

**16 May 2012**

Mr Chris Sidoti  
Chairperson  
Independent Liquor and Gaming Authority  
Level 6, 323 Castlereagh Street  
SYDNEY NSW 2000

Dear Mr Sidoti

I enclose my report of the Inquiry conducted pursuant to s.143 of the *Casino Control Act 1992*.

Yours sincerely



Gail B Furness SC

**Report of Inquiry  
pursuant to section 143 of the  
*Casino Control Act 1992 (NSW)***

**May 2012**

## TABLE OF CONTENTS

<b>Glossary</b>	<b>3</b>
<b>Executive Summary</b>	<b>4</b>
<b>1 Introduction</b>	<b>7</b>
Commencement of the Inquiry	7
Terms of reference	7
Background to the Inquiry	8
Staff	9
Processes through which the Inquiry acquired information	9
Private hearings	10
Public hearing	11
Submissions following the public hearing	12
Confidentiality	13
<b>2 Circumstances surrounding the cessation of the employment of the former Managing Director</b>	<b>14</b>
Chronology of events 6 December 2011 – 2 February 2012	14
Attempts to influence Echo and The Star’s investigation	19
Obligations to disclose	22
<b>3 The Authority’s responsibilities</b>	<b>24</b>
<b>4 Allegations concerning issues raised in Section 31 Report</b>	<b>27</b>
Treating patrons more leniently	27
E-TIPS	29
Responsible gaming and the time spent gambling	30
Responsible service of alcohol	31
Junkets	34
Baccarat Rules	34
Licensing	35
Culture Shift	35
The substance in the bathroom incident	36
Favourable treatment to a high roller	39
<b>5 Allegations made concerning the former Managing Director</b>	<b>43</b>
Previous investigations	43
Allegations since 2 December 2011	45

<b>6</b>	<b>Allegations concerning suspected drug use</b>	<b>48</b>
<b>7</b>	<b>Other allegations</b>	<b>50</b>
	Qualifications	50
	Electronic Gaming Machines	50
	Responsible gambling managers	51
	Ms Annika Soraya	52
	Mr Mark Boyd	54
	Reporting and investigations	56
	Mr Thomas Lin	57
<b>8</b>	<b>Allegations outside Terms of Reference</b>	<b>61</b>
<b>9</b>	<b>A culture of sexual harassment?</b>	<b>64</b>
<b>10</b>	<b>Termination of employment</b>	<b>67</b>
	The Second Complainant	67
	Three table games managers	68
	Five other managers	69
<b>11</b>	<b>The dissemination of certain emails and texts to selected media</b>	<b>70</b>

## GLOSSARY

<b>Act</b>	<i>Casino Control Act 1992 (NSW)</i>
<b>AML/CTF</b>	Anti-Money Laundering and Counter-Terrorism Financing pursuant to the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)</i>
<b>ASX</b>	Australian Stock Exchange
<b>AUSTRAC</b>	Australian Transaction Reports and Analysis Centre
<b>Authority</b>	Independent Liquor and Gaming Authority (formerly Casino, Liquor and Gaming Control Authority)
<b>Echo</b>	Echo Entertainment Group Limited
<b>EGMs</b>	Electronic Gaming Machines
<b>E-TIPS</b>	Echo Total Integrity Protection Service (formerly Tabcorp Integrity Protection Service)
<b>PCRIU</b>	Police Casino and Racing Investigation Unit
<b>Section 31 Investigation</b>	The investigation in 2011 under s.31 of the Act into the suitability of The Star to hold the casino licence
<b>Section 31 Report</b>	The report of the Section 31 Investigation
<b>The Star</b>	The Star Pty Limited (formerly Star City Pty Limited)

## EXECUTIVE SUMMARY

This Inquiry was called for two reasons. First, because the Authority did not receive what it considered to be a full and timely account of the cessation of the employment of the former Managing Director of The Star, Mr Sid Vaikunta. Secondly, when it became public that his employment had ceased, a number of people came forward with allegations and complaints and the media published stories containing information critical of the casino's operations.

After reviewing all the documents held by The Star and Echo concerning the cessation of the employment of Mr Vaikunta and hearing public and private evidence as to those events, the Inquiry is satisfied that Echo promptly, properly and thoroughly investigated allegations made by two of The Star's managers of, respectively unwelcome sexual advances and unwelcome comments of a sexual nature against Mr Vaikunta. It did so free from external influence.

Those events occurred on 6 and 8 December 2011, were reported to Echo management on 12 December and an investigation commenced shortly thereafter. Mr Vaikunta was suspended on 19 December. Subject to the consideration of any submissions by Mr Vaikunta, Echo management were satisfied that most of the allegations were substantiated and amounted to a breach of its policies by 22 January 2012. Properly, Mr Vaikunta was given a period of time in which to respond to the findings and to obtain advice on the terms of his departure. That was all completed by 1 February and an announcement made on 2 February.

The Inquiry has obtained legal advice that The Star and/or Echo may have breached its contractual and statutory obligations to the Authority in not notifying it earlier than 2 February. The Star and Echo have submitted legal advice that no obligations have been breached. It is a matter for the Authority whether it is of the view that there are grounds for disciplinary or other action against either entity and, if so, whether to take that action.

In addition to media articles and speculation, the Inquiry received 28 submissions from 25 persons. Half of the submissions were anonymous. Some of the other submissions were made with a request that the person's name not be disclosed. Some submissions were made to or received by the Minister's office and referred to the Authority. Most submissions concerned issues dealt with in the Section 31 Investigation Report which was completed on 2 December and released on 22 December. Many of the remainder were outside the regulatory responsibilities of the Authority. A handful concerned suspected drug use and were referred to the NSW Police. The Police have told the Inquiry that they are not pursuing any of those drug related matters. The remaining few which contained allegations or complaints were investigated. None raised concerns about the integrity of gaming, criminal influence in the casino or harm to the public.

Six people made public allegations against the casino on television or in print. Each has been examined about those allegations. It is the case that none of the serious allegations made and reported has been found, on examination by the Inquiry, to be true. Ms Soraya, a former security trainee gave evidence to the Inquiry which did not support the published claim that the casino was full of racist bullies. Mr Boyd, the secretary of the United Voice union gave evidence to the Inquiry which did not support the published claim that he was alarmed but not surprised by allegations of sexual harassment and illegal drug taking. Mr Boyd gave evidence he knew nothing of those matters.

On his own evidence, Mr Culpan, a former acting Pit Manager had made complaints to casino management for years and as recently as early February 2012 and October 2011 he had been told of the detailed investigative steps taken by casino management to address those matters. This is in stark contrast to his account published by Channel 7 that *"No matter what you report, no matter what you see, no matter what you say, nothing is ever done about it"*.

Further, Mr Culpan's statement of chronic drug abuse among senior management, published by Channel 7 was based on one observation he had made of one senior manager in 2011 where he thought from the senior manager's appearance that he was on some substance. That evidence has been rejected by the Inquiry as a reliable indicator of any drug use.

Ms Ward's, a former acting Casino Duty Manager, published account of nothing being done about a high roller who sexually harassed a dealer is again in contrast to the documented account of the action taken by the casino which included moving the dealer and having security escort the player from the casino when concern was raised about his drinking.

Mr Lin, a former Government Inspector who left the casino in 2008, spoke to the ABC of a "black hole" where his "dozens or hundreds" of recommendations for prosecution of the casino ended up. A simple check of Annual Reports of the Authority would have shown that the casino operator was the subject of prosecution by the Authority. The Authority's records reveal that Mr Lin was the author of five recommendations for prosecution and that each was acted upon. Mr Lin spoke of suicide, attempted suicide and expressions of intent to suicide being a daily occurrence. When giving evidence to the Inquiry, he accepted that between 2001 and 2008 there had been only one suicide at the casino complex. On that occasion, instead of being "covered up", the police and ambulance attended and the government inspectors were informed.

It has been an important function of this Inquiry to air the allegations made, particularly those made publicly, and properly test them. The fact that many of them have been found wanting is troubling because it results in the public's understanding of the regulation and operation of the casino being based on inaccuracies. There are very good reasons for whistleblowing to be encouraged and whistleblowers to be protected. However, to attract

that protection, those making allegations have responsibilities. They include a responsibility to accurately report their concerns and observations, acknowledge when they do not have first-hand knowledge of events, not to exaggerate or engage in hyperbole, and to properly restrict their allegations to the time in which the events occurred.

Those who publish such accounts are usually bound by a code of conduct or practice. For example, the Media Alliance Code of Ethics provides that journalists should “*search, disclose, record and question*” and report and interpret honestly, striving for accuracy, fairness and disclosure of all essential facts. Where a source seeks anonymity, they should not agree without first considering the source’s motives and any alternative attributable source. The ABC has a Code of Practice which is in similar terms.

These steps and efforts are appropriate to be taken by media outlets when approached by or when courting whistleblowers.

The information obtained during this Inquiry serves to reinforce the comments and recommendations made in the Section 31 Report. Ensuring compliance with responsible service of alcohol principles remains important, educating staff on indicators of problem gambling needs to occur and communicating more effectively the reasons for change is necessary. There was no matter raised during this Inquiry which requires any additional recommendations to be made or which suggests that the findings made in the Section 31 report are no longer current and relevant or need to be supplemented.

Sexual harassment should not occur in any workplace. Echo and The Star have demonstrated a positive culture which has systems in place for reporting sexual harassment, including anonymously, investigating claims and taking action commensurate with the findings of those investigations.



# CHAPTER ONE

## INTRODUCTION

### Commencement of the Inquiry

The Inquiry was established on 16 February 2012 under s.143(1) of the *Casino Control Act 1992* (the Act) by the then Casino, Liquor and Gaming Control Authority, which on 1 March 2012 became the Independent Liquor and Gaming Authority (the Authority).

### Terms of reference

The Authority appointed Ms Gail Furness SC to inquire into, and report upon, the following matters:

- “1. the circumstances surrounding the cessation of the employment with Echo Entertainment Group of Mr Sid Vaikunta as Managing Director of The Star casino, including in relation to Echo Entertainment’s obligations under the Casino Control Act 1992 and otherwise to inform the Authority of relevant information;
2. any issues relevant to the Authority’s responsibilities under the Casino Control Act 1992 that arise from information received by the Authority or the inquiry in relation to The Star casino since 2 December 2011; and
3. any matters relevant to the above.”

The Inquiry was to be conducted privately. On 16 March 2012, the Authority supplemented the Inquiry’s terms of reference by requiring the Inquiry to hold a public hearing in relation to the following elements of its terms of reference:

- “1. the response by The Star and Echo Entertainment Group to the allegations against the former Managing Director;
2. whether there were any attempts to influence the response by The Star and Echo to those allegations; and
3. certain allegations made publicly against The Star since 2 December 2011.”

The Inquiry was required to receive public submissions on its terms of reference until 8 March 2012.

Initially, the Inquiry was required to submit its report to the Authority by 5 April 2011. As a result of the holding of the public hearing, the date by which the report of the Inquiry was required to be submitted to the Authority was extended from 5 April 2012 to 30 April 2012.

The public hearing was held over five days between 2 and 11 April 2012.

On 16 April 2012, allegations were made publicly by Mr Thomas Lin, a former Government Inspector against The Star on the ABC television program “7.30”. The Inquiry took steps to locate Mr Lin for the purposes of holding a further public hearing. Mr Lin did not have an address for service of a summons. Email correspondence with Mr Lin was entered into by the solicitors assisting the Inquiry and ultimately, on 25 April, Mr Lin agreed to attend a private interview with the Inquiry, which was conducted on 27 April 2012.

On 26 April 2012, the Authority extended the date by which the report of the Inquiry was required to be submitted to the Authority from 30 April 2012 to 18 May 2012. It did so because there remained some matters that required further investigation following issues raised in the public hearings, to allow the investigation of some information that was the subject of the ABC television report on 16 April 2012, and to ensure procedural fairness for all parties to the inquiry.

### **Background to the Inquiry**

In 2011, an investigation under s.31 of the Act was undertaken into the suitability of The Star to hold the casino licence and whether it was in the public interest that the casino licence should continue in force (the Section 31 Investigation). That investigation under s.31 of the Act had to be undertaken because the legislation required such an investigation to occur in a period not exceeding every five years. It was not held in response to any particular complaint, allegation or event. The Section 31 Investigation was completed by 2 December 2011 and the report of the Section 31 Investigation was released on 23 December 2011 (the Section 31 Report).

On 2 February 2012, Echo Entertainment Group (Echo) announced to the Australian Stock Exchange (the ASX) that the Managing Director of The Star casino had “left the company”, and that his “employment has ended after his behaviour in a social work setting”.

Shortly prior to the announcement, the Authority was advised by telephone of what was to occur. That evening the Authority sought from Echo a full explanation of the circumstances surrounding the cessation of Mr Vaikunta’s employment. Echo’s explanation was provided on 6 February.

In the meantime, Echo’s 2 February 2012 announcement had generated significant public comment about The Star. The Authority was provided with information from a number of sources about aspects of The Star’s management and operations. Most of this information was already known to the Authority, and, where warranted, it had been investigated, as part of the Section 31 Investigation.

Some of the information, however, was additional to that provided to the Section 31 Investigation, and other information concerned events that were alleged to have taken place after the Section 31 Report was completed on 2 December 2011.

The Authority considered Echo's explanation as well as the additional information which had been forthcoming and, on 9 February determined to hold an Inquiry. The terms of reference were finalised on 15 February and the announcement made on 16 February that the Authority had appointed Gail Furness SC to inquire into the new information it had received since 2 December 2011, in addition to the matters identified in the Inquiry's first term of reference (the Inquiry).

## **Staff**

Mr Michael Wigney SC and Ms Leigh Sanderson were appointed as counsel assisting the Inquiry. Piper Alderman Solicitors provided legal assistance to the Inquiry and assisted in the conduct of the public hearing.

A number of officers of the Authority provided assistance to the Inquiry, in particular, Mr David Brearley, Manager Casino Review. Mr Robert Petherick, Manager Compliance, provided advice and Mr Troy Bell, Inspector and Special Projects Officer, assisted the Inquiry particularly in the conduct of the public hearing. Mr Ron Harrex, a consultant to the Authority, provided advice to the Inquiry and Mr Mark Nolan, Senior Media Manager, NSW Trade & Investment, also assisted with the conduct of the public hearing.

## **Processes through which the Inquiry acquired information**

### Documents produced on summons

While some information was provided voluntarily, most information was obtained by the Inquiry by requiring production under summons. Ms Furness had power to summons material under the *Royal Commissions Act 1923*.

The Inquiry issued 13 summonses to produce documents. Eight of these summonses were issued to Echo and The Star, and resulted in the production of some 45 volumes of material.

Echo and The Star were entitled to withhold from the Inquiry communications to which legal professional privilege attached. Echo and The Star agreed to provide to the Inquiry some such communications, with the express intention of not thereby waiving privilege, in order to assist the Inquiry in relation to the first term of reference.

One summons was issued to the Authority in relation to documents subject to confidentiality obligations.

Two summonses were issued to the Seven Network to obtain documents relevant to the stories about the casino which were broadcast on the Channel 7 news on 20, 21 and 22 February 2012. One summons was issued to the Australian Broadcasting Corporation to obtain documents relevant to the casino, including those relating to the story which was broadcast on the ABC's "7.30" program on 16 April 2012.

Both media outlets resisted production in respect of one or more documents, including on the grounds of an asserted public interest in not disclosing journalists' sources. Further correspondence with the media outlets was required in order for the Inquiry to obtain the documents sought. The Inquiry made non-publication orders in relation to some sources. In respect of one of Channel 7's sources, the order was then vacated during the public hearing.

One summons was issued to a person who made allegations about the casino.

#### Documents obtained by the Authority

Under s.32 of the Act, the Authority may issue written notices requiring the casino operator or its associates to provide the Authority with specified information and records. During the Inquiry, the Authority issued four s.32 notices to obtain documents relevant to the Inquiry from Echo and The Star.

#### Public submissions

The Inquiry invited public submissions on the Inquiry's terms of reference. The Inquiry continued to receive submissions after 8 March 2012, which was the date until which the Inquiry was required to receive public submissions. The Inquiry took into account all submissions it received, including those received after 8 March 2012.

The Inquiry received 28 submissions from 25 persons. Half of the submissions were anonymous. Some of the other submissions were submitted with a request that the person's name not be disclosed. Some submissions were made to the Minister's office and referred to the Authority.

For the purposes of its second term of reference, the Inquiry also took account of allegations made publicly through the media and allegations made through questions or propositions put by journalists to Echo and The Star, as well as the Authority.

#### **Private hearings**

Between 29 February 2012 and 27 April 2012, the Inquiry conducted private hearings obtaining evidence from 22 persons. Of these 22 persons, 17 gave their evidence under summons.

The following officers and employees of Echo gave evidence in private hearings: Mr John Story, Chairman; Mr John O'Neill, a non-executive director; Ms Louise Marshall, Executive General Manager, Human Resources; Mr Michael Anderson, Group General Counsel; Ms Joanne Ede, General Counsel Employee Relations.

A number of employees of The Star gave evidence in private hearings: Mr Andrew Power, General Counsel; Mr Kevin Houlihan, Investigations Manager; Mr Dean Wilson, Director of VIP Services; Mr James Robins, Casino Gaming Manager and one junior staff member.

The two women who made allegations of sexual harassment against Mr Vaikunta gave evidence in private hearings. They are not named in this report. "First Complainant" is used to refer to the woman who complained of events which occurred on 6 December and "Second Complainant" is used to refer to the woman who complained of events which occurred on 8 December.

Seven persons who made allegations against The Star gave evidence in private hearings. Persons who identified themselves in submissions to the Inquiry but who did not make public allegations about The Star were not summonsed to give evidence in public. Most of these persons had expressly requested that their identity be kept confidential.

Private hearings were also held with: the Hon G Souris MP, Minister for Tourism, Major Events, Hospitality and Racing, and Minister for the Arts; Mr Norm Lipson, Senior Media Adviser to Mr Souris; a current Government Inspector; and Mr Thomas Lin, a former Government Inspector.

A limousine driver who was a witness to some of the events the subject of the allegations of sexual harassment against Mr Vaikunta was asked if he wished to give evidence to the Inquiry. He advised the Inquiry that he had no information to add to that which he had given in the investigation conducted by Echo and The Star.

The Inquiry was also provided with several written statements concerning its terms of reference.

### **Public hearing**

Eleven witnesses gave evidence under summons at the public hearing conducted on 2, 3, 4, 10 and 11 April 2012. The transcript of each day of the public hearing was published on the Authority's website during the evening of the relevant day.

Witnesses who gave evidence relevant to the first two elements of the public hearing were: Mr Peter Grimshaw, then Communications Director in the Office of the Premier; Mr Norm Lipson, Senior Media Adviser to Mr Souris; Ms Louise Marshall, Executive General Manager, Human Resources, of Echo; Mr Kevin Houlihan, Investigations Manager of The Star; and Mr Larry Mullin, Managing Director and Chief Executive Officer of Echo.

The two women who made allegations of sexual harassment against Mr Vaikunta were not summonsed to give evidence in public in order to protect their identity.

The Inquiry understood Mr Vaikunta to be overseas throughout the period in which the Inquiry was conducted. The Inquiry informed Mr Vaikunta by email of the public hearing and invited him to participate in the Inquiry, by way of evidence, submissions and/or legal representation. He declined that invitation but made private submissions to the Inquiry.

In relation to the third element of the public hearing, the Inquiry summonsed the five persons who, between 2 December 2011 and 2 April 2012, had made public allegations about The Star which were relevant to the functions of the Authority.

Four of these witnesses were former employees of Star City or The Star: Mr Tim Roach, a former dealer supervisor who resigned in January 2012; Ms Annika Soraya, who was a trainee customer liaison officer from March to May 2010; Ms Elizabeth Ward, a former Pit Manager and Acting Casino Duty Manager who last attended work at Star City in March 2011 and whose employment was terminated in January 2012; and Mr Greg Culpan, a former Acting Pit Manager whose employment was terminated in March 2012. The fifth witness was Mr Mark Boyd, Secretary of United Voice NSW.

Three witnesses from Echo and The Star also gave evidence relevant to the third element of the public hearing: Mr James Robins, Casino Gaming Manager of The Star; Mr Kevin Houlihan, Investigations Manager of The Star; and Mr Larry Mullin, Managing Director and Chief Executive Officer of Echo.

Ms Soraya had some difficulty in giving her evidence in the public hearing. She agreed that she was content for the evidence that she gave in private before Ms Furness to be her evidence for the purposes of the Inquiry.

### **Submissions following the public hearing**

It was announced during the public hearing that counsel assisting would make written submissions on the evidence in the public hearing and that interested parties would be provided with counsel assisting's submissions and an opportunity to make submissions in response.

Counsel assisting provided two sets of submissions. The first set of submissions addressed the first and second elements of the public hearing, relevant to the Inquiry's first term of reference. The second set of submissions addressed the third element of the public hearing, relevant to the Inquiry's second term of reference. Each interested party was provided with the part of counsel assisting's submissions in which the party had an interest.

Shortly after the public hearing concluded, Echo and The Star provided additional evidence in relation to matters that arose during the public hearing of relevance to the third element of the public hearing. The timetable for written submissions in relation to the third element of the public hearing was extended to allow for interested parties to make submissions on the additional evidence.

Submissions following the public hearing dealt only with evidence given in the public hearing and the additional evidence provided by Echo and The Star. Evidence given in private hearings was not the subject of submissions by counsel assisting.

All public submissions made following the public hearing were published on the Authority's website on 30 April 2012.

The Inquiry invited the two women who made allegations of sexual harassment against Mr Vaikunta to make public or private submissions in relation to the public hearing. The Inquiry received private submissions from the Second Complainant.

### **Confidentiality**

Under s.143B of the Act, the person presiding at an inquiry may make orders restricting the publication of information, including evidence given at the inquiry, documents produced at the inquiry and other information. Such an order may be made only if the person presiding at the inquiry is satisfied that the direction is necessary in the public interest or that there are other exceptional circumstances that require the direction to be given.

Ms Furness made four orders under s.143B during the public hearing. One order protected the identity of the two women who made allegations of sexual harassment against Mr Vaikunta. Another order protected a number of personal communications involving the Second Complainant which were part of a bundle of documents used in the public hearing. The other two orders protected the identity of a patron and a former employee of The Star who were named by witnesses in the public hearing.

In addition to the orders made in the public hearing, Ms Furness made further orders under s.143B during the course of the Inquiry, which mainly directed that evidence given in private be not published, other than as set out in this report.

## CHAPTER TWO

### CIRCUMSTANCES SURROUNDING THE CESSATION OF THE EMPLOYMENT OF THE FORMER MANAGING DIRECTOR

The Inquiry's first term of reference requires the Inquiry to inquire into, and report upon "the circumstances surrounding the cessation of the employment with Echo Entertainment Group of Mr Sid Vaikunta as Managing Director of The Star casino, including in relation to Echo Entertainment's obligations under the Casino Control Act 1992 and otherwise to inform the Authority of relevant information".

Some 40 volumes of documents relevant to this term of reference were received by the Inquiry in response to summonses served on Echo and The Star. They included emails, correspondence, text messages and other documents. In addition, public and private hearings were held in relation to this term of reference. The public hearing concerned the following elements of the first term of reference:

1. "the response by The Star and Echo Entertainment Group to the allegations against the former Managing Director;" and
2. "whether there were any attempts to influence the response by The Star and Echo to those allegations".

From that material, the Inquiry finds the following sequence of events occurred.

#### **Chronology of events 6 December 2011 – 2 February 2012**

On Tuesday, 6 December 2011 a forum for managers at The Star was held at an inner city location. Pre-lunch drinks were followed by lunch and then at about 5.30pm, some of the attendees moved to a wine bar in a nearby suburb. About an hour later, they went to an inner city bar and restaurant. Around 10pm, the Managing Director offered one of the managers (the First Complainant) a lift home in the limousine he had booked to drive him home. He proposed the car would drop him off and then drive her home. The First Complainant accepted. Both had had a lot to drink. During the time in the car, the First Complainant telephoned her boyfriend.

The First Complainant later alleged that the Managing Director had made unwelcome sexual advances towards her during the ride to the Managing Director's home in the limousine.

The First Complainant did not go to work the following day, and unusually for her, did not telephone to offer an explanation for her absence. Her manager became concerned and



had his assistant contact her at home. The assistant spoke with the First Complainant's partner and she said that it was a very strange conversation and felt very odd. The assistant told the manager of the conversation. The manager remained concerned.

The following day, Thursday, 8 December, the manager asked a senior human resources manager at The Star (the Second Complainant) to contact the First Complainant, who had returned to work, to check on her welfare.

On the evening of 8 December a function for senior managers at The Star was held, commencing at the Sokyo restaurant in the casino complex and then moving to an inner city bar and restaurant. The Second Complainant had a conversation at Sokyo with the Managing Director. Others were present during the conversation at Sokyo. The Second Complainant had a further conversation at the later bar with the Managing Director. She told another senior manager of that conversation, immediately following it. The Second Complainant later complained that at each location the Managing Director made unwelcome comments to her of a sexual nature.

On Friday, 9 December, the Second Complainant rang the General Counsel Employee Relations of Echo, Ms Joanne Ede and told her of her experience with the Managing Director. The Second Complainant told the Inquiry that she did so because she wanted it documented. In addition on that day, the Managing Director visited the First Complainant's office, an unusual event. They walked around the Main Gaming Floor and were captured on CCTV.

Later that day, the Second Complainant rang the First Complainant, as requested by the First Complainant's manager and arranged to meet the First Complainant for coffee on Monday 12 December.

On Monday 12 December, the Second Complainant met with the First Complainant and each revealed to the other their encounters with the Managing Director.

Following that discussion, the Second Complainant told Ms Ede of her discussion with the First Complainant. That evening, Ms Ede arranged for the Second Complainant to speak with the Executive General Manager, Human Resources of Echo, Ms Marshall about her and the First Complainant's experiences. That occurred with Ms Ede present. At this stage, the Second Complainant wanted to deal with her matter directly with the Managing Director and she thought that the First Complainant's complaint was "enough".

The Group General Counsel of Echo, Mr Michael Anderson was informed that evening and he, in turn, contacted the Investigations Manager of The Star, Mr Houlihan to give him the task of investigating the allegations.

On this day, the Second Complainant told the General Manager, Table Games, Ms Heather Scheibenstock that the Managing Director had made unwelcome comments to her on the

previous Thursday. The Second Complainant told her that in order to explain why she did not attend an event at which the Managing Director was present. Subsequently, during the investigation, Ms Scheibenstock made a statement confirming that discussion.

The next day, Tuesday 13 December, the First Complainant and the Second Complainant met in a coffee bar at the casino. The Second Complainant had arranged to have Mr Houlihan present nearby. She introduced the First Complainant to him and the First Complainant agreed to meet with Mr Houlihan the next day to be formally interviewed.

Ms Marshall told the Managing Director and Chief Executive Officer of Echo, Mr Mullin of the allegations.

By Tuesday evening, the group which would be overseeing the investigation were assembled and had their first meeting. They comprised Mr Houlihan, Ms Ede, Mr Anderson and Ms Marshall. Thereafter that team met every couple of days and often daily to discuss and plan the progress of the investigation.

The First Complainant was interviewed on 14 December and Mr Houlihan also viewed the CCTV footage of the Managing Director and the First Complainant walking on the Main Gaming Floor the previous Friday. Mr Houlihan met with the Second Complainant on that day to obtain her account of what the First Complainant had said to her about the First Complainant's allegations. During that discussion, the Second Complainant disclosed to Mr Houlihan her allegations against the Managing Director arising from the events on 8 December.

By 15 December, the Chairman of Echo, Mr Story had been advised of the allegations.

Between 14 and 19 December, Mr Houlihan conducted interviews with four people additional to the complainants. Those interviewed were:

- the partner of the First Complainant who had received a telephone call from her while she was in the limousine and had spoken with the driver when he dropped the First Complainant off at her home;
- the First Complainant's manager who was concerned at her unexplained absence on Wednesday 7 December and to whom the Second Complainant had told of her conversation with the Managing Director on 8 December, immediately after it occurred;
- the manager's assistant who had contacted the First Complainant's partner; and
- the driver of the limousine.

In addition, a statement was obtained which corroborated part of the Second Complainant's allegations.

The Managing Director was on leave at this time and due to return on 19 December. On that day he was interviewed by Mr Houlihan and Ms Marshall. He denied the allegations made by the Second Complainant and disputed or denied aspects of the allegations made

by the First Complainant. Ms Marshall gave evidence during the public hearing that she suspended his employment on that day.

Late on 20 December, Mr Houlihan prepared a draft report setting out the information gathered.

Mr Story was made aware of the draft report and indicated that he wanted external legal review of the investigation and the report. An external legal adviser was engaged and, under her supervision, and with the input of the team, further interviews were arranged. The driver of the limousine was interviewed for the second time.

Christmas and the New Year intervened. A second interview with the First Complainant was held on 9 January and with the Managing Director on 10 January. The Managing Director continued to deny or dispute the allegations of sexual harassment made against him.

Two people who had had conversations with the Second Complainant about her experience on 8 December were interviewed on 12 January. The Second Complainant did not participate in a second interview.

A final draft of the investigation report was completed on 17 January. The First Complainant's allegations were substantiated and part of the Second Complainant's allegations was found to be not substantiated. The Second Complainant alleged that two remarks made by the Managing Director at the Sokyo restaurant were unwelcome and of a sexual nature. Others present when those comments were made expressed the view that the first comment was "banter" and not of a sexual nature. Thus, while it was found that the comment had been made, as alleged, it was not considered to be of a sexual nature. The other comment made on that occasion and the comments made later at a bar were all found to have been made and to be of a sexual nature.

That report concluded that the substantiated allegations constituted sexual harassment in breach of Echo's policies.

That report, together with legal advice and a memorandum from Ms Marshall was delivered to Mr Story who was in Europe.

It had been decided that Mr Story would be the decision maker because of the closeness between Mr Mullin and Mr Vaikunta, although Mr Mullin discussed the outcome with Mr Story and they formed the same view.

Mr Story returned to Australia on 20 January and a meeting was held with him and the team. Mr Story spent some time with Mr Anderson and Mr Houlihan to satisfy himself that the investigation was thorough and the findings were available on the evidence. Mr Story decided that while the findings justified and warranted summary dismissal, he was concerned that if legal action was taken by the Managing Director challenging the decision, that would adversely affect the complainants. The preferred position was a negotiated

termination with no more than three months' pay and entitlements in exchange for the execution of a deed which, among other matters, precluded any litigation and contained restraint of trade clauses.

On 22 January, the Managing Director was told of the results of the investigation. He was given time to respond to the findings. He only took overnight and did not seek to contest the findings. He was told that consideration was being given to summary dismissal or negotiated termination with a payment of three months' pay and entitlements in exchange for a deed of release.

The Managing Director took until 7pm on 1 February to consider his position, at which time he met with Mr Mullin. The terms of the deed were finalised on 2 February and an announcement to the ASX was made shortly before 4pm on that day.

#### Matters raised by the complainants

The Second Complainant told the Inquiry that she believed she was not treated properly as a victim, during the investigation. She believed that she did not receive the support she wanted and was not contacted sufficiently regularly with updates about the investigation. She also believed, based on conversations with others, that the investigation would be finalised in days or a couple of weeks when it took seven weeks. Her views were repeated by her partner, Mr Grimshaw in his evidence. Ms Marshall gave evidence and The Star made submissions about the number of occasions on which support was offered or given and updates were provided.

The First Complainant was also concerned at the length of time the investigation took, because she also initially understood that it would be completed in days or at least before Christmas.

Mr Houlihan said that he gave both Complainants to understand that it would take about two weeks to complete the investigation.

#### Submissions by the former Managing Director

Mr Vaikunta submitted to the Inquiry that it is neither in the public interest nor relevant to the Authority for this Inquiry to make findings as to the substance of the allegations against him. The Inquiry does not accept that submission because in order to advise the Authority as to the circumstances of Mr Vaikunta's departure, it is necessary to form a view as to not only the process followed by Echo and The Star but also whether that process resulted in an outcome which was available on the evidence.

## Conclusion

The Inquiry concludes that the investigation was undertaken properly and thoroughly, with appropriate external advice. While it is always desirable that such investigations are done quickly, given the Christmas period, that there were two complaints to be investigated and the availability of decision makers, there can be no objective criticism of the time taken.

Further, the evidence obtained in the investigation supported the findings made. There was evidence of others which corroborated each allegation made by each complainant.

Those findings warranted the cessation of the Managing Director's employment. There were good reasons for negotiating a termination which prevented litigation and protected the complainants. The decision to pay an amount of money was reasonable in exchange for the deed and did not detract from the seriousness of his conduct or the seriousness with which the casino viewed it.

The Inquiry accepts that the Second Complainant wished that she had been treated differently and that the support offered was, to her belief, not sufficient. The Inquiry also accepts from the contemporaneous records reviewed that, objectively, there were a number of occasions on which support was offered and updates given. There are a couple of messages from the Second Complainant in December 2011 where she expressed her trust in the process and acknowledged support had been given. The Inquiry also accepts Ms Marshall's evidence that there were ebbs and flows in the level of contact with the Second Complainant. Both Mr Grimshaw and Ms Marshall gave evidence that the Second Complainant was "up and down".

The Inquiry knows of no formula by which it can be objectively measured whether support in these circumstances is or is not adequate. It expresses no criticism of any person's conduct in this regard.

It is unfortunate that the complainants were told of a timeframe early on in the investigation, which was ultimately found to be unrealistic. It caused them to have expectations and when those expectations were not met, each of them became, to some extent, distrustful of the process. That distrust was not warranted but nevertheless affected each of the complainants' view of the process.

### **Attempts to influence Echo and The Star's investigation**

There can be no doubt that the Second Complainant and her partner, Mr Grimshaw had adverse views about casino management and, in particular, Mr Vaikunta prior to December 2011. Those views were expressed repeatedly in the text messages in evidence before the Inquiry. Mr Grimshaw had worked at The Star's predecessor, Star City in various roles since 1994, before becoming its Director of Media and Government Relations. He left the casino

in December 2010 having sought and been offered a redundancy, following a restructure of his responsibilities.

The issue before the Inquiry is whether there were any attempts by Mr Grimshaw or the Second Complainant to influence the investigation into the allegations against Mr Vaikunta.

Mr Grimshaw gave evidence in public and the Second Complainant gave evidence in private that they discussed a number of options to pressure The Star or Echo to pursue the investigation and dismiss Mr Vaikunta.

These options included Mr Grimshaw or the Second Complainant or another person telephoning Mr Story and other members of the Echo board, Mr Grimshaw telephoning members of the Echo board impersonating the Second Complainant's husband, making threats to members of the Echo board that they would take the allegations to the media, leaking information about the allegations to the media and Mr Grimshaw taking the allegations to Mr Souris.

Ms Marshall gave evidence that the Second Complainant threatened to go to the media and to Mr Grimshaw. There was also evidence that the Second Complainant suggested to Ms Marshall that her (the Second Complainant's) husband had taken or might take steps in relation to the matter. Mr Houlihan gave evidence that the Second Complainant suggested she could take her allegations to Mr Grimshaw.

Mr Grimshaw gave evidence that neither he, nor to his knowledge the Second Complainant, acted on any of the various options he discussed with the Second Complainant. The Second Complainant gave evidence in private to the same effect.

Mr Grimshaw also gave evidence that he sought a discussion with Mr Souris in January 2012 and told Mr Souris about the Second Complainant's allegations, however the conversation was personal and he did not ask Mr Souris to do anything about the allegations. Mr Souris did not do anything in response to, or in relation to, the information he received from Mr Grimshaw about the allegations.

Mr Grimshaw and Mr Lipson, a senior media adviser to Mr Souris, gave evidence that Mr Grimshaw told Mr Lipson of the allegations and that Mr Lipson advised Mr Grimshaw that the First Complainant should make a police complaint. There is, however, no evidence that any police complaint was made or that Mr Grimshaw or the Second Complainant encouraged the First Complainant to make a police complaint.

Ms Marshall gave evidence that she had no contact with Mr Grimshaw in December 2011 or January 2012 and, to her knowledge, nor did any other member of the investigation team. Ms Marshall gave evidence that she was not influenced by any person external to the casino in the investigation.

Both Mr Grimshaw and Ms Marshall gave evidence that, before Echo's announcement on 2 February 2012, there was in fact no disclosure of the allegations in the media. This evidence is supported by the fact that there is no evidence of any media report concerning the allegations prior to 2 February 2012 when Echo made an announcement to the ASX in relation to the end of Mr Vaikunta's employment.

There were various events after the announcement, none of which has any relevance to any attempt to influence the investigation as the investigation was completed by that time.

Mr Grimshaw was questioned about a telephone call received by Mr John O'Neill, a non-executive director of Echo, on 17 January 2012 from a person claiming to be a concerned shareholder. Mr Grimshaw agreed that he had provided Mr O'Neill's telephone number to the Second Complainant on 16 January 2012. Mr Grimshaw gave evidence that he was not aware of the telephone call to Mr O'Neill, that he did not put anyone up to telephoning Mr O'Neill and that he has no knowledge of the Second Complainant doing so. Mr Grimshaw did not deny that he and the Second Complainant had discussed getting someone to telephone a director and pretend to be a concerned shareholder.

The Second Complainant gave evidence in private that she did not make the call. She submitted that she was not involved with any telephone call to Mr O'Neill and she denied "completely" that "there is evidence that she gave information to any person, who in turn called Mr O'Neill".

The Star has provided evidence to the Inquiry of the searches it has undertaken which have revealed that there is no shareholder of the name given by the caller to Mr O'Neill and that Mr O'Neill's mobile phone number was not provided to any shareholder.

### Conclusion

The investigation by The Star and Echo was not in fact influenced by any matter or person external to those companies. It is accepted that, notwithstanding much discussion, the Second Complainant and Mr Grimshaw did not themselves act on any of the options canvassed.

The issue of the telephone call to Mr O'Neill is in a different category. The Inquiry accepts that the caller was not the Second Complainant. The Star urged in submissions a finding that that telephone call was in furtherance of a plan devised by Mr Grimshaw and the Second Complainant.

There is no evidence as to who made that call. While the timing of the call and the receipt of Mr O'Neill's telephone number provides an opportunity to the Second Complainant and/or Mr Grimshaw to have caused the call to have been made, the existence of the opportunity is not sufficient for the Inquiry to be satisfied that that opportunity was acted upon. It is the case that every other option discussed was not carried into effect.

There was a deal of evidence about Mr Grimshaw's thoughts and actions about the casino management unrelated to the investigation of the allegations made against Mr Vaikunta. None of those matters is relevant to this Inquiry and accordingly, those matters will not be dealt with in this report.

### **Obligations to disclose**

Soon after the Inquiry commenced, the Inquiry engaged Mr Wally McDonald, a partner of Piper Alderman, Solicitors and long-time adviser to the Authority on its contractual arrangements with the casino operator, to advise on the disclosure obligations of The Star and Echo to the Authority with respect to events between December 2011 and February 2012.

On 3 March 2012, the Inquiry asked The Star and Echo to provide a submission setting out their views as to the obligations of each entity to disclose information to the Authority and whether those obligations had been satisfied or breached with respect to the events between December 2011 and February 2012.

Echo provided a submission on 8 March which was prepared by its solicitors and settled by senior counsel. The submission was that Echo had not breached any obligation it owed to the Authority. In the event that it was obliged to notify the Authority, Echo submitted that its notification on 2 February was full and prompt having regard to all the circumstances.

The Star provided a submission on 16 March which was also prepared by its solicitors and settled by senior counsel. The submission was that it had not breached its contractual obligations owed to the Authority and nor had it breached its statutory duties arising under the Act and the regulations under the Act.

Mr McDonald, who had the benefit of the submissions by Echo and The Star, expressed the opinion that Echo and The Star may have breached their respective contractual obligations and that The Star may have breached its statutory disclosure obligations.

The two key issues are as follows:

- whether any event leading to and including the departure of Mr Vaikunta was an event which would materially adversely affect The Star casino complex and therefore was required to be notified "immediately"; and
- whether Mr Vaikunta was a close associate of the casino operator. If so, his ceasing to be a close associate was a major change in the state of affairs of the casino and depending upon various matters specified in the Act, prior approval, or notification "as soon as practicable" or notification within three days was required (s.35).

The key events appear to the Inquiry to be: senior management being informed of the allegations on 12 December; Mr Vaikunta's employment being suspended on 19 December; Echo management being satisfied that most of the allegations were substantiated and



amounted to a breach of its policies on 22 January; that Mr Vaikunta told Echo management that he did not seek to contest the findings on 23 January 2012; and, finally, settling the terms of the cessation of Mr Vaikunta's employment on 2 February after which the announcement was made to the ASX.

Ultimately, this is a matter for the Authority to decide whether there are any grounds for taking action against Echo and/or The Star, and, if so, whether it should take such action. If it does so against The Star and that action is disciplinary action for breach of a provision of the Act, or a condition of the licence, the Authority is required to afford the casino operator an opportunity to show cause within 14 days why action should not be taken.

If the Authority decides that there has been a breach of the Casino Operations Agreement with The Star or the Echo Deed, provision is made in each for the action the Authority can take.

Separate from considering whether any action can or should be taken in relation to the disclosure to it of the events concerning the cessation of Mr Vaikunta's employment, the Authority may wish to have discussions with The Star and Echo and agree upon the criteria which would guide future disclosure by The Star and Echo to the Authority of matters not clearly contemplated by the legal obligations. Consideration might be given to stipulating a level of seniority, for example, General Managers and above, in relation to whom reasons are given to the Authority in the event that their employment is terminated or suspended at the instigation of The Star or Echo.

## CHAPTER THREE

### THE AUTHORITY'S RESPONSIBILITIES

The Inquiry's second term of reference requires the Inquiry to inquire into, and report upon "any issues relevant to the Authority's responsibilities under the Casino Control Act 1992 that arise from information received by the Authority or the inquiry in relation to The Star casino since 2 December 2011".

The Inquiry has interpreted broadly this term of reference to include any matters in the public domain since 2 December 2011. Accordingly, stories aired on Channel 7 and the ABC and articles written in the media have been considered. In relation to those people who identified themselves and their allegations publicly, each of them has given evidence in public hearings, with the exception of Mr Thomas Lin. The reasons for Mr Lin not being called to give evidence in public are set out in chapter one.

In order to understand the basis on which issues are considered relevant, it is necessary to set out the Authority's responsibilities under the Act. The primary objects of the Act and of the Authority (s.4A and s.140) are as follows:

- ensuring that the management and operation of a casino remain free from criminal influence or exploitation;
- ensuring that gaming in a casino is conducted honestly; and
- containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.

In the context of these objectives, the Authority has to keep under constant review all matters connected with the casino and the activities of casino operators, persons associated with casino operators and persons who are in a position to exercise direct or indirect control over the casino operators or persons associated with them (s.141).

In addition, the Authority can take disciplinary action against the casino operator if, among other matters, The Star, being the licensee, is considered to be no longer a suitable person to give effect to the licence (s.23). Suitability involves consideration of reputation, having regard to character, honesty and integrity of close or business associates, financial stability and the sufficiency of the business ability available to it (s.12).

Casino employees must be licensed by the Authority before working at the casino in the areas of management, the conduct of gaming, the movement or counting of money or chips, the exchange of money or chips to patrons, the operation of gaming equipment and casino security.

The Authority can also take disciplinary action against licensed employees if the licensee has been convicted on an offence punishable on conviction by imprisonment for three months or more, has become bankrupt or for any reason the Authority is of the opinion that the person is not a suitable person (s.59). Suitability in this context concerns similar considerations as apply to the casino operator.

The Authority has responsibility under the Act to approve many aspects of the operations of the casino. It approves the casino layout (s.65), games and rules for games (s.66), gaming equipment (s.68), the conduct of gaming (s.70), times of operation (s.71) and various matters concerning cheques and deposit accounts (s.75). In addition, the Authority approves a system of internal controls and administrative and accounting procedures for the casino (Part 9).

From these provisions, it can be ascertained that it is not the responsibility of the Authority to be involved in industrial matters such as the allocation of work, rostering, individual work performance, workers compensation arrangements and the like. The termination of employment of individuals for performance related reasons would not ordinarily be a concern of the Authority. However, factors such as the seniority of the individual concerned and the nature of the conduct for which he or she is terminated may well bring that action within the ambit of the Authority's functions.

The Authority's primary role is fulfilled by being satisfied that adequate systems are operating to ensure the integrity of gaming, that the casino is free from criminal influence and to control the potential to do harm to the community. Where a breach of casino regulatory controls occurs, disciplinary action can be taken against licensed employees and/or the casino operator. In considering whether disciplinary action is taken, and if it is taken and the breach found proved, in determining penalty, a material consideration is whether a pattern of breaches is identified or a breach discloses a systemic failure. Where a breach of a criminal law, other than those offences created by the legislation administered by the Authority, comes to its attention, the Authority refers such matters to the NSW Police.

It is with these responsibilities in mind, that the allegations made and information placed in the public domain since 2 December 2011 are addressed.

Most of the allegations made raised issues which had been investigated and which were the subject of comment in the Section 31 Report. The second largest category of allegations concerned matters outside of the regulatory responsibility of the Authority. There were a handful of allegations of suspected drug use at the casino, which have been forwarded to the NSW Police. In addition, there were several new complaints, each of which was investigated and none provides any basis for any criticism of the casino operator or recommendation to the Authority.

Many people or media articles or stories made more than one allegation or complaint, thus the number of allegations or complaints exceeds the number of persons or reports which came to the attention of the Authority or the Inquiry.

The following chapters set out:

- allegations concerning issues raised in Section 31 Report
- allegations made concerning the former Managing Director
- allegations concerning suspected drug use
- other allegations
- allegations outside the terms of reference.

## CHAPTER FOUR

### ALLEGATIONS CONCERNING ISSUES RAISED IN SECTION 31 REPORT

#### **Treating patrons more leniently**

The Section 31 Investigation reported on concerns from staff that patrons were dealt with more leniently now than in the past and, in particular unruly patrons were moved from the table rather than the casino or permitted to misconduct themselves. The Section 31 Investigation interviewed the Asset Protection Manager about these allegations. He explained that he had encouraged his staff to be more patient and tolerant. For example, tolerating swearing and if a patron was rude to a dealer, moving the patron to another table rather than asking them to leave (see p.37 of the Section 31 Report).

Current and former staff also provided examples of staff being treated poorly by high rollers with few or no consequences. Each of those examples was investigated during the Section 31 Investigation and the conclusions set out at p.108 of the Section 31 Report. Comments were made in the Section 31 Report that it was not necessarily the case that such an approach would result in a less compliant culture within the casino, however, the Authority needed to closely monitor the casino in relation to these matters and a number of recommendations were made (see pp.106-108 and the summary of recommendations pp.2-4 of the Section 31 Report).

These concerns have been repeated to this Inquiry, as follows.

First, a person whose identity is known to the Inquiry made allegations and was interviewed in private. The person is a former security employee at The Star who left its employ in mid-2011 as a result of “a forced redundancy”. The person complained that the number of patrons removed from the casino was lower than previously was the case. At p.37 of the Section 31 Report, this issue was reported.

In addition, it was complained that complaints are not encouraged because a key performance indicator supports fewer complaints. This matter was raised in the Section 31 Report and a recommendation made to ensure that the relevant key performance indicators are amended (see p.104 of the Section 31 Report).

Secondly, the Authority received a telephone call from a current employee of the casino, who gave their name and position and indicated that they would prefer their details to be treated confidentially.

The person reported an incident in September or October 2011 where the person was dealing in the Baccarat Pit. The person alleged that a patron abused them because of the way that they were dealing. The person called the supervisor to complain about the patron but the patron ignored the supervisor and requested that a pit manager be called. The pit manager took the complainant off the table and sent her on a break. The pit manager said he would not do anything against the patron as the complainant was dealing too slowly. The complainant requested the casino duty manager to look at the matter. The casino duty manager took the player aside and told him he could not do what he did but the patron was not excluded. The complainant said that he was a Sovereign Room player because he had a black card, even though he was playing on the Main Gaming Floor.

The Inquiry has established that there were no incident reports prepared in relation to this event. If it occurred, as claimed, it is an example of the conduct described in the Section 31 Report at pp.37-38. From the details provided, it is clear that more senior staff did respond to concerns and the player was spoken to. The conduct complained of does not automatically warrant exclusion and the response of more senior staff warrants no comment by the regulator.

Thirdly, Ms Elizabeth Ward was summonsed to give evidence in a public hearing about the allegations she made on Channel 7. She alleged that a foreign politician had sexually harassed a dealer and that nothing was done about it. While Ms Ward agreed that she had already stopped working at the casino when the alleged incident occurred and that she only knew about it through other people telling her, the incident has been the subject of incident reports and was investigated by the Section 31 Investigation and it is one of the matters that was reported on p.106 of the Section 31 Report. The Section 31 Investigation did not support the allegation that nothing was done based on the following facts derived from contemporaneous documents created by casino staff.

In an incident report, a dealer recorded that a patron had his drinks “cut off” by a gaming manager at about 7.15am on 16 April 2011. The dealer continued to deal to the patron who started “teasing” him then made sexual comments to him which were unwelcome. The dealer told his supervisor and asked him to tell the pit manager. The pit manager spoke to the dealer and moved him to another pit area, away from the patron.

At about 8.15am, another dealer raised concerns about the patron’s drinking with the pit manager, following which the gaming manager “immediately” attended and spoke with the patron. The patron became angry and started swearing. Security officers were called and attended. The patron was escorted out by the gaming manager and four security officers less than half an hour after the second dealer first raised concerns about his level of intoxication. The patron was then permitted to re-enter the private gaming rooms just after 11am and commenced playing at 12.15pm.

What is revealed by these incident reports is that casino staff acted promptly by moving the dealer and, later removing the patron. While it may be the case that a person gambling on the Main Gaming Floor may have been dealt with differently, the casino operator took reasonable steps to protect the staff member and enforce responsible service of alcohol principles.

In relation to the occupation of the patron, and the amount he bet, there are systems in place which ensure that appropriate authorities are aware of and approve, membership of the private gaming rooms (see pp.61-65 and recommendation 7 of the Section 31 Report).

In addition, under the *Anti-Money Laundering/Counter-Terrorist Financing Act 2006*, (AML/CTF) The Star is required to take a number of steps in relation to what are termed “politically exposed persons” and in determining the source of wealth of certain patrons and reporting to the relevant authorities. To comply with this legislation, and as reported in the Section 31 Report, the casino operator has adopted the following measures:

- it has conducted a risk assessment of the casino’s AML/CTF risks (including customer types, services provided, method of delivery, foreign jurisdictions with which it deals), including utilising services such as World-Check and Google to determine source of wealth, among other matters;
- it reports to AUSTRAC threshold transactions over \$10,000, suspicious matters and international funds transfer instructions;
- it has a transaction monitoring program in place;
- it submits an annual compliance report to AUSTRAC;
- it risk rates its customers in its customer management system including Special Interest Foreigners and Politically Exposed Persons;
- there exists board and senior management oversight, and a AML/CTF Compliance Officer has been appointed (supported by a dedicated AML/CTF Administrator);
- there is ongoing oversight by the AML/CTF Working Party, chaired by the General Manager, Compliance (and the AML/CTF Compliance Officer), which meets quarterly.

This Inquiry is satisfied that these measures are sufficient to bring to attention players who engage in suspicious transactions.

#### **E-TIPS**

As reported in the Section 31 Report, the casino has a system known as E-TIPS whereby staff and contractors can make anonymous complaints. The service is run by Deloitte who receive the calls, write a brief report and provide the details to the casino.

The same former security employee referred to earlier in this chapter complained to the Inquiry about the response to an anonymous complaint made to E-TIPS. First, it was complained that the person who answered the call was “narky” and that E-TIPS was not sufficiently promoted. Second, that there was no resolution to the complaint made. The

Inquiry looked into this complaint and it appears that an investigation was completed with the result that one person's employment with the casino was terminated.

The need to better promote E-TIPS was dealt with in the Section 31 Report (see pp.43-44).

### **Responsible gaming and the time spent gambling**

The Section 31 Investigation reported at length on matters of responsible gaming and whether there was or should be a limit on the time spent gambling (see pp.93-99 of the Section 31 Report). A number of case studies were provided of incident reports revealing patrons gambling in the private gaming rooms for long periods. The authors of some of those incident reports were interviewed and provided further examples. The views of gambling counsellors and Professor Blaszczynski, a well-known academic in the area of problem gambling were sought and reported. Research undertaken into the indicia of problem gambling was referred to and a recommendation made that The Star consider the indicators it advises its staff to have regard to (see pp.96-98 of the Section 31 Report).

During this Inquiry, similar conduct was the subject of allegation.

First, a person requesting confidentiality telephoned the Authority. They were employed in the private gaming rooms until they were dismissed earlier this year for matters unrelated to the complaint to the Authority. The person alleged that early this year, they received a call from the Vermillion Room about responsible gambling issues and a player who had been there for 20 hours. The person alleges that the manager told them that the time frames that apply for players before they speak to the Responsible Gambling Manager about responsible gambling concerns are 24 hours for local players, 36 hours for interstate players and 48 hours for international players. The complainant was concerned because he felt this went against the responsible gambling training provided.

Secondly, Ms Elizabeth Ward stated on Channel 7 that high rollers are plied with free drinks and food to stay at the table and this is not responsible gambling. Ms Ward estimated that, in the 12 months before she ceased to work at the casino, that is between March 2010 and March 2011, on ten occasions she had sent an email to someone alerting them to a concern that a player had stayed at a table for more than 48 hours. In evidence to the Inquiry, Ms Ward agreed that, on each occasion when she believed something should be done about a player being at a table too long or otherwise being incapable of playing, either she took action or someone else took action as a result of her reporting the matter.

Thirdly, Mr Greg Culpan was summonsed to give evidence following his appearance on Channel 7 and before his appearance on the ABC. He had said on Channel 7 that high rollers will "just wee under the table" rather than take a break from gambling. When examined by counsel assisting the Inquiry, it was revealed that this comment was not based on any observation he had made, but on reports he had seen, authored by others, which had been made before 2010.



Fourthly, Mr Tim Roach was also summonsed to give evidence to the public hearing because he had appeared in the media since 2 December 2011 making allegations about the casino. Mr Roach confirmed that his allegation on Channel 7 about a patron gaming for 72 hours related to an incident he observed in early 2011 in a private gaming room. Mr Roach said that, when he commenced his eight hour shift as a dealer, the patron was asleep at the table for about half an hour, after which he woke up, placed a bet, and then went back to sleep again. Mr Roach said that he observed the patron being easily agitated and drinking caffeinated beverages, but that he was an eccentric person and that he was not acting more irrationally than usual. Mr Roach gave evidence that he reported the matter to his pit manager but did not take it further.

Mr Roach also gave evidence that, for the entire period of his six years of employment at the casino, he observed patrons in the former Endeavour Room, now the Sovereign Room, across his shifts who must have been gambling for periods of 24 hours or more.

These allegations highlight the importance of the recommendation made in the Section 31 Report. The evidence of Mr Mullin that staff are confused as to the written guidelines in place at the casino also means that the casino has more work to do in educating staff as to indicators of problem gambling and what to do when they are observed.

Fifthly, the Authority received an email from a person who described themselves as a "Former Star City worker". The email alleged that a responsible gambling video was shown to Star City senior managers in the Star City ballroom in or around February 2008, in the format of a game show and that "senior management knew no answers and made an absolute mockery of a very serious issue".

The Inquiry understands that on 17 June 2008, the Authority's Manager Casino Review attended the classroom training sessions held for new staff in respect of Responsible Conduct of Gambling training and advised that the training followed the approved syllabus format.

The Section 31 Report records the work done on responsible gambling training at the casino (see pp.94-95).

### **Responsible service of alcohol**

The issue of intoxication was considered in the Section 31 Report. Concern was expressed about the reporting of responsible service of alcohol matters, the introduction of shots in the Rock Lily bar and that the investigation was advised that on occasions, senior staff would over-rule more junior staff's decisions about a patron's level of intoxication in the private gaming areas. It was noted that initially security officers did not patrol the Rock Lily bar, however, that has since changed and that bar is now patrolled (pp.86-90 of the Section 31 Report).

The favourable opinion of the Police Local Area Commander was also recorded as were the positive recent findings of consultants as to responsible service of alcohol at the casino.

Ongoing vigilance was recommended (see pp.86-89 of the Section 31 Report). That recommendation remains apposite.

First, the Minister's office referred to the Authority an anonymous email received by the Sydney Morning Herald which contained a number of allegations. The Inquiry emailed the source and requested that they be interviewed for this Inquiry, on two occasions. No response was received to either request. One allegation made in that email was that security has been told to stay away from the Sovereign Room, decrease patrols in the bars and move drunks elsewhere in the casino. No timeframe or other identifying details were provided (see pp.37 and 89 of the Section 31 Report where these matters are addressed).

Secondly, an anonymous complainant made the following allegations to the Authority. It was alleged that, on 3 October 2011, five named members of the management team took a VIP member and his then girlfriend, to a restaurant at the Rocks. They were asked to leave the restaurant due to intoxication. They then returned to the high rollers room at the casino and, despite the concerns of VIP Services staff, Table Games staff and cocktail servers, the management team insisted they continue to be served alcohol and they encouraged the high roller to continue to gamble. His girlfriend was coerced into taking a hotel room and she threatened to kill herself. The complainant says there are incident reports about the girlfriend's behaviour.

The Inquiry has obtained and reviewed incident reports written about these events. They indicate that the woman referred to in the complaint was intoxicated in the Sovereign Room Reception and that VIP, Marketing and Security staff attended. She did not want to leave without seeing her partner who declined to attend. She was assisted to her hotel room and threatened self-harm. The Police were called and attended, an ambulance was called and attended and she was taken to hospital. Surveillance footage is consistent with that account.

The Inquiry understands that if this party was asked to leave the restaurant because of intoxication, there would be an entry in the restaurant's incident register. The Inquiry has been reliably informed that no such incident is recorded.

Nevertheless, the Inquiry interviewed the Director of VIP Services who was present at the restaurant and the Sovereign Room. He confirmed that the dinner occurred and said that it was a marketing dinner for one of the casino's biggest domestic customers. The managers were from marketing and table games and he represented VIP Services. He said that alcohol was served at the restaurant and they left of their own volition; they were not asked to leave because they were intoxicated. On their return to the casino, no employee expressed any concern about them entering the Sovereign Room on the basis that they were

intoxicated. He did not continue to drink nor did he observe his colleagues drinking. He considered that he was at work.

He told the Inquiry that he spoke to food and beverage staff to closely monitor the high roller's drinking. He was asked by the Inquiry to identify the person he spoke to and could not. He was asked by the Inquiry to obtain rosters in order to assist his recollection. He ultimately provided the Inquiry with the names of seven possible staff members. Given the passage of time, that is, that it was now some six months after the event, and the number of staff involved, the Inquiry did not consider it likely to be productive to pursue this line of inquiry.

The case studies contained in the Section 31 Report about responsible service of alcohol and the recommendations made in that report remain applicable.

Thirdly, Mr Tim Roach appeared in another story on the casino on the Channel 7 6.00 pm news. In relation to responsible service of alcohol principles, Mr Roach gave evidence that, throughout 2011, he observed that intoxicated patrons were allowed to remain on the Main Gaming Floor and that, if they left the Main Gaming Floor, they were allowed back onto the Main Gaming Floor. Mr Roach gave evidence that, if security was notified, the person would be removed or, if security deemed them to be acceptable (with regard to their level of intoxication), they would be allowed to stay. Mr Roach agreed that security personnel are trained in responsible service of alcohol principles and that, if there was a disagreement as to the level of intoxication, the view of the security personnel was to prevail.

Mr Roach gave evidence that he had seen a particular patron, the "pop star" "beyond drunk" on more than 20 occasions from late 2010 until late 2011 in the Sovereign Room and that this is the person to whom he was referring in his statement on Channel 7. Mr Roach said that this is the only person he has observed himself in relation to concerns about how responsible service of alcohol principles are applied to VIPs. Mr Roach said that he reported the patron to the casino duty manager, who told Mr Roach that the host department had declared him to be okay.

Ms Ward also gave evidence that she had observed the "pop star" in the Sovereign Room on roughly 30 occasions, and that probably on 90 per cent of those occasions he was obnoxious and that was possibly from intoxication. This must have occurred prior to March 2011. Ms Ward did not lodge any incident report.

In relation to the "pop star", the Inquiry has been given evidence by the casino, based on its records, that the person presumed to be the "pop star" was present at the casino on far fewer occasions than claimed. Further, the Inquiry has been provided with a statement from the VIP Gaming Manager that the "pop star" was perceived to be arrogant and boisterous but there were no reports, formally or informally of him being intoxicated.

Nevertheless, it is clear from these accounts that The Star must ensure a consistent approach to dealing with intoxication and the Authority should continue to issue Show Cause Notices when they have sufficient evidence to support a prosecution for permitting an intoxicated person to gamble in the casino.

### **Junkets**

The Authority received an email dated 20 March 2012 containing allegations in relation to Echo's arrangement with a marketing referral group.

In the Section 31 Report it was reported that in 2010, the casino operator entered into an agreement with a marketing referral group to refer players, primarily Asian players to The Star. The group is not considered to be a junket operator and nor is the group approved as a controlled contractor under the Act. It was recommended that the Authority consider whether any aspect of this arrangement requires its approval (p.29 of the Section 31 Report).

The Inquiry understands that the Authority has commenced inquiries into this matter and it is appropriate that this allegation be considered as part of those inquiries.

### **Baccarat Rules**

On 21 February 2012, Mr Roach appeared in a story on the casino on the Channel 7 6.00 pm news, saying:

*“Certain gaming rules, players were allowed to alter bets once cards had reached the tables, players were allowed to remove bets if they kicked up enough of a stink.”*

Mr Roach gave the example of rule 12.1 in baccarat, which allows players to remove their bets from the table once cards have left the shoe. Mr Roach said that, previously, players were only allowed to remove their bets if there was any question as to the order of the cards, but from around October 2011, the rule came to be used in a wider range of circumstances to allow players to remove their bets if the dealer made any error at all. Mr Roach said that the change made his job as a supervisor harder and that it made the jobs of dealers, supervisors and pit managers harder. The change in interpretation of the rule was, however, to the benefit of players.

The approach of the casino to rule 12.1 of baccarat was investigated during the Section 31 Investigation and is consistent with the rules approved by the Authority and with the casino's obligations under s 66 of the Act to comply with those rules. The rules are designed to protect players and the change in interpretation favours players (p.107 of the Section 31 Report). A recommendation was made to ensure that the payment of cash disbursements was governed by appropriate internal controls (recommendation 17 of the Section 31 Report).

## **Licensing**

An anonymous allegation was received by the Minister's office alleging that an un-named party who Mr Mullin wanted to appoint to the casino was rejected by Interpol.

This matter was considered by the Section 31 Investigation. The Authority received an application for a licence for a person who the casino operator proposed would work in marketing for Echo. The Authority declined to grant a licence to this person and he was not employed by the casino. The Section 31 Investigation was satisfied from evidence obtained that he did not work in a licensed role while he was awaiting the outcome of his licence application.

## **Culture Shift**

This issue was raised by many of those who were interviewed as part of the Section 31 Investigation. There is no doubt that there has been significant change in the attitude taken by the management who were employed since 2009.

The following conclusion was expressed in the Section 31 Report (p.108).

*“There is no doubt that the management of the casino has deliberately adopted a different approach to its operations. It cannot be properly criticised for focusing on customer service and it does not necessarily follow that such a focus will result in the casino operator not complying with its obligations.*

*However, a number of matters examined during the course of this investigation and set out in this report raise concerns. They are first, the response of casino staff to the substance found in the bathroom, secondly, the downgrading of the position of General Manager, Compliance, thirdly, the operation of the Rock Lily bar, fourthly, the reduction in incident reporting and, finally the opinion of the Police set out in chapter 6. It is not suggested that there is any involvement by the casino operator in any criminal matters or that it does not exclude individuals when their conduct requires it or based on available information which supports exclusion.*

*The Authority should closely monitor the casino operator for these and related matters over the next five years. Relationships with law enforcement need to be strengthened and maintained, scrutiny of responsible service of alcohol is necessary as well as keeping under review incident reports made by staff.”*

Concerns about the “culture shift” continue to be voiced.

On 11 February 2012, in a Sydney Morning Herald article, Mr Roach was quoted as referring to “a massive culture shift” at the casino since he first began work at the casino.

To support his allegation of “a massive culture shift” at the casino, Mr Roach gave the examples of the relaxation of the dress code, particularly in the private rooms; a shift towards keeping players happy on tables rather than upholding game rules; and a more relaxed level of responsible service of alcohol on the Main Gaming Floor.

The latter two matters are dealt with above.

Mr Roach also referred to a shift against employees and a more “American” way of running the casino, giving the example of compulsory forums for employees, which were to be attended in the employees’ own time and without pay. Mr Roach said that, as a result of pressure from him and other union delegates, these forums were changed to be compulsory only if the employee wanted a customer service bonus. Mr Roach also said that senior management previously were more involved with employees in the day-to-day running of the casino.

### **The substance in the bathroom incident**

The Section 31 Report gave detailed consideration to an incident that occurred on 30 October 2010 when a maintenance technician at the casino saw what he described as a line of white dust on a vanity in a bathroom located between two pits in the inner sanctums of the private gaming rooms. When first tested, it was found not to be cocaine and on subsequent testing it was found to be a building material and not an illicit substance.

The Section 31 Investigation reported that the casino protocol at the time was that the investigators were to be contacted when small amounts of suspicious substances were found. If the amount found was substantial, then the Police should be called.

The Section 31 Report concluded as follows in relation to the incident:

*“The casino operator’s handling of these events has been poor. The Police or at least the investigators should have been alerted when the substance was found, and the substance should have been photographed and properly secured. It should then have been given to the Police for testing. Table Games duty managers should have informed their managers. The acting casino duty manager was correct to be concerned. While I do not agree that the matter was ‘covered up’, it had that appearance. The only patron in the vicinity of where it was found, was thought to be valuable to the casino. Staff often told me that he was the recipient of special or favourable attention by managers. These matters add to that appearance.”*

The former acting casino duty manager, Ms Ward, has continued to make allegations publicly about the incident as has the former acting pit manager, Mr Culpan. Neither was present when the substance was found or was tested and neither had direct responsibilities in respect of investigating the find.

Ms Ward made the following allegations on the 6.00 pm news on Channel 7 on 20 February 2012:

- she and her husband lost their careers because she tried to investigate the suspected drug scandal;
- the more she investigated, the uglier things seemed to get for her; and
- the casino puts customers and money first, and the high rollers are always right.

Ms Ward gave evidence that she believed that the substance was a drug for the following reasons:

- the substance was not correctly bagged and was kept in an unsecured drawer for a week;
- a number of people who saw the substance stated that they believed it was a drug;
- Mr James Robins told Ms Ward he had tasted it and it was cocaine;
- the Investigations Manager, Mr Houlihan, told Ms Ward that he had had the sample sent to an independent laboratory for testing; and
- the surveillance tape footage disappeared.

Ms Ward gave evidence that she believed there was a “cover up”, that Ms Heather Scheibenstock, the General Manager, Table Games, was told to shut her up and close the investigation down, and that that instruction was given by Mr Vaikunta, the former Managing Director; and that Mr Vaikunta had a friendship and possibly a “social [drug] habit” with the high roller who was the last patron to use the pits near the bathroom; and that Ms Scheibenstock and Mr Vaikunta conspired to cover up the incident.

Ms Ward gave evidence that she believed that, while the substance was stored in the security officers’ office, someone removed what Ms Ward thinks was a drug and replaced it with concrete dust. Ms Ward was unable to say who had done this.

In relation to the bagging and storage of the substance, Ms Ward’s evidence adds nothing to the evidence considered in the Section 31 Investigation. The Section 31 Report was critical of the bagging and storage of the substance.

As to Ms Ward’s evidence that the persons who initially expressed a belief or view that the substance might be drugs, Ms Ward agreed that none of them was a police officer or former police officer, and that two experienced former police officers said that they did not believe it was a drug. Ms Ward was also taken to descriptions given by two of the persons present when the substance was found, each of which was inconsistent with it being a fine, white powder.

As to Mr Robins, he gave evidence that he told Ms Ward that he had tasted it, to “wind her up” or as a joke. He gave evidence that he did not touch or taste the substance. He had

previously made a statement to the same effect. Ms Ward was present during the public hearing when this evidence was given. The Inquiry accepts Mr Robins' evidence.

As to Mr Houlihan, he denied that he had discussed the testing of the substance with Ms Ward. It is noted that Ms Ward's chronology of events, which she provided to the Inquiry and the Section 31 Investigation and which was dated 16 June 2011, does not record Mr Houlihan telling Ms Ward that the substance had been tested, or that it had been tested at an independent laboratory.

The substance was tested in late 2011 at an independent laboratory, during the Section 31 Investigation. Mr Houlihan gave evidence that he told Ms Ward that, in his opinion and based on his experience in law enforcement, the substance was not a drug, but that Ms Ward did not seem to accept his opinion.

In relation to Ms Ward's evidence that the surveillance tape was tagged (that is, saved) and then disappeared, the surveillance duty manager, Mr David Gould, gave evidence to the Section 31 Investigation that the tape was never tagged, but that the relevant footage was saved on his monitor and was available for review and so did not go missing. Mr Houlihan gave evidence that the footage saved by Mr Gould was reviewed by Mr Houlihan's colleague, Mr Andrew McGregor. His findings are set out in the Section 31 Report.

In relation to Ms Ward's evidence that there was a conspiracy between Mr Vaikunta and Ms Scheibenstock to cover up the incident, Ms Scheibenstock gave evidence to the Section 31 Investigation of a number of steps she took to satisfy herself that the investigation into the incident was appropriate. Further, she made a statement which was given to the Inquiry denying the allegations made by Ms Ward.

Mr Vaikunta made submissions to the Inquiry denying any involvement in the investigation and submitting that there is no evidence in support of that allegation.

This allegation was not made by Ms Ward during the extensive evidence she gave about this incident to the Section 31 Investigation.

Ms Ward also gave evidence that she raised with a human resources manager of The Star concerns that it was a cover up. That manager has made a statement that Ms Ward has never approached her about the matter.

In the course of giving evidence, Ms Ward also said, on her first day at work after the substance was found, she was told by a named gaming manager that the substance was believed to be cocaine. The leave records for that gaming manager were provided to the Inquiry and reveal that he was not at work on the day the substance was found or the day referred to by Ms Ward. In a statement provided to the Inquiry, he denied that the conversation with Ms Ward occurred. On being provided with his statement, Ms Ward



submitted that she was incorrect in referring to him, and the conversation was with another gaming manager, whose name she could no longer recall.

Mr Culpan's knowledge of the incident was limited to what Ms Ward had told him. Mr Culpan was told by senior casino officers that some of the information Ms Ward had provided to Mr Culpan was incorrect. Mr Culpan, however, maintained his opinion that the substance found in the bathroom was cocaine, and he based this belief on inconsistencies between what he says he was told in or around June 2011 by senior casino managers in relation to testing of the substance, and talk on the floor, rumour and scuttlebutt.

As was said in the Section 31 Report, the number of deficiencies in the manner in which casino staff dealt with the substance gave the appearance that there could have been a cover up. However, the Section 31 Report found that it was not a cover up. Ms Ward and Mr Culpan's belief to the contrary, is just that, a belief which has become, regardless of the evidence to the contrary, unshakeable.

There is no evidence of any involvement by Ms Scheibenstock and/or Mr Vaikunta in "covering up" the investigation.

Ms Ward's allegation that both she and her partner, Mr Gordon Vail, lost their jobs as a result of her pursuing the substance in the bathroom incident is, put at its most favourable interpretation, hyperbole. Mr Vail took a voluntary redundancy in February 2011. The email he sent to various staff at the casino on his departure indicates that he left on good terms.

Ms Ward did not cease to work at the casino until March 2011 when she applied for workers compensation. The grounds on which she sought workers compensation relate to an incident on 25 November 2010, when she gave an apology to the high roller for an incident which occurred on 4 November 2010. Aside from taking two days of sick leave, Ms Ward continued to work after her meeting with the high roller on 25 November 2010. Ms Ward did not cease to attend work until she was notified that she was unsuccessful in her application for the new position of gaming manager. Ms Ward's employment was terminated by the casino on 20 December 2011, to take effect from 17 January 2012, as she was still unfit to return to work.

### **Favourable treatment to a high roller**

During the Section 31 Investigation concern was expressed about a high roller who, it was said received favourable treatment. This high roller was the person to whom Ms Ward gave an apology, in respect of which she applied for and received workers compensation payments. It is also the same high roller who was playing in an inner sanctum located next to the bathroom in which (some hours after he stopped playing) the substance was found. Those matters were investigated and no basis was found to be critical of the casino operator's dealings with him (see pp. 66-71 and 106 of the Section 31 Report). As concern

about the casino's dealings with him continues to be raised, this report details those findings.

Allegations were made by Mr Culpan and others that:

- the high roller was provided with credit: he was allowed to owe the casino hundreds of thousands of dollars over two years; he had his debt to the casino written off; and he repaid the debt and took a holiday from the casino during the Section 31 Investigation;
- the high roller was given special treatment: he was treated as a Premium D interstate player but he was not eligible because he resides in NSW; his level of play did not warrant the access he was given to the private gaming rooms; and he was allowed to choose staff, including from rosters;
- the high roller was paid on a losing bet, with a payment of \$900 made on 12 June 2011;
- the high roller was in a relationship with a (now former) manager at the casino; and
- another (now former) manager at the casino had sex with prostitutes supplied by the high roller.

#### Provision of credit

Section 74 of the Act prohibits the provision of credit, but it does not apply to accounts operated under s.75 of the Act.

Section 75 permits the casino operator to establish a deposit account for a patron and to credit cheques payable to the casino operator to the account and specifies time limits within which any cheque accepted by the casino operator must be banked.

There is nothing in the records to suggest that the casino has not met its obligations to bank the cheques within the relevant time limit under s.75 of the Act.

The documents reviewed by the Inquiry raise no regulatory concerns as to the provision or operation of the high roller's account. There is no evidence to support the allegations that a debt was written off in favour of the high roller or that there is any connection between the high roller's use of the account and the timing of the Section 31 Investigation.

#### Provision of special treatment

The records of interstate premium player details obtained from the casino include application forms completed for the high roller and photocopies of the high roller's driver's licence. The driver's licence was issued in a state other than New South Wales and it records the high roller's address as being at a location outside of New South Wales. A driver's licence containing a photograph is sufficient for verifying an individual's residential address under The Star's commission and rebate play internal controls and for AUSTRAC's "know your customer" requirements for individuals.

The Inquiry has seen the casino's records of the high roller's level of play from 1 July 2010. It is a matter for the casino to determine whether it requires a level of play, and what level of play it requires, in order to offer a patron any particular level of access to private gaming rooms.

Mr Culpan gave evidence in the public hearing that it was not unusual for high rollers to request particular dealers and that these requests would be accommodated. The alleged concern with the high roller appears to be that he was allowed to see the staff rosters and there was some concern that there could be familiarity between the high roller and the dealers he chose. Mr Culpan did not have personal knowledge of the high roller being provided with rosters and he did not provide any evidence that any particular issue had arisen in relation to familiarity between the high roller and any dealer.

The Inquiry has obtained a copy of the incident report relevant to the payment to the high roller of \$900 on a losing bet in June 2011. The incident report records that the high roller opened a natural nine (the best possible baccarat hand) and believed he had won, but casino staff then realised that the high roller had been handed the Banker's cards instead of the Player's cards by mistake. Rule 12.1 of baccarat was applied and bets were removed from the layout. The incident report also records that a cash disbursement of \$900 was issued as a customer recovery exercise.

The approach of the casino to rule 12.1 of baccarat was investigated during the Section 31 Investigation and is set out above. The casino's approach was found to be consistent with the rules approved by the Authority and with the casino's obligations under s.66 of the Act to comply with those rules. The rules are designed to protect players and reimbursement to players following a dealing error favours players.

It is a matter for the casino to determine if it also wishes to pay a player a cash disbursement on a losing bet (in addition to allowing the player to remove his bet as permitted under the rules) as a customer service measure where an error has occurred. It is not surprising that the casino would choose to pay on a losing bet in circumstances where the dealer error was not discovered until after the player had appeared to win the bet.

#### Dealings with former managers

The Inquiry was informed in private evidence that the former manager was twice asked by more senior managers whether she was in a relationship with the high roller and she strenuously denied the allegation. The former manager did not work in Table Games or in finance and had no influence over the outcome of any games in which the high roller might be a player or the operation of his account. She resigned from the casino in mid-2011.

In relation to the allegation that another former manager had sex with prostitutes supplied by the high roller, the Investigations Manager gave evidence in the public hearing about his investigation of this matter and that he was unable to find evidence to support the

allegation. As part of his investigation, he spoke to informants, reviewed corporate credit cards, reviewed the logs of the hire car company and interviewed a number of witnesses. The Inquiry accepts his findings.

None of these allegations raises any regulatory concern.

## CHAPTER FIVE

### ALLEGATIONS MADE CONCERNING THE FORMER MANAGING DIRECTOR

The allegations made to this Inquiry and reports in the media concerning the former Managing Director primarily concerned the sexual harassment claims and the whereabouts of Mr Vaikunta during the investigation of those claims, and suspicions of drug use.

In relation to the sexual harassment claims, most of the media reports concerned speculation as to the identity of the victims, whether they received any compensation, the timing of their complaints and where Mr Vaikunta was during December and January. Each of these matters is addressed earlier in this report. None of the media reports about these matters was accurate.

Allegations concerning drug use were referred to the NSW Police for its attention. The NSW Police has informed the Inquiry of the action they have taken or propose to take in respect of each allegation. Those matters are referred to in this and the next chapter.

#### **Previous investigations**

During the course of this Inquiry, there has been evidence about allegations made to the casino operator about Mr Vaikunta and the investigations carried out by Mr Houlihan, The Star's Investigations Manager into those allegations. These are dealt with here because they are relevant to allegations made to this Inquiry since 2 December and, in particular, reveal the responsiveness of the casino operator to complaints made to it.

In 2010, during an exit interview, a manager alleged that Mr Vaikunta used cocaine. No details were provided. Following that allegation being made, it was brought to the attention of senior executives of Echo. As a result, the Managing Director and Chief Executive Officer of Echo, Mr Mullin asked Mr Vaikunta whether he used drugs. Ms Marshall made the same inquiry of Mr Vaikunta. On each occasion, Mr Vaikunta denied using drugs.

Shortly thereafter, an anonymous allegation was made to E-TIPS of cocaine use by Mr Vaikunta and a middle manager. It was investigated by Mr Houlihan and during the investigation, the office desks of Mr Vaikunta and the middle manager were swabbed for the presence of cocaine. The swabs were negative. Mr Houlihan gave evidence that Mr Vaikunta denied the allegations and advised that he participated in a routine drug testing program in a US casino in which he had worked. Mr Houlihan found the allegations against Mr Vaikunta to be unsubstantiated and that there was no direct or circumstantial evidence of drug use by him.

A copy of that investigation report was provided to the Inquiry and the Section 31 Investigation was aware of that investigation and its findings.

Mr Mullin gave evidence that during the course of the investigation conducted by Mr Houlihan in 2010, he asked Mr Vaikunta whether there was any truth to the allegations that he used drugs and Mr Vaikunta said no. Mr Mullin recalled an investigation that involved swabbing or testing Mr Vaikunta's office for drugs and that the outcome of that investigation was that there was no truth to any of the allegations. Mr Mullin also gave evidence as to the mandatory drug testing regime at the Borgata casino in the United States, where both he and Mr Vaikunta had worked previously, and said that, to his knowledge, Mr Vaikunta had never tested positive for drug use.

A second investigation was conducted by the Investigations Manager in late 2011 into an allegation that Mr Vaikunta had been taking cocaine in the casino. That allegation was made by Mr Culpan and was not based on any observations he had made. No dates were provided for the alleged drug use and no witness was named. Mr Houlihan interviewed the Asset Protection Manager about his knowledge and that of his security officers and reviewed all incident reports written since Mr Vaikunta's employment commenced in 2009. He concluded that the allegations were not substantiated.

Mr Houlihan also gave evidence that he was not aware of any allegations made about drug use by any other senior manager apart from Mr Vaikunta, that he found the allegations against Mr Vaikunta to be unsubstantiated, and that he has not seen any evidence of anyone in senior management at the casino being involved in drugs at all.

Mr Houlihan gave evidence as to his investigations into a number of allegations of Mr Vaikunta being intoxicated. The allegations were made by Mr Culpan, however, they were not based on any observation he had made. Mr Culpan was unable to provide the dates on which the alleged events occurred or the names of any witnesses to them. Mr Houlihan reviewed the incident report database for any mention of Mr Vaikunta, interviewed the Asset Protection Manager and sought to identify any potential witnesses. In relation to one allegation, Mr Houlihan identified 25 staff members who may have been present at the presumed time of one of the alleged incidents, and interviewed most of them. In relation to another allegation, Mr Houlihan reviewed CCTV footage and interviewed two staff members. Mr Houlihan found that none of the allegations as to intoxication was substantiated.

Mr Houlihan also investigated an anonymous complaint via E-TIPS that, among others, Mr Vaikunta was intoxicated at the opening of the Darling Hotel in October 2011. Mr Houlihan interviewed the liquor and security managers on duty that evening and reviewed CCTV footage of the event. He did not find any evidence to support the allegation. He noted that a Government Inspector was present from time to time during the event and that he did not raise any concerns about intoxication.

The Inquiry interviewed that Government Inspector who said he did not observe any intoxication during the time he was present, that is between 9.30pm and about 11.30pm. In

particular, he told the Inquiry that he had observed Mr Vaikunta and said he was not intoxicated.

### **Allegations made since 2 December 2011**

Since 2 December 2011, the following specific allegations against Mr Vaikunta have been received.

First, Ms Ward gave evidence in the public hearing that she believed that Mr Vaikunta was under the influence of drugs on several occasions, based on her observation of his behaviour. Ms Ward did not report her concerns to anyone, including through E-TIPS, to the investigation staff or to security. These incidents were alleged to have occurred before March 2011.

Second, Mr Culpan gave evidence that his view as expressed on Channel 7 that there was “chronic drug abuse” amongst senior managers, was based on his observation of Mr Vaikunta at an employee forum in 2011 from which he believed that Mr Vaikunta was on some substance. Mr Culpan did not raise this matter with the senior officers of the casino at his feedback sessions (this is dealt with in detail later in this chapter), or make an E-TIPS complaint. When Mr Culpan raised allegations of Mr Vaikunta’s drug use in an email to a senior manager on 4 November 2011, he said that it was just hearsay.

Mr Culpan gave evidence that he did not report it because *“it was something that you don’t like to raise about your managing director”*. However, Mr Culpan raised many complaints about his Managing Director in circumstances where he had not himself observed anything untoward.

Mr Vaikunta issued a statement after Ms Ward’s evidence and repeated that statement in submissions to the Inquiry. He said that her comments regarding the use of cocaine are completely false and that he has never been a cocaine user.

Neither Ms Ward nor Mr Culpan has made these claims before making them in the public hearing. It is not credible that Mr Culpan would not have raised this matter before, given the large number of other complaints he had made, including about the former Managing Director. It is equally not credible that Ms Ward would not have raised her concerns about the former Managing Director being a cocaine user before, given the detailed written and oral accounts she had given of her experience following the finding of the substance in the bathroom, including to the Section 31 Investigation.

There is no evidence before the Inquiry of observed drug use by Mr Vaikunta. The evidence is of inferences drawn by two former employees of observations they made about his appearance; one on one occasion and the other on several occasions. The Inquiry rejects their evidence as a reliable indicator of whether Mr Vaikunta was a drug user.

Third, as referred to earlier, the Minister's office forwarded to the Authority a series of allegations made in an anonymous email. One of those allegations was that there were rumours that Mr Mullin and Mr Vaikunta were "into" cocaine and that the provider was a member of middle/senior management of the casino.

In relation to Mr Mullin, he has denied this allegation and there is no evidence to support it. Mr Mullin has given evidence that he would not have tolerated any drug use by any senior manager and that he was himself subject to the mandatory drug testing regime at the Borgata casino in the United States.

The Inquiry has been informed by the Police Casino and Racing Investigation Unit (PCRIU) that the allegation of drug use by Mr Mullin and by Mr Vaikunta is of no interest to it and that it is not taking any further action. The PCRIU noted that it was said to be based on "rumours amongst staff".

It is noted that as part of the Section 31 Investigation, information was sought from several law enforcement agencies, including the NSW Crime Commission, the NSW Police and the Australian Crime Commission concerning Mr Vaikunta and Mr Mullin as close associates of the casino operator. No information was disclosed which affected their suitability to continue to be close associates of the casino licence holder.

Fourth, two similar sets of complaints were made. First, an anonymous source alleged that Mr Vaikunta was present when a named bar manager refused service to a woman who was snorting cocaine at the Rock Lily bar. Mr Vaikunta was alleged to have overruled the decision. Further, that a named cocktail server was in a limousine with Mr Vaikunta and was harassed and paid out. Those allegations were made to the Minister's office and then referred to the Authority.

The second set of complaints were made by a Channel 7 producer who told the Authority that he had information that a named bar manager at Rock Lily had left hurriedly and that he was supplying Mr Vaikunta with cocaine. Further, that at the Cherry bar, Mr Vaikunta and a named young woman were present and she was 'out of it' and Mr Vaikunta overruled a decision in relation to alcohol. Then there was an altercation in a limousine.

The Inquiry found that the first named bar manager had left the employ of the casino a year before the Rock Lily bar opened and, hence, could not have been present when alleged. The Inquiry has investigated the departure of the second bar manager and is satisfied that it was related to personal matters which explained the haste.

The Inquiry has identified and interviewed the junior staff member named. It is satisfied that there is no foundation to either allegation.

These matters were referred to the NSW Police. The PCRIU has no adverse information about the second bar manager and is not taking any action about the allegations.



Finally, an anonymous complainant called E-TIPS and alleged that he had heard a rumour that the Asset Protection Manager, Mr John Lomax, removed video footage of Mr Vaikunta being carried out of the casino because he was intoxicated. The complainant did not see the incident and does not know when Mr Lomax is alleged to have removed the footage.

The complainant also alleged that Mr Lomax was said to socialise with Mr Vaikunta and a named person who was alleged to be a well-known Kings Cross identity who had a bad reputation, and that casino employees have seen Mr Lomax at nightclubs with Mr Vaikunta and the named person on several occasions. From the phrasing of the allegations in the E-TIPS Incident Report, it does not appear that the complainant claimed to have himself seen Mr Lomax socialising with Mr Vaikunta and the named person.

This allegation has been investigated by the Investigations Manager for The Star and was the subject of evidence by Mr Houlihan in the public hearing. He concluded that it was not possible to delete footage. Mr Houlihan's investigation report also attaches a statement by Mr Lomax denying having met the named person or having gone to a nightclub with him and Mr Vaikunta.

The Inquiry accepts Mr Houlihan's findings.

## CHAPTER SIX

### ALLEGATIONS CONCERNING SUSPECTED DRUG USE

On 7 February 2012, the Sydney Morning Herald published allegations that:

- Tabcorp had conducted an investigation into allegations of widespread substance use within the casino's executive ranks in mid-2010;
- during the investigation, a manager warned Tabcorp of an alleged culture of drug and alcohol abuse among senior management at the casino and advised Tabcorp to swab offices and introduce "sobriety tests" to detect cocaine use at work;
- Tabcorp did not act on the manager's advice because it claimed it had found insufficient evidence; and
- the then Chief Executive Officer of Tabcorp, Mr Elmer Funke Kupper, was advised of the warnings about the culture of drug and alcohol abuse at the casino and had expressed concern.

The Inquiry summonsed the report referred to in the article. The Star, having made inquiries of Tabcorp, responded that no report meeting that description existed. The Star and Echo deny the allegations made in the article. Mr Mullin gave evidence in public about his knowledge of the matters the subject of the article, which was supplemented by statements from him and others including Mr Funke Kupper which were provided to the Inquiry.

As discussed above, the Inquiry is satisfied that there was one investigation into alleged drug use by Mr Vaikunta in 2010. There is no reliable evidence to this Inquiry of any other investigation and no investigation which meets the description of the events referred to in the Sydney Morning Herald article.

There is no evidence to this Inquiry of widespread drug use among senior executives and the only allegation made as to such matters was made by Mr Culpan to Channel 7. As discussed above, on examination in the public hearings, his evidence was that that comment was based on his observation of the demeanour of Mr Vaikunta on one occasion in 2011 and that evidence has been rejected.

In addition to the matters dealt with in the last chapter concerning Mr Vaikunta, each of the following allegations which were made to this Inquiry has been referred to the NSW Police. The response of the NSW Police is set out below each allegation.

- A person who wished his name to be kept confidential alleged that there was “lots of talk of drug abuse which was hushed up by management” in relation to the departure of a chef.

The PCRIU has no information to support this allegation.

- Two related anonymous complaints were received alleging that named convicted drug dealers and “fraudsters” were permitted to gamble in the Sovereign Room. The need for police checks to occur on all applicants to the Sovereign Room was highlighted in the Section 31 Report (see pp.62-63).

The PCRIU is conducting inquiries into these matters.

- A current employee at The Star complained to the Inquiry that his wife, also an employee at The Star was having an affair with another casino employee and that his wife was using drugs.

The PCRIU has made inquiries and found no evidence of criminal activity.

- A high roller was a drug user

The PCRIU noted that the nature of the allegation appears to be rumour and innuendo and that no factual information had been supplied. The PCRIU has no adverse intelligence holdings that suggest involvement in criminal activity, however they are monitoring his activities.

An anonymous complaint was received by the Minister’s office and referred to the Authority alleging that Mr Luvisutto, the current Managing Director at The Star is a close friend of a named person who is associated with nightclubs and drugs.

Mr Luvisutto was the subject of a recent probity investigation by the Authority, prior to him commencing in the role of Managing Director, The Star. The investigation dealt with this allegation and found no truth to it. The Authority is satisfied as to Mr Luvisutto’s fitness to hold a special employee licence.

## **CHAPTER SEVEN**

### **OTHER ALLEGATIONS**

#### **Qualifications**

An anonymous complaint was received by the Minister's office alleging that Mr Mullin's claim of possessing a specified degree from a specified university was 'difficult to find' in the relevant university's records.

The Inquiry investigated the matter and had little difficulty in confirming the qualification from the University's website.

#### **Electronic Gaming Machines**

An initially anonymous caller to the Authority complained about the manipulation of electronic gaming machines (EGMs). He later identified himself. He had made similar complaints to the Authority and the casino in the past. He alleged that the EGMs are manipulated and casino staff select when a player will win a jackpot by monitoring their play.

In late 2011, the Authority's inspectors investigated allegations by the complainant that he had not been entered in particular promotional draws, the draws were not random and prizes had been awarded according to casino staff preferences. The inspectors found that the draws were conducted via the casino's electronic monitoring system, which is a system approved by the Authority after testing in an independent accredited testing facility. The Inquiry has seen the source documents which confirm that the complainant was entered in the promotional draws. The casino's documents identified that a casino dollar bonus should have been shown as credited on the EGM but was not shown for the first hour or so of the promotion. The problem was then rectified and any earlier bonuses were credited manually to players' accounts.

The Authority approves gaming equipment, including EGMs for use in the casino under s.68 of the Act. All X-standard EGMs, which are the EGMs approved by the former Liquor Administration Board for use in registered clubs, were approved by the Authority for use in the casino in January 2001.

Since 1 July 2008, the Authority has also permitted the casino to apply to the Authority for permission to install modified X-standard EGMs and non X-standard EGMs in the private gaming areas of the casino.

Paragraph 6.4 of the Authority's Gaming Approvals Manual sets out the Authority's requirements in relation to modified X-standard EGMs and non X-standard EGMs. The casino is required to provide a report from an accredited testing facility evaluating and certifying the relevant EGM against the listed criteria. As the Section 31 Report said of non X-standard EGMs (see p.26):

*"This type of gaming machine has been approved in other jurisdictions that are recognised as having a similar level of regulatory control as New South Wales and the Authority requires a comprehensive report from an Accredited Testing Facility to certify that the game does not contain any non permissible characteristics, meets the minimum player return (currently 85%), the gaming machine effectively communicates with the casino operator's electronic monitoring and linked jackpot systems and its game play meters used in the calculation of casino revenue for taxation and levies under the Act are accurately recorded and reported."*

Paragraph 6.5 of the Authority's Gaming Approvals Manual allows the Authority to grant an exemption on a case-by-case basis if a modified X-standard EGM or a non X-standard EGM is not certified as meeting the criteria. Since 1 July 2008, the Authority has approved 30 non X-standard EGMs and has granted exemptions in respect of seven of them.

Four of the exemptions permit an EGM to require that players bet a certain amount to be eligible to win the top prize or jackpot prize, provided that there is signage or artwork on the EGM to make this clear. Two of the exemptions permit a larger variation in the return to player to arise from changing the betting options selected within a game on the EGM. One exemption permits the EGM to require that players spend more to play a feature game, provided that there is an increased return to player of at least five per cent.

Where exemptions are not granted, any features of the EGM that do not meet the relevant Australian/New Zealand standard are disabled.

The criteria against which EGMs that are not X-standard EGMs are required to be certified ensure that the EGMs effectively communicate with The Star's electronic monitoring and linked jackpot systems. None of the exemptions granted by the Authority has any effect on this requirement. There is no basis for doubting the integrity of the EGMs at the casino or for believing that casino staff can select winners.

### **Responsible gambling managers**

As referred to earlier in this report, the Sydney Morning Herald received an anonymous email making a number of allegations which included concerns about the departure of one of the responsible gambling managers and the adequacy of the number of responsible gambling managers.

The Inquiry has reviewed the employment file of the responsible gambling manager who left the casino in January 2012 and is satisfied that her departure does not give rise to any concerns for the Authority. No evidence has been provided to this Inquiry as to a current inadequacy in the area of responsible gambling managers. If, in time, any inadequacy is identified and it impacts on the Authority's objectives under the Act, it is a matter for the Authority to take whatever action it believes appropriate.

### **Ms Annika Soraya**

Ms Annika Soraya was summonsed to give evidence to the public hearing because she had appeared in the media since 2 December 2011 making allegations about the casino.

On 26 February 2012, the Sunday Telegraph published an article about the casino, headed "Casino full of racist bullies' The Star denies ex-worker's claims", which reported certain allegations attributed to Ms Soraya. In the article, the following opinions and quotations were attributed to Ms Soraya:

- *bullying and racism were rife at the casino, Ms Soraya's short stint there was a nightmare, and she was driven to despair by constant taunts over her sexuality and left shocked at the level of racist abuse;*
- *new recruits were told in training "Here at Star City we don't worry much about political correctness too much, so I hope you two blokes don't mind if I refer to your mob as Lebs or Lebos";*
- *her suspension and dismissal from the casino were due to the "dozens of incidents" of workplace harassment; and*
- *staff treated "VIP drunks and prostitutes" with kid gloves, and during training the term "grey area" was used to refer to "VIPs and dignitaries" when it came to reprimanding them over being drunk or propositioning prostitutes.*

Ms Soraya was employed at the casino for just over two months from March to May 2010 as a customer liaison officer in security. Ms Soraya confirmed the allegations attributed to her in the article.

Ms Soraya gave evidence, both in private and in some respects in public, as to eight specific incidents on which she relied as the basis for her allegations of racism, bullying and workplace harassment.

The first incident occurred during an initial interview when Ms Soraya alleges that an officer from the casino said: "You don't have to tell us this if you don't want to but as a matter of interest what is your racial profile, what is your racial background?" Ms Soraya answered the question and did not express concern about it at the time or subsequently to any person in authority at the casino.

The second incident occurred during training where the person conducting the training is said to have made the statement quoted above in relation to “Lebs or Lebos”. It was not directed at Ms Soraya.

The third incident involved a fellow trainee who Ms Soraya claimed subjected her to embarrassing jokes, such as saying *“Look at the princess, gone off to brush her teeth”* and sending his friends over to Ms Soraya while she was on patrol to ask her what was her nationality. The fourth incident involved her colleagues asking her if she would become romantically involved with another female staff member.

The fifth incident occurred when she was on duty and she asked to be replaced by another officer whilst she went to the bathroom. The officer who came to replace her said *“Bladder problems?”* Ms Soraya gave evidence that this caused her great offence and was unwanted verbal attention.

The sixth incident involved a cleaner saying to her as she walked past the male toilets, *“Go on in, you look like a bloke.”* The seventh incident involved the same cleaner excessively vacuuming around her feet while she was on duty in a stationary position. The eighth incident involved a colleague saying to her in the staff change room *“Hey, Annika, put my washing away”*, which Ms Soraya has written caused her to feel so threatened that she feared for her personal safety.

Ms Soraya also gave evidence that she did not have a birth certificate and that she felt discriminated against because she was an orphan. In a document she provided to the Inquiry, Ms Soraya’s account suggests that her training supervisor attempted to assist her with this matter as a birth certificate was required for licensing reasons.

In relation to the term “grey area” being used in training to refer to VIPs and dignitaries, Ms Soraya confirmed that the trainer said:

*“You need to be a bit careful when addressing guests and VIPs of the casino because you also need to be aware of why we are all here and why we are in these jobs and that without revenue from the casino we wouldn’t have jobs”, and he said to “negotiate any of these guests and VIP patrons very carefully and with caution” and “you may also want to seek Oscar’s [a more senior security officer’s] advice”,*

and that the trainer said *“Now this can be a bit of a grey area.”*

Ms Soraya gave one example of seeing two girls in the casino who appeared to be drunk. Ms Soraya said she spoke to some senior officers and was told the girls were from a private function and, to her observation, they were not asked to leave. In relation to prostitution, Ms Soraya said in her private evidence that she saw a number of women, who she concluded were prostitutes because they were scantily clad, in the hotel area of the casino and not in the gaming area.

As to Ms Soraya's termination, the evidence given was that a fellow employee put his hand on her shoulder from behind to stop her walking into the path of an approaching tram at the Light Rail stop, and at that time and over a short time following, Ms Soraya verbally abused the fellow employee. Ms Soraya was found to have engaged in serious misconduct as a result of this incident and was dismissed from her employment.

Ms Soraya suggested that there might be other incidents in addition to those raised in her evidence. The Inquiry is satisfied that in the event that there are further incidents, those the subject of public and private evidence were the more serious and that any others were in a similar vein.

Ms Soraya made a note of some of these incidents in her official notebook. She also made complaints about some of the incidents. These were investigated by the casino and, in respect of one incident, she received an apology from the cleaner.

Ms Soraya's claims of racist bullying and workplace harassment and the headline of "Casino full of racist bullies", are not consistent with the incidents described. With the exception of the one incident for which she received an apology, those incidents are relatively minor and do not give rise to any matters which fall within the responsibilities of the Authority. There is no evidence supporting Ms Soraya's claim that she was dismissed due to the "dozens of incidents" of workplace harassment. She was dismissed because of her unrelated conduct towards a fellow employee. Unfortunately, a reader of the newspaper would have been left, wrongly, with a different view.

### **Mr Mark Boyd**

Mr Mark Boyd, Secretary of United Voice NSW, the union that covers liquor, hospitality and other employees, including employees at the casino, was summonsed to give evidence to the public hearing because he had appeared in the media since 2 December 2011 making allegations about the casino.

On 22 February 2012, Mr Boyd appeared in a story on the casino on the Channel 7 6.00 pm news, in which the following opinions and quotations were attributed to Mr Boyd:

- *the union says it is alarmed but not surprised by allegations of illegal drug taking, sexual harassment and bullying;*
- *the union calls the casino the most difficult employer in the state; "They're at the top, by far. They're number one, then it's a big stretch to number two"; and*
- *"There's this intimidation and fear of just raising issues in the place these days".*

Mr Boyd attended an interview on 21 July 2011 in the course of the Section 31 Investigation and another union official was also present. His evidence was as follows:



- *union members had formed a view of the new management at the casino; they raised issues and there was no real evidence to support what they were saying and Mr Boyd described them as having conspiracy theories about what was happening at the casino;*
- *there has been nothing significant in relation to harassment or bullying at the casino, and claims of harassment and bullying are something of an “art form” these days when in fact it is just managers directing persons to do their job; and*
- *for the size of the workforce, there are no major issues at the casino and the daily issues are no more than in other places.*

Mr Boyd was asked to provide an explanation for the apparent significant change in his opinion since he gave evidence to the Section 31 Investigation. He responded that his comments to the Section 31 Investigation were made in the context of having no major concerns when it came to formal complaints made on behalf of United Voice members employed at the casino, and that he was then of the view that the relationship between the casino operator and the union office was not relevant to the Section 31 Investigation.

Mr Boyd enclosed copies of correspondence sent to the casino and dispute notices lodged with Fair Work Australia relating to six issues and concerns raised by United Voice members, and raised formally with the casino, since July 2011. Mr Boyd indicated that the issues included roster changes, denial of union representation, leave applications, contracting out of housekeeping services at the hotel and retrenchment of staff on maternity leave.

In his public evidence to the Inquiry, Mr Boyd said his view has changed based on his experience particularly in the last six months of 2011, and because of major issues arising between July 2011 and February 2012, as follows:

- *on some four or five occasions, employees have been denied union representation in disciplinary hearings in relation to incidents which could be described as minor rather than major incidents;*
- *the move of long-serving employees from fixed rosters to changing rosters, the concern this caused for some union members and the union’s meetings with casino management about the issue; and*
- *less cooperative or more adversarial relations between the union and casino management, resulting in more applications to Fair Work Australia.*

The casino disputes much of this and provided information to the Inquiry supporting its submission that relevant staff are unaware of any allegation by an employee or the union of a denial of union representation at a counselling or a disciplinary meeting.

In relation to his statement to Channel 7 that there is “intimidation and fear of just raising issues in the place these days”, Mr Boyd gave evidence that this was based on members on a number of occasions expressing to union organisers that they are fearful of raising with

casino management issues about wanting to be represented in a disciplinary matter or about a roster change because they were fearful of losing their jobs.

In relation to the introduction by Channel 7 that:

*“The union representing workers at Sydney’s Star Casino says it’s alarmed but not surprised by allegations of illegal drug taking, sexual harassment and bullying”,*

Mr Boyd gave evidence that he said he was alarmed but not surprised by harassment and bullying, but that he had no knowledge of illegal drug taking or sexual harassment. The harassment and bullying concerns arose from how middle management at the casino was dealing with roster changes.

The industrial matters raised by Mr Boyd with Channel 7 are not the responsibility of the Authority. However, it is the case that a viewer of this program would have been seriously misled about the nature of incidents at the casino of which Mr Boyd had knowledge, in particular that he had knowledge of and opinions about sexual harassment and illegal drug taking at the casino when he had neither. Further, the concerns he did have were about industrial matters such as rostering and union involvement in individual disciplinary interviews.

### **Reporting and investigations**

Mr Culpan appeared on Channel 7 on 20 February 2012, although his appearance was masked. He confirmed that he said:

*“No matter what you report, no matter what you see, no matter what you say, nothing is ever done about it”,*

and that this was his belief at the time, being 20 February 2012.

Mr Culpan’s allegations in relation to reporting and investigations are not consistent with his evidence to the Inquiry and not supported by the evidence reported elsewhere of the investigations undertaken by the casino in 2010 and 2011.

Mr Culpan said that over the last two years he had been content with how the complaints and issues he has raised with the casino have been acted upon and that his comment to Channel 7 was a matter of history, before 2010.

The Inquiry is satisfied that the statement made by Mr Culpan, as reported on Channel 7 was entirely without foundation.

Again, a viewer of the Channel 7 program would have been seriously misled that Mr Culpan’s concerns about reporting and investigations were currently held, that Mr Culpan makes reports and the casino does not act on or investigate them, and that the casino does not act on or investigate reports.

## Mr Thomas Lin

On 16 April 2012, the ABC's "7.30" program aired a story in which Mr Thomas Lin, a former Government Inspector appeared and made comments. Following that story, the Inquiry summonsed documents held by the ABC in relation to the casino. Among other documents, it received a tape of the interview with Mr Lin which has been transcribed. The Inquiry sought to contact Mr Lin in order for him to give evidence in public, in the same manner as all other persons who had publicly made allegations. For the reasons set out in chapter one, ultimately Mr Lin gave evidence in private on 27 April.

Mr Lin had been employed by either the Authority or the Department of Gaming and Racing since 1995 in a number of roles. By 2001 he was working at the casino as a Government Inspector and continued in that position until 2008.

The ABC reported that Mr Lin had left the Authority in 2008 following a dispute with his supervisors over alleged fraternisation with a casino staff member. The Inquiry has obtained the records concerning Mr Lin's departure. Mr Lin's employment was terminated on 27 May 2008 following an investigation into complaints made against him by two casino employees. Mr Lin challenged his termination before the Government and Related Employees Appeal Tribunal. That appeal was resolved by setting aside the decision to terminate his employment and the Authority accepting Mr Lin's resignation, effective 27 May 2008. He has not since worked in a government position.

Mr Lin told the ABC that, two days before his interview with the reporter on 13 April 2012, he had received a letter from the Authority reminding him of his duty not to disclose matters confidential to his employment. The Authority has informed the Inquiry that it did not send such a letter and, indeed, did not have his current address. The latter is borne out by the fact that this Inquiry was unable to serve him with a summons to attend a public hearing. In evidence to the Inquiry, Mr Lin accepted that he had not received such a letter.

Mr Lin described his role to the journalist in the following terms:

*INTERVIEWER: What was your day to day job then? Describe to me what you'd be literally doing at the casino.*

*MR LIN: Officially or in reality?*

*INTERVIEWER: Both.*

*MR LIN: Officially, the inspectors' role is to ensure the compliance of the rules, regulations, that's including the dealing procedures, standard operation procedures, any laws in breach by both staff, general public and operator, i.e. the casino itself.*

*INTERVIEWER: In reality?*

*MR LIN: In reality, in short, we are shuffling paper and scratching the bum.*

The Inquiry asked him if that represented the work he had done from 2001 to 2008. He said that he did not do that but most other inspectors did. He described himself as “different”.

Mr Lin described to the Inquiry the changes made when a new Chief Executive was appointed in 2000. He was unhappy and resentful about what he considered to be decisions by the Authority reducing the discretion given to Inspectors. He was insulted by what he saw as a lack of trust.

Mr Lin told the ABC that suspected prostitution, money laundering, loan sharking and cheating was a daily occurrence at the casino. In relation to his comment to the ABC that a “companion service” operated in the private gaming rooms, he told the Inquiry that that had occurred since 1995 and that he had written a report about it in 1998. He told the Inquiry that he had observed it until he left in 2008. He described it as not amounting to soliciting for prostitution but rather the presence of “gold diggers”.

Mr Lin told the ABC that recommendations from Inspectors to prosecute the casino operator and staff went into a “black hole”.

He told the Inquiry that that latter comment stemmed from one report he wrote in 2004 recommending prosecution. That recommendation followed his observations of minors entering the casino and gambling and drinking alcohol. He never received a response to that recommendation and the report, he said, subsequently went missing from the folder which held such reports. He told the Inquiry that that was the last occasion on which he wrote a report recommending prosecution, because “it was useless”.

He also told the ABC that he had written dozens if not hundreds of reports recommending prosecution of the casino operator or staff.

The Authority gave the Inquiry a statement from the Manager, Compliance with the Authority who is responsible for the work of the Government Inspectors. The Manager, Compliance had compiled a spreadsheet, setting out all the incident reports Mr Lin had authored between 2001 and 2007 and the action that had been taken with respect to each. They numbered 157. Mr Lin did not write any incident reports in 2008.

During that time, 2001 until 2007, Mr Lin made no reports of suspected prostitution, money laundering or loan sharking. He did make a number of reports of suspected cheating by patrons. He told the Inquiry that when he observed suspected prostitution, money laundering or loan sharking he sought a second opinion from colleagues or supervisors or left it to them to make a report. He told the Inquiry that *“there’s not enough evidence to support, but I believe that information is passed on”*.

Five of the incident reports he authored recommended prosecution of the casino operator or staff and they were written in 2002 and 2003. One was forwarded to the Authority for decision, three were returned to Mr Lin to provide further details and the final report was

dealt with by discussions with the casino operator. Of the three returned to Mr Lin, he did not provide any further information.

These matters were put to Mr Lin. Mr Lin told the Inquiry that he had never had a report returned to him for him to make further inquiries and maintained his belief that he had written dozens of reports recommending prosecution of the casino operator or staff although he conceded he did not write hundreds of such reports.

The Inquiry was concerned at Mr Lin's implied allegation that the Authority did not prosecute the casino operator or staff. Each Section 31 Investigation has reported on disciplinary action taken against the casino operator or a staff member. From those reports, it is clear that disciplinary action was taken on three occasions in 2002, three occasions in 2003 and once in 2004. In 2005, a letter of reprimand was issued to Star City for a minor being permitted to gamble and two letters of censure were issued also in 2005 for minors gaining entry. In 2009, Star City was disciplined on three occasions and in 2010 four Show Cause notices were issued in respect of minors in the casino, on occasions, drinking and gambling. Fines were imposed on each occasion. In 2011, a letter of reprimand was issued when a baby was carried across the Main Gaming Floor. Each of these reports is publicly available and is consistent with information in the Authority's Annual Reports. Most of the grounds for disciplinary action were based on observations made by Inspectors which were then recorded in incident reports.

Mr Lin told the Inquiry that he did not check any of the matters he raised with the ABC and instead relied on his recollection. Mr Lin accepted that if it was in the Annual Reports of the Authority, it would be true.

The Inquiry finds that Mr Lin's recollection is unreliable. It finds that there is no evidence of a "black hole". The Authority has prosecuted the casino operator for minors gambling and drinking in the casino since 2004 and on other appropriate occasions. The Inquiry does not accept Mr Lin's opinion that to make reports recommending disciplinary action is "useless". The facts indicate to the contrary. In relation to prostitution, money laundering and loan sharking prior to 2008, those matters have been dealt with in the 2006 and 2011 Section 31 Reports. The Inquiry does not consider Mr Lin to be a reliable source of information about those matters.

Mr Lin told the ABC about his opinions about the occurrence of suicide, attempted suicide and patrons expressing an intention to suicide in the casino complex. He said it was a monthly occurrence between 2001 and 2008 and his comments were based on what casino staff had told him. He said there was a "cover up" in respect of reporting suicides at the casino complex.

The Inquiry was provided with data from the casino as to these matters. That disclosed that there had been one suicide at the hotel in the casino complex between 2001 and 2008, and

that occurred in early 2008. When questioned by the Inquiry, Mr Lin accepted the accuracy of that data in respect of the one episode of suicide. When asked the basis of his comment that there was a “cover up” in respect to that matter, it emerged that the police and ambulance had attended, that he, as a Government Inspector had been informed of the event while in the smokers’ area, and that a couple of hours later, the office of the Inspectors was informed. That period of two hours was described by Mr Lin as a delay and was the basis of his statement that there was a “cover up”. He believed that he was told “unofficially” while in the smokers’ area.

The Inquiry rejects Mr Lin’s opinion that these events amount to a cover up by the casino operator or any other authority. The casino operator is under no obligation under the Act to report such matters, there is no reference in the Internal Controls of the casino requiring such reporting and there are no protocols, of which the Inquiry is aware, that require the casino operator to notify the Authority of a suicide, or suspected suicide, or death, in the casino or casino complex.

Mr Lin further stated that his belief that the police and other authorities are part of the “cover up” concerning suicides at the casino complex was based on his belief that the casino underreports these events. He accepted that when he made that statement he had no knowledge of the statistics kept by the casino on these matters.

The statistics do not support Mr Lin’s statements. In the period 2001 to 2008, there was one suicide in a hotel room, six persons attempted suicide, 23 persons threatened to commit suicide and the casino operator had concerns for eleven people.

There is no evidence available to this Inquiry to support any of Mr Lin’s claims in relation to suicide or attempted suicides at the casino complex.

## CHAPTER EIGHT

### ALLEGATIONS OUTSIDE TERMS OF REFERENCE

The following thirteen allegations made to the Inquiry fall outside of its terms of reference as they concern matters not within the regulatory responsibilities of the Authority. In the main they are about industrial matters or events which occurred many years ago.

First, a named former employee of the casino made allegations concerning events which occurred five to eight years ago or were related to day to day workplace arrangements in her department such as rostering and the like. The complaints concerned rudeness, staff being made fun of, infighting among staff, favouritism among some staff, being ignored by other staff and pens and copiers being slammed by managers. She said staff did not complain because they thought that the manager was friends with the investigation manager.

Second, the Authority received an anonymous telephone call alleging that the caller, a former casino employee, left his employment in 2006 due to “intimidation, bullying and harassment” by a former senior manager.

Third, a complaint was received that the casino did not have the appropriate planning approvals to develop part of its site. This allegation has been referred to the Authority’s consultant on planning matters and is being taken up with the planning approval authority.

Fourth, the Authority received an email from a named former employee of the casino, who wished his details to be kept confidential and who made general allegations of a lack of leadership and workplace intimidation, discrimination, bullying and breach of gaming laws.

The Inquiry interviewed the complainant and established that he had had his employment terminated in early 2010 for assaulting another employee. He disputed and disputes whether he did so. The incident was captured on CCTV. That was his main complaint. He also referred to episodes of what he described as bullying which occurred six months earlier, that is in 2009, in the following terms:

*“The bullying was that I'd been hunted down - because I was rostered mainly on the high rollers section. They [pit managers] used to take me off the floor, take me into Inner Sanctums, in private rooms and they used to brainwash me and tell me that I was incompetent, ...*

*It seemed like to me they had some kind of a direction because they had a strategic sort of plan to call me in every time or they came on the floor just to disturb me and keep telling me that, what are you good at, you're not good for nothing, even I was there for 15 years, I don't know what it was coming from. There's such other things like*

*humiliation like look they gave me the impression that I should resign. They forced me the impression I should resign. I did refer that to a few colleagues that I've been under a lot of pressure and I think I should resign.*

*...Questioning about my performance, questioning about my credibility, questioning about my teamwork, they even - she even - accused me of taking some - we usually take breaks, be on the floor for about an hour and then go on a break for 15 minutes and come back, just to refresh. She even - my team workers said I'm not a team player, I'm trying to scam, as she said, breaks and so forth. Making all these different excuses I think just to take me to the edge, unjustifiable obviously and it brought me to the point where I wanted to resign."*

If this account is accurate, the circumstances of the termination appear unrelated to the conduct described as bullying. That conduct appears to concern issues of work performance. The person he primarily complained about is no longer employed by the casino.

Fifth, the Authority received an anonymous complaint from a former employee at the casino who resigned in 2001, complaining about events prior to 2001.

Sixth, Mr John McLean alleged to the Authority that an employee of the casino forged a tape of an incident in which Mr McLean was injured by a fall on an escalator at Star City.

The Inquiry investigated this allegation and found that the incident on the escalator occurred in June 2003. Mr McLean commenced civil action against Star City and was represented by counsel and solicitors in the District Court. The matter was heard over eight days, with lay and expert evidence for the plaintiff and defendant. The casino produced a compilation DVD of footage from surveillance tapes. Although Sidis DCJ suggested such compilations can have deficiencies, in this case her Honour was satisfied that the missing material would not assist the plaintiff and the editing of the taped material did not cause the plaintiff prejudice: *McLean v Star City Pty Ltd* [2008] NSWDC 143 at [26]-[27]. The proceedings resulted in a verdict for the defendant with strong credit findings against Mr McLean. The High Court refused an application for special leave to appeal [2011] HCASL 45.

This allegation concerns events which occurred many years ago and has been dealt with by the courts.

Seventh, the Authority received an email from a person who worked for Leighton Properties from 1990, and was involved in preparing their successful bid for the Sydney Casino and worked for the temporary and permanent casino. He referred to the enormous gulf between the culture of the American and Australian management in relation to their attitude to employees and their attitude to the Government and regulators and made comments about the current management based on media articles.



This commentary contains no specific allegation capable of investigation.

Eighth, an anonymous complainant alleged that sales team members approved cash gifts to many high rollers, and there were marketing initiatives which included free accommodation, dining credit and free slot or table play and cash draw give-aways.

Lawful commercial decisions by the casino operator are not part of the regulatory responsibilities of the Authority. None of the allegations made concerns unlawful conduct.

Ninth, two text messages were received at the Authority complaining about the conditions of work at a hire car company which is contracted by the casino. The Authority has no regulatory functions in respect of a hire car company.

The tenth allegation was that workers in receipt of workers compensation payments are “bullied and harassed”, with examples given of shift rotations and being required to be at static posts for lengthy periods.

These are not matters which fall within the regulatory functions of the Authority.

The eleventh allegation was made to the Inquiry by email from a person who wished his identity to be kept confidential. He was making allegations on behalf of his father. His father was contacted by telephone by Inquiry staff. He made allegations of “bullying and harassment” in 2011 in his position in the food and beverage area. He said he had been “picked on” in relation to food presentation.

These are not matters which fall within the regulatory functions of the Authority.

The twelfth allegation was made in a Channel 7 report on 6 March 2012 concerning allegations by current and former employees at the spa which operates from the Darling Hotel.

The Authority’s regulatory functions do not encompass the working conditions of the spa.

The thirteenth allegation was that a high roller had prostitutes when he stayed in apartments paid for by The Star.

This is not a matter which is relevant to the Authority’s regulatory obligations under the Act, as the conduct complained of does not concern gaming, did not take place in the casino and was not otherwise unlawful.

## **CHAPTER NINE**

### **A CULTURE OF SEXUAL HARASSMENT?**

The Inquiry's third term of reference requires the Inquiry to inquire into, and report upon any issues relevant to the first and second term of reference, each of which is set out earlier in this report.

There are a number of matters which arise under this term of reference. First, whether there is a culture of sexual harassment at The Star, secondly the termination of employment of a number of managers at The Star in February and March 2012, and finally, the dissemination of certain emails and texts to selected media.

As part of the Section 31 Investigation, questions were asked of staff, current and former, and the relevant union secretary as to their knowledge of the occurrence of sexual harassment within the workplace. Further, the various surveys undertaken by the casino into staff views were reviewed to determine whether sexual harassment was an issue in the workplace. Staff complaints were reviewed and finally, litigation against the casino operator claiming sexual harassment or other forms of discrimination was scrutinised.

As is reported earlier, the union secretary told the Section 31 Investigation that he had no concerns to report of sexual harassment at the casino. Similarly, sexual harassment was not an issue raised generally by employees and the surveys did not disclose this as a problem at the casino.

Between 1 January 2007 and 31 March 2011, staff members made six complaints of sexual harassment. Each complaint was made against another staff member. Four of these were substantiated and disciplinary action taken and two were unsubstantiated. No complaints were made to E-TIPS in that period alleging sexual harassment.

Finally, a review of all the discrimination claims against the casino operator in the five year period, 2006 to 2011 revealed three discrimination claims, one of which was settled and in the other two, the Administrative Decisions Tribunal or the Appeal Panel found in favour of the casino.

In a workplace of over 4000 employees, none of these matters warranted the attention of the Authority.

Hence, when it was revealed in February this year that the Managing Director of The Star and the Resident Manager of the Darling Hotel, part of the casino complex had both left the

casino following allegations of sexual harassment, there was a concern to be satisfied that the information relied on during the Section 31 Investigation remained current.

The Inquiry has sought and obtained details of all payments made by The Star or its predecessor to a staff member following an allegation of sexual harassment or bullying or harassment from 1 January 2006 to 12 March 2012. That information reveals that on two occasions, each in 2010, payments were made. In one case the payment was for less than \$2,000 and in the other the payment relevant to the allegations was for just over \$30,000. The persons against whom the allegations were made, six in total have all since left the employ of the casino.

The evidence that has been obtained since 2 December 2011 is as follows.

First, Ms Ward gave evidence in public of what she described as a culture of sexual harassment. Under questioning from counsel assisting, she revealed that she based that view on "a number of complaints" about an acting casino duty manager, whom she named. She later gave evidence that it was one staff member who spoke with her about one incident.

Following her giving that evidence, the Inquiry was provided with a statement from that acting casino duty manager which said that that he was "*stunned, surprised and felt numb from the way that my name was mentioned in a very serious and untrue allegation*". He stated that he was not aware of any claim of sexual harassment being made against him and said he had never sexually harassed anyone. In addition, a human resources manager of The Star made a statement that no complaint has been made against the acting casino duty manager, there is no record on his employment file of such a complaint and that no complaint has been referred to her.

Ms Ward was provided with copies of those statements and responded that she had made no allegation that he had engaged in sexual harassment or sexual assault.

Rarely will it be the case that one complaint amounts to a culture of sexual harassment and on this ground alone, Ms Ward's evidence is not reliable. In addition, there is strong evidence that that one complaint was never made.

Second, the Sydney Morning Herald reported on the sacking of a senior manager at the Darling Hotel for sexual harassment.

The Inquiry has summonsed all relevant documents in relation to the allegations and subsequent investigation into this matter. They reveal that an anonymous allegation was made alleging sexual harassment against the manager in early December 2011. External investigators were promptly engaged. The manager was suspended. Many staff were interviewed over several days. The investigation was completed by mid-December and it

was found that there had been unwelcome conduct of a sexual nature. The manager's employment was terminated.

The inquiry is satisfied that The Star responded promptly and properly to the allegations made.

Third, Mr Boyd was represented on Channel 7's news bulletin on 22 February 2012 as having said that he was alarmed and not surprised by allegations of sexual harassment. In evidence to the Inquiry he said that he had no knowledge of any allegations of sexual harassment at the casino and did not tell Channel 7 that he had that knowledge.

Fourth, the Sun Herald sought a response from the casino to its "solid" information or evidence that The Star paid a sum in the region of \$250,000 to a former named marketing employee after a 2010 sexual assault complaint lodged against Mr Vaikunta who was said to have pursued her in a manner that included sexual provocation. Settlement was said to have been reached on the condition that she left the company and that the complaint and the payout remain confidential.

The Inquiry is satisfied from the evidence it has obtained from the casino operator that the information held by the Sun Herald was not accurate. In particular, there is no evidence of a sexual assault complaint lodged against Mr Vaikunta in 2010 (or any other year) by any person. No payment has been made to any person of that amount in that year or in any year between 2006 and 2012. It is the case that the employment of a marketing employee was terminated in 2010, however, that was for reasons unrelated to the subject matter of this allegation and concerned her conduct in relation to staff who reported to her.

The Inquiry concludes that there is no evidence to support an allegation that there is a culture of sexual harassment at the casino. On the two recent occasions where allegations have been made against senior managers, one was made anonymously via E-TIPS, each was investigated promptly and expertly, each manager was suspended and each left the employment of The Star after the allegations were found proved. This is indicative of a culture that takes allegations of sexual harassment seriously.

## CHAPTER TEN

### TERMINATION OF EMPLOYMENT

#### **The Second Complainant**

The Second Complainant commenced in her position at the casino in mid-2009. She reported to the Managing Director.

Following the announcement to the ASX in the afternoon of 2 February, an on-line article in the Sydney Morning Herald referred to sexual harassment claims in the context of Mr Vaikunta leaving the casino. Mr Houlihan became concerned as to the source of that information, as he was aware that it had not been publicly disclosed. He has given evidence that the Second Complainant had said to him earlier that she could approach Mr Grimshaw about the allegations she and the First Complainant made. He sought and obtained permission to access her work email account to determine whether she had been disclosing any confidential information to external persons, in circumstances where that access was consistent with The Star's policy and the relevant employment contract.

He reviewed that material on 9 and 10 February, and reported his findings to the Group General Counsel that, in his opinion, the Second Complainant had breached her confidentiality obligations.

The Second Complainant commenced leave on 23 December 2011 and apart from one day between Christmas and New Year, she did not return to work at the casino until Tuesday 14 February 2012. On 14 February, her first day at work, following a meeting with the Chief Financial Officer (and Board member of Echo) and Ms Marshall, her employment was terminated. The reasons given for her termination were that first, she had sent emails containing information confidential to the investigation of the complaints against Mr Vaikunta to Mr Grimshaw and separately to another identified person. Secondly, she had sent that other person other information confidential to the casino and finally, she had not been truthful to the casino in relation to a number of specified matters.

In her private hearing as part of this Inquiry, the Second Complainant disputed some of the factual matters about which she was said to be untruthful and on which her termination was based.

Having read the emails, which were the basis of the termination of her employment, and having interviewed Ms Marshall and the Second Complainant, the Inquiry is satisfied that the termination was unrelated to her making a complaint about the former Managing

Director. The Inquiry notes that none of the text messages, some of which have subsequently been made public, was available to the casino at the time of the termination and that that decision was not based on any of them.

### **Three table games managers**

On 19 March 2012, the Sydney Morning Herald reported that the casino had sacked three more managers, including one who forwarded an email revealing that it allows international high rollers to gamble non-stop for more than 24 hours.

Mr Greg Culpan was one of the managers whose employment was terminated. He gave evidence in public about his termination. He had been making allegations and complaints to the casino since 1998 and, of particular relevance to this Inquiry, throughout 2011. By October 2011, he had made some 25 complaints, based on information provided by others. In that month, three senior managers from the casino held a lengthy meeting during which they advised him of the investigations undertaken with respect to the matters he had raised over the previous months. In February 2012, a further session was held with him to apprise him of the results of the casino's investigations into allegations made by him.

His employment was terminated in March 2012 for providing information confidential to The Star to external people and forwarding information to his external personal email account.

He had been known to the casino as a person to whom others made complaints and a person who approached management on their behalf with complaints for many years. At the time of his termination it was suspected, but not known by the casino that he was the person whose appearance was masked on the Channel 7 news in February. That appearance, had his identity been known would have been likely to have represented a breach of his obligations under the Code of Conduct. Comment has been made earlier in this report about the accuracy of the allegations he made on Channel 7.

In these circumstances, the Inquiry is not of the view that his employment was terminated because he was a "whistleblower".

The employment of another manager, whose identity is known to the Inquiry, was terminated on 13 March for sending correspondence containing confidential information and sexually explicit material to external email addresses.

The employment of another manager, whose identity is known to the Inquiry was terminated on 13 March for sending correspondence containing confidential information to external email addresses and using The Star's IT system in relation to a personal external business venture.

Neither of those managers is known to this Inquiry or the Section 31 Investigation as a whistleblower. The recipient of some of the confidential information sent by each of the managers was Ms Elizabeth Ward. The Inquiry's findings about her allegations are set out elsewhere.

There is no evidence that these two managers had their employment terminated because they were whistleblowers.

### **Five other managers**

As referred to earlier, the Sydney Morning Herald received an anonymous email making a number of allegations, including that the termination of five named managers before or during the Section 31 Investigation "*smells like rats in the basement*".

The Inquiry has investigated this comment. Those investigations revealed that two of the five managers remain employed with the casino. One manager resigned in August 2011. One manager had his employment terminated for conduct-related reasons in early 2011 and one manager was made redundant following a restructure.

There is nothing in the departure of those three managers which would concern the Authority.

## CHAPTER ELEVEN

### THE DISSEMINATION OF CERTAIN EMAILS AND TEXTS TO SELECTED MEDIA

As set out earlier, the casino operator obtained emails from the Second Complainant's work computer which then formed the basis for some of the reasons for the subsequent termination of her employment. Following that termination, the casino operator obtained her work mobile phones and they were provided to Mr Houlihan for the purpose of extracting data from them. That data, in the form of spreadsheets were given to the Inquiry soon after it commenced on 16 February.

The Inquiry asked for and was provided with a statement from Mr Houlihan as to the method he used to extract the data. That information in combination with the public evidence from Mr Grimshaw and the private evidence of the Second Complainant satisfies the Inquiry as to the genuineness of the text messages provided, which were the subject of questioning in the public hearing.

As is now known, in late February 2012, Echo authorised the release of some emails and some text messages to the media. On 28 February, the casino's public relations consultant showed a journalist at the Australian three or four emails as well as a spreadsheet containing over 100 text messages between the Second Complainant and Mr Grimshaw sent or received between 22 November 2011 and 14 February 2012. The journalist was not given a copy of any of the communications. These communications were shown to the journalist on the basis that the source would not be revealed.

On 2 March, the Australian published some of the emails and some of the texts. The journalist referred to the email exchanges as having been "leaked" to the Australian.

On the morning of 2 March, the Inquiry asked the casino of its knowledge as to how that material came to be in the possession of the Australian.

On 8 March, the Inquiry was told that Echo had authorised the information to be provided to the media. The reasons given for doing so were consistent with the media release which is set out below. The "tipping point" was said to be a conversation which Mr John O'Neill, a non-executive director of Echo had with Mr Souris on 17 February at a rugby luncheon in Parliament House. From that conversation Mr O'Neill understood that the Minister had a negative view of the current management of the casino. The Inquiry has confirmed with Mr Souris that that conversation took place.



By 10 March, it was reported in the Fairfax media that the casino and Echo denied providing the emails and text messages to the media.

The Inquiry then made it clear to Echo and The Star that it expected that Echo would correct the record and take responsibility for releasing that information.

On 13 March, the casino's public relations consultant dictated one text message to a journalist from the Daily Telegraph. That message had not been published by the Australian. This communication was also provided to the journalist on the basis that the source would not be revealed.

On 1 April 2012, the day before the public hearings commenced, Echo released the following statement:

*"Echo Entertainment Group today confirmed it had provided details of company emails and text messages between the New South Wales Premier's Communications Director Peter Grimshaw, and a former Human Resources manager at The Star Casino, to the Australian and the Daily Telegraph newspapers.*

*This disclosure followed a sustained media campaign being waged against The Star. Echo Entertainment Group believed it was important to make available this information to protect the company's business interests.*

*Echo Entertainment Group has decided to correct the record in light of the public hearings of the current ILGA Inquiry which begin on Monday April 2. Echo Entertainment Group has provided complete copies of all emails and text messages to the ILGA Inquiry."*

Mr Mullin gave evidence in public about the reasons for releasing this information. He said that it was intended to give a fair balance and a context to the allegations which were being made in the media. He spoke of an "obvious campaign" that was being proposed and that the view of Echo was that Peter Grimshaw was the likely source of at least some of those stories.

There is no doubt that the dissemination to the media of the emails and text messages has caused, at the very least, embarrassment, to the Second Complainant and began a chain of events which ended with Mr Grimshaw resigning from his position with the Office of the Premier.

The Authority is ultimately concerned with questions of suitability which, as discussed earlier in the report, involve reputation, having regard to character, honesty and integrity. The dissemination of the emails and texts by Echo occurred in circumstances where:

- the communications were owned by Echo, having been made using computers and mobile phones owned by it and a work provided email address;
- the communications were private and not written with a view to publication;

- copies of the communications were not given to either journalist;
- the communications contained material strongly critical of the current management of the casino;
- the communications contained discussions about taking action against the casino;
- Mr Grimshaw's position in the Premier's office gave him connections with journalists and the government;
- many of the media stories which published allegations against the casino were not accurate, in particular concerning the departure of Mr Vaikunta, or conveyed information that, when scrutinised by this Inquiry, was without proper foundation;
- journalists were not provided with the names of the complainants, referred to in this report as the First Complainant and the Second Complainant; and
- Echo provided the communications on the basis that Echo not be disclosed as the source and initially denied providing the communications to the media. Echo admitted doing so after pressure to do so was applied by this Inquiry.

Having regard to all those circumstances, while the Inquiry does not condone the dissemination of otherwise private communications, that action does not call into question Echo's suitability to be a close associate of the casino licence holder, The Star Pty Limited.