this email, to pinpoint 7609. And I should ask you: you do recall receiving this at about the time it was sent, don't you?

35

MR WHYTCROSS: I - I have a vague recollection of receiving this, yes.

MS SHARP SC: Well, it's most likely you did since this was a very significant development in this arrangement; don't you agree?

40

MR WHYTCROSS: Yes. However, from - from my perspective, this arrangement had shifted into a day-to-day responsibility of the credit and collections team.

MR BELL SC: Mr Whytcross, should I conclude that there's no doubt whatsoever that you did read this email at the time?

45

MR WHYTCROSS: At the time, yes, Mr Bell.

MS SHARP SC: Now, if I can take you to the email at the top of pinpoint 7609. It is stated:

5 "Email correspondence with Oliver
White late last week in regards to
MdME law firm has proven the solution
is not sustainable for the multitude of
requests for cash deposits and
redemptions required."

10

What was that email correspondence with MdME law firm?

MR WHYTCROSS: I believe there was a discussion between Mr Hornsby and
Mr White as to whether MdME law firm could accept cash deposits and
15 redemptions.

MS SHARP SC: What, a law firm accepting cash deposits for the purpose of front
money going into a casino account?

20 **MR WHYTCROSS:** Yes. My recollection at the time was that that was being
explored and requested by Mr Hornsby.

MS SHARP SC: Are you able to indicate why on earth a law firm would be
involved in this arrangement?

25

MR WHYTCROSS: No, I am not.

MS SHARP SC: It then states:

30 "The EEIS solution, at the very earliest,
will not be available until July 1, by
which any of those bank accounts
related to EEIS is highly improbable
can accept cash deposits in Macau or
35 Hong Kong."

MR WHYTCROSS: Yes.

MS SHARP SC: And that was consistent with your understanding, was it?

40

MR WHYTCROSS: Yes, it was.

MS SHARP SC: And you see:

45 "As directed, we pressured Neptune to
wire Star under duress as they are the
second largest junket in Macau. Even
they were unwilling or unable to wire

the debt owing Star directly to our NAB
or UOB bank accounts."

Why was that?

5

MR WHYTCROSS: I'm not sure why Neptune were unwilling to do that. However, I would suspect it was to do with the increasing regulatory changes in Macau at the time.

10 **MS SHARP SC:** Was this because there was crackdown on money being transferred outside of Macau to go to casino operators?

MR WHYTCROSS: Yes, I believe it was.

15 **MS SHARP SC:** And it's right that Neptune is a very large junket?

MR WHYTCROSS: Yes, that's correct.

MS SHARP SC: Sometimes known as the Guangdong Club?

20

MR WHYTCROSS: Yes, I believe so.

MS SHARP SC: And do you see a little further down, it says:

25 "Recently, our major client, Qin -"

I will pronounce it phonetically:

"Sixin -"

30

S-i-x-i-n:

"On an AUD3.2 million marker utilised
the services of Regal Crown at his own
expense."

35

MR WHYTCROSS: Yes, I see that.

40 **MS SHARP SC:** Okay. Did you understand Regal Crown to be a third-party remitter?

MR WHYTCROSS: Yes, I did.

MS SHARP SC: And do you see two paragraphs down, it says:

45

"Regal Crown has expressed interest in
arranging a permanent contract with
Star previously, and Oliver has spent

some time researching them in regards to their AML compliance, size and market reputation."

5 What, if anything, were you made aware of in relation to Mr White's research of Regal Crown?

MR WHYTCROSS: Apologies. I can't see the bottom of the email. However, at that point in time, I - I do not believe I was made aware of any of Mr White's
10 research into - into Regal Crown.

MS SHARP SC: And at pinpoint 7610, could I take you to the third paragraph:

15 "We have been under immense pressure from our Star patrons and junkets to present cash options to them, and there is no other banks or third parties willing to pick up our volumes without exposing themselves negatively with
20 their bankers, similar to Kuan."

MR WHYTCROSS: Yes.

MS SHARP SC: And that was consistent with your understanding, wasn't it, that
25 The Star was receiving considerable pressure from its patrons and junkets to receive large cash payments?

MR WHYTCROSS: Yes. That's consistent with my recollection.

30 **MS SHARP SC:** Can I take you, please - I withdraw that. Can I take you, please, to exhibit B, tab 1090, which is STA.3417.0004.5006. Can I take you to pinpoint 5008. In fact, out of fairness to you, I need to show you that you're involved in this email chain first, Mr Whytcross. Could I take you to the top page, which is point 5006. And you there see that you're sending an email to Greg Hawkins on 14 September
35 2018?

MR WHYTCROSS: Yes. Thank you.

40 **MS SHARP SC:** And you refer to Marcus - and I take it that's Marcus Lim - being incorrect regarding Kuan Koi?

MR WHYTCROSS: Yes.

MS SHARP SC: And you say:
45

"We can accept front money deposits through this method if the funds are deposited directly to The Star."

MR WHYTCROSS: Yes. Thank you.

5 **MS SHARP SC:** Was this a method whereby third-party remitters gave funds to Kuan Koi and he then sent them through to The Star?

10 **MR WHYTCROSS:** No. My understanding with this at the time was that this was in line with the supplementary agreement that had been signed and endorsed, and that it was a - a front money deposit through the previous agreement.

MS SHARP SC: But what had changed since that supplementary agreement was that Mr Koi was now obtaining that money from patrons via third-party remitters; do you agree?

15 **MR WHYTCROSS:** I wasn't aware of that at the time.

MS SHARP SC: Well, can I take you to an email a bit further down the chain, and it appears that you were responding to this email chain, at pinpoint 5007. Do you see there's an email from Marcus Lim to Greg Hawkins dated 14 September 2018?

20 **MR WHYTCROSS:** Yes, I see that.

MS SHARP SC: And it says:

25 "Cash front money player, which is the best situation for us."

And then a little further down:

30 "He has cash in Macau that needs us to do a cash collections and offer him chips in Sydney. According to Adrian, we can only use Regal Crown, which charges three per cent. There is another way via Kuan Koi whom we have an agreement with to action money transfers which also cost three per cent, but that can only be used for CCF redemption."

40 Does that refresh your memory as to whether third-party remitters at some stage in 2008 commenced providing money to Kuan Koi, who in turn sent that money through to the casino?

45 **MR WHYTCROSS:** No, I - I was not aware of that. My understanding with this was in line with the agreements, and my understanding was that it was Kuan Koi who was accepting the cash in line with the supplementary agreement.

MS SHARP SC: Would you agree that if the situation emerged where patrons were providing funds to Kuan Koi via third-party remitters, the AML risks were heightened even more?

5 **MR WHYTCROSS:** Yes, I would agree with that.

MS SHARP SC: Can you assist us understanding the following email exchange which I will show to you. This is exhibit B at tab 943, STA.3417.0005.6082. Now, can you see on this front page there's an email from you to Adrian Hornsby where
10 you say:

"Can I ask, moving forward, that we get a lot more clarity around this? Really, this shouldn't be this difficult."

15 **MR WHYTCROSS:** Yes. Thank you.

MS SHARP SC: And I will just take you to the beginning of - or the back of this email, if I can. Now, if we can start at pinpoint 6091. If I enlarge the top part of this
20 email. And what I will do is take you through a few bits of this email and then I will see if you can explain what is going on here. The email says:

"Hi Michael, please find attached spreadsheet for breakdown of funds used by patrons through KK funding model."
25

Is it right that "KK funding model" is Kuan Koi?

30 **MR WHYTCROSS:** Yes. That's correct.

MS SHARP SC: And it then states:

"Kuan Koi has transferred a total of HKD\$50 million-odd. The three per cent service fee will amount to HKD\$1.5 million-odd. I have also attached the bank service fee receipts provided by Kuan Koi as well."
35
40

And then if I take you a little further up the email chain. I might ask you to read it to yourself, please, and ask for it to be scrolled as is necessary.

45 **MR WHYTCROSS:** Apologies. I - can that be scrolled up?

MS SHARP SC: Operator, can you scroll up, please. I think you are scrolling down, operator. Can you scroll up, please. And then, operator, can you go to the next page up.

MR WHYTCROSS: Thank you.

MS SHARP SC: Can you scroll up, please, operator.

5

MR WHYTCROSS: If we can keep going up. Thank you.

MS SHARP SC: No. Just scroll up rather than blowing things up, please, operator.

10 **MR WHYTCROSS:** Thank you.

MS SHARP SC: Are you able to tell us what is going on here?

15 **MR WHYTCROSS:** So this was the - the process that went through on a monthly basis with the credit and collections team would send through a file to - to myself and - and the finance team under me, outlining what the funds were being - or what funds had been used for under the Kuan Koi arrangement. Now, my understanding and recollection with that is that then for all funds that were used, whether that was for a cheque cashing facility originally or then following the supplementary
20 agreement that was under front money transfers prior to play, that, under the agreement, incurred a - a three per cent fee payable to Kuan Koi. And this was the process that we went through. I believe, on this occasion, I had some queries from a commercial perspective that things didn't seem to add up, and that was the exchange between myself and - and those on this email.

25

MS SHARP SC: Mr Bell, I see the time. I am about to move to a different topic, so would this be a convenient time?

30 **MR BELL SC:** Well, I just wanted to ask Mr Whytcross a couple of questions because there's something I'm not understanding here. My note is that exhibit B717 was an email from Mr Hornsby to you on 31 March in which he told you that the Bank of China in Macau were preventing Kuan Koi from accepting cash deposits into his account. Is that correct?

35 **MR WHYTCROSS:** Yes. I - I recall seeing that email today, Mr Bell.

MR BELL SC: And then Ms Sharp asked you whether the agreement, in fact, continued for several more months until July 2019, and you said it did; correct?

40 **MR WHYTCROSS:** Yes.

MR BELL SC: So if Mr Koi wasn't able to accept cash deposits into his account in the Bank of China at Macau, how did this arrangement continue after 31 March?

45 **MR WHYTCROSS:** My understanding with that was there were a number of threats and - and the potential of Kuan Koi's bank accounts being closed, and that - that occurred on a number of occasions. However, my understanding through

conversations with Mr Hornsby that that was continuing as it originally was under the agreement, despite those emails.

5 **MR BELL SC:** Yes. Thank you for clarifying that. Well, I will now adjourn until 10 am tomorrow.

<THE HEARING ADJOURNED AT 5:12 PM