

INQUIRY UNDER SECTION 143 OF THE CASINO CONTROL ACT

Before Ms Gail Furness SC

At level 8, John Maddison Tower
88 Goulburn Street, Sydney

On Tuesday, 3 April 2012 at 10am
(Day 2)

Counsel Assisting: Mr Michael Wigney SC
 Ms Leigh Sanderson

1 MS FURNESS: After yesterday's evidence, it is
2 appropriate, in my view, to remind those at the Bar table
3 of the purpose of these public hearings. It is, firstly,
4 to hear evidence about the response of The Star and Echo to
5 the allegations against the former managing director;
6 secondly, whether there were any attempts to influence the
7 response by The Star and by Echo to those allegations, and,
8 finally, certain allegations made publicly against The Star
9 since December 2011.

10
11 Mr Sullivan, I note that you indicated yesterday that
12 you had some 30 to 45 minutes of cross-examination to
13 continue with in relation to Mr Grimshaw. Might I just
14 remind you that communications that are quite remote in
15 time to the purposes of these public hearings need to be
16 limited.

17
18 MR SULLIVAN: Yes.

19
20 MS FURNESS: I also remind members at the Bar table, as
21 I did yesterday, if anyone wishes to object to any of the
22 questions being asked on the basis that they are outside
23 the parameters of these public hearings, they, of course,
24 can do so and I will deal with any of those objections.

25
26 Dealing also with the evidence that was led yesterday
27 in relation to the section 31 investigation last year, can
28 I say clearly that there will be no findings made about any
29 attempt or otherwise to influence that investigation. That
30 is not part of these terms of reference and I will be
31 making no findings in that regard.

32
33 Similarly, I will be making no findings in respect of
34 whether people gave me information which was useful or
35 otherwise in respect of that investigation. That report
36 following that investigation, which has been publicly
37 available for some time, clearly sets out my findings in
38 respect of the information provided to me and that will not
39 be canvassed as part of this inquiry. I say that in order
40 to assist the evidence today and to assist you,
41 particularly, Ms Sharp, in respect of any examination you
42 wish to make of Mr Grimshaw.

43
44 Finally, it is anticipated that the evidence in
45 relation to the first term of reference will be completed
46 today or, if not today, shortly thereafter tomorrow and I
47 propose to set a timetable for submissions in relation to

1 that first term of reference when the evidence completes.
2 Then, following the completion of the evidence in respect
3 of the second term of reference, the timetable will be set
4 in respect of submissions in that regard.

5
6 MS SHARP: Ms Furness, may I be heard before Mr Grimshaw
7 is called to continue his evidence?

8
9 MS FURNESS: Certainly.

10
11 MS SHARP: In many ways the comments that have fallen from
12 you anticipate what I was going to say this morning, but
13 I did note yesterday in your opening remarks that you
14 indicated to all at the Bar table that leave to examine
15 witnesses would only be granted in two circumstances:
16 Firstly, if the material to be canvassed was relevant; and
17 secondly, if the matter had not already been traversed by
18 counsel assisting.

19
20 So far as I understand yesterday afternoon's
21 examination by Mr Sullivan, that examination completely
22 traversed matters that had already been comprehensively
23 covered by Mr Wigney, counsel assisting. It is my
24 submission that leave for further examination should only
25 be granted if this tribunal is given an assurance that the
26 matters to be examined are in fact new matters and don't go
27 over ground already comprehensively covered by Mr Wigney.

28
29 It may be that new documents are available and could
30 be put. We see that the documents put yesterday were of
31 tangential relevance at best, but there is a question here
32 about why those documents were not available to counsel
33 assisting in the first place and that was the appropriate
34 place for such matters to be traversed.

35
36 My concern is that yesterday afternoon Mr Sullivan
37 indicated that he had another 30 to 45 minutes of
38 examination of Mr Grimshaw to be followed. That concerns
39 me not only because of the indication not to traverse
40 matters already covered by counsel assisting, but also
41 because of the larger issue about relevance in this case.

42
43 As you have indicated this morning, this is not the
44 forum for considering whether there was any attempt to
45 influence the section 31 inquiry, for example, although
46 certain of yesterday's examination by Mr Wigney could be
47 taken that way, but in my respectful submission, it is

1 important that forceful limits be placed on the scope of
2 examination in this case having regard to what the terms of
3 relevance are and having regard to the role that this
4 gentleman played in relation to those terms of reference.

5
6 While I'm on my feet, can I raise one other matter?
7

8 MS FURNESS: Certainly.
9

10 MS SHARP: Yesterday afternoon, Mr Sullivan produced to
11 this tribunal a further volume of documents. From my
12 review of these documents, it appears that many of them are
13 highly personal communications between Mr Grimshaw and his
14 partner, which have absolutely no relevance to the matters
15 before this tribunal. This is a situation where the Echo
16 Entertainment Group has admitted, as it admitted on Sunday
17 night, that it leaked a large number of such communications
18 to the media. In my submission, because there is that
19 previous form, if I can put it that way, this is an
20 appropriate case for you to make an order of the
21 non-publication of the material that has been produced in
22 this volume to the extent that it was not already examined
23 upon yesterday. I would seek that order under section 143B
24 of the Casino Control Act.
25

26 MS FURNESS: Are they your opening remarks as well,
27 Ms Sharp?
28

29 MS SHARP: Yes.
30

31 MS FURNESS: Thank you. Can I firstly deal with the
32 evidence about the section 31 investigation yesterday.
33 That evidence was, in my view, relevant because it dealt
34 with the state of mind and the views and opinions held by
35 the witness as at that point in time. So there was no
36 question that that evidence was relevant.
37

38 My comments this morning are to ensure that that area
39 of relevance be confined and that others are aware that,
40 indeed, its relevance is to his state of mind rather than
41 whether or not there was any attempt to influence the
42 section 31 process.
43

44 In relation to Mr Sullivan's further examination this
45 morning, Mr Sullivan is aware of the parameters, as is
46 every other member of the Bar table, and if any member of
47 the Bar table wishes to take objection, I am sure they will

1 do so and I will deal with each objection.

2

3 In relation to the SMSs, I note, Mr Sullivan, that
4 they were not marked in any way yesterday. Did you have an
5 intention that they be marked in some way?

6

7 MR SULLIVAN: I had the intention, Ms Furness, that
8 certainly all the SMSs - all of those I might add have been
9 produced to the inquiry - be marked as perhaps MFI2 and
10 then the individual documents that I take Mr Grimshaw to,
11 which are not SMSs, such as emails and the like, be
12 separately marked for identification.

13

14 Just to give my learned friend Ms Sharp an assurance,
15 I will not be taking the witness or anyone else to the
16 personal communications which don't have any relevance to
17 these proceedings.

18

19 MS FURNESS: I wouldn't expect that you would do so,
20 Mr Sullivan.

21

22 In relation to the order under section 143B that
23 Ms Sharp has urged that I make in respect of that volume,
24 which is marked "G", does anyone wish to be heard about
25 that?

26

27 MR SULLIVAN: In our respectful submission, there should
28 not be a non-publication order in respect of any material
29 which is cross-examined on and not objected to and that is
30 in the public domain. Certainly to the extent that that
31 folder contains material which is not referred to by us,
32 then there is no need for a non-publication orders because
33 it will not become part of the record of this tribunal.

34

35 MS FURNESS: Mr Wigney?

36

37 MR WIGNEY: I think that's right. In relation to those
38 that are subject of the evidence in public, I don't think
39 there is any need for a confidentiality order. But
40 obviously to protect the confidence of all of the personal
41 communications, I think the order should be made and is
42 appropriate.

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44 MS FURNESS: An order in relation to the personal
45 communication in this volume?

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47 MR WIGNEY: Yes.

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MS FURNESS: Is that irrespective of whether it's the subject of any evidence or is that on the basis this it will not be the subject --

MR WIGNEY: No, on the basis that it won't be the subject of any evidence as Mr Sullivan just assured us. Even if there was a question directed at that, it would no doubt to be the subject of objection in any event. I accept his assurance that he will not go there, in which case anything that is not traversed in public evidence in relation to it should be the subject of a confidentiality order.

MS FURNESS: You said yesterday, Mr Sullivan, that you wished for those volumes to be returned to you on the completion of evidence.

MR SULLIVAN: Yes. I wished those that have been made available to members at the Bar table to be returned for the reasons that they were provided to them so they could follow the questioning. So far as those provided to you, Ms Furness, and to counsel assisting, we have no objection to those remaining with you and counsel assisting.

MFI #2 VOLUME MARKED "G" - FOLDER OF EMAILS AND SMS MESSAGES

MS FURNESS: I propose to make an order that the contents of MFI2 in so far as it relates to personal communications and in so far as it relates to material that is not otherwise put before this public hearing, not be published at all until further order.

<PETER COLIN GRIMSHAW, resworn: [10.11.am]

<EXAMINATION BY MR SULLIVAN CONTINUING:

MR SULLIVAN: Q. Mr Grimshaw, the matters I will be putting to you this morning relate mainly to the term of reference relating to attempts to influence the Star City response in respect of the allegations made against Mr Vaikunta. You will recall that yesterday afternoon, I suggested to you that you and your partner formed a particular plan to impersonate people in order to make calls to the members of the board of Echo with the threat that if Mr Vaikunta was not immediately terminated, then the media would be alerted. Do you recall that last

1 question I put to you?

2 A. Yes.

3

4 Q. I'm now going to ask you some questions about that
5 line of territory. I'm going to traverse, and I say this
6 for the benefit of Ms Sharp and others, some of the text
7 messages which Mr Wigney put, because I believe that the
8 context and the pattern is of significance. With due
9 respect, Mr Wigney, because he had a different outlook,
10 didn't see that pattern. May I first ask you --

11

12 MS SHARP: I object to this line of questioning for the
13 reasons I've already indicated. Again it traverses a
14 matter that has already been dealt with by counsel
15 assisting, which was whether any actions were taken by
16 Mr Grimshaw or his partner to attempt to influence the
17 conduct of the sexual harassment investigation. It's
18 traversing exactly the same ground.

19

20 MS FURNESS: Mr Wigney?

21

22 MR WIGNEY: I don't know what pattern I'm supposed to have
23 missed yet, so we will perhaps have to wait and see. I did
24 think I took Mr Grimshaw to everything that was pertinent
25 to that term of reference. I think perhaps the objection
26 is premature. We have to wait and see what if anything in
27 addition is put to Mr Grimshaw.

28

29 MS FURNESS: I agree, Ms Sharp, it is premature.
30 Mr Sullivan, please continue.

31

32 MR SULLIVAN: Thank you.

33

34 Q. Could I ask you to look, please, at the document in
35 front of you, which is MFI2 and go to tab 1, to page 109.
36 Mr Wigney asked you some questions about the text, which
37 has the identifier 4750, being a text sent from you to your
38 partner on 13 December 2011 at 2.28pm. Do you recall those
39 questions?

40 A. I don't recall the questions, but I recognise the
41 issue, yes.

42

43 Q. You gave an answer to the effect that you understood
44 that that was a reference to a suggested conversation in
45 respect of your partner's complaint; do you recall that?

46 A. Yes.

47

1 Q. I want to ask you whether you wish to reconsider that
2 evidence. Could I ask you, please, to look at the entries
3 immediately preceding that at 4744, which appears to be a
4 text from your partner to the first complainant?

5 A. Yes.

6

7 Q. If you read then it says: "Hi. It's [Mr Grimshaw's
8 partner]. Do you have time for coffee?" The response from
9 the first complainant is "Yes." Then there's a suggestion
10 of a time and a place to meet. Do you see that?

11 A. Yes.

12

13 Q. You'll see that time sequence finishes at 2.10pm on
14 13 December?

15 A. Yes.

16

17 Q. I want you to assume that phone records available to
18 Echo reveal that your partner rang you for a period of
19 3.5 minutes at 2.11pm on 13 December: do you recall that
20 conversation?

21 A. No, I don't.

22

23 Q. I want to suggest to you that, in that conversation,
24 your partner referred you or informed you of the impending
25 meeting at 3 o'clock that afternoon with the first
26 complainant.

27

28 MR WIGNEY: Can I raise an objection at this stage and can
29 I, firstly, note that the document about which these
30 questions are being directed is a different document to
31 that which I took the witness through, which was simply the
32 texts between himself and his partner. It should be made
33 clear to the witness that this is a different document.
34 Number two, asking questions based on assumption on
35 assumption, it is very difficult to see how it can assist
36 you in relation to these matters in due course.

37

38 MS FURNESS: Mr Sullivan, in the event that the text
39 message that Mr Wigney has taken the witness to, which is
40 sequence 4750, was in relation to either the first or
41 second complainant, how does that matter?

42

43 MR SULLIVAN: How it matters is this: in our respectful
44 submission, what we will put in respect of 4750 is that
45 that was Mr Grimshaw suggesting to his partner what the
46 first complainant's partner should do; namely, to ring
47 someone and tell them certain things along a certain line.

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MS FURNESS: Why don't you just put that to the witness, Mr Sullivan.

MR SULLIVAN: I will put that to the witness.

Q. Mr Grimshaw, I want to suggest to you, when you look at 4750, the incoming text from you to your partner at 2.28pm on 13 December, what you were doing was to give her advice as to what she should suggest the first complainant's partner should do; namely, to ring one of the directors of Echo and say, "Hi, I'm X and my partner was sexually assaulted by Mr Vaikunta last week", and that you gave the reason for that suggestion as it being, because it makes it hard for him being the director to reject the call if that is the way it opens. Would you agree or disagree with that?

A. I just don't recall.

Q. May I then take you to the series of texts starting at page 111 very briefly. I am not going to take you to the contents of it but Mr Wigney covered these yesterday. I want to just ask you to refresh your memory from the texts starting at identifier 4852 and going through to 4858, all two days later on 15 December 2011. Just read those to yourself.

A. Yes.

Q. It is clear at this stage, is it not, that your view was that someone needed to call the chairman now?

A. Yes.

Q. Can I then take you to page 117 of tab 1 and ask you to look again at texts that appear at identifiers 5057 to 5060 and again Mr Wigney took you to these yesterday. Would you agree that as at 19 December 2011 - that is another two days later from where I have just taken you to --

MS FURNESS: I think it was another four days later.

MR SULLIVAN: Four days later, I'm sorry.

Q. Four days later it was still your intention to call Mr Story personally if nothing happened in respect to the investigation.

1 MS SHARP: I object to this question. It was a matter
2 expressly traversed by counsel assisting yesterday. I
3 believe, I would have to check the transcript, with exactly
4 the same text that Mr Sullivan now refers to.

5
6 MS FURNESS: I think that is right, Mr Sullivan. I think
7 this question was put and answered yesterday.

8
9 MR SULLIVAN: In that case I can make the submission
10 without putting the question.

11
12 Q. I won't ask you a question about it then. Can I ask
13 you to go to page 119 of the bundle and to look at the text
14 with the identifiers 5125 to 5126 and to read that for
15 yourself, which Mr Wigney took you to yesterday.

16 A. Yes.

17
18 Q. Also to look on the same page at the text with the
19 identifiers 5131 and 5138, which are also texts of 20
20 December.

21 A. Yes.

22
23 Q. You were in constant contact, weren't you, with your
24 partner concerning the inquiry that was happening at Star
25 over this period of time, as this volume of texts shows?

26 A. Yes.

27
28 Q. You and your partner, because of the closeness of your
29 relationship, had no secrets from each other, did you,
30 about what was happening and how it should be responded to?

31 A. We discussed it regularly.

32
33 Q. May I ask you to look at a text which I don't think
34 you were taken to yesterday, at the bottom of page 119,
35 being text 5139. It is an outgoing text from your partner
36 to Louise Marshall; do you see that?

37 A. Yes.

38
39 Q. It is one which was sent at 4.42pm on 20 December?

40 A. Yes.

41
42 Q. It refers to a conversation that apparently - a
43 message that your partner sent to Ms Marshall whilst she
44 was on holiday in Queensland, doesn't it?

45
46 MS SHARP: I object to this question. The witness is now
47 being examined about a document that he has never seen

1 before, a text message from his partner to a third party,
2 and being asked to comment upon it.

3

4 MS FURNESS: He is and I think he will realise that too,
5 Ms Sharp.

6

7 MR SULLIVAN: I will withdraw the question, though, and
8 I can ask another question.

9

10 Q. You were aware, weren't you, that on 20 December 2011
11 your partner and her children were on holiday in
12 Queensland?

13 A. I can't be sure but I'll take it - but I'll accept it.

14

15 Q. Can I just take you over to the next page, page 120.
16 At the top of the page there is a text message from your
17 partner to Mr Houlihan and you know Mr Houlihan is an
18 investigator at Echo, do you not?

19 A. Yes.

20

21 Q. Do you know that Mr Houlihan was the investigator who
22 was investigating the two allegations which were made
23 against Mr Vaikunta?

24 A. Yes.

25

26 Q. That text was one that your partner informed you about
27 having sent, wasn't it?

28 A. I can't recall.

29

30 Q. You see, in that text to Mr Houlihan your partner says
31 this, doesn't she, she says:

32

33 *I spoke with Jo this morning and Lou has*
34 *sent a text.*

35

36 I want you to assume that that's the text I just took you
37 to at the bottom of the other page:

38

39 *Thanks for making that happen. My husband*
40 *doesn't want to go into xmas without this*
41 *being resolved (neither do I). He wants to*
42 *call the Board himself and tell the media.*
43 *He said most husbands would feel the same.*
44 *He's angry and feels helpless. Let's stay*
45 *in touch.*

46

47 To your knowledge, your partner's husband didn't have those

1 views, did he?
2 A. I don't know what her husband's views were.
3
4 Q. This communication to Mr Houlihan was part of your
5 partner's and your plan, wasn't it, to put pressure on the
6 inquiry by indicating that your partner's spouse was
7 unhappy and would go to the media unless something was
8 resolved?
9 A. As I said, I don't know the context of this particular
10 text message but she does get on very well with her husband
11 still and she was in contact with her husband on the
12 matter, so it may relate to her husband.
13
14 Q. I will put to you now, but I will take you to a
15 document, it was your personal plan at this stage, wasn't
16 it that you were going to impersonate your partner's
17 husband for the purpose of making a call along the lines of
18 that which is set out in the text to Mr Houlihan to board
19 members of Echo?
20 A. We discussed lots of different options. That was one
21 of them and like all the others we didn't proceed with it.
22
23 Q. So you agree with me that it was your plan to
24 impersonate your husband, wasn't it?
25 A. No, I agree that we discussed it but we didn't proceed
26 with it.
27
28 Q. You didn't proceed with it, did you, because you were
29 told by someone that that would be a very dangerous thing
30 to do, isn't that the case?
31 A. I don't recall but if there's something which you can
32 jog my memory with I'll --
33
34 Q. It would have been dangerous, of course, because your
35 partner's husband may well have been contacted and would
36 have expressed astonishment at the allegation that he'd
37 made such a call and that would have led to a chain of
38 inquiries which would have revealed your identity?
39 A. I'm not aware of any of that advice.
40
41 Q. I will take you to some further material just to put
42 this into context. May I just take you to another text you
43 weren't cross-examined on yesterday to put it into context.
44 Could I ask you to look at page 120 again at the text which
45 is identified at 5153. It is an outgoing text from your
46 partner to the first complainant on 20 December at 7.13pm;
47 do you see that?

1 A. Yes.

2

3 Q. You will see that what your partner says in that text
4 to the first complainant is:

5

6 *Hope you are doing okay. I had a tough day*
7 *today and my husband wants to call Sid and*
8 *the board. He doesn't want this drawn out*
9 *till xmas. I told Lou I can't work here if*
10 *Sid comes back. Hope you are okay.*

11

12 Do you see that?

13 A. Yes.

14

15 Q. You were aware that your partner had sent that text to
16 the first complainant, weren't you?

17 A. No, I don't recall that.

18

19 Q. You weren't?

20 A. Well, I don't recall it.

21

22 Q. You don't deny that, do you?

23 A. I don't recall it.

24

25 Q. May I then take you to the text identified at 5156,
26 sent some 10 minutes later, from the first complainant to
27 your partner, where if I might say so quite properly the
28 first complainant says:

29

30 *Tell him --*

31

32 I suggest to you that is a reference to your partner's
33 husband:

34

35 *-- for your sake it's not a good idea. You*
36 *were right, this will work out. We have to*
37 *believe in the system and we have to be*
38 *patient.*

39

40 Your partner told you, did she not, that she had received
41 such a text from the first complainant?

42 A. No, I don't recall her telling me that.

43

44 Q. May I then ask you to look at page 121 of this series
45 of texts, and again in the context I have put to you, refer
46 you to the text which Mr Wigney asked you some questions
47 about at identifiers 5194 to 5199, being text

1 communications between your partner and you of 21 December
2 2011.

3 A. Yes.

4

5 Q. What I want to put to you is this: that this is a
6 discussion between you and your partner about you
7 impersonating her husband to ring the board and discussing
8 what you would say in that conversation?

9 A. As I said, we discussed it but we never proceeded with
10 it.

11

12 Q. You'd agree with my summary of what that textual
13 exchange is referring to, wouldn't you?

14 A. Can you just repeat what you said?

15

16 Q. This is a textual exchange between your partner and
17 you in respect of your plan to ring members of the board of
18 Echo, pretending to be the husband of your partner and
19 setting out what you would say in that conversation?

20 A. I can't tell from those texts whether that was -
21 whether I was going to make that call or not.

22

23 Q. Indeed, can I just take you over to the top of the
24 next page - you weren't asked questions about these texts -
25 but at page 122 there is an incoming text from you to your
26 partner of 21 December at 6.23pm, and having the material
27 which Mr Wigney asked you about yesterday, you are then
28 rehearsing the hypothetical conversation with the board
29 member and, as you say at this stage, you say:

30

31 *Would let him answer first. Then say that*
32 *is not good enough. We are off to the*
33 *media.*

34

35 That is part of what you were planning, the way you were
36 going to approach the board of Star, pretending to be her
37 husband saying "We want it resolved". Whatever they said
38 you were going to say "Well, that's not good enough, we're
39 off to the media"?

40 A. That's something we discussed but again we didn't
41 proceed with it.

42

43 Q. Then may I ask you to look at a text which Mr Wigney,
44 I think, took you to - I'm not sure - it is identified by
45 5205. It is a text again on 21 December and it is about
46 23 minutes after the last text; it is one at 18.49.

47

1 MS SHARP: I object. Mr Wigney --

2

3 MS FURNESS: Mr Wigney did take him to this text.

4

5 MR SULLIVAN: Thank you.

6

7 Q. I want to suggest to you that in respect of that, that
8 you discussed a change of the plan, namely to get Mr Souris
9 perhaps to make the call to Mr Story rather than you
10 pretend to be the husband; is that correct?

11

12 MS SHARP: I object to this line of questioning for this
13 reason: the relevant term of reference is whether there
14 was any attempt to influence the outcome of this
15 investigation. In other words, whether any conduct did
16 occur. None of these questions go to the point of whether
17 any conduct did occur. Mr Grimshaw has already stated, and
18 stated a number of times, that various options were
19 discussed and none were acted upon. The only relevant
20 question to date, in my respectful submission, is whether
21 anything was acted upon and that is where there doesn't
22 appear to be any examination.

23

24 MS FURNESS: Although the proposition that was put by
25 Mr Sullivan is a different one from that put by Mr Wigney
26 and Mr Sullivan is entitled to put that, Ms Sharp.

27

28 MS SHARP: In my respectful submission, Mr Wigney already
29 elicited from Mr Grimshaw that during the long course of
30 this investigation, as he and his partner became
31 increasingly concerned about the delay in the
32 investigation, they did discuss different options but he
33 has also said categorically that he did not act upon any of
34 those discussions and that to the best of his knowledge his
35 partner did not act.

36

37 MS FURNESS: This question is about whether George did,
38 Ms Sharp. The question is permissible. Can you put the
39 question again, Mr Sullivan.

40

41 MR SULLIVAN: Q. I want to suggest to you that on the
42 same night, on 21 December, at 18.49 you and your partner
43 discussed a variation of the plan I have put to you, namely
44 that instead of you ringing Mr Story pretending to be the
45 outraged husband, that you would get Mr Souris to ring
46 Mr Story and for him to make the complaint. That was
47 discussed, wasn't it?

1 A. We were looking at various options. Again Mr Souris
2 is one of them. Yet again did not act upon it.

3

4 Q. No. Can I just then take you, to short-circuit this a
5 little bit, to page 123 of this bundle to a text you
6 weren't asked questions about. You will see that it is a
7 text which is identified by the number 5234, being a text
8 of 22 December 2011 at 1.36pm; do you see that?

9 A. Yes.

10

11 Q. It is a text from you to your partner which says this,
12 she says:

13

14 *Everyone says something different. I just*
15 *had lunch with a corporations affairs boss*
16 *who said Sid is dead meat. I said you*
17 *don't know what these guys are like.*
18 *He said once word spreads in the company*
19 *about what he did, he is stuffed. He said*
20 *pretending to be --*

21

22 I will use the word "X" - would you agree that "X" is the
23 name of your partner's husband?

24 A. Yes.

25

26 Q.

27

28 *He said pretending to be X was a huge risk*
29 *but happy to do it if you want.*

30

31 Do you see that?

32 A. Yes.

33

34 Q. That is you conveying to your partner, isn't it,
35 advice from a person you refer to as a corporate affairs
36 boss in respect of your plan to impersonate your partner's
37 husband?

38 A. A plan which we did not go through with.

39

40 Q. Who was that corporate affairs boss you refer to?

41 A. I can't actually remember. I was just trying to
42 remember his name. I don't remember.

43

44 Q. Did he tell you that it was a huge risk because it
45 could come unstuck because the husband could deny that and
46 then an obvious chain of inquiry would lead to the likely
47 culprits in respect of who had made the call?

1 A. I don't remember the discussion but my understanding
2 is that her husband would have been happy to make the call.
3
4 Q. What is that understanding based upon?
5 A. Discussion with my partner.
6
7 Q. What I am suggesting to you, Mr Grimshaw, is that you
8 are saying in this text to your partner that you are still
9 happy to pretend to be her husband, even though it is a
10 huge risk?
11 A. That's right. I would do anything for my partner but
12 in the end I didn't do it because she didn't want me to
13 proceed with that. I'd do anything. She'd just been
14 sexually harassed, she had a case which she needed to get
15 resolved. I wanted to help her, no matter what.
16
17 Q. That would include being dishonest to other people?
18 A. My main priority was my partner and in the end I would
19 do anything for her, I absolutely love her. But in the end
20 we didn't do anything. We didn't make the call. No such
21 plan was proceeded with.
22
23 Q. Do you recall Mr Wigney taking you yesterday to the
24 text messages whereby Mr O'Neill's telephone number was
25 conveyed by you to your partner?
26 A. Yes.
27
28 Q. Just so you could refresh your memory on those, if you
29 would like to go to page 151 of the bundle, you will recall
30 that Mr Wigney took you to the text message identified by
31 the number 6253 of 16 January 2012 at 18.47pm, where there
32 is a telephone number in the name John O'Neill?
33 A. Yes.
34
35 Q. You recall that Mr Wigney then took you to some
36 evidence the commission had, to the effect that a lady of a
37 particular name rang him the very next day pretending to be
38 a concerned shareholder and wishing to make a complaint in
39 respect of the slowness of the investigations in respect of
40 the sexual harassment claim?
41
42 MS FURNESS: Mr Sullivan, I don't think there was any
43 pretending in the questions by Mr Wigney.
44
45 MR SULLIVAN: I'm sorry.
46
47 MS FURNESS: Mr Wigney put that Mr O'Neill had received a

1 telephone call from a person who said she was a concerned
2 shareholder.

3
4 MR SULLIVAN: I will withdraw the question, Ms Furness.

5
6 Q. Do you recall Mr Wigney put this text to you that on
7 17 January 2012 at about 3 o'clock Mr O'Neill had a
8 conversation with a lady who said:

9
10 *My name is Renae Turner. I obtained your*
11 *number from Star management. I am a*
12 *concerned shareholder of Echo and I want to*
13 *complain about and get an explanation*
14 *regarding an incident at The Star casino*
15 *involving a very senior manager and a*
16 *sexual harassment charge.*

17
18 A. Yes.

19
20 Q. I want you to assume that records of Echo do not have
21 any evidence of any person by the name of Renae Turner ever
22 being a shareholder of Echo?

23 A. I accept that.

24
25 Q. Do you recall Mr Wigney also saying this person said
26 to him that she would not give Mr O'Neill her number and
27 she said that "I just rang the concerned shareholder line"?

28 A. Yes.

29
30 Q. I want to put to you that the person who purported to
31 be Renae Turner was someone who you and your partner had
32 asked to make the call as part of the plan to have a call
33 to put pressure on the board members at Star at Echo?

34 A. I'm not aware of any calls to the board.

35
36 Q. You deny that proposition?

37 A. Yes.

38
39 Q. Do you deny that there was any discussion between you
40 and your partner to the effect of getting someone to ring
41 and pretend to be a concerned shareholder of Star in order
42 to make the type of complaint to a board member of Star
43 that you and your partner had been discussing in the text
44 messages I've taken you to?

45 A. As previously indicated, we had discussions about
46 talking to board members. I'm not aware of any calls being
47 made to board members, but if there was, I don't see what

1 is wrong with calling a board member. Two women had been
2 sexually harassed and I think the board members are people
3 who should know about those issues.
4

5 Q. You think there's nothing wrong in threatening to go
6 to the media unless something is done when you make those
7 calls?

8 A. Well, I'm not sure if any such threat was made. I do
9 know that during the whole period of seven weeks when the
10 investigation was on, no-one went to the media.
11

12 Q. Do you honestly say, do you, that you were unaware and
13 had no knowledge of the fact that a day after you gave
14 Mr O'Neill's phone number to your partner, someone who was
15 pretending to be a concerned shareholder, rang Mr O'Neill?

16 A. I'm not aware of it.
17

18 Q. You deny it, don't you?

19 A. I'm not aware of it.
20

21 Q. You don't deny it then?

22 A. I don't know; I can't say whether something happened
23 or not, but I am not aware of it.
24

25 Q. You were not aware of it at the time; is that what you
26 are saying?

27 A. I'm not aware of it.
28

29 Q. Were you aware of it at the time?

30 A. No. I don't recall ever being aware of it.
31

32 MS FURNESS: Q. Mr Grimshaw you referred to "seven weeks"
33 on a number of occasions. What do you date the beginning
34 and end of that seven-week period at?

35 A. Going from 6 December through to - so three weeks
36 of December and then four weeks of January.
37

38 Q. So 6 December was not the event that concerned your
39 partner; that occurred a couple of days later?

40 A. Yes.
41

42 MR SULLIVAN: Q. I want to take you to some evidence you
43 gave yesterday to Mr Wigney. Do you recall Mr Wigney
44 asking you questions about your plans to call the chairman,
45 Mr Story, on 15 December 2011 and putting to you, "Well,
46 why were you doing it then? It was far too early. The
47 investigation had only just started?" You answered or gave

1 answers - for the sake of those at the Bar table the
2 answers are at transcript page 65.15, 67.13 and 70.37 -
3 that your partner was not getting any sympathy at all from
4 anyone during the investigation and therefore that was the
5 reason why you felt that this was an appropriate plan?
6 A. It was more than that. It had been indicated to my
7 partner earlier on that the investigation would be
8 completed very quickly, over a weekend, and as that didn't
9 occur, then it started seeming it was going to drag on.
10
11 Q. Don't you recall saying yesterday that at least a
12 major reason was because your partner was not getting any
13 sympathy in the investigation?
14 A. I remember mentioning that, but that certainly wasn't
15 the main reason.
16
17 Q. I want to suggest to you that that is untrue, that you
18 were aware at the time that indeed your partner was getting
19 a lot of support and sympathy from Echo staff in respect of
20 this complaint at this time?
21 A. Unless you can tell me which staff, I'm not aware.
22
23 Q. You deny that proposition?
24 A. Well, she certainly indicated to me that she wasn't
25 getting that sort of support from the higher echelons who
26 were conducting the investigation.
27
28 Q. That's from Ms Marshall, is it, and Mr Houlihan?
29 A. Yes.
30
31 Q. When did she indicate that to you?
32 A. I can't tell you the --
33
34 Q. Could I ask you, please, to go to the bundle of text
35 messages in tab 1 of MFI2. First of all, please go to page
36 117. Could I ask you, please, to look, first of all, at a
37 text, an outgoing text from your partner to a lady called
38 Joanne Ede, identified by the number 5054 and dated
39 19 December 2011 and apparently sent at 6.54am. Do you see
40 that?
41 A. Yes.
42
43 Q. Do you know Joanne Ede?
44 A. I know of her, but I don't know her.
45
46 Q. What was your understanding of her role?
47 A. Legal role.

1
2 Q. In that outgoing text your partner said to Ms Ede:
3
4 *Hi, Jo, hope you had a good weekend.*
5 *I hope today goes well. I feel quite*
6 *anxious about today and the thought of*
7 *seeing Sid again when I return. I trust*
8 *the process ...*
9
10 Do you see those words?
11 A. Yes.
12
13 Q. Are you saying that your partner, when she was saying
14 those words, didn't trust the process?
15 A. My partner had up and down days all over the place,
16 Mr Sullivan. There were days where she felt good about the
17 process. There were days where she felt absolutely
18 uncomfortable with that process.
19
20 Q. Your evidence yesterday was to that effect that by
21 this stage, you and your partner were extremely sceptical
22 about this process and that was one of the reasons you were
23 planning to go to the chairman, wasn't it?
24 A. And sometimes she would go to have discussions with
25 Joanne and Louise and things would be better for a day or
26 two.
27
28 Q. Then you'll see that your partner goes on to say.
29
30 *... and we'll be thinking of you --*
31
32 That's your partner saying "We're thinking of Joanne today"
33 and she says, "Thanks for your friendship and support",
34 doesn't she?
35 A. Yes.
36
37 Q. You were aware that she sent that text, weren't you?
38 A. No.
39
40 Q. Are you sure about that?
41 A. Well, I don't recall it.
42
43 Q. Have a look at the very next text.
44 A. Oh, okay, right, yes.
45
46 Q. She sent it to you?
47 A. Yes.

1
2 Q. She copied it to you immediately, didn't she?
3 A. Yes.
4
5 Q. Did you draft the text in fact that your partner sent
6 to Ms Ede?
7 A. I don't think so.
8
9 Q. But you were therefore aware on 19 December of
10 expressions being made by your partner, first of all, that
11 she trusted the process that was going ahead; and,
12 secondly, thanking one of the Echo legal team for the
13 friendship and support that was being given to her?
14 A. As I said, some days after they had a discussion about
15 lack of support, things would improve after that, and
16 I would assume that that text is to show me that things
17 were getting better and she was having a good day with it.
18
19 Q. So there were good days and bad days, were there?
20 A. Yes, there definitely were good days and bad days.
21
22 Q. Thank you, Mr Grimshaw. Could I ask you, please, to
23 look at a text on the bottom of page 117, text number 5078,
24 and to read to yourself the text which appears there at
25 5078, which is an outgoing one from your partner to
26 Mr Houlihan on 19 December at 2.10pm.
27 A. Yes.
28
29 Q. May I then ask you to turn over the page to 118, to
30 the texts which appear at identifiers 5087 and 5088?
31 A. Yes.
32
33 Q. That's an exchange between Mr Houlihan and your
34 partner, isn't it --
35 A. Yes.
36
37 Q. -- on 19 December at around 5.01 to 5.21pm concerning
38 the investigation?
39 A. Well, they were seeking to - she was seeking to have a
40 discussion, yes.
41
42 Q. And you say, at this stage, do you, that your partner
43 was sceptical about and concerned about the manner in which
44 the investigation was being conducted by the senior people
45 such as Mr Houlihan?
46 A. She definitely had concern about the way the
47 investigation was being conducted and, as I said before,

1 sometimes they would have it out. They would have a
2 discussion about what's going wrong with it and things
3 would generally improve for a day or two after that.
4

5 Q. You indicated that she was not getting any support
6 either from the other senior person conducting the inquiry,
7 namely, Ms Marshall. That's not true, is it? To your
8 knowledge, Ms Marshall was being very sympathetic and
9 supportive to your partner during this whole process?

10 A. I think my partner would refute that.
11

12 Q. Have a look, please, at page 119 of these texts, at
13 the entry for 20 December 2011 identified as 5122 at
14 10.56am. That's a text, is it not, from Ms Marshall to
15 your partner?

16 A. Yes.
17

18 Q. She says:

19
20 *Hi, didn't want to interrupt your holiday,*
21 *but wanted to check how you are? Would you*
22 *like to touch base?*
23

24 A. Yes.
25

26 Q. Then you'll see there's a series on that page. If you
27 would like to look at the immediately preceding text and
28 read it to yourself, you'll see that immediately before
29 that text from Ms Marshall, your partner had received a
30 text from Mr Houlihan which indicated that he had:

31
32 *Just spoken to Louise, told her we've*
33 *spoken but only told you little info. Text*
34 *me if you want to talk through it. She is*
35 *going to call you --*
36

37 I think it says "thought", but perhaps it should read
38 "tonight". Do you see that?

39 A. Yes.
40

41 Q. Your partner discussed these text messages with you,
42 didn't she?

43 A. Not all of them but some of them.
44

45 Q. They indicate, don't they, that the investigating team
46 were seeking to be in contact with your partner and
47 continued to support her?

1 A. As I said previously, there were times when they would
2 have a dispute and she'd be upset about the lack of
3 attention and normally the attention would increase after
4 she had that discussion.

5
6 Q. May I take you on this page - it is the last one
7 I want to take you to on this page - to the text which is
8 identified by 5139. It's a text from your partner to
9 Ms Marshall of 20 December 2011 at 4.42pm, which says:

10
11 *Hi, Lou, thanks for your text and voice*
12 *message. I was at the theme park today and*
13 *let Jo know I wouldn't take phone.*
14 *I talked my concerns through with Jo.*

15
16 I want to you assume that's Jo Ede:

17
18 *I'm finding it tough but okay. If I'm in a*
19 *position where I have to work with him*
20 *again, we'll need to work through it.*
21 *Thanks, Lou, for following up. We can talk*
22 *when you have an update.*

23
24 I want to suggest to you that the conduct which is
25 indicated by those text messages was a pattern of conduct
26 which was consistent throughout the inquiry; namely, that
27 the Echo investigative staff were extremely concerned about
28 the situation of your partner and at all times endeavoured
29 to keep her informed and were sympathetic to her situation?

30 A. On the contrary, as I said before, though, if there
31 were many ebbs and flows, I can go through days here where
32 there was no text from any person.

33
34 Q. I know you've been through these texts before,
35 Mr Grimshaw. Can you find one text where your partner
36 expresses to you dissatisfaction with the lack of sympathy
37 or support that she is getting from anyone at The Star?

38 A. We had that discussion verbally.

39
40 MR WIGNEY: Can I raise something at this stage - I am not
41 seeking to cut Mr Sullivan short - just to indicate that,
42 on this topic, that is whether there was support given or
43 not support given and those sorts of issues, later today,
44 hopefully, we will hear from one of the senior officers, in
45 fact one of the officers that these text messages were sent
46 to about these very topics.

47

1 I accept that Mr Grimshaw gave some evidence about
2 what his partner was saying; but really, at the end of the
3 day, what is important is what actually was happening. We
4 will be hearing that from the horse's mouth, so to speak,
5 today. So I don't know how much longer this line of
6 territory will be pursued.

7
8 MR SULLIVAN: I'd finished on it, in fact. The relevance,
9 I should indicate too, is that, in due course, it's
10 relevant, in our respectful submission, to the
11 justification issue that Mr Grimshaw said that he had for
12 planning to make calls to members of the board.

13
14 MS FURNESS: But you've finished on this topic,
15 Mr Sullivan?

16
17 MR SULLIVAN: Yes. I have finished on that topic and
18 I have a final topic now.

19
20 Q. My final topic again relates, Mr Grimshaw, to the
21 evidence you gave yesterday at transcript page 102.24 and
22 103.06. May I take you to the answer you gave there in
23 answer to Mr Wigney. Mr Wigney was asking you questions
24 about why you hadn't informed the Premier of the
25 involvement of your partner between 2 February and
26 14 February?

27 A. Yes.

28
29 Q. You gave this answer at page 102.23.

30
31 *... I thought my partner would return to*
32 *work and there would not be any issue about*
33 *this.*

34
35 Do you recall that?

36 A. Yes.

37
38 Q. Then you elaborated on that answer at page 103.4.
39 Mr Steirn objected to a question from Mr Wigney, then you
40 answered as follows:

41
42 *I actually took the view that I wanted the*
43 *process to take its course and that meant*
44 *that Mr Vaikunta would then leave the*
45 *company. Hopefully, my partner would go*
46 *back to work there and everything would*
47 *become normal.*

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You were giving evidence to the effect that the reason for not taking any step was because you expected your partner to go back to Star after Mr Vaikunta left; weren't you?

A. Yes.

Q. It is untrue to suggest that you believed, as at 2 February, that your partner intended to stay on working at Star, isn't it?

A. She was undecided.

Q. It is untrue, to your knowledge, that your partner intended to work at Star after 2 February, isn't it?

A. No, it's not untrue.

Q. Your partner had already accepted, had she not, at that stage --

MS FURNESS: Don't mention the place, Mr Sullivan.

MR SULLIVAN: No.

Q. -- a job at another place?

A. I'm not sure where it was up to, but she was certainly deep in discussions regarding that place.

Q. You say you're not sure where it was up to?

A. Yes, I'm not sure where it was up to on February 2.

Q. Let me see if I can jog your memory about that. You were aware that your partner was looking for another job as early as August 2011, weren't you?

A. She's always happy to talk to anyone who might have an interesting job offer.

Q. I want to suggest to you that you were aware, as at August 2011, that your partner was looking for another job?

A. As I said, she's always interested in talking to anyone who has a good job offer.

Q. Can I show you, please - I'll ask that these be marked in due course - a bundle of emails and other correspondence. I will hand copies to Ms Furness and Mr Wigney. if you would like to look at that, the first email I want to show you is one dated 23 August 2011 from someone, who I'll just indicate as the initials "SF" to

1 your partner; do you see that?
2 A. Yes.
3
4 Q. I want you to assume that person is at an executive
5 search organisation.
6 A. Yes.
7
8 Q. Your partner, of course, informed you of that matter,
9 as is evidenced by your email to her at the top of the
10 page, isn't it?
11 A. Yes.
12
13 Q. Is that right?
14 A. Yes.
15
16 Q. So you were aware, weren't you, as at 4 August 2011
17 your partner was contemplating finding other positions?
18 A. As I said, she's talking to people all the time.
19 She's always interested in talking to anyone who may have a
20 good position.
21
22 Q. May I then take you back to MFI2 to a text message
23 which appears at page 89. It's a series of text messages
24 identified by the numbers 3964 to 3967, all dated
25 23 November 2011 between your partner and you?
26 A. Yes.
27
28 Q. That is a discussion between your partner and you,
29 isn't it, about the fact that she has applied for a job and
30 she has not heard back in respect of that application yet?
31 A. Yes, that's right.
32
33 Q. You indeed say, "Well, you need to get that job and
34 find me a little role there, too"?
35 A. Yes, but that was a --
36
37 Q. It was part of your flippancy, was it?
38 A. It was, Mr Sullivan.
39
40 Q. Could I take you, please, to an email which is the
41 second in that bundle I handed up to you.
42
43 MS FURNESS: Again, Mr Sullivan, don't mention the name of
44 the company.
45
46 MR SULLIVAN: No, I won't.
47

1 Q. There are two parts to this email. You'll see that
2 halfway down the page there's an email from you to your
3 partner of 15 December 2011; do you see that?
4 A. Yes.
5
6 Q. That is you drafting a response for your partner in
7 respect of an interview she'd had for a job with someone,
8 isn't it?
9 A. Yes.
10
11 Q. Then at the top of the page on 15 December, it's an
12 email from your partner to you of the same day indicating
13 that the person she was going to write to thank had beaten
14 her to it and in fact had sent her the thank you.
15 A. Yes.
16
17 Q. So you were again, as at December 2011 in the middle
18 of these matters being raised, that your partner was still
19 actively pursuing a job?
20 A. Yes.
21
22 Q. May I take you, please, just briefly, to a third
23 email. You will see another email in the documents
24 I handed to you of 16 December 2011 at 3.12pm from your
25 partner to someone, and I'll use the initials "DB".
26 A. Yes.
27
28 Q. That is indeed a letter to that person in respect of a
29 job application that your partner has made, isn't it?
30 A. Yes.
31
32 Q. You drafted that letter, didn't you?
33 A. I don't think I would have been able to do the third
34 last paragraph, so I'm not sure.
35
36 Q. Just have a look at the top email, at the top of that
37 page, from your partner to you of 16 December where she
38 says attaching in that email, she says:
39
40 *Look how smart you make me sound.*
41
42 A. I obviously assisted with it.
43
44 Q. You drafted it? So you were actively helping her at
45 this stage, weren't you, to find other employment?
46 A. I'm always happy to help her put in interview
47 applications.

1
2 Q. Is the answer to my question yes?
3 A. Yes.
4
5 Q. May I then take you, please, to the text bundle in
6 MFI2 at page 125. In the last text on that page, being the
7 text dated 24 December 2011 at 11.51am, you'll see a name
8 there. I won't mention the name as being the person who
9 sent the text to your partner, but do you recognise that
10 name as a person associated with a company in respect of
11 whom your partner had made an application to join as an
12 employee?
13 A. Yes.
14
15 Q. In that text message to your partner on 24 December,
16 that person indicates that the particular company is
17 prepared to make an offer for your partner to join them as
18 an employee?
19 A. Yes.
20
21 Q. You were aware of that, weren't you?
22 A. Yes.
23
24 Q. Indeed, if you look at the next page, page 126, at
25 5332, you will see that, with some surprising changes, your
26 partner has forwarded that text to you, hasn't she?
27 A. Yes.
28
29 Q. May I take you back to the email bundle. Your partner
30 had accepted that offer, I want to suggest to you, by
31 30 December 2011?
32 A. Yes --
33
34 Q. I beg your pardon? You agree with that, don't you?
35 A. I'm just reading it. So I wouldn't say that she's
36 accepted the offer there. She still has to meet with
37 someone at Star.
38
39 Q. I beg your pardon?
40 A. She still has to meet with someone at Star and she
41 hasn't confirmed a start date yet.
42
43 Q. She says in the second line of this email of
44 30 December, "Thank you again for your offer to join you.
45 I am very excited to join you and the team at ...",
46 doesn't she?
47 A. Yes.

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Q. She says:

I was hoping to confirm a start date with you today.

Then she provides a reason why she can't confirm the date, doesn't she?

A. Yes.

Q. Are you seriously suggesting that your partner had not accepted the offer by 30 December?

A. I'm seriously saying that I don't think it has been sewn up yet because there were still issues including the harassment issues which had to be resolved.

Q. All that was not sewn up was the actual starting date, not if she would start; isn't that the case, Mr Grimshaw?

A. She was - I don't know - the answer is I don't know.

Q. May I take you, please, to the next item in this bundle of emails. You'll see it's an email from your partner dated 3 January 2012 at 10.11 to - and I'll just use the initials - "IC"; do you see that?

A. Yes.

Q. Just read that to yourself. Tell me when you've read it.

A. Yes.

Q. That email to her is in response to the email from IC of 30 December where he says:

We are keen to have you start with us as soon as practical, so look forward to hearing from you next week.

A. Yes.

Q. What your partner says in response to the third paragraph is:

I would like to suggest that I commence with you on 13 February. This will ensure that I complete my time appropriate to Star and take part in my --

1 Referring to some personal matters; do you see that?

2 A. Yes.

3

4 Q. You knew, didn't you, by at least 3 January 2012, that
5 your partner intended to leave Star to take up this new
6 position and that she was planning to do so in
7 mid-February?

8 A. She had not made a final determination. She wanted to
9 see what happened with the inquiry but she had another
10 opportunity available to her.

11

12 Q. I want to suggest to you therefore that the evidence
13 that you gave yesterday from to Mr Wigney about the reason
14 why you did not tell the Premier because you thought you
15 expected that after Mr Vaikunta left that your partner
16 would say that was false?

17 A. It was not false. I think there was still - we went
18 overseas. Just before she returned for - to around that
19 time when she was starting and she still hadn't made a
20 determination of where she was going to work.

21

22 Q. May I take you in light of your last answer to the
23 last email in this chain.

24

25 MS FURNESS: Is this page 10, Mr Sullivan?

26

27 MR SULLIVAN: It's page 9, I'm terribly sorry.

28

29 Q. This is an email, Mr Grimshaw, from you to your
30 partner dated 11 January 2012 --

31

32 MS FURNESS: I don't have that one.

33

34 THE WITNESS: I don't either.

35

36 MR SULLIVAN: Q. May I show you an email. It appears to
37 have been left out of the copy. This is an email from you
38 to your partner of 11 January 2012 enclosing an email that
39 another gentleman sent to you relating to, effectively, you
40 arranging for the car parking and the price of that for
41 your partner when she started her new job, isn't it?

42 A. Yes - well, I haven't got the email, but I do recall
43 it.

44

45 Q. Haven't you got it? Sorry. It thought it had been
46 given to you.

47

A. (Handed to witness) Thank you. Yes, that's correct.

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Q. Finally may I just take you on this topic back to the series of texts at page 160 and ask you to look at the texts which are numbered 6612 to a text of 24 January 2012 sent at 5.08 from your partner to a person associated with the company who had offered her the job and to read that text and the text at 6614 of the same date from your partner to that same person, sent some 14 minutes later at 5.22 where she says:

Can I ask if the role has a mobile phone and if so can I port my number over? Let me know what works best for you. Thanks.

Do you see that?

A. Yes.

Q. You were not in any doubt whatsoever, were you, at the end of the January that your partner intended to leave Star and take up the job she had been offered elsewhere?

A. I was in doubt because she hadn't decided.

Q. It's absolutely false for you to say, I put to you again, that a reason you did not tell the premier about your partner's involvement was because you believe that in February that after Mr Vaikunta left she would continue to work at Star?

A. She planned to go back to Star, she went back to Star the day she got terminated. She planned to go back there.

MR SULLIVAN: I have no further questions, thank you Mr Grimshaw.

MS FURNESS: Mr Steirn? Not that I can immediately see, Mr Steirn, that you have any questions.

MR STEIRN: Just one matter I can concerned about. Can I take you, Ms Furness, to the transcript at 81.24 to 81.29. I brought this to counsel assisting's attention. There is a slight ambiguity in relation to Mr Grimshaw's evidence as to whether the remainder of the text was his work or not.

MS FURNESS: Mr Wigney?

MR WIGNEY: I told my learned friend that I will take that up and clarify that point. If he wants to do it, it is a

1 matter for him. There is a slight point that can be
2 clarified very briefly.

3
4 MR STEIRN: If that be so, I am happy for that to happen.

5
6 MS FURNESS: Thank you, Mr Steirn. Ms Sharp? Just before
7 you go on, Ms Sharp, do you want me to mark this bundle of
8 email, Mr Sullivan?

9
10 MR SULLIVAN: Yes, perhaps with the addition of the
11 document that was missing from the bundle, which was the
12 document of 11 January, I think it was, which I showed you.

13
14 MS FURNESS: I don't have a copy of that.

15
16 MR SULLIVAN: I think the witness has that. May the
17 witness's copy be handed to you, Ms Furness and added to
18 the bundle.

19
20 MS FURNESS: That is MFI3

21
22 **MFI #3 BUNDLE OF EMAILS**

23
24 **<EXAMINATION BY MS SHARP:**

25
26 MS SHARP: Q. It is right that your partner's employment
27 The Star casino was terminated, isn't it?

28 A. That's correct.

29
30 Q. On what date did that occur?

31 A. February 14.

32
33 Q. So it is the case that she was still working The Star
34 up until 14 February?

35 A. Correct.

36
37 Q. I want to take you to some questions you were asked
38 and some answers you gave yesterday in relation to the
39 evidence you gave for the purpose of the section 31
40 inquiry. There you were asked by Mr Wigney about whether
41 you had been requested to provide some concrete examples of
42 conduct you were concerned about. Do you recall that
43 evidence?

44 A. Yes.

45
46 MS SHARP: Ms Furness, for your reference, the transcript
47 is relevantly at page 25 at lines 34 to 38.

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MS FURNESS: Thank you.

MS SHARP: Q. In relation to the evidence you gave yesterday in relation to that matter, you relevantly said at page 28, lines 26 to 27, that:

But I make the point that they weren't the main things I raised with the inquiry.

You were there referring to a report on alcohol consumption, a Barrington's report, and also an in-house magazine Chip Chat?

A. Yes.

Q. It was then put to you at page 30, lines 8 to 9, that there were two concrete examples that you gave to Ms Furness for the purpose of the section 31 examination?

A. Yes.

Q. However, it is your position that in fact you gave more than two examples; that's the case, isn't it?

MR WIGNEY: To be fair, the question was:

That being one of the two concrete examples --

Yes, I'm sorry. I do apologise.

THE WITNESS: I felt I gave more evidence than just those two issues.

MS SHARP: Q. You hadn't been provided with a copy of the transcript of your two examinations with Ms Furness for the purpose of the section 31 inquiry?

A. No, I hadn't.

Q. So when you gave answers yesterday you were relying purely on your memory of those examinations and also on the questions that counsel assisting put to you about the content of those examinations?

A. Correct.

Q. I have now had the benefit of reviewing the transcript and I would like to take you to parts of that transcript, if I may.

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MS SHARP: If I could firstly have provided to Mr Grimshaw a copy of the first day's examination and I note that that occurred on 19 May last year rather than March as was suggested yesterday.

Q. If I can ask you, Mr Grimshaw, to look at page 2. Do you see that is a transcript of an interview between yourself and Ms Furness?

A. Yes.

Q. You see that it runs to some 35 pages?

A. Yes.

Q. We can take it from that that it was a reasonably lengthy examination?

A. I think it was 30, 40 minutes.

Q. Could I direct your attention to page 2 of that transcript, at lines 27 to 29.

A. Yes.

Q. That is really the middle of the first page of the transcript.

A. Yes.

Q. At that point Ms Furness asked you:

Can you tell me what concrete aspects of management or management decisions has changed which has affected the culture?

A. Yes.

Q. It's the case, isn't it, that it was the remaining 35 pages of that examination transcript in which you canvassed the concrete examples in respect of which Ms Furness had requested information?

MR WIGNEY: I object to the question. It is so broad and it is leading and I just don't think it is a fair question.

MS FURNESS: Ms Sharp, the transcript does indeed speak for itself as to what matters Mr Grimshaw raised and as I indicated this morning, I am not proposing to make any findings with respect to the section 31 investigation and Mr Grimshaw.

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MS SHARP: The reason I put this line of questions, Ms Furness, is this: it was suggested by Mr Wigney yesterday that Mr Grimshaw gave only two concrete examples of a change in culture at the casino to you for the purpose of these examinations. That was put on a number of occasions by Mr Wigney. In my respectful submission, that is not a particularly fair account of what was canvassed at that examination and this transcript reveals that in fact a large number of issues were discussed in addition to the Barrington report and the Chip Chat report.

I was simply proposing to take Mr Grimshaw through this transcript because he did seek to indicate yesterday with Mr Wigney that it was not his recollection that they were the only two matters discussed and it was his recollection that he discussed a number of other matters. I could put the matters that way or I could seek simply to have it noted that there were eight or nine other matters of substance discussed during that examination.

MS FURNESS: My recollection of Mr Wigney's questioning was that he preceded reference to the concrete examples with a reference to a number of matters on which the witness expressed views and opinions. So I don't think, with respect, Ms Sharp, that your summary of Mr Wigney's questioning is perfectly accurate. Nevertheless, it is the case that he concentrated on those two matters, however, Mr Grimshaw did give evidence of his views in respect of a number of different matters.

I am content for you to make submissions in respect of Mr Grimshaw's evidence to the section 31 investigation based on that transcript to the extent that you need to but I remind you, Ms Sharp, that I am not making any findings with respect to your client and the section 31 investigation. So to be frank with you, it is not going to help me.

MS SHARP: Thank you for that indication, Ms Furness. My only concern is that the record of evidence is left with the impression that Mr Grimshaw only raised two matters before these examinations, both of which were following further investigations found to be inaccurate. The evidence I simply wished to adduce was the fact that many more matters were discussed beyond that and there was no suggestion in relation to that range of other matters that

1 those assertions did turn out to be inaccurate.

2
3 The relevance of that, if I may say, is that it
4 appeared that that area of questioning was traversed in
5 order to support some kind of allegation that Mr Grimshaw
6 had participated in the section 31 examinations out of some
7 kind of personal vendetta and went to those examinations
8 with two pieces of evidence, both of which were found not
9 to have any substance. If that was the impression that one
10 is left with in the evidence from tomorrow, I wish to
11 correct that impression because it is not correct.

12
13 MS FURNESS: Mr Wigney?

14
15 MR WIGNEY: I think, with respect, it is an unfair
16 portrayal of what the evidence was. As I think you have
17 already indicated, I asked the witness about a number of
18 views and opinions he had formed about management and what
19 they were doing - slipping standards in relation to
20 responsible service of alcohol, responsible gambling and a
21 whole series of matters. I don't have the transcript
22 reference but he ultimately agreed that as being a fair
23 summary of the opinions and views that he expressed and
24 then the questioning was then directed at concrete examples
25 of those other matters and then he agreed about with those
26 two concrete examples.

27
28 It was never put to him that he only gave evidence
29 about those two matters. It is just an unfair portrayal.
30 That said, as I have indicated, what this really goes to is
31 his state of mind and the transcript ultimately will speak
32 for itself as to what in fact was given. If there is any
33 concrete examples specifically that my learned friend wants
34 to take him to, so be it, but my objection was to a broad
35 question: "The next 35 pages are all concrete examples"
36 and that is just not going to assist you.

37
38 MS FURNESS: Thank you, Mr Wigney.

39
40 Ms Sharp, you may make submissions in respect of this
41 when the time comes, however, my interest in Mr Grimshaw's
42 evidence yesterday is in respect of the concerns he held in
43 May and July or June 2011, not in respect of any vendetta
44 but that he had concerns that he expressed then and those
45 concerns are embodied in the transcript of the section 31
46 investigation.

1 MS SHARP: Yes. However, if I may respectfully submit
2 that the concern that I have raised was that an inaccurate
3 impression was left --
4

5 MS FURNESS: I am telling you, Ms Sharp, I don't have that
6 inaccurate impression if that helps you.
7

8 MS SHARP: In that case yes, I will move on. I have just
9 been reminded that it is 11.30 now, Ms Furness. I don't
10 know if you were minded to take a break.
11

12 MS FURNESS: How long will you be with Mr Grimshaw,
13 Ms Sharp?
14

15 MS SHARP: I would expect approximately 15 to 20 minutes.
16

17 MS FURNESS: We will take the adjournment and we will
18 resume at 10 to 12.
19

20 **SHORT ADJOURNMENT**
21

22 MS SHARP: Q. Mr Grimshaw, yesterday you were asked
23 about an exchange of text messages with your partner on
24 23 November in which you referred to Mr Vaikunta as
25 "Mr Nasty". You gave evidence yesterday, at the transcript
26 at page 39 at lines 19 to 21, that by this stage - that
27 being 23 November - "Mr Vaikunta was not treating my
28 partner very well". Could you please explain that?

29 A. When they went out to functions she always felt as if
30 she was the butt of jokes. She felt as if she was the
31 person to be poked fun at at functions. She didn't feel
32 comfortable in his company and didn't feel as if she was
33 part of the team. If she tried to leave the function, so
34 she'd come home, she'd be berated and told, you know,
35 "Don't go, don't be the party pooper", that was in the
36 social setting. In a work setting she just certainly
37 didn't get her - didn't get the attention that some of the
38 other areas got and she just didn't feel a welcome part of
39 the team.
40

41 Q. Yesterday when you were asked about that exchange of
42 text messages on 23 November, one of those text messages
43 was that of your partner saying that she was not positive
44 and in the context that was positive about the outcome of
45 the section 31 investigation. You then sent the text in
46 response "Oh, I am. Say goodbye to Mr Nasty". Mr Wigney
47 asked you at page 43, line 16:

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What were you talking about there?

and you gave the evidence that you actually felt confident that the section 31 report would bring down an adverse finding. Mr Wigney then said to you:

You weren't aware of what anyone else told the inquiry, were you?

and you answered "No" and then relevantly said at lines 26 to 27:

But it was suggested to me during the hearing that there were other people [who] were coming forward with evidence.

My question to you is this: is it because of what you were told about other people coming forward that you formed the view that the section 31 inquiry would form a negative assessment of the fitness of the current operator?

A. Yes.

Q. Could I show you the transcript of your examination which I now have, the second examination that you had with Ms Furness on 29 June 2011.

A. Yes.

Q. It is right that at page 3 of that transcript, at line 30, Ms Furness explained to you that it had become apparent that people at The Star were being coached in the evidence that they were to give to the inquiry?

A. She did.

Q. If I can direct your attention to page 4, one of the matters that was discussed with Ms Furness was a promotion The Star was putting on in relation to Viagra?

A. Yes.

Q. There was a discussion about that and Ms Furness said to you at lines 23 to 24:

I just think they were good examples of the cultural change.

That was in relation to the Viagra promotion?

A. That's what I said.

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Q. I withdraw that. Ms Furness said at line 26:

I agree with you.

A. Yes.

Q. Talking about the cultural change, you mean the cultural change that came with the new management at The Star casino?

A. That's right.

Q. By that cultural change you mean the decline in the commitment to the regulatory standards?

A. All the regulatory - yes, ranging from RSA responsible gambling through to abiding by curfews and other compliance issues.

Q. I just want to direct your attention to two of the other parts of this transcript. Firstly to page 4 at lines 39 and following, when Ms Furness said to you:

We certainly have found some other things that are indicative of the change and certainly you're not alone in being of the view which won't surprise you at all.

Secondly, at the transcript at page 5, line 18, Ms Furness said to you:

Yeah, there's a lot of material in what they've given me which is consistent with your view.

Mr Grimshaw, we can take it in the context that the "they've" reference is a reference to Star?

A. That's how I would take it.

Q. Were these comments, the comments --

MR SULLIVAN: May I ask Ms Sharp not to be leading on these matter, Ms Furness?

MS FURNESS: I don't know that they are strictly leading, Mr Sullivan, in that --

MR SULLIVAN: Saying those comments is going to suggest a

1 yes or no answer.

2

3 MS FURNESS: In the circumstances of completing this
4 witness in a reasonable time and given that these matters
5 are not particularly germane to what I'm looking at at the
6 moment, I'd prefer Ms Sharp to get on with it.

7

8 MR SULLIVAN: Very well.

9

10 MS SHARP: Q. My question is simply this: was it these
11 comments that led you to conclude that other people had
12 given the section 31 inquiry the same kind of information
13 that you had given?

14 A. I certainly got the impression at the hearing that
15 there were other people coming forward with similar
16 information that I had and with the same sort of feeling
17 about the new management.

18

19 Q. Was it this information that gave you, at that time,
20 some confidence that there was a real prospect that adverse
21 findings would be made about the current management of the
22 casino?

23 A. That's right. I did think that there would be an
24 overwhelming view that Mr Vaikunta wasn't suitable to run
25 the casino.

26

27 Q. Is it right that it is that view you held that was
28 what you were referring to in your text to your partner on
29 23 November 2011?

30 A. That's right, yes.

31

32 Q. You were asked some questions yesterday about your
33 interactions with Heath Aston, a journalist at
34 the Sun Herald. Was it your belief at the time you were
35 dealing with him last year that he had sources other than
36 you who were providing him information about the casino?

37 A. Yes.

38

39 Q. Can I ask you some questions now about your knowledge
40 of the course of the sexual harassment investigation
41 conducted by The Star?

42 A. Yes.

43

44 Q. You're aware of the date upon which the first incident
45 of sexual harassment occurred against complainant 1; is
46 that right?

47 A. Yes.

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Q. What date was that?

A. December 6.

Q. Without wishing to go into the nature of that incident in any detail, you are aware that that incident involved a very serious episode of physical touching?

A. Yes.

MR SULLIVAN: I object.

MS FURNESS: I think I made it very clear, Ms Sharp, in my opening remarks as to what evidence would be elicited about the detail of the claims and I would appreciate that in your questioning of this witness you stick to the script of those incidents. There is no public interest whatsoever in these matters being canvassed in any more detail than that.

MS SHARP: I understand what you are saying, Ms Furness. If I can indicate the relevance of knowledge of that particular matter --

MS FURNESS: The knowledge is not the issue, it's your terminology to describe it that is the issue.

MS SHARP: Yes. The reason why I suggest that that information is relevant is because it is relevant to the state of mind of Mr Grimshaw and his partner as to the gravity of the conduct that was being investigated and therefore to the nature of the investigation which ought properly to have been carried out.

MS FURNESS: Your question was put in terms that bear no relationship to any evidence before this inquiry as to the nature of that incident.

MS SHARP: Yes. I am in your hands in this regard, however, I submit that it is relevant to have some level of understanding about the gravity of the incident concerning the first complainant because that would have an effect on how one would regard an investigation ought be conducted because of the very gravity of the conduct.

MR WIGNEY: Can I just suggest that if there is anything to flow from that of relevance that it can just be put on the basis that from what he had been told, he understood it to be a very, very serious allegation.

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MS SHARP: I would be happy to proceed that way. May I withdraw the previous question and put it that way.

MS FURNESS: Yes.

MS SHARP: Q. Mr Grimshaw, is it your understanding that the incident which occurred on 6 December involved a very serious allegation of harassment?

A. Yes.

Q. You are also aware, of course, of the date upon which the harassment occurred with respect to your partner?

A. December 8.

Q. I beg your pardon?

A. December 8.

Q. When, to your knowledge, did your partner first make people at The Star aware of the incident involving her?

A. She let the chief financial officer know immediately that it happened and then she let legal and I think workers' comp people know the first thing the next morning.

Q. When you say she immediately let somebody know, I take it you mean that she let somebody know the very day it happened?

A. Within minutes of it happening, was my understanding.

Q. Because of your partner's responsibilities at The Star, it is the case that she had been involved in other investigations into harassment in the past?

A. That's correct.

Q. It is the case that she had some recent involvement in an investigation into harassment?

A. Yes, there had been another case very recently.

Q. What happened in that case; who investigated that case?

A. She arranged for an external company to come in and do the investigation so that the - because it was a senior person it meant the company was at arms-length from the investigation.

Q. If I can stop you there. You say "because it was a senior person". Do you mean because it was a senior person

1 against whom the allegation was made?

2 A. That's right.

3

4 Q. So your partner arranged for an external body to
5 conduct that investigation?

6 A. That's right.

7

8 Q. How long did that investigation take?

9 A. My understanding it took about two weeks.

10

11 Q. That investigation had been finalised relatively
12 recently before this incident of harassment occurred with
13 your partner?

14 A. That's right.

15

16 MS FURNESS: I'm sorry? Can you put that question again.

17

18 MS SHARP: Yes. I'm sorry if that was unclear, I withdraw
19 it.

20

21 Q. The other investigation, the external investigation
22 with your partner had organised in relation to matters not
23 connected with this inquiry, had been finalised only a very
24 short time before the incident of sexual harassment
25 involving your partner?

26 A. That's right.

27

28 MS FURNESS: Q. That is your understanding of the
29 chronology?

30 A. That is my understanding.

31

32 MS FURNESS: I must say it is not my understanding of the
33 chronology. Leave that as it falls.

34

35 MR WIGNEY: Can I just say again that I think there may be
36 two witnesses before it but we will today get to one of the
37 - in fact I think the chief coordinating officer in
38 relation to these very investigations who will no doubt be
39 able to answer all sorts of questions about the chronology
40 and how it progressed; that is the actual investigation.
41 I am just struggling to see how Mr Grimshaw's understanding
42 of the investigation is really going to anything.

43

44 MS SHARP: I think there might be some confusion in the
45 question I am asking. The external investigation, as
46 I will call it, did not relate to an allegation made by
47 complainant 1 or complainant 2.

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MS FURNESS: No, that is perfectly understood, Ms Sharp, the question is the chronology. The inquiry understands extremely well the chronology and that is based on contemporaneous documents that is in our possession. I can understand why there is some need for you to take this witness to some aspects of his understanding, however, you should be aware that it is a matter of fact when things happened and that there is a witness who was involved intimately in each of those investigations who will give evidence as to when it actually happened.

So if your point in relation to this witness is to elicit evidence about his general knowledge, by all means you may do it but there is no need to do it in respect of each and every event because necessarily his knowledge is very third-hand.

MS SHARP: Yes.

Q. It was your understanding, though, based upon your discussions with your partner, that Mr Vaikunta was stood down on Monday, 12 December --

A. Around that date.

Q. -- pending the investigation of these allegations?

A. That's my understanding of the date.

Q. Prior to that Monday, Monday 12 December, your partner had had conversations with the internal investigator appointed at that time to look into the allegations of complainant 1 and complainant 2, being Mr Kevin Houlihan?

A. Yes.

Q. Did your partner convey to you what Mr Houlihan told her at the time?

A. She said that Mr Houlihan told her that it was a clear-cut case, that it would be over in a very short period of time and that Mr Vaikunta would be leaving the company shortly after.

Q. Did he ever specify to you a day or a date by which he would be leaving the company?

A. I think he indicated it was the Monday that Mr Vaikunta stood down.

Q. Your partner and you continued to have discussions

1 about the conduct of the investigation?

2 A. Yes.

3

4 Q. Did your partner make you aware at some point that
5 Louise Marshall and Larry Mullin had a role in the
6 investigation?

7 A. I think initially they were conducting the
8 investigation.

9

10 Q. Did your partner express to you any concerns about
11 their involvement in the investigation?

12 A. She felt that Mr Mullin and Mr Vaikunta were best of
13 mates, very good friends; indeed, in fact Mr Mullin was the
14 one who brought Mr Vaikunta over to work at The Star, and
15 Louise Marshall had also become very close to both Sid and
16 Larry.

17

18 Q. Did your partner ever discuss with you the contrast
19 between her previous involvement in an investigation where
20 external investigators had been appointed and the course of
21 the investigation that was followed in relation to her
22 complaint?

23 A. She just very much favoured the external investigation
24 for people in such senior positions. Simply that way it
25 was at arms-length. There could be no suggestion that
26 there was any deal being done. There could be no
27 suggestion of there being a cover-up and it was just a much
28 cleaner operation if an external investigator came in and
29 made a recommendation.

30

31 Q. Did your partner at any time express concern to you
32 that it was not an arms-length investigation in this case?

33 A. She was very concerned that it wasn't at arms-length
34 because these people worked very closely with Mr Vaikunta
35 every day.

36

37 MS SHARP: Those are my questions.

38

39 MS FURNESS: Thank you very much. Is there anything you
40 wanted to ask, Mr Wigney?

41

42 MR WIGNEY: There is just one very brief point that
43 Mr Steirn averted to.

44

45 **<EXAMINATION BY MR WIGNEY:**

46

47 MR WIGNEY: Q. I'll just have provided to you again the

1 bundle of text messages that I took you to yesterday.
2 I want to close off one additional point that I perhaps
3 left open yesterday. Could I ask you to go, please, to the
4 text message that has the sequence 5981, that is a text
5 from you to your partner's phone of 9 January 2012 at
6 7.25am. Again without reading that text message out
7 completely, that's the text message where you refer to a
8 conversation you had with Mr Lipson in relation to one of
9 the complaints; is that right?

10 A. Yes.

11
12 Q. We took you through this yesterday. It includes
13 relevantly halfway down the following words:

14
15 *Also, Norm reckons [complainant one] should*
16 *make a police complaint. That would sew it*
17 *up. She does not have to proceed with it*
18 *but it's strong if police are involved.*
19 *I know she probably doesn't want to but*
20 *just a thought.*

21
22 Yesterday I asked you specifically about the words "that
23 would sew it up" as to whether they were Mr Lipson's words
24 or your words and your answer at transcript page 82.8 was:

25
26 *No, they're my words saying that, then they*
27 *will take it seriously.*

28
29 Q. I want to do the same exercise with the balance of
30 that text and ask you whether your recollection is that the
31 words that are recounted there were either your words,
32 words that Mr Lipson used or, perhaps as a third
33 alternative, your interpretation of what he said. In
34 relation to the next sentence, that is, "She does not have
35 to proceed with it, but it's strong if police are
36 involved", do you remember if that's what Mr Lipson told
37 you or is that something --

38 A. That's mine; that's my words.

39
40 Q. Is that an impression from what Mr Lipson told you or
41 your interpretation or how did you come to that --

42 A. No, he only made the one single-line comment as in,
43 you know, she should take it to the police. So then I just
44 gave my partner my views on what that would mean.

45
46 Q. So really all of the words following, "That would sew
47 it up", that's really your advice not necessarily something

1 that was conveyed to you by Mr Lipson?
2 A. That's correct.

3
4 MR WIGNEY: Thank you.

5
6 MS FURNESS: Thank you, Mr Grimshaw. You're excused.

7
8 <THE WITNESS WITHDREW

9
10 MR WIGNEY: Ms Furness, we have to call a witness slightly
11 out of order here because he comes from the country. He is
12 a witness who deals primarily, perhaps exclusively, with
13 the third term of reference; that is, allegations made
14 publicly since 2 December 2012, so it's slightly on a
15 different topic. The witnesses name is Mr Tim Roach.
16 Could I ask that he be called, please.

17
18 MS SHARP: Could I be excused for the next half an hour?

19
20 MS FURNESS: Certainly, Ms Sharp. Are you returning for
21 Ms Marshall's evidence?

22
23 MS SHARP: Yes. I would like to return for Mr Lipson's
24 evidence and Ms Marshall's evidence.

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26 MS FURNESS: Thank you.

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<TIMOTHY ALAN ROACH, affirmed

[12.14pm]

<EXAMINATION BY MR WIGNEY:

MR WIGNEY: Q. Mr Roach, can you give us your full name, please?

A. Full name Timothy Alan Roach.

Q. Mr Roach, relevantly you were employed at Star City Casino, later known as The Star, for just under six years; is that right?

A. That's correct.

Q. I think you started in about March of 2006; is that right?

A. 20 March 2006.

Q. Your initial position was a position as a dealer; is that right?

A. That's correct.

Q. Just for those present who are not particularly au fait with the casino, what sort of games or what sort of things did you do in that position?

A. Initially started off as a blackjack dealer, then progressed through baccarat and roulette and eventually dealing in private rooms in the inner sanctums.

Q. Is it the situation that, after some years of service at the casino, in August of 2011, you became a dealer supervisor; is that right?

A. Yes.

Q. Can you tell us briefly again what your duties and responsibilities were as a dealer supervisor?

A. Supervision of dealers on tables, correction of errors, reporting any incidents to the manager.

Q. So you were originally a dealer then you became the person who was --

A. Supervising them.

Q. -- supervising the people who were originally in your position?

A. Correct.

Q. Mr Roach, your employment record suggests that you

1 resigned from The Star on 2 January of 2012; is that
2 correct?

3 A. That's correct.

4

5 Q. And you communicated your resignation to Star, of
6 course; is that right?

7 A. That's correct.

8

9 Q. Did you advise that the reason or reasons for your
10 resignation were primarily that your wife had taken up a
11 position in Orange; is that right?

12 A. That's correct.

13

14 Q. And that you and your wife were relocating to that
15 town?

16 A. Yes.

17

18 Q. That obviously was, in fact, the case; is that right?

19 A. Yes.

20

21 Q. It follows from that, does it, that you essentially
22 left the casino of your own volition?

23 A. Correct.

24

25 Q. In February of 2012, that is a few weeks after your
26 resignation, you were spoken to by a journalist at the
27 Sydney Morning Herald; is that right?

28 A. That's correct.

29

30 Q. I'll come back to this one, but a short time later you
31 were also spoken to by a reporter from Channel 7; is that
32 right?

33 A. That's correct.

34

35 Q. Can I ask you, firstly, in relation to the journalist
36 from the Sydney Morning Herald, how did that come about?
37 Did you contact the journalist or did the journalist
38 contact you or what happened?

39 A. I had a phone call from United Voice, the union of
40 which I was previously a delegate, and their PR person had
41 had a phone call from Matthew Moore at the Sydney Morning
42 Herald asking if there was anyone I could speak to. I was
43 contacted by United Voice. They asked me if I didn't mind
44 talking to them. I said that's not a problem and I agreed
45 for my phone number to be given to Matthew Moore.

46

47 Q. So essentially the contact came through the union that

1 you were previously a member of; is that right?

2 A. Yes.

3

4 MR SULLIVAN: A delegate.

5

6 MR WIGNEY: Q. I take it that you're aware of having
7 been spoken to by Mr Moore at the Sydney Morning Herald, in
8 due course, there was an article in the Sydney Morning
9 Herald on 11 February 2012?

10 A. Yes.

11

12 Q. Is that an article that you read shortly after it was
13 published?

14 A. Correct.

15

16 MS FURNESS: Is that 11 February or the 16th?

17

18 MR WIGNEY: I have 11 February.

19

20 Q. Mr Roach, you've just had handed to you a printout -
21 It is not the actual photocopy of the article - from the
22 internet of the Herald article dated 11 February 2012 with
23 the byline, "Vegas glitz may be a gamble too far"; do you
24 see that?

25 A. Yes.

26

27 Q. Just take a moment. I'll take you to the specific
28 spot where you're named in due course but you might want to
29 quickly have a read of it just to refresh your
30 recollection.

31 A. Yes.

32

33 Q. I want to direct your attention to what is page 2 of
34 this particular printout of the article, where about a
35 third or just a little further up from the bottom of the
36 page, the article proceeds:

37

38 *After six years at the casino working on*
39 *gaming tables as a dealer and supervisor*
40 *Tim Roach quit a fortnight ago. The former*
41 *union delegate, he said his file has been*
42 *marked "not for rehire" and he had nothing*
43 *to lose by speaking out. He said there had*
44 *been "a massive culture shift" when he*
45 *first began work when Jim L'Estrange was*
46 *chief executive.*

47

1 Then there is a quote attributed to you:

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We remembered Jim used to come down and cook once a month. He basically held the same role as Sid did but you'd see him cooking with the other line cooks flipping burgers. I don't think Sid ever walked into that room.

May we take it that's an accurate quote, as you recollect, that you told the Herald journalist?

A. Yes, that's correct.

Q. I want to pick up with you, please, Mr Roach, just a couple of points that you make in that statement that you made to the journalist. Firstly, you refer to "a massive culture shift" with a specific example relating to the former chief executive. Can you tell us, please, whether you have heard of any other specific changes that led you to say to the Herald journalist that there had been a massive culture shift at the casino?

A. There had been a level of relaxation of the dress code particularly in the private rooms. Previously it was you wear a collared shirt at the bare minimum; now T-shirt and shorts was fine. There was a shift towards keeping players happy on tables rather than upholding game rules, and there was also a shift towards a more relaxed level of RSA on the main gaming floor.

Q. Can I pick up each of those matters with you. The dress code, was that under the previous management that there was a stricter code - you had to wear a collared shirts and those sorts of things?

A. Yes.

Q. You were a union delegate at some stage, were you?

A. Yes.

Q. Is this an issue - that is the dress code issue - that you ever took up with anybody, either at the union or in the management, as to your concerns about that?

A. No.

Q. I want to ask you a couple of questions about the second specific matter you referred to; that is, keeping players happy at the tables. Can you give us a specific example about what had changed in that regard?

1 A. The best example I can give you, which is one that's
2 probably well known by the inquiry, is the rule of 12.1 in
3 baccarat where players are allowed to remove their bets
4 from the table once cards have left the shoe. Previously
5 this was only used if there was ever any question as to the
6 order of the cards. It was basically to the player's
7 benefit. Suddenly it became the case that if the dealer
8 did anything that was even the smallest error, regardless
9 of whether or not it changed the outcome of the game, the
10 rule was applied.

11
12 Q. So, in your view, this rule change came about so that
13 you could keep - that is the casino could keep - players
14 happy and content in terms of playing at the casino?

15 A. Yes, it was seen that it was better for that person to
16 get back their \$250,000 and keep playing rather than lose
17 it and storm out of the room.

18
19 Q. You will have to forgive me. I'm not sure about the
20 rules of baccarat myself, but is there any other reason
21 that that peculiar rule change caused concern other than it
22 seemed to be directed at pleasing the players?

23 A. It did make my job as a supervisor a lot harder.

24

25 Q. How so?

26 A. I would have players where a very small error would
27 occur on the table. A dealer would hand the cards to an
28 incorrect player. Previously not an issue; now I had an
29 entire table of 20 people erupting, screaming for their
30 money back, hands coming in and grabbing chips off tables.
31 It made it very hard to be able to police the tables.

32

33 Q. So it really made life difficult for the dealer?

34 A. Dealers, supervisors, pit managers - everyone who was
35 actually on the frontline.

36

37 Q. So a particular concern to people who had to actually
38 deal with the players and deal with this particular game,
39 baccarat?

40 A. Exactly.

41

42 Q. Again, is this something that you at any stage took up
43 with managers?

44 A. Oh, several times with pit managers, casino duty
45 managers. It was always seen as that's the new
46 interpretation of the rule.

47

1 Q. I should have asked you what time frame are we talking
2 about when this rule change, 12.1 occurred?
3 A. It was after I became a supervisor, before I was
4 supervising upstairs. You're probably looking late October
5 2011.
6
7 Q. Did you report this to the people above you in the
8 hierarchy in management in a formal way or were these just
9 discussions that you had?
10 A. Generally they were just discussions.
11
12 Q. So no formal?
13 A. No documentation, no.
14
15 Q. No formal procedure in relation to that?
16 A. No.
17
18 Q. Was there any reason for that? I am not being
19 critical. I am just saying --
20 A. We were always trained as dealers that if the person
21 above you tells to do this, you do this. If they tell you
22 to play blackjack at 6:1, play it at 6:1, question them
23 later.
24
25 Q. Who was the person immediately above you in the
26 hierarchy when you were a dealer supervisor?
27 A. The pit manager.
28
29 Q. So this was something that you would raise on occasion
30 with the pit manager?
31 A. Mmm-hmm.
32
33 Q. But not in a formal way; you would just raise it
34 orally?
35 A. Whenever this circumstances occurs on a table, it's
36 the pit manager's call as to whether or not this rule will
37 be applied, and every time I had to mention it to them,
38 I'd say, "This is ridiculous. I can't see why we are doing
39 this stuff."
40
41 Q. Ridiculous because it made your life difficult?
42 A. Yes.
43
44 Q. In terms of dealing with the players?
45 A. Yes.
46
47 Q. The third matter that you referred to as a concrete

1 example in relation to massive concrete shift was RSA on
2 the main gaming floor. RSA is the acronym for responsible
3 service of alcohol; is that right?
4 A. That's correct.
5
6 Q. When did you say that this became an issue for you;
7 that is, in terms of the culture shift?
8 A. I'd say probably in the last 10 to 20 months.
9
10 Q. So we are talking about basically throughout the
11 course of 2011; is that correct?
12 A. That would be pretty accurate, yes.
13
14 Q. During the time that you were a supervisor?
15 A. Yes.
16
17 Q. Again can you explain in a little bit more detail
18 precisely what your concerns were in relation to RSA on the
19 main gaming floor?
20 A. We just noticed as supervisors an increase in the
21 number of intoxicated patrons, watching patrons that we
22 were about to have removed walk out the door thinking,
23 "That will be the end of that, they won't be allowed back
24 in", when they would suddenly reappear five minutes later
25 walking clearly past the security guard in plain view. It
26 seemed the attitude was more: sure let them in, rather
27 than let's stop and screen people at 6 o'clock in the
28 morning.
29
30 Q. I know it's difficult, but in terms of these
31 observations, you referred to "We observed"?
32 A. Yes.
33
34 Q. But in terms of your actual observations, you saw this
35 yourself at various times?
36 A. Yes.
37
38 Q. On those occasions, you yourself observed on occasion
39 intoxicated patrons being allowed to remain on the gaming
40 floor; is that right?
41 A. That's correct.
42
43 Q. And on occasion, having left the gaming floor, being
44 allowed back in?
45 A. That's correct.
46
47 Q. You considered that to be inappropriate in terms of

1 the responsible service of alcohol?
2 A. Very much so.
3
4 Q. In relation to the particular occasions when you
5 yourself observed that happening, what if anything did you
6 do?
7 A. I then reported - well, my original plan with some of
8 those patrons was to have them removed for intoxication.
9 Upon seeing they were leaving of their own accord, it's a
10 busy morning, I figured they would be gone and would not
11 reappear. I've got other things to worry about. If they
12 did reappear, I'd alert my pit manager whose job was to
13 contact surveillance who would contact security for the
14 person to be removed.
15
16 Q. Are you saying that, on those occasions when that
17 happened, on occasion the person would still be allowed to
18 remain or come back?
19 A. No. Once security had come and remove them, they were
20 removed.
21
22 Q. When was that?
23 A. It could be up to a three-hour wait on a busy morning.
24
25 Q. Were there any occasions when that didn't happen; that
26 is, the patron was not removed or allowed back in?
27 A. It has happened in the past.
28
29 Q. That you actually witnessed?
30 A. Yes. That has happened in the past. Myself and
31 dealers have seen someone intoxicated. Security has spoken
32 with them, deemed them to be acceptable, and let them stay.
33
34 Q. Again is that something you specifically witnessed
35 yourself?
36 A. Yes.
37
38 Q. Roughly when are we talking about again, that time
39 frame?
40 A. Pretty much since I became a supervisor.
41
42 Q. In relation to those particular incidents that you
43 yourself witnessed, and I'm not being critical one way or
44 another, did you lodge any sort of formal complaint in
45 relation to that?
46 A. No.
47

1 Q. But there formal complaint mechanisms of sorts in
2 relation to that, were there?
3 A. Correct.
4
5 Q. But you didn't take that up with anyone?
6 A. It was more of a case that if I started doing a formal
7 complaint every time, I'd be doubling my workload filling
8 out paperwork.
9
10 Q. I want to make sure I've exhausted your knowledge in
11 so far as you recall today about the examples of what you
12 say or what you told the Herald was a massive culture
13 shift. Does that pretty much exhaust your knowledge in
14 that regard?
15 A. There was also a shift against the employees. There
16 was more of a, for lack of a better word, American way of
17 running a company where employees were seen as numbers and
18 just part of the system.
19
20 Q. In terms of your specific observation of that, can you
21 give us an example of how that worked?
22 A. One prime example was what was called Sid's forums,
23 which were a big introduction to the Star and what was
24 going to be happening. These were to be attended in your
25 own time unpaid and were originally written as "compulsory"
26 until pressure from myself and other delegates removed the
27 word "compulsory" from the letter and changed it to
28 "compulsory if you want the customer service bonus."
29
30 Q. I'm not seeking to trivialise this at all, but this is
31 really an issue that relates not so much to the management
32 of the casino itself as opposed to just employee relations;
33 is that fair to say?
34 A. It was sort of a concrete sign of how the culture had
35 shifted.
36
37 Q. The other specific example you gave of the culture
38 shift when you spoke to the Herald was Jim - that was the
39 former chief executive - used to come down to a particular
40 room and flip burgers I think was your expression?
41 A. That's correct.
42
43 Q. What you were seeking to indicate there was a style of
44 management where senior management would be more involved
45 with the employees in the day-to-day functioning; is that
46 correct?
47 A. That's correct.

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Q. And that was another matter that you observed the change?

A. Yes, very much so.

Q. I asked you before about a second occasion where you spoke to a journalist, and that related to Channel 7. This all occurred at a fairly similar time; is that right?

A. Within a week or two, yes.

Q. Again how did that contact come about with the Channel 7 journalist?

A. I was given Michael McKinnon's phone number by a mutual friend of Elizabeth Ward, who originally appeared on Channel 7, and I sat on the number for three or four days and decided to contact them.

Q. So this was an occasion where you took the initiative and contacted the journalist as opposed to being contacted yourself?

A. That's correct.

Q. Was there any particular reason for that, the reason for sitting on it for a few days?

A. I wanted to sit and consider my options see, if I really wanted to go down this path. I'd started a new life in Orange. I was tossing up leaving it all behind or did I want to say what I want to say.

Q. I want to read you a very brief extract from what was specifically attributed to you in the Channel 7 program in relation to this matter. Do you remember observing the program when it was aired?

A. Yes.

Q. The first program I think was run on 21 February 2012. If I can just read out to you the words that were specifically attributed to you, and I can provide this to you hopefully if necessary, but I think the reporter said these words:

Ten current and former staff have now spoken with 7 News, one claims even gaming rules are being relaxed.

Then the next words are attributed to Tim Roach:

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

5

6 Is that a reference again to the change in the rules of
7 baccarat?

8 A. Correct.

9

10 Q. You've already given evidence about what your
11 observations were in that regard?

12 A. Correct.

13

14 Q. Then the reporter said:

15

16 *Claims too the casino has abandoned*
17 *responsible gambling policies*

18

19 You are then recorded as saying as follows:

20

21 *TIM ROACH: I saw the same person three*
22 *days running. It turns out they had done a*
23 *72 hour stint on the table.*

24

25 Do you remember telling the journalist that piece of
26 information?

27 A. Yes.

28

29 Q. Can I ask you specifically about the observation that
30 you made and refer to there, that is, a person was seen
31 gambling for a 72-hour stint on one occasion; is that
32 right?

33 A. That's correct.

34

35 Q. Roughly when did that occur?

36 A. It would be early 2011.

37

38 Q. Early 2011?

39 A. It was before I was made up to supervisor.

40

41 Q. Was that in a particular part of the casino?

42 A. Pit 18, one of the private gaming rooms.

43

44 Q. Just again share with us what are the private gaming
45 rooms?

46 A. Private gaming rooming with primarily reserved for
47 international visitors - for the high-end international

1 visitors - also known as the "junkets". There is a minimum
2 buying to get in and it's purely exclusive. You can have
3 the doors closed, whatever music you want on. It's their
4 own little space.

5

6 Q. I take it that on this particular occasion when you
7 observed this you were actually working in the --

8 A. I was dealing.

9

10 Q. -- dealing in the private room? It is important that
11 you don't, to the extent that you know, name any
12 individuals involved.

13 A. Mmm-hmm.

14

15 Q. What did you actually observe in relation to the state
16 of this person during that 72-hour stint?

17 A. I game in and this person was asleep in their chair at
18 the table, with their feet up on another chair. I looked
19 at dealer, who I'd tapped off, who was from the previous
20 shift going home and asked "What's going on here?", this
21 wasn't really a normality to have patrons asleep at a
22 table. This patron was particularly eccentric, he was
23 known for having a lot of strange mannerisms, a lot of
24 weird rituals that - you know, most of which we just went
25 "Okay, that's fine, everyone has their superstitions". He
26 said "Yeah, he's been running for three days straight".
27 "Okay, fair enough". Sat down and sat there and watched
28 the man sleep for about half an hour and then he woke up,
29 placed a bet and then went back to sleep again.

30

31 Q. I was going to ask you: how long were you shifts
32 as --

33 A. Eight hours.

34

35 Q. So you obviously weren't present for the entire time
36 he --

37 A. No. I'd been home for --

38

39 Q. And did he remain in the private gaming room for the
40 entirety of your eight-hour shift?

41 A. Yes.

42

43 Q. Was that the extent of your observations of him during
44 that time?

45 A. Correct.

46

47 Q. Are you able to describe any other aspect of his

1 demeanour or behaviour on that occasion?
2 A. Very easily agitated, going through copious amounts of
3 caffeinated beverages - coffee, Red Bull, whatever he could
4 get his hands on.
5
6 Q. Caffeinated beverages presumably to keep him awake?
7 A. I would believe so, yes.
8
9 Q. Was he, to your observation, appearing to act
10 irrationally in any way?
11 A. No more irrationally than he normally would but, as
12 I said, he was a very eccentric individual.
13
14 Q. Again I'll ask you, as I did in relation to some of
15 your other specific observations: obviously this was a
16 matter that you were able to report if you thought it's
17 significant and important; is that right?
18 A. That's correct.
19
20 Q. Did you do anything in relation to this observation?
21 A. I reported it to my pit manager and I don't know where
22 it went from there.
23
24 Q. Your pit manager who was on duty at the same time that
25 you were on your eight-hour shift?
26 A. Correct.
27
28 Q. You didn't take it beyond there?
29 A. No.
30
31 Q. Again I'm not being critical, I'm just seeking to
32 elicit the facts, if you follow?
33 A. Mmm.
34
35 Q. Is there anything else you can tell us in relation to
36 that specific observation?
37 A. Only that it had suddenly become not uncommon for this
38 sort of stuff to happen - 24 to 48 hours. 48 was generally
39 starting to become considered be the extreme. 72 we were
40 starting to look at each other going "Why?" but there was
41 sort of a vibe that, you know, they're here to gamble, let
42 them be.
43
44 Q. It is important for us to understand when you refer to
45 these other examples, are these 24, 48 - whatever many
46 hours - are these actual observations of yours or what
47 you're told or is it just a vibe or what is it?

1 A. There are some that I know have done at least 36.
2 I've seen them towards the end of one shift, came in the
3 next day or come in two days later they're still there for
4 the start of the next shift. They've gone to the toilet
5 and fallen asleep in the stool, woken up and then continued
6 playing.

7
8 Q. Again, just to be clear, what time frame are we
9 talking in relation to these other examples?

10 A. 24, possibly 36 hours, so --

11
12 Q. I'm sorry, what date roughly?

13 A. When? This has been going on for as long as I can
14 recall.

15
16 Q. Six --

17 A. The entire six years, yes. As long as I have been
18 dealing upstairs in what was the Endeavour Room, now known
19 as the Sovereign Room, there have been players like this on
20 a regular basis.

21
22 Q. So firstly, these are observations primarily in
23 relation to the private gaming area; is that right?

24 A. That's correct.

25
26 Q. This is something that you say has been going on for
27 some time, it's not an example of a particular shift in
28 management in 2011?

29 A. No, the 24-hour sort of people are not - haven't been
30 uncommon.

31
32 Q. Finally, Mr Roach, in relation to Channel 7 there was
33 also a further footage on 22 February 2012 - and again I'll
34 just read out that portion - we've only got the transcript
35 at this stage but portion of the transcript that I have
36 where words are attributed to you. Just putting it in
37 context, the reporter introduces the topic by saying:

38
39 *After weeks of claims of drugs, sex and sex*
40 *harassment, more. The pop star who hit the*
41 *tables every night for months, responsible*
42 *alcohol rules didn't seem to apply.*

43
44 Then the following words are attributed to you:

45
46 *TIM ROACH: It wasn't unusual to see him up*
47 *in the Sovereign Room absolutely beyond*

1 *drunk.*

2

3 Do you remember seeing that program?

4 A. That's correct, yes.

5

6 Q. They were your words. The Sovereign Room again, that
7 is a private gambling area?

8 A. Yes, top 250 players.

9

10 Q. This is a specific observation you make in relation to
11 a specific individual; is that right?

12 A. Yes.

13

14 Q. Again we won't name this person but in what you say is
15 it wasn't unusual to see that particular individual beyond
16 drunk. How many occasions did you see that occur?

17 A. It would be above 20.

18

19 Q. Again, what time period are we talking about here?
20 What is roughly the date?

21 A. So probably looking late 2010 up until probably late
22 2011, when that person stopped playing upstairs.

23

24 Q. This is a specific individual and your concerned that
25 you have expressed there relates to responsible alcohol
26 rules; is that right?

27 A. Mmm-hmm.

28

29 Q. The particular concern you seem to have expressed is
30 that in relation to important people, VIPs, that rule
31 didn't seem to be applied strictly; is that right?

32 A. That's correct.

33

34 Q. Is this something that you observed to occur generally
35 or just in relation to this specific individual you gave an
36 example of?

37 A. It did seem to be a general thing but this is the only
38 person that I've witnessed myself.

39

40 Q. So you are not able to comment about whether it
41 occurred in relation to other people as well?

42 A. No.

43

44 Q. Again, and I'm not endeavouring to be critical at all,
45 in relation to the responsible service of alcohol rules, if
46 there was a matter of concern, it was open to you to make
47 some sort of complaint or draw it to the attention of

1 senior management; is that right?

2 A. Yes.

3

4 Q. Did you do anything on this occasion, that is in
5 relation to this particular individual who you had seen in
6 the Sovereign Room?

7 A. I reported as high as the casino duty manager, who had
8 informed me that the host department had declared him to be
9 okay.

10

11 Q. That is the individual who you had seen?

12 A. Yes.

13

14 MR WIGNEY: Thank you, Mr Roach.

15

16 <EXAMINATION BY MR SULLIVAN:

17

18 MR SULLIVAN: Q. You were trained in the responsible
19 gaming policy, I take it, were you?

20 A. Correct.

21

22 Q. In respect of that, your job as a dealer or supervisor
23 was to ensure the removal from a table anyone who was
24 playing contrary to that responsible gaming policy, wasn't
25 it?

26 A. That's correct.

27

28 Q. A person who was asleep in a chair at a table on a
29 regular occurrence would be someone who would, in your
30 understanding, be contravening the responsible gaming
31 policy?

32 A. That's correct.

33

34 Q. It was your duty, therefore, if you thought that was
35 the case, to have that person removed from the table,
36 wasn't it?

37 A. Yes.

38

39 Q. Why didn't you?

40 A. I reported it to my pit manager, as was protocol, and
41 the system of the casino was that it comes from dealer to
42 supervisor to pit manager and the pit manager is the person
43 who facilitates the actual removal of the person.

44

45 Q. Your shift was eight hours?

46 A. Correct.

47

1 Q. So it would become apparent to you, after you had
2 reported to the pit manager and no action had been taken,
3 that the pit manager wasn't going to do anything, wouldn't
4 it?
5 A. Correct.
6
7 Q. Why didn't you do something then?
8 A. As dealers we're taught to not question the movements
9 of the pit manager.
10
11 Q. As dealers you are taught - it is your responsibility
12 and your personal responsibility to remove someone from a
13 table if you believe that person is not in a fit condition
14 to be at the table; isn't that correct?
15 A. That's the way we are theoretically trained in the
16 training room, yes, but it is not the way it occurs on the
17 main gaming floor and the other gaming sections.
18
19 Q. That is not the way you undertook your
20 responsibilities; is that the case?
21 A. That's correct.
22
23 Q. It's true, isn't it, the response time for security
24 when it's called, if one observes inebriation or
25 intoxication, is between one and two minutes on average?
26 A. On an average day, yes.
27
28 Q. If again under the responsible service of alcohol
29 policy at Star, it was your personal duty to ensure that if
30 anyone was seriously intoxicated you personally saw to it
31 that that person was removed?
32 A. I don't have the authority to remove someone myself
33 physically from the premises.
34
35 Q. No, your personal duty was to ensure that security was
36 called to remove that person from the premises?
37 A. That's correct.
38
39 Q. The security personnel are trained also in responsible
40 service of alcohol, aren't they?
41 A. That's correct.
42
43 Q. Your understanding is it is their assessment of
44 intoxication which is to prevail in the event of a
45 disagreement in view as to the level of intoxication?
46 A. That's correct.
47

1 MR SULLIVAN: Thank you, that is all, Ms Furness.

2

3 MS FURNESS: Thank you very much, Mr Roach, for coming.
4 You are excused.

5

6 THE WITNESS: Thank you

7

8 <THE WITNESS WITHDREW

9

10 MS FURNESS: We will resume at quarter to 2

11

12 LUNCHEON ADJOURNMENT

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1 UPON RESUMPTION:

2

3 MR WIGNEY: I call Norm Lipson.

4

5 <NORMAN LIPSON, affirmed:

6

7 <EXAMINATION BY MR WIGNEY: [1.46pm]

8

9 MR WIGNEY: Q. Can you give us your full name, please?

10 A. Yes. Norman Lipson.

11

12 Q. You are currently employed as media adviser for the
13 Minister for Tourism, Major Events, Hospitality and Racing?

14 A. I am.

15

16 Q. That is Mr George Souris?

17 A. Yes.

18

19 Q. How long have you been in that position?

20 A. Since April of last year.

21

22 Q. I think we have heard some evidence about this but
23 prior to your appointment as Mr Souris's media adviser you
24 had many, many years experience as a journalist?

25 A. Yes, I did.

26

27 Q. You worked many years at the Telegraph; is that right?

28 A. At the Telegraph and in television in various
29 capacities.

30

31 Q. Relevantly in that context, that is whilst you were a
32 journalist, did you meet a Mr Peter Grimshaw?

33 A. Yes, I did.

34

35 Q. I think you worked at the Telegraph together for some
36 period of time?

37 A. Yes, for several years.

38

39 Q. Did you over the years become both close professional
40 colleagues and close friends with Mr Grimshaw?

41 A. We were professional colleagues, we were friends but
42 after he left the Telegraph I didn't see him for some
43 years.

44

45 Q. So roughly what were the years when you fell out of
46 contact with him?

47 A. Well, the years I fell out of contact with him was

1 basically when he went to the casino to work and there were
2 many years that I didn't have contact with him.

3

4 Q. Really just to put some questions I am going to ask
5 you later into context in relation to the nature of your
6 relationship with Mr Grimshaw: as at late 2011, early 2012
7 you had both by that time become media advisers to senior
8 government ministers; is that right?

9 A. Yes, we had.

10

11 Q. Mr Grimshaw was in the Premier's office and you were
12 in Mr Souris's office?

13 A. Correct.

14

15 Q. Had you again become close friends by this stage?

16 A. Well, we renewed our friendship.

17

18 Q. Generally, without delving too deeply into your
19 relationship with Mr Grimshaw, was he someone who you were
20 sufficiently close to that you would share personal
21 confidences with?

22 A. I felt comfortable doing that and I'm sure he did.

23

24 Q. With that in mind, again focussing on the period
25 towards the end of 2011, were you aware that he was in a
26 relationship with a woman who was working at the casino?

27 A. What period of time, I'm sorry?

28

29 Q. This is late 2011.

30 A. Yes, think I was.

31

32 Q. Did you ever meet that woman and you're aware, having
33 been in court --

34 A. I understand.

35

36 Q. -- that we are being very careful about identities?

37 A. I have never met her to this day.

38

39 Q. I think it is clear from what you have just said that
40 during a number of years when, as you understood it,
41 Mr Grimshaw worked at the casino you weren't in regular
42 contact with him; is that right?

43 A. Well, I wasn't in contact, regular or otherwise.

44

45 Q. When he ceased being a journalist and went to the
46 casino did you know he was going there?

47 A. I knew he was at the casino, yes, I did.

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Q. I think we've seen an email, and I will take you to it in a moment, as of about September 2010 when you must have been in some contact with him, albeit in the context of a fundraiser; is that right?

A. Yes, that's correct.

Q. At that stage, 2010, were you in frequent contact with him or was this really just a one-off?

A. No, this was really a one-off.

Q. I can take you to the email if needs be but I think it is fair to say that in that email or email exchange in September 2010 you became aware that Mr Grimshaw had parted ways with the casino or was about to part ways?

A. Well, I became aware through an email.

Q. Did you have any discussions around the time of the email or shortly thereafter with Mr Grimshaw about the circumstances in which he came to part ways with the casino?

A. No, I don't recall having that discussion.

Q. At any time?

A. No, I - well, not around that time, no.

Q. Did you ever talk to him, that is Mr Grimshaw, or did he ever tell you about the circumstances in which he parted ways?

A. No. Only, as I say in the email, where he said he was no longer required; I think something to that effect.

Q. Did he ever tell you that his view was that he had been treated badly or that it was a bad end to his employment or that he was acrimonious about it?

A. No.

Q. When, in the period following September 2004, you became aware that in due course Mr Grimshaw did some voluntary work for the then opposition - do you remember being aware of that?

A. I wasn't aware of that, no.

Q. Were you aware when he became appointed or got the job as media adviser to the then Premier in about March of 2011?

A. I think - I heard it, I may have read it, I'm not too

1 sure. I did become aware but I can't remember how I became
2 aware.

3

4 Q. You were appointed Mr Souris's media adviser within
5 the next few months; is that right?

6 A. I was.

7

8 Q. During 2011 did Mr Grimshaw ever discuss with you
9 issues in relation to the casino?

10 A. During 2011? I don't believe he did.

11

12 Q. Again particularly focussing on the second half of
13 2011, did you ever have any discussions with Mr Grimshaw
14 about his views about the then management of The Star
15 casino?

16 A. No, I can't recall having had any discussion.

17

18 Q. You at this stage were Mr Souris's media adviser and
19 you were aware, I take it, that one of Mr Souris's many
20 responsibilities within his portfolio was the casino or the
21 Casino Control Act specifically; is that right?

22 A. I was aware of that.

23

24 Q. You, in your capacity as media adviser to Mr Souris,
25 was the casino something that was on your radar; that is,
26 did you follow developments or events at the casino?

27 A. No, because Mr Souris had five portfolios which were
28 quite varied and I didn't specifically follow events of the
29 casino; no, I didn't.

30

31 Q. So it wasn't a particular matter of interest to you?

32 A. No, not really.

33

34 Q. You don't recall having any discussions with
35 Mr Grimshaw during this period about the casino or his
36 experiences when he was there or when he left or anything?

37 A. At what period of time are you talking?

38

39 Q. Late 2011.

40 A. No, I don't.

41

42 Q. May we take it that even notwithstanding that you
43 didn't have any particular interest or it wasn't
44 particularly on your radar, that is the casino, were you
45 aware, in your capacity as Mr Souris's media adviser, that
46 during 2011 the Independent Liquor and Gaming Authority was
47 conducting an investigation under the Casino Control Act

1 relating to the casino?

2 A. I did become aware of that.

3

4 Q. Did you become aware, again in your professional
5 capacity as the media adviser to Mr Souris, that the report
6 in relation to that investigation was due to be furnished
7 to the minister in mid to late December 2011?

8 A. Well, I knew it was due. I don't know that I remember
9 exactly when it was due.

10

11 Q. Some time towards the end of 2011?

12 A. Yes, I imagine.

13

14 Q. Do you remember, perhaps informed or focussing your
15 attention as a result of this inquiry, that in fact the
16 report was released publicly on 22 December 2011?

17 A. Yes, I think that's correct.

18

19 Q. Was that an event that you paid any particular
20 attention to yourself?

21 A. Well, it was because we were going to get media
22 inquiries about it, so yes.

23

24 Q. I am just focussing on that time because the next
25 series of questions are directed to the period shortly
26 thereafter, and that is that you recall within a few weeks
27 of the release of the report in late December 2011, having
28 a conversation with Mr Grimshaw during which he referred to
29 a sexual harassment complaint or complaints relating to
30 The Star casino?

31 A. Yes, I do.

32

33 Q. Doing the very best you can, are you able to give us a
34 time frame or a date of when that conversation occurred?

35 A. Well, I know it was in January - it was probably early
36 January - early to mid January. I'm not a hundred-per-cent
37 sure of the date.

38

39 Q. I will ask you about the content of that discussion in
40 a moment but was it on the telephone or in person?

41 A. No, it was in person.

42

43 Q. How did it come about? That is, did he contact you,
44 you contact him or did you just happen to be out together?

45 A. No, well, we bumped into each other in the foyer of
46 the building and he was looking forlorn and down and
47 I happened to comment on it, "Gee, you're not looking too

1 well mate, what's up?" and he said "I've got problems" and
2 I said "What's happening?" and he said "Let's go to your
3 office". So we went to my office, shut the door and had a
4 discussion.

5

6 Q. During that discussion in his office with the door
7 closed --

8 A. In my office.

9

10 Q. What did he say to you?

11 A. He told me that his partner was having problems at
12 work. He told me what she did at her job and that she had
13 been sexually harassed. He told me that also just prior to
14 that another woman had had a problem with this particular
15 manager, whose name he didn't mention at the time and
16 I didn't inquire, and we discussed that.

17

18 Q. When you say you discussed that, what did you say and
19 what did he say?

20 A. Well, I listened to him and he told me how concerned
21 he was for his partner and how concerned he was about these
22 events and I gave him the benefit of whatever wisdom
23 I thought I had.

24

25 Q. What was the wisdom that you had? What did you
26 actually say to him?

27 A. Well, I recall in connection to his own partner I said
28 "Look, you should probably get a workplace relations lawyer
29 and work something out, work a reasonable exit out and in
30 relation to the other person she should probably go to the
31 police".

32

33 Q. You referred to the benefit of your wisdom. You agree
34 you had no particular experience in sexual harassment
35 claims or dealings at that time?

36 A. None whatsoever. No, it was just two mates talking to
37 each other.

38

39 Q. You say simply a commonsense sort of piece of advice?

40 A. That's all.

41

42 Q. Was that based on what Mr Grimshaw had told you about
43 the nature of the complaint being made by this other woman?

44 A. Yes, it was. It was based on everything that he told
45 me.

46

47 Q. I am not going to go into details of exactly what he

1 told you but he gave you some detail of the nature of her
2 allegation; is that right?
3 A. To an extent, yes.
4
5 Q. Enough to indicate to you that it was of sufficient
6 seriousness to give rise to you suggesting that she see the
7 police?
8 A. In my opinion.
9
10 Q. This conversation you say occurred in January of 2012
11 and again within some fairly short space of time from the
12 release of the authority's report in relation to the
13 casino; correct?
14 A. I've got the time line - I'm lost with the time line.
15
16 Q. Do you recall at around about this time being aware of
17 some media attention, particularly in your capacity as a
18 media adviser, in relation to matters relating to the
19 casino?
20 A. Yes, I do, yes.
21
22 Q. Some, if I could put it this way, relatively adverse
23 media articles about what was going on at the casino?
24 A. I do remember some.
25
26 Q. You were aware, of course, either as a result of this
27 conversation or other conversations you had with
28 Mr Grimshaw, that his partner he was talking about worked
29 at the casino?
30 A. I was, yes.
31
32 Q. And these sexual harassment complaints related to
33 events at the casino?
34 A. Yes, I was aware of that.
35
36 Q. Did Mr Grimshaw tell you about who the complaints were
37 made against; that is, who was alleged to have sexually
38 harassed both his partner and the other woman?
39 A. No, he didn't name the person. He said a senior
40 manager and I didn't inquire.
41
42 Q. We've talked about the report, some adverse media
43 comments about the casino and you, of course, acknowledge,
44 albeit being one of his portfolio responsibilities,
45 Mr Souris's responsibilities included the casino; correct?
46 A. Yes.
47

1 Q. Did it cross your mind at this stage, having regard to
2 that context and your position as Mr Souris's adviser, that
3 this was perhaps something that you should seek some more
4 information about?

5 A. No, not really because it was a conversation - a
6 private conversation between two mates and I kept his
7 confidence.

8
9 Q. Was it something that you thought you perhaps, having
10 regard to all of the matters that you just referred to,
11 should report to Mr Souris?

12 A. No. As I say, it was a conversation between two
13 mates. I didn't think that it had any bearing on what was
14 happening, any government decisions, and it was a private
15 conversation and a personal one between two people.

16
17 Q. May we take it from that that you didn't bring it to
18 the attention of the minister, at least at around that
19 time?

20 A. No.

21
22 Q. Did Mr Grimshaw in this conversation that you have
23 been telling us about advise you that the casino or the
24 management at the casino were conducting an investigation
25 or inquiry into these allegations?

26 A. I don't recall him telling me that.

27
28 Q. Aside from you giving Mr Grimshaw, to use your words,
29 the benefit of your wisdom did you do anything else with
30 that information?

31 A. No, I didn't, I just kept it to myself.

32
33 Q. I think you have been present in court. If I could
34 just do this quickly. You may have been aware that one of
35 the text messages that has been the subject of evidence is
36 a text message that refers to your name and I will just
37 read it out and I just want to ask you one or two questions
38 about it; do you follow?

39 A. Sure.

40
41 Q. This is, for the benefit of those here, a text message
42 sequence 5981, 9 January 2012, 7.25am. Just for your
43 benefit, Mr Lipson, it is a text message from Mr Grimshaw
44 to his partner. In it he says, and I will read out the
45 whole quote:

46
47 *I know what I was going to say. They are*

1 *trying to find breaches of confidentiality.*
2 *I reckon you say you have two roles. One*
3 *as a victim where you have to tell people*
4 *and one as HR boss where you are not*
5 *telling people.*
6

7 I am not going to ask you anything about that. That seems
8 to be a communication personal between Mr Grimshaw and his
9 partner. Then the text continues:

10
11 *Also, Norm reckons complainant 1 should lay*
12 *a police complaint. That would sew it up.*
13 *She does not have to proceed with it but*
14 *it's strong if police are involved. I know*
15 *she probably doesn't want to but just a*
16 *thought.*
17

18 I appreciate this isn't your text but I just want to ask
19 you a couple of questions about it to see if it assists
20 your recollection in relation to the conversation.

21 A. Sure.

22
23 Q. Firstly, the part of that text which says:

24
25 *Norm reckons complainant 1 --*
26

27 and you appreciate I am just using that as a pseudonym:

28 *-- should lay a police complaint.*
29

30
31 That's consistent with the evidence you have given as to
32 one aspect of the conversation?

33 A. Yes, like I said that's what I thought, yes.

34
35 Q. The text then continues "That would sew it up". My
36 question for you is: do you recall using those words?

37 A. I recall never using those words. In fact, when I saw
38 that in print I actually rang Peter and said to him
39 "I didn't say that".
40

41 Q. That occasion you're talking about there is when this
42 text message, for whatever reason, obtained some notoriety
43 as a result of being published?

44 A. Correct.

45
46 Q. So it is a conversation you had at some later time?

47 A. Correct.

1
2 Q. In any event, your evidence is that the words "that
3 would sew it up" certainly weren't said by you?
4 A. Definitely not.
5
6 Q. Did you say anything to that effect, that is, express
7 that sentiment?
8 A. Nothing to that effect. Absolutely not.
9
10 Q. Likewise, along the same vein the text continues:
11
12 *She does not have to proceed with it but*
13 *it's strong if police were involved.*
14
15 Is that something you said to Mr Grimshaw?
16 A. Definitely not.
17
18 Q. Or anything to that effect?
19 A. Nothing to that effect.
20
21 Q. Then it goes on:
22
23 *I know she probably doesn't want to but*
24 *just a thought.*
25
26 Does the same apply to that comment?
27 A. Absolutely.
28
29 Q. Putting aside that conversation that you have just
30 told us about, did you have any further discussions with
31 Mr Grimshaw on this topic, that is, the sexual harassment
32 claims that he told you about during the course of January?
33 A. Look, I think I probably did but in passing, you know,
34 I'd see him and say "How are things going with that matter"
35 and he indicated "My partner's very upset and she's sick"
36 and I think he told me once that she'd vomited from it and
37 things like that. It was just to show concern but no
38 in-depth conversations, no.
39
40 Q. In early February 2012 did you become aware that the
41 employment of the managing director of The Star, Mr Sid
42 Vaikunta, had ended?
43 A. Yes, I did.
44
45 Q. How did you become aware of that and when?
46 A. Because the Independent Liquor and Gaming Authority
47 sent our office an email with a PDF of the ASX statement.

1
2 Q. You were in your office at the time?
3 A. I was in my office.
4
5 Q. That sort of communication, does that initially come
6 to you as one of the minister's advisers?
7 A. It would come to a few of us in the office. It would
8 come to his political adviser as well, it would go to him -
9 to the minister - to me, so that if there was a media
10 inquiry we'd have some sort of a holding statement, that
11 sort of thing.
12
13 Q. Was the minister in the office, to the best of your
14 recollection, that day?
15 A. Look, I don't think he was but I think he was informed
16 by his political adviser. That's my recollection, I don't
17 want to swear by that but --
18
19 Q. It may follow from what you just said: did you
20 discuss it with him, that is, the day or within a short
21 pace of time that it had been received in the office?
22 A. Look, I think I did because we had to have a holding
23 statement which would come from the department and I think
24 I would have said to the minister - shown him that holding
25 statement for his approval.
26
27 Q. Putting that aspect aside for present purposes: when
28 you first saw this announcement that had come in, that is
29 the stock exchange announcement, did you, in your own mind,
30 link it to the information that Mr Grimshaw had given you
31 in early January about the sexual harassment claims?
32 A. I think I did because of the reasons for the sacking.
33
34 Q. I think it referred to the managing director's
35 behaviour, in a word.
36 A. Yes.
37
38 Q. Having linked it to what Mr Grimshaw had told you
39 earlier, did you have a conversation with Mr Grimshaw
40 within a short space of time of you becoming aware of the
41 stock exchange announcement?
42 A. I think I informed him that the announcement came
43 through but I don't think - I'm not sure if it was that day
44 or the next day that I asked Mr Grimshaw whether that was
45 the fellow to whom he was referring.
46
47 Q. Putting aside perhaps the next day when you asked

1 Mr Grimshaw about it - doing the best you can, can you tell
2 us about what communication you had with Mr Grimshaw within
3 a short space of time or after receiving the stock exchange
4 announcement; what did you say, what did he say?
5 A. Well, I don't think I said much. I'm not sure whether
6 I emailed him that stock exchange report or I phoned him
7 and told him about it. I just can't recall but I know
8 I informed him but that was the process, I had to.
9
10 Q. What why do you say "that was the process, I had to"?
11 A. Of course anything we do in the minister's office has
12 to go to the Premier's office and Peter Grimshaw was my
13 contact in the Premier's office, the various media
14 directors in the Premier's office had certain ministries
15 that were responsible to each one of those and Peter
16 Grimshaw - I was responsible to Peter in the Premier's
17 office.
18
19 Q. The process you are talking about relates to any
20 announcement or statement that your office was going to
21 make or --
22 A. Any media release, any media statement, any press
23 conference. Anything that the minister was going to do
24 publicly would have to be approved by the minister and the
25 Premier's office.
26
27 Q. Putting aside a communication that occurred in that
28 specific professional context --
29 A. Yes.
30
31 Q. -- did you have any personal conversation with
32 Mr Grimshaw in relation to what you learnt via this ASX
33 release and the fact that you had connected it to what
34 Mr Grimshaw had told you earlier in January?
35 A. No. Other than asking him whether that was the
36 person, no.
37
38 Q. You don't have any recollection?
39 A. I don't, no.
40
41 Q. Just to assist, perhaps, if I show you an email which
42 has been marked for identification MFI1. The first page of
43 the document just handed to you is an email from Mark Nolan
44 to yourself with a copy to a number of other people of
45 2 February 2012 at 5.05pm; correct?
46 A. Yes.
47

1 Q. Mr Nolan was a senior media manager in the government;
2 is that right?

3 A. Well, no, in the department, not - yes, which is
4 different to the government.

5
6 Q. What the email says is:

7
8 *Hi Norm, please find below a draft media*
9 *statement for your urgent review. Cheers.*

10
11 Then it is the text of a draft media statement by the
12 Casino, Liquor and Gaming Control Authority; is that right?

13 A. That's correct.

14
15 Q. You were asked by Mr Nolan to review that draft media
16 statement. Did you do so?

17 A. I did. I reviewed it.

18
19 Q. Did you make any changes or --

20 A. No, and I also - I think I'm pretty sure I would have
21 given a copy to the minister for his review - for his
22 approval - and then the process would mean that I would
23 also have to send a copy to Peter Grimshaw and the
24 Premier's office for their approval.

25
26 Q. Are you saying that sending it to the Premier's office
27 for approval would occur simultaneously with your seeking
28 your own minister's review or approval of it?

29 A. Not necessarily - it might be one after the other or
30 if I - you know, sometimes the minister wouldn't be there
31 and I'd have to email it to him and wait till he gets back
32 to me from his BlackBerry or whatever it might be. When
33 I say "for the Premier's approval", for the Premier's
34 knowledge, as well as approval.

35
36 Q. It was a clumsy question by me and I'll try again.

37 A. Yes.

38
39 Q. Would you, yourself, settle the media statement or
40 approve the terms of the media statement within Mr Souris's
41 office, that is, come up with a final version or final
42 draft of the media statement before you sent it on to the
43 Premier's office?

44 A. Not necessarily. It might be done simultaneously or
45 one after the other but I'd wait for the result from both
46 parties before approving it.

47

1 Q. The reason I ask you about timing and sequences is if
2 you go to the second page of that document I just handed to
3 you - ignore for present purposes the email at the top of
4 the page, which doesn't directly concern you - but the
5 other email is an email from you to Mr Grimshaw again
6 2 February 2012 at 5.09pm; do you see that?

7 A. Yes, I do.

8

9 Q. Just by reference to those times, you will see that
10 that is 4 minutes after Mr Nolan has sent to you the email
11 with a request that you review the draft media statement;
12 right?

13 A. Yes.

14

15 Q. What then follows in your email to Mr Grimshaw is
16 simply the text of what Mr Nolan had sent you as the draft
17 media statement; is that right?

18 A. That's right, yes.

19

20 Q. You haven't just forwarded Mr Nolan's email on to
21 Mr Grimshaw, you seem to have just cut and pasted the text
22 of the statement and put it in an email to Mr Grimshaw; is
23 that right?

24 A. I don't recall cutting and pasting it. I can't
25 explain it.

26

27 Q. You don't include any text yourself as to what, if
28 anything, Mr Grimshaw should do with it; that is, you don't
29 say "For your information" or "For approval of the Premier"
30 or "For approval of the Premier's office" or anything along
31 those lines?

32 A. No, I don't but I took it for granted he would know
33 what it was all about.

34

35 Q. You say, do you, that this is part of the ordinary
36 process that you would follow in relation to media
37 statements; that is, you would provide it to the Premier's
38 office --

39 A. Several times a day, yes.

40

41 Q. -- for approval?

42

43 Q. Finally, before we move on from this document, again
44 does this assist you at all as to whether you had any
45 conversation with Mr Souris that afternoon, at about the
46 time of these emails, around 5 o'clock in the afternoon,
47 concerning the subject matter of this email; that is, the

1 fact that the authority had requested Star to provide it
2 with a full explanation of the circumstances surrounding
3 the departure of the managing director?

4 A. I don't recall having the conversation, but his
5 political adviser may well have.

6
7 Q. Mr Lipson, can I read out the content of a text
8 message which perhaps bears on the sequence of events at
9 the relevant time and ask your recollection to it. I don't
10 suggest it's something that you were necessarily aware of.
11 It is again a communication between Mr Grimshaw and his
12 partner. It's text sequence 6985, 2 February 2012 at
13 5.34pm. It is a text from Mr Grimshaw to his partner, and
14 what is said in that text is:

15
16 *Norm said he has only said what CLGCA have*
17 *told his office but he's going to zip it so*
18 *sorry if it is causing you trouble.*

19
20 What I want to ask you is whether, having had that text,
21 albeit one between Mr Grimshaw and his partner, read to you
22 refreshes your recollection at all as to whether you had a
23 conversation with Mr Grimshaw at about the time of these
24 emails, around about 5 o'clock or thereafter, and if so,
25 what the content of that conversation was?

26 A. It doesn't and I can't explain that. I'm confused by
27 that email and exactly what it means. The only explanation
28 I could possibly give is that he's referring to this CLGCA
29 statement, the statement from the Casino, Liquor Gaming and
30 Control Authority, that I would only address the media as
31 far as that was concerned and no other issues, but that
32 does confuse me. I don't recall that at all.

33
34 Q. Do you recall having any discussion with Mr Grimshaw
35 at about this time as to whether you should endeavour to
36 ensure that the fact that his partner was somehow involved
37 in these events should not be mentioned to anyone?

38 A. Well, I don't; no, I don't. And I mean, I would only
39 be authorised to make that statement, nothing else.
40 I couldn't say anything else.

41
42 Q. Putting that aspect aside, I'm just asking you whether
43 you have a recollection?

44 A. No, I don't.

45
46 Q. No recollection at all?

47 A. No, none whatsoever.

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Q. The statement in the text message that you are going to "zip it"; that is, one would take that as meaning you wouldn't say something about it?

A. I can't explain it. I'm confused by it.

MR WIGNEY: Thank you.

MS FURNESS: Are you seeking leave, Mr Sullivan?

MR SULLIVAN: Just on one question, I would seek leave, Ms Furness. It relates to the conversation that Mr Lipson had with Mr Grimshaw when he saw text 5981 where he said his evidence was, "I didn't say that."

MS FURNESS: You have leave to ask that question.

<EXAMINATION BY MR SULLIVAN:

MR SULLIVAN: Q. Could you look again at the bundle of emails, text 5981, which is --

A. I don't have it.

MS FURNESS: Perhaps you can read the salient part Mr Sullivan. It's not very long.

MR SULLIVAN: Q. The salient part, and it is on page 144 of MFI2, was this.

... Norm reckons [the first complainant] should lay a police complaint. That would sew it up. She does not have to proceed with it but it's strong if police are involved.

In respect of the conversations that you had with Mr Grimshaw where you gave him the benefit of your wisdom, as you said --

A. Yes.

Q. When you saw the text of that email publicised or whenever you saw it, in the course of that conversation, did you and Mr Grimshaw discuss your respective recollections of that conversation?

A. Yes, actually when I read it, I was shocked and I rang him up, I think. I said, "Peter", I said, "I didn't say that second part to you." And he said "No", and he did say

1 to me, he said, "That was my own commentary."

2

3 Q. Is that all you can recall about that conversation?

4 A. Yes, that's all and I said, "Oh, fine." I was
5 relieved that he said that and that was the end of it.

6

7 MR SULLIVAN: That is all I have.

8

9 MS FURNESS: Mr Sullivan, can I suggest that if the text
10 messages are going to be used by subsequent witnesses that
11 you have someone from your team redact them.

12

13 MR SULLIVAN: Yes.

14

15 MS FURNESS: Mr Steirn?

16

17 MR STEIRN: No.

18

19 MS FURNESS: Thank you very much, Mr Lipson. You're
20 excused. Mr Steirn you are excused, too if you wish to be.

21

22 <THE WITNESS WITHDREW

23

24 MR WIGNEY: I call, please, Louise Marshall.

25

26 MR J LOCKHART SC: Ms Furness, Lockhart is my name.
27 I seek leave to appear for Louise Marshall.

28

29 MS FURNESS: Leave is granted.

30

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1 <LOUISE MARY MARSHALL, sworn: [2.19pm]

2

3

<EXAMINATION BY MR WIGNEY:

4

5

MR WIGNEY: Q. Can you give us your full name, please?

6

A. Louise Mary Marshall.

7

8

Q. Are you currently executive general manager human resources at Echo Entertainment?

9

10

A. That's correct.

11

12

Q. Is that a position you occupied relevantly also during a period December 2010 through to February this year?

13

14

A. That's correct, yes.

15

16

Q. Just very briefly, Ms Marshall, in relation to your duties and responsibilities and recording lines, is it the situation that as the executive general manager human resources you have a human resources team that reports to you in relation to Echo Entertainment?

17

18

19

20

A. That's correct, yes.

21

22

23

Q. How many members are there in the Echo Entertainment human resources team?

24

25

A. Four or six.

26

27

Q. As we know, Echo Entertainment has control of not just The Star casino but also relevantly Jupiter's casino and some other properties; is that right?

28

29

30

A. That's correct, four properties in total.

31

32

Q. Is it the situation that so far as the human resources structures go at Echo Entertainment, each of the properties, if we can call them that way, the casinos, had their own human resources team?

33

34

35

A. That's correct, yes.

36

37

38

Q. You yourself, who do you report to?

39

A. I report to Larry Mullin, the CEO.

40

41

Q. In relation to each of the casinos or the properties, as they have been referred to, and their human resources teams, do they report to you or who does the head of each of the human resources team report to?

42

43

44

A. In New South Wales, they report to the managing director of The Star. In Queensland, the senior manager reports to the managing director of the property, and there

45

46

47

1 is now a group general manager for the two Queensland
2 properties in south-east Queensland and she reports to me.

3

4 Q. Again in fairly brief terms before we move on, as the
5 way this structure works, are you, as the head of human
6 resources in Echo Entertainment, more responsible for
7 policies and overarching human resources issues in relation
8 to the group as a whole?

9 A. That's correct, in setting the strategy for the group
10 issues overall.

11

12 Q. In terms of, if I can put it this way, the personnel
13 that work at each of the casinos, their day-to-day
14 activities essentially are the responsibilities of each of
15 the human resources teams in those casinos; is that right?

16 A. That's correct, yes.

17

18 Q. As you would appreciate, I'm going to ask you in due
19 course about a particular investigation relating to some
20 sexual harassment complaints. Just so we understand the
21 ordinary way in which these sorts of allegations are dealt
22 with, if a sexual harassment claim is made in relation to
23 the Star, for example, and I am just talking hypothetically
24 for the moment, who would ordinarily take responsibility
25 for and investigate and deal with such a complaint?

26 A. Ordinarily the property would; so it would be the
27 general manager of HR for the property with the managing
28 director of the property. If there were issues that
29 required escalation or it became more complex or there were
30 any issues with those parties, then my role is the sort of
31 role where it could be escalated to.

32

33 Q. I'll come to the detail in due course, but may we take
34 it that that's what occurred in relation to the December
35 2011 complaint; that is, for various reasons that perhaps
36 we will come to, they were escalated so that you took on
37 some responsibility for them?

38 A. I took on total responsibility for them. Given the
39 seniority of the respondents, they were brought to me, yes.

40

41 Q. Just before we come to the specific complaints, can
42 I ask you, just generally, to put all of this in context:
43 as at the end of 2011 and up to the beginning of this year,
44 how many years had you worked in human resources?

45 A. Just shy of 20 years, I think from memory.

46

47 Q. So considerable experience?

1 A. Yes.

2

3 MS FURNESS: Q. I didn't hear that answer.

4 A. Just shy of 20 years.

5

6 MR WIGNEY: Q. How long have you worked at Echo
7 Entertainment as at that time?

8 A. I actually joined Tabcorp. I joined them in November
9 2007, so I've been with the legacy company since that time.

10

11 Q. Have you undertaken over those 20 years courses and
12 training in relation to human resources?

13 A. Yes, extensively.

14

15 Q. As part of that training, is there specific training
16 in relation to dealing, for example, with sexual harassment
17 cases?

18 A. Yes.

19

20 Q. May we take it also, in that extensive experience that
21 you have referred to over 20 years, you have, on many
22 occasions before, dealt with and investigated sexual
23 harassment cases?

24 A. Yes, unfortunately, on many occasions.

25

26 Q. And that includes over the years working for other
27 employers as a human resources person?

28 A. That's correct.

29

30 Q. Just before I come to the details of the December 2011
31 complaints, can I indicate that I'm going to take you
32 through a broad chronology of the events that occurred in
33 the investigation of these complaints. What has been done
34 is to compile from material that has been produced by Echo
35 Entertainment, pursuant to summonses from the inquiry, a
36 bundle of perhaps key documents from the relevant files.
37 We will make that available to you in the course of this.
38 If at any time you wish to have reference to it to confirm
39 dates or to check file notes, then feel free do so, do you
40 follow?

41 A. Thank you.

42

43 MR WIGNEY: Perhaps I'll just have that bundle provided at
44 this stage and I will provide a copy to Mr Lockhart. The
45 position that we have taken is that anyone who may have a
46 legitimate basis for examination in due course should be
47 given this volume as we go through on the basis that it be

1 returned in due course. I don't know if there are any
2 other applications in that regard.

3
4 MS SHARP: In that case, may I have a copy of the volume?

5
6 MS FURNESS: What interest does Mr Grimshaw have in the
7 investigation?

8
9 MS SHARP: One of the issues that was put to Mr Grimshaw
10 concerned the concerns of his partner and him in relation
11 to the course that the investigation took and he may have
12 an interest in questions about that.

13
14 MR WIGNEY: Can I make a suggestion? If it becomes
15 necessary for Ms Marshall to have reference to this bundle
16 and to refer to a specific document, we can perhaps address
17 the matter at that stage. It may not be necessary, in
18 which case, it won't be necessary for my learned friend to
19 have access to the documents.

20
21 MS FURNESS: Let's wait and see, Ms Sharp.

22
23 MS SHARP: Thank you.

24
25 MR WIGNEY: Q. Again, we're interested primarily,
26 Ms Marshall, in the broad chronology. Unless it is
27 particularly critical, I'm not going to give you times of
28 the day, or even specific dates may not be necessary, so
29 you don't have to necessarily double-check them through the
30 bundle. It's really the broad progression of the
31 investigation; do you follow?

32 A. Yes, I do, thank you.

33
34 Q. Is it the situation that the December 2011 complaints
35 first came to the attention of management at Echo
36 Entertainment on 12 December of 2011?

37 A. That is correct.

38
39 Q. Just in general terms, did that occur in this way: a
40 woman by the name of Joanne Ede, who was the general
41 counsel employee relations, reported that she had had a
42 conversation with someone in relation to a sexual
43 harassment complaint?

44 A. That's correct.

45
46 Q. Again I think you've probably been advised of this,
47 and it would be self-evident to someone in your position in

1 any event, we are doing everything that we can to ensure
2 that the names of these complainants remain confidential.
3 The names that we have been using are complainant 1 and
4 complainant 2. Complainant 1 deals with the complaint made
5 by a woman that involved unwelcome sexual advances. With
6 complainant 2, we've referred to it as a complaint the
7 substance of which was unwelcome comments of a sexual
8 nature. Is that sufficient for you to understand which is
9 which?
10 A. Yes, it is, Mr Wigney, thank you.
11
12 Q. Is it the situation that the first contact that
13 I referred to that occurred via Joanne Ede was the person
14 we have referred to as complainant 2 contacting her?
15 A. That's correct, yes.
16
17 Q. Complainant 2 herself was a senior employee or officer
18 of The Star; is that right?
19 A. That's correct.
20
21 Q. Did she provide some information primarily in relation
22 to the incident of a sexual nature involving complainant 1;
23 is that right?
24 A. Yes.
25
26 Q. In due course, I think, initially at least in a
27 rudimentary stage, that conversation between Ms Ede and
28 complainant number 2 occurred on 9 December?
29 A. Yes, Friday, the 9th, that's correct.
30
31 Q. And it was reported to you by Ms Ede the following
32 Monday, 12 December?
33 A. That's correct.
34
35 Q. As you are aware, we don't want to go into any detail
36 in relation to the complaint, but is it the situation that,
37 in relation to the incident, that was reported to Ms Ede by
38 complainant number 2, that was an incident that occurred on
39 the evening of 6 December; is that right?
40 A. That's correct.
41
42 Q. Complainant 2 reported the incident involving
43 complainant 1.
44 A. Complainant 1, yes.
45
46 Q. That incident occurred on 6 December; is that right?
47 A. That's correct, yes.

1
2 Q. Again in the evening towards the end of or following a
3 work function at a city hotel; that's right?
4 A. That's correct.
5
6 Q. I think, as you've already indicated, the particular
7 allegation that we are not going to go into detail about
8 concerned an unwelcome sexual advance?
9 A. That's correct.
10
11 Q. Is it the situation that - again not going into it in
12 any detail - what was reported to you in relation to the
13 nature of that complaint was that, on any view, it was a
14 very serious allegation?
15 A. That's correct, yes.
16
17 Q. And that it involved an allegation against the then
18 managing director of The Star?
19 A. That's correct, yes.
20
21 Q. Did you form the view fairly early on that such was
22 the seriousness of the allegation that, if substantiated,
23 it would have serious implications for the managing
24 director's continuing employment?
25 A. That was possible, yes.
26
27 Q. It was a very serious complaint?
28 A. Yes, it was.
29
30 Q. Was it also the fact that, in due course, Ms Ede
31 reported that complainant 2, with whom she'd spoken, had
32 also reported to her - that is Ms Ede - allegations against
33 the same person, that is Mr Vaikunta, the managing director
34 of The Star?
35 A. That's correct, yes.
36
37 Q. Complainant 2's allegations that were made involved
38 unwelcome comments of a sexual nature; is that right?
39 A. That's correct, yes.
40
41 Q. And did they occur on, so it was reported, 8 December?
42 A. That's correct.
43
44 Q. Whilst they were unwelcome comments of a sexual
45 nature - that is, essentially verbal acts - did you again
46 regard those as serious allegations?
47 A. Yes.

1
2 Q. Again against the same very senior officer at The
3 Star; is that right?
4 A. That's correct.
5
6 Q. Is it the situation that Ms Ede reported to you, and
7 this is still on the 12th, that you should expect a
8 telephone call from complainant 2 in relation to these
9 matters?
10 A. That's correct, yes.
11
12 Q. Did that eventuate; that is, in due course, did
13 complainant 2 contact you?
14 A. Yes, she did.
15
16 Q. She told you again in general terms about the
17 allegations of complainant 1 that had been reported to her?
18 A. We had a very brief conversation at that time and we
19 organised to talk later that night and Ms Ede joined that
20 call as well.
21
22 Q. That's later on in the evening of 12 December, roughly
23 what time?
24 A. About 8.30 at night.
25
26 Q. So it was becoming quite late in the evening already?
27 A. That's correct.
28
29 Q. In that second conversation that was joined by Ms Ede,
30 did that conversation traverse some more details about each
31 of the complaints?
32 A. That's correct, and it really just validated
33 everything that Ms Ede had said to me earlier in the day,
34 but I was hearing it directly from complainant number 2.
35
36 Q. Having regard to what you have already said was the
37 seriousness of those allegations, did you, again on the
38 same evening, brief some other officers of Echo
39 Entertainment or Star?
40 A. Yes, I did. I briefed Michael Anderson, our Echo
41 Group general counsel, again by telephone because he was
42 overseas.
43
44 Q. Did you also that evening or maybe shortly after, if
45 you can remember, brief a gentleman by the name of Mr Kevin
46 Houlihan?
47 A. I actually can't remember that we spoke to Kevin that

1 night. I think Michael may have subsequently spoken to
2 Kevin. I'd have to check my notes on that.

3

4 Q. By virtue of the fact that the initial contact with
5 complainant 2 was at 8.30, we're getting fairly late in the
6 evening?

7 A. It was getting fairly close to midnight at this stage
8 I believe from memory.

9

10 Q. In any event, within a very short space of time,
11 Mr Kevin Houlihan was briefed either by yourself or
12 Mr Anderson; is that right?

13 A. That's correct.

14

15 Q. Mr Kevin Houlihan was, in general terms, the chief
16 investigator at The Star; is that right?

17 A. That's correct, yes.

18

19 Q. Without going into particular detail, were you aware
20 at the time that Mr Houlihan was a man who had years of
21 investigation experience with a police force?

22 A. Yes, both with the police force and the Australian
23 Crime Commission. He's significantly experienced in
24 difficult investigations.

25

26 Q. How long had he been working at The Star?

27 A. I don't know the answer to that, but about three or
28 four years, approximately would be my guess.

29

30 Q. Had you had much direct involvement with him prior to
31 this particular occasion?

32 A. Yes. I had run another difficult - not directly run,
33 but I had been involved in another extensive and difficult
34 investigation so I'd worked closely with Mr Houlihan and
35 observed his work in great detail.

36

37 Q. Was he someone that you had particular confidence in
38 in relation to handling what, in any view, appeared to be a
39 very like a serious and complex investigation?

40 A. I had complete and utter confidence in Mr Houlihan.

41

42 Q. The other gentleman you referred to, Mr Michael
43 Anderson, group general counsel, again in general terms he
44 was the most senior lawyer for the Group; is that right?

45 A. That's correct, yes.

46

47 Q. A very senior officer at Echo Entertainment; is that

1 right?

2 A. That's correct, yes.

3

4 Q. Did yourself, Mr Anderson and Mr Houlihan and Ms Ede
5 eventually form the kernel of the team that handled this
6 investigation?

7 A. Yes, in fact we agreed that night on the phone, on the
8 12th, that the four of us would be the core of the team.

9

10 Q. And clearly a very senior and experienced team in
11 fact?

12 A. We believed so, yes.

13

14 Q. I think it has been raised today, and I'll deal with
15 it now: was it your experience that on other occasions
16 where sexual harassment complaints had been made that
17 external investigators has been retained by The Star or the
18 property casino in respect of which these complaints had
19 been made?

20 A. In my experience at Tabcorp and Echo, it's a mixture.
21 You look at the seriousness of the allegations each time.
22 You look at the circumstances of the allegations and you
23 look at what other work is on at the time to see who are
24 the best resources and who is available to deal with the
25 matter as it comes to hand.

26

27 Q. Did you, as head of human resources at Echo at this
28 time, turn your mind to whether this was an occasion where
29 an external investigator should be retained or whether it
30 would be better dealt with in house with this senior team
31 that you've referred to?

32 A. We did discuss it, yes. Michael Anderson and I very
33 quickly formed the view that our preference was for
34 Mr Houlihan because of his experience in a prior
35 investigation that we'd worked very closely with him as I'd
36 referenced earlier, given the seniority of the individual
37 who was the respondent and the complexity we thought of the
38 nature of the allegations.

39

40 Also I had some experience just prior to that where we
41 had been bitterly disappointed by the use of an external
42 investigator. Ms Ede and myself debated the pros and cons
43 and we felt we needed someone who understood the
44 organisation and could get to the bottom of this thoroughly
45 and quickly and we didn't want to run the risk of using an
46 external investigator and having some disappointments as we
47 had previous just done.

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Q. To put some context on that the experience that you have just referred to involving an external investigator was a complaint relating to a Mr Snell; is that right?

A. No, it wasn't at that time. It was actually another complaint, another external investigator. I wasn't aware - I had some concerns, but I wasn't aware of just how disappointed I was going to be with the external investigator on Mr Snell's matter until a couple of days later when their report came in and the issue surfaced.

Q. We might come back to that. We are really still on the first day upon which management became aware of this complaint and you, it seems, worked into the night in relation to dealing with the initial matters relating to that complaint; is that right?

A. That's correct, yes.

Q. Is it the situation that, on the very next day, 13 December, Mr Mullin, the chief officer of Echo Entertainment, was contacted and advised of this investigation?

A. That's right. It was late in the day our time on Tuesday, the 13th. I was up on the Gold Coast returning home and he was in Hawaii.

Q. Was it you that contacted him and briefed him in relation to this?

A. That's correct. It was not a really extensive conversation because, for a period of time, I was in a car and so it wasn't confidential. Then I was waiting to catch a plane and I had to get that plane, it was the last one of the day. So we then had a follow-up conversation the next day, but I was able to give him the details of both sets of allegations.

Q. We will come back perhaps to more detail on the briefings on the day. Still on the 13th, notes among the material that has been produced suggest that Mr Houlihan met with both complainant 1 and complainant 2 at some time on the 13th.

A. That's my understanding.

Q. At that meeting, at first, complainant number 1 agreed to be interviewed in relation to the matter?

A. That's correct, but on the subsequent day; she was a bit distressed on that day.

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Q. So that actual interview between Mr Houlihan and the first complainant occurred on 14 December?

A. In its entirety, yes.

Q. Was that interview recorded?

A. I believe so, yes.

MS FURNESS: Q. Before we leave the 13th, may I ask, Ms Marshall, did you arrange any counselling for complainant 2 or complainant 1 on the 13th?

A. Not for complainant 2. She was fine, didn't want anything. Complainant 1, I hadn't spoken to at this stage; so, no, I didn't organise anything.

Q. Did you have a conversation with complainant 2 about counselling?

A. It's difficult to remember whether I did on that day or in the subsequent couple of days. I certainly did very early on, but I can't recall exactly which day.

MR WIGNEY: Q. I think it will come up again later, so I'll ask you now: in relation to complainant number 2, did you understand that, at least as at the 13th - that is the second day - that it was still unclear as to whether she wanted the human resources team to investigate the matter or deal with the allegations herself?

A. It was a little bit unclear. She had expressed to Ms Ede on the previous Friday that she wanted to deal with the allegations herself and put them directly to the respondent, and she had planned to do that on the 14th. But she had also made it clear, given the other complainant's allegations, that she would come forward and she would support the issue.

Q. We have referred to the fact that complainant 1 was interviewed perhaps in a formal way by Mr Houlihan on the 14th and at least a detailed note or record was made of that interview; is that right?

A. Yes, correct.

Q. Was it also the situation that Mr Houlihan spoke with complainant number 2 on the same day, that's the 14th?

A. My understanding, yes.

Q. But as far as you are aware, it was not recorded or no detailed note was taken in relation to that matter?

1 A. I understand about three or four pages of notes were
2 taken by Mr Houlihan.
3
4 Q. The reason I have raised that is did that topic become
5 an issue as between the investigation team and the
6 complainant 2 at some stage during the course of the
7 investigation?
8 A. Yes, it did, later on in December.
9
10 Q. We will come back to that perhaps in due course. We
11 referred earlier to the core of the team being yourself,
12 Mr Anderson, Mr Houlihan and Ms Ede. Did you as well as
13 Mr Houlihan speaking with both complainants convene a
14 telephone conference meeting to touch bases in relation to
15 the investigation on the 14th?
16 A. I would think so. We had a meeting, yes.
17
18 Q. Was it the situation that in relation to this
19 investigation a code name was adopted to refer to the
20 investigation?
21 A. That's correct, yes.
22
23 Q. I won't use the code name but was that a standard
24 practice to maintain confidentiality?
25 A. Yes, it was.
26
27 Q. Again, so as to avoid doing this in a chronological
28 way, was it the situation that the team that we've referred
29 to - yourself, Mr Anderson, Mr Houlihan and Ms Ede - would
30 have regular meetings at which the updates were provided in
31 relation to the investigation, issues were discussed and
32 forward planning was engaged in?
33 A. That's correct, yes.
34
35 Q. From about this point onwards, that is the 14th, was
36 it the situation that Mr Houlihan, as the head of
37 investigations at The Star, was going to be the primary
38 person to interview witnesses?
39 A. That's correct, yes.
40
41 Q. Over the next few days did he interview a number of
42 witnesses?
43 A. Yes, he did.
44
45 Q. Or potential witnesses?
46 A. Yes, he did.
47

1 Q. I am not going to go through each and every one of
2 them. Was it the situation that in due course Mr Houlihan
3 prepared an investigation report that detailed each of the
4 interviews and summarised, or in some cases detailed, the
5 precise content of those interviews?

6 A. That's correct.

7

8 Q. In addition to the two complainants that we referred
9 to there were roughly six key witnesses that were
10 interviewed in relation to the two investigations; is that
11 right?

12 A. That sounds about right, yes.

13

14 Q. Of course, in due course - and I will come to the
15 timing of it shortly - Mr Vaikunta himself had to be
16 interviewed in relation to the allegations?

17 A. That's correct.

18

19 Q. Is it the situation that ordinarily in such
20 investigations the complaints are taken and witnesses are
21 interviewed before a person against whom the complaints are
22 made is spoken to?

23 A. That's the preferred way of operating, yes.

24

25 Q. I think it's also the case, and again it's not
26 necessary to go into detail, that as part of his
27 investigations Mr Houlihan viewed some closed-circuit
28 television footage; is that right?

29 A. That's correct, yes.

30

31 Q. I think, again going without going into the detail,
32 there are records of Mr Houlihan's interviews with
33 witnesses on the 14th, 17th and 19th, I don't think we need
34 to go into them, but I think as you adverted to before, was
35 it the situation that on about the 15th you had a more
36 detailed discussion with Mr Mullin in relation to these
37 matters?

38 A. That's correct.

39

40 Q. Are you aware, as a result of your discussions with
41 Mr Mullin, that he in due course advised the chairman of
42 Echo Entertainment, Mr John Story, of the investigation?

43 A. He had by the 15th, he confirmed that to me, yes.

44

45 Q. So he had already taken a step of advising Mr Story
46 before you had had the opportunity of having a detailed
47 conversation with him?

1 A. No, we'd had a detailed - we had a reasonable
2 conversation of about 20-odd minutes on the 13th. We had a
3 much more detailed - hour, hour and a half - on the 14th
4 and when he rang me on the 15th we had a long conversation
5 again about the investigation and one of the things he
6 confirmed to me at that time was that he had briefed John.

7
8 Q. We have amongst the material that's been produced a
9 file note which appears to be your file note. Did
10 Mr Mullin report to you the essence of his conversation
11 with Mr Story or Mr Story's response to being told of this?

12 A. Yes, I think so.

13
14 Q. The note records that, amongst other things, Mr Story
15 told Mr Mullin "Let it take or run its course, run it
16 through comprehensively". Does that ring a bell?

17 A. That's correct, that rings a lot of bells.

18
19 Q. And that Mr Story also told Mr Mullin "It will be what
20 it will be"; is that right?

21 A. That's correct.

22
23 Q. I will come back to it in due course but since I've
24 raised the topic I will do it in a global sense now. At
25 any stage of this investigation did you experience or
26 become aware of any intervention or pushback, if I can use
27 that expression, by senior management at Echo Entertainment
28 in relation to the investigation in relation to these
29 complaints?

30 A. Never.

31
32 MS FURNESS: Perhaps, Mr Wigney, you can put that a bit
33 more clearly in terms of what you mean by "pushback". It's
34 not clear to me.

35
36 MR WIGNEY: Q. Was it ever suggested to you or, to your
37 knowledge anyone else in the investigation team, that you
38 should go lightly in relation to the investigation; that
39 is, not pursue the investigation in any way?

40 A. No, never. Mr Mullin was very conscious of stepping
41 back from the investigation and letting us do our work and
42 I myself had a number of direct conversations with John
43 Story and he was very clear in his instructions to me "You
44 run this and you run this thoroughly and you run it to
45 ground".

46
47 Q. From your dealings with both Mr Story and Mr Mullin,

1 they were presumably very concerned about the nature of the
2 allegations involving, as they did, the most senior officer
3 at The Star; is that right?

4 A. As we all were, yes.

5

6 Q. It was appreciated at a very early stage that if the
7 investigation ran its course and the allegations were
8 substantiated, it was at least a possibility that that
9 would result in the termination of Mr Vaikunta's
10 employment?

11 A. It was a possibility, yes.

12

13 Q. It was never suggested to you by Mr Story or Mr Mullin
14 not to pursue the investigation vigorously?

15 A. Never.

16

17 Q. I have already referred to the fact that Mr Houlihan
18 conducted some interviews on the 14th, 17th and the 19th.
19 Was it the situation that the investigation had progressed
20 to the stage that on 19 December you and Mr Houlihan were
21 in a position to interview Mr Vaikunta for the first time?

22 A. That's correct, yes.

23

24 Q. A detailed record was kept of that interview; is that
25 right?

26 A. That's correct.

27

28 Q. You were present at those interviews?

29 A. When you say "interviews"?

30

31 Q. I'm sorry, interview with Mr Vaikunta?

32 A. Yes, I was.

33

34 Q. Mr Houlihan had conducted the other witness interviews
35 essentially himself. Was there a reason that you attended
36 this particular interview with Mr Vaikunta?

37 A. There was. We reflected on the seniority of
38 Mr Vaikunta and we reflected on the fact that it was
39 appropriate given that and the seriousness of the
40 allegations that there was a witness and given that in
41 technical terms Mr Houlihan reported in within the
42 hierarchy and the structure of The Star it was appropriate
43 to have someone from Echo and the head of HR representing
44 Echo and just observing.

45

46 Q. Obviously I'm not going to go into the details of the
47 interview with Mr Vaikunta. In general terms, the

1 allegations both by complainant 1 and complainant 2 were
2 put to him; is that right?

3 A. Yes, they were, that's correct.

4

5 Q. And again in very general terms, is it the situation
6 that he disputed or denied some aspects - critical aspects
7 - of complainant 1's allegations?

8 A. Yes, that's correct. He said that the activities were
9 consensual.

10

11 Q. I was going to say that whilst some of the actual
12 activities were not disputed, Mr Vaikunta, again putting it
13 in very general terms, gave an exculpatory explanation, if
14 I can put it that way --

15 A. Correct.

16

17 Q. -- is that right? In relation to complainant 2's
18 allegation, was it the situation that he denied or disputed
19 a number of aspects of her allegations?

20 A. He denied them in their entirety.

21

22 Q. So it became apparent to you and Mr Houlihan on the
23 19th that there were certainly some critical disputed facts
24 that were obviously in dispute and needed to be determined?

25 A. That's correct, yes.

26

27 Q. It was decided that, as a result of that, some further
28 investigation was warranted?

29 A. Yes, that's correct.

30

31 Q. Was there a decision made on that day, following the
32 first interview with Mr Vaikunta, that some of the
33 witnesses who had already been interviewed should be
34 interviewed again?

35 A. I can't remember if it was that day or the next
36 morning but we certainly very quickly made some decisions
37 that we needed to do some second interviews, yes.

38

39 Q. Were there any witnesses who had not been interviewed
40 at that stage who it was decided should be interviewed,
41 having regard to Mr Vaikunta's response?

42 A. Yes.

43

44 Q. We don't need into go into detail but I may come back
45 to one. Is it the situation also that at about this time -
46 I think on the 19th but perhaps it may have been the 20th -
47 that it was decided to retain some external legal advisers

1 in relation to the investigation?
2 A. That's correct, yes.
3
4 Q. Whose decision was that?
5 A. That was a decision that John Story and I made
6 together.
7
8 Q. Was it the situation that a lawyer or lawyers at a
9 leading Australian law firm were retained?
10 A. That's correct, yes.
11
12 Q. There was a lawyer or lawyers who specialised in
13 employment law; is that right?
14 A. That's correct and specialised in sexual harassment
15 cases.
16
17 Q. Why was it thought that external legal advice was
18 necessary or desirable?
19 A. We felt that we wanted an independent expert watching
20 and reviewing and challenging us on every step of our
21 process.
22
23 Q. Was this as a result of the complexity or nature of
24 the allegations or because it involved such a senior
25 officer, or both?
26 A. Both.
27
28 Q. In the materials that had been provided under summons
29 by Echo Entertainment there is a note which suggests that
30 complainant number 2 contacted both you and Ms Ede on
31 20 December and, amongst other things, complained about the
32 fact that her allegations - that is complainant 2's
33 allegations - had been put to Mr Vaikunta; do you recall
34 that?
35 A. Yes, I do.
36
37 Q. Do you recall the complainant number 2 also advising
38 or claiming in this telephone conversation on 20 December
39 that she believed that there would be a cover-up; is that
40 right?
41 A. I can't remember if it was the 20th or 21st but it was
42 one of those two days, yes, she did.
43
44 Q. I think the note records that during that conversation
45 there was also some reference by complainant number 2 that,
46 having regard to what I've already said in relation to a
47 possible cover-up, her husband wanted to contact

1 Mr Vaikunta directly; is that --

2 A. That's correct. She also threatened to go to the
3 media.

4
5 Q. In that particular conversation or others?

6 A. Yes, in that conversation and subsequent ones. That
7 one was on 21 December.

8
9 Q. Dealing with each of those matters in turn, if
10 I might: in relation to the complaint about putting the
11 allegations to Mr Vaikunta, it may be obvious from what you
12 have already said but is it ordinarily or perhaps
13 invariably the case that allegations in a sexual harassment
14 matter must be put to the person against whom the complaint
15 is made as a matter of fairness, so that it is ascertained
16 what their position is in relation to the complaint?

17 A. That's correct, yes. There's also a couple of other
18 things that we considered at that time. So, for example,
19 if an employee brings an allegation of serious sexual
20 harassment to you, as an employer you have a responsibility
21 to deal with that and even if the complainant says "I don't
22 want anything done about it" as an employer you still -
23 there's a lot of case law on this - you still have a
24 responsibility to follow it through and do something.

25
26 She had advised the organisation on 9 December that
27 she had some concerns. She formally told me about those on
28 the 12th. She told me that she wanted to deal with them
29 herself but that she would come forward as well. She said
30 she would do that on 14th December. That didn't occur.
31 Her incidents had occurred on 8 December - we were
32 interviewing Mr Vaikunta on 19 December - so we gave her
33 more than what I would deem reasonable time to take that
34 action if she was actually going to take it.

35
36 Q. Your position was, amongst other things, that having
37 regard to the nature of the complaint, whether or not she
38 wanted you to progress it as an investigation, it was of
39 such seriousness that you had an obligation as an employer
40 to pursue it in any event?

41 A. That's correct and I had explained that to her at the
42 very beginning on 12 December and said to her
43 "Complainant 2, you know, in your experience in HR, that
44 when you bring allegations as serious as this I will need
45 to act on them".

46
47 Q. The other matter that was raised during this

1 conversation was complainant 2's belief that it would be a
2 cover-up. Did she provide any explanation or basis for
3 that belief, did she --

4 A. No. She said that on a number of occasions and
5 I repeatedly asked her if she could articulate why she felt
6 that or what led her to that conclusion. She was never
7 able to give me anything.

8
9 Q. Importantly, did you, in the course of that
10 conversation, seek to reassure her in relation to the
11 investigation and whether there would be a cover-up?

12 A. Yes. I reminded complainant number 2 that we had
13 worked together for quite sometime and she knew my
14 character and she knew how I handled matters. I said to
15 her "Do you really seriously believe that I would allow a
16 cover-up on anything? I ask you to think about that
17 because I know you know how I work and it would never be
18 the case".

19
20 Q. I think there may be some specific instances of this
21 as we come to it but I will deal with it now, in any event.
22 At various stages do you recall whether complainant 2
23 communicated to you that she believed that she wasn't being
24 dealt with with any degree of sympathy or she wasn't being
25 dealt with appropriately as a victim?

26 A. There was a particular occasion when she said she
27 wasn't being contacted often enough and I said to her
28 "Well, how often would you like to be? I apologise for
29 that if that's how you feel, how often would you like me to
30 contact you? It is important for me to understand if you
31 have a particular perspective in mind" and she said "No,
32 just on the natural course of things when you think it's
33 appropriate".

34
35 Q. Was it the situation that at various intervals during
36 the course of the investigation that you provided updates
37 to complainant number 2?

38 A. Yes, that's correct. Both in telephone conversations,
39 the odd text message and in emails as well.

40
41 Q. What about, if I can put it this way, welfare calls,
42 just to check to ensure how she was dealing with things,
43 was that --

44 A. Yes, I did, yes.

45
46 Q. That occurred, what, at intervals during the course of
47 the investigation?

1 A. Yes, at intervals throughout.

2

3 MS FURNESS: Q. What sort of intervals?

4 A. It really varied depending on the circumstances at the
5 time. So we had spoken on Monday, 12 December. I think we
6 then spoke again - we worked together over the subsequent
7 couple of days. I'd given her the opportunity, if it felt
8 too difficult, to remove herself from another investigation
9 that we were working on but she'd reassured me that she was
10 fine, she wanted to keep going. So I had a very close
11 sense of how she was feeling and how she was operating in
12 those first early days of the investigation. Then we had
13 extensive dialogue in phone, email and text messages from
14 the 20th to the 23rd, probably less over the subsequent
15 period. I think we had a call on 28 December. Then we
16 picked it up on the 3rd and there was quite frequent
17 conversations. So it ebbed and flowed with the natural
18 flow of the investigation.

19

20 MR WIGNEY: Q. Again just dealing with it now, and we
21 may come back to specific communications in due course, but
22 at various times did it appear to you, at least in terms of
23 your contact with complainant 2, that she appeared upset or
24 stressed or distressed by the --

25 A. Extremely so. The conversations were very difficult
26 most of the time. In fact, I was quite concerned that by
27 me speaking to her I was actually causing her more stress
28 than I was abating and myself and Ms Ede alternated
29 depending upon how she was responding to each of us, in
30 terms of who called her to give her updates or to check in
31 on welfare calls and that sort of thing. There was a
32 period of time where she was particularly irate with me so
33 we actually decreased the number of calls I made and upped
34 the number of calls that Jo made and then in January that
35 altered and reverted back the other way, so I was more what
36 I would call the main contact, just to try and help her to
37 stay calm and feel a bit more relaxed.

38

39 Q. May we take it, based on your experience in human
40 resources, that it's not unusual for complainants in sexual
41 harassment cases to be very upset and stressed by not only
42 the complaint itself but by the process?

43 A. Look, it's a difficult situation obviously for any
44 complainant. They vary greatly because everyone's very
45 different. Complainant number 2 did stand out because she
46 would probably have to go on record as being the most
47 difficult and acrimonious complainant I have ever dealt

1 with in my career, disproportionately so to the other
2 complainant, and it did get at times to a situation where
3 if I was just saying black she was saying white. Quite
4 hostile.

5
6 Q. We will come back to the specific occurrences in due
7 course but I think my questioning at this stage was focused
8 primarily because she had made contact with you,
9 complainant 2. Did you provide updates and welfare contact
10 in relation to complainant 1 as well?

11 A. Not immediately. Complainant number 2 was doing that
12 at the beginning. I took that over and communicated that
13 to both of them on 23 December.

14
15 MS FURNESS: Q. Communicated what to both of them?

16 A. That I would take over the contact role with
17 complainant number 1 because I was concerned about how
18 distressed complainant number 2 was.

19
20 Q. Was that the extent of your communication on that date
21 about the two of them?

22 A. No, I had extensive communication with them both on
23 that day.

24
25 Q. Did you say anything to them about whether they should
26 talk to each other?

27 A. Yes, I did.

28
29 Q. What did you say?

30 A. I said that they shouldn't.

31
32 MR WIGNEY: Q. Did the fact that complainant number 2
33 was a point of contact, as it were, with complainant 1 in
34 relation to complainant 1's complaint cause you any concern
35 or create any complexities in at least the initial stages
36 of this investigation?

37 A. There was a thought that perhaps complainant number 2
38 was distressing and winding up complainant number 1.

39
40 Q. Was that one of the considerations that led to you
41 deciding that you should be the point of contact, and
42 I think you said on 23 December?

43 A. It was a minor one. The most overarching one was just
44 how distressed and aggressive and threatening and
45 distraught complainant number 2 was. We needed to take
46 away as many stress factors as we could from her world.

47

1 Q. Was there a point at which you became concerned that
2 personal issues between yourself and complainant number 2
3 were creating issues in relation to the investigation or
4 was that not something that cropped up?

5 A. No.

6

7 Q. So you thought that it was primarily just how stressed
8 and upset and distressed by the process it was, it wasn't
9 any personal issue between yourself and complainant 2?

10 A. No. In fact, complainant number 2 was at pains to
11 tell me that she had faith in both myself and Ms Ede, that
12 was on 23 December. Despite the acrimonious phone
13 conversations she had faith in us both and she just had to
14 trust in the process.

15

16 Q. Prior to these actual complaints, based on what you
17 have said earlier, you had worked with and knew complainant
18 number 2; is that right?

19 A. That's correct, yes.

20

21 Q. Had there ever been any personal issues or
22 disagreements between you before?

23 A. Work disagreements?

24

25 Q. Yes.

26 A. Yes.

27

28 Q. Personal disagreements?

29 A. No, I don't believe so.

30

31 Q. Was the relationship at any time - and again I am
32 talking about before these allegations - was there any time
33 when your relationship was strained or difficult?

34 A. Yes, there were.

35

36 Q. Was that a matter that you had turned your mind to in
37 relation to you being one of the key members of the
38 investigation team in relation to her particular complaint?

39 A. No.

40

41 Q. Just getting back to the chronology, if we can keep
42 going through it, some of these matters we have already
43 addressed but I think we are up to 21 December. There is a
44 note amongst the material that suggests that complainant 2
45 contacted you by telephone and advised that she wanted the
46 matter to be dealt with before Christmas and, indeed,
47 wanted Sid - that is Mr Vaikunta - to be out before

1 Christmas; do you recall that matter?
2 A. Yes, I do.
3
4 Q. Did she follow that telephone conversation up with an
5 email which again requested or demanded that the
6 investigation conclude by Christmas?
7 A. That's correct, yes.
8
9 Q. You responded to that email?
10 A. That's correct, yes.
11
12 Q. You presumably answered that query in a telephone
13 conversation as well?
14 A. That's correct, yes.
15
16 Q. Again, I don't think it is necessary to go to the
17 document but what was your view and position in relation to
18 the likelihood or desirability of endeavouring to conclude
19 the investigation before Christmas?
20 A. I did not know and I did not expect her to, I did not
21 give her any indication on timing. I told her that
22 I understood it was a very stressful situation, I was
23 taking that into great - having great regard for that. I
24 was working extremely hard, as was all of the team.
25 I think I indicated that we were working very long hours to
26 complete the investigation as soon as we could but I had to
27 afford procedural fairness to all parties and conduct this
28 both efficiently and thoroughly and it would take the time
29 that it takes.
30
31 Q. You didn't want to impose any arbitrary time limit in
32 relation to this investigation; is that fair to say?
33 A. Absolutely correct.
34
35 Q. You wanted to ensure that it was done thoroughly and
36 with - I think the Americans would use the expression "due
37 process"; is that right?
38 A. Absolutely correct.
39
40 MS FURNESS: Q. Can I just ask you, Ms Marshall, before
41 this - that is before the end of December - had, to your
42 knowledge, any member of the investigation team given any
43 indication to either complainant 1 or complainant 2 the
44 likely length of time of the investigation?
45 A. No. Complainant number 2 did make some allegations in
46 that regard. She said that the investigation manager had
47 told her it was clear-cut and simple and it would be over

1 in a few days. I learnt that subsequently, not at that
2 time. When I asked her "Why would you be believing that it
3 would occur before Christmas?" she said "Oh, someone told
4 me that". At that time she wouldn't tell me who. We
5 learnt later that she alleged that it was the investigation
6 manager. I checked with him and grilled him on it and he
7 was absolutely categoric that under no circumstances would
8 he give her a time frame. We didn't know ourselves the
9 time frame. There was no time frame to give anybody. We
10 had to run a thorough and complete investigation.

11

12 MR WIGNEY: Q. It wasn't anything that you said. If
13 anything, it was something that the complainant 2 was
14 saying Mr Houlihan said; is that right?

15 A. That's correct.

16

17 Q. I won't deal with what he told you or the inquiries
18 you made because I think we are going to hear from
19 Mr Houlihan, so we will take that up with him directly when
20 he gives evidence. Did you regard this as a complex
21 investigation at this time?

22 A. Yes, I did. I think I described it to the
23 investigation team as having more twists and turns than the
24 Great Ocean Road in Victoria.

25

26 Q. Why was that? Just very simply, I know there were two
27 complaints but was there anything in particular that made
28 it a complex investigation, in your experience?

29 A. They were complex complaints. They were difficult to
30 identify the truth in. There was a degree of alcohol
31 present in them, in the circumstances of the allegations,
32 and there was one witness who gave us very limited
33 information on his first interview and then a lot more
34 information on his second interview, so it created quite a
35 number of twists and turns to try and get to the bottom of
36 that and it was on that basis that we decided we really
37 needed to go back and re-interview the complainants and the
38 respondent to really test the veracity of everyone's
39 evidence.

40

41 Q. The initial or at least an initial occasion where the
42 issue of delay was raised was a demand or request that it
43 be dealt with before Christmas but is it fair to say that
44 complaints were made about delays by complainant 2 during
45 the balance of the investigation as well?

46 A. I think so. The particularly intense period was that
47 week leading up to Christmas that I recall.

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Q. What I want to ask you is whether, on any occasion in that context - that is, suggestions of delay - whether complainant 2 ever told you, or to your knowledge one of the other investigators or someone in the team, that if the investigation wasn't furthered quickly or by Christmas that she would do something?

A. Yes.

Q. When did that occur and what was said?

A. There were a range of occasions where that occurred to different parties. Certainly to me she threatened that she would go to the media, that she couldn't control her husband, her husband had already spoken to people. That she would go to HREOC. That the longer it took the more it was everyday of a cover-up, she would have to take matters into her own hands. I think to Mr Houlihan she said "Well, why wouldn't I go to Grimshaw, he's got contacts in the media". A range of things like that.

MS FURNESS: Q. By HREOC you mean the Human Rights and Equal Opportunity Commission?

A. That's correct.

MR WIGNEY: Q. I think just to perhaps put that in context, there is a fairly lengthy file note in the materials that have been provided under summons of a conversation between yourself and complainant 2 on 23 December where a number of those issues were raised: criticisms about delay, covers-up and those sorts of matters?

A. That's correct and she also said on that day that she had faith in Jo and I.

Q. For present purposes I think we are up to 22 December. Was it the situation that at about that time, so we are only a few days out from Christmas, Mr Houlihan had prepared a draft of his investigation report?

A. It was about that time, yes.

Q. Was it the situation that that draft report was provided to the external lawyers that had been retained for their advice?

A. That's correct.

Q. I think again there are notes within the materials that suggest that Mr Houlihan, on the 22nd, interviewed -

1 perhaps I put it this way - a particularly important
2 witness in relation to complainant number 1's complaint?
3 A. That's correct, yes.

4
5 MS FURNESS: Q. Was that on the second occasion or the
6 first occasion, that interview?

7 A. Second.

8
9 MR WIGNEY: Second interview.

10
11 Q. Again, just dealing with the 22nd, so in the days
12 leading up to Christmas, I think it is obvious from what
13 you have already said but I will seek your confirmation:
14 is it the situation that as far as you were aware Mr Mullin
15 was certainly aware of the investigations and that they
16 were proceeding?

17 A. Yes.

18
19 Q. Mr Story was aware, the chairman?

20 A. Yes.

21
22 Q. What about the other directors, non-executive
23 directors included, of Echo Entertainment at this time?

24 A. Yes, I think Mr Story had made calls to the directors
25 to update them.

26
27 Q. Is that something that would ordinarily happen or was
28 that simply because of the seniority of the person
29 involved?

30 A. That's correct.

31
32 Q. Again just before we leave the conversation of the
33 23rd I should have asked you this: again, amongst the
34 complaints that were made by complainant number 2 on that
35 occasion, where again there were suggestions of cover-up
36 and the like, did you again, as best you could, seek to
37 reassure her in relation to the investigation that you were
38 doing all you could as fast as you could?

39 A. Yes, I did.

40
41 Q. But you obviously made it clear to her at that time
42 that it wasn't going to be completed before Christmas?

43 A. Yes, I did.

44
45 Q. I think it is fair to say that yourself and other
46 members of the investigation team took a break over the
47 Christmas period?

1 A. That's correct.

2

3 Q. But it appears, perhaps unfortunately for yourself,
4 you were back at work on 2 January or at least by
5 3 January; is that right?

6 A. That's correct and we did have some phone
7 conversations in the period before Christmas and new year
8 as well.

9

10 MS FURNESS: Q. Who's "we"?

11 A. Michael Anderson and I certainly had one.

12

13 Q. You mean the team, not the complainants and you?

14 A. That's correct. I don't think I had any with
15 complainant number 2.

16

17 MR WIGNEY: Q. But otherwise nothing essentially
18 happened during the period, say, 23 December to 2 January?

19 A. That's correct.

20

21 Q. On 2 January amongst the material and emails from the
22 second complainant includes amongst other things the
23 statement that she found it stressful not to be having
24 regular updates. I think I asked you earlier about
25 updates. Is that something that you were still conscious
26 of at this time, that is, the need to provide updates?

27 A. Yes, I was. We had a very lengthy conversation on the
28 night of 23 December where again complainant number 2 was
29 extremely distressed, irate, swearing down the phone, that
30 sort of thing. I talked to her about our EAP - our
31 employee assistance program. I talked to her also about a
32 private psychologist that I had worked with in the past who
33 was an expert in dealing with harassment victims and I'd
34 offered her access to all of that and said "You really need
35 to take some time, we're here to support you". She
36 declined any of that help and in actual fact my view was it
37 was probably better to give her some space and we talked
38 about her taking some time out from the investigation and
39 having time with her family in that period.

40

41 Q. So effectively it was suggested to her that she should
42 take some time off, with pay obviously?

43 A. That's correct.

44

45 Q. I think you referred to EAP, employee assistance
46 program. That's essentially a counselling program that you
47 offer to employees for these sorts of matters and others?

1 A. That's correct, and it's available to them by phone
2 24 hours a day, seven days a week.

3

4 Q. Are you aware whether at any time she took up that
5 offer?

6 A. As far as I'm aware from what she told me, she didn't.

7

8 Q. On 3 January I think the materials include a file note
9 of a further conversation with complainant number 2 where
10 I think she raised a number of the other matters of
11 complaint that we have already dealt with. On this
12 occasion, she is recorded as also indicating that she never
13 wanted to make a formal statement. Do you recall that
14 being raised by her at some stage?

15 A. On 23 December or --

16

17 Q. 3 January; I may have been the wrong date.

18 A. Certainly in the conversation with me on 23 December,
19 she told me she hadn't made a formal statement that she was
20 upset about that. I understood she wanted to make a formal
21 statement. I talked to her about that on 3 January. On
22 3 January she would say I misunderstood her. I would say
23 she recanted and said, "No, I don't want to make a formal
24 statement, that's not what I said." So there was a
25 misunderstanding in that regard.

26

27 Q. There is amongst the materials an email that was sent
28 to complainant number 2 that dealt with a number of
29 concerns that you have already addressed in your oral
30 evidence, but you also included a request for a formal
31 interview or a statement; do you recall that?

32 A. Sorry, could you repeat the question?

33

34 Q. There was a request in an email to complainant
35 number 2 for a formal interview or a statement from her,
36 that she provide one?

37 A. I think what I did was I was following up on the
38 23 December request, saying, "Could you confirm if you
39 would like to or not? If you would like to, we're very
40 happy to do that."

41

42 Q. Did it follow from what you've just said that
43 obviously complainant number 2 had been spoken to and had
44 outlined her complaints or allegations; is that right?

45 A. That's correct, yes.

46

47 Q. But by a formal statement, do we mean a recorded

1 interview or a signed document - what's being spoken about?
2 A. Well, I was never quite clear what her definition of a
3 formal statement was.

4
5 Q. Was it unusual in terms of a sexual harassment
6 investigation for there not to be either a recorded
7 interview or a signed statement at this stage of the
8 investigation?

9 A. No.

10
11 Q. Is that something that was not unusual?

12 A. Not unusual, no.

13
14 Q. I should have asked you before: in answer to one of
15 my questions, you referred to threats to go to the media
16 having been made by complainant number 2. Certainly by the
17 time Christmas came around, there were no suggestions in
18 the media of these allegations or anything of that --

19 A. No, not that I'm aware of no.

20
21 Q. Is it fair to say that, to the best of your
22 recollection, there was never any report or disclosure in
23 the media during the course of the investigation up to the
24 time of the formal announcement on 2 February?

25 A. That's my understanding, yes.

26
27 Q. Can I pause for a moment. Again much of my
28 questioning and your evidence in recent times has concerned
29 communications in relation to complainant number 2. Let's
30 just turn and deal with complainant number 1 for a moment.
31 Obviously the investigation into her complaints was
32 continuing at the same time?

33 A. That's correct, yes.

34
35 Q. Would you agree - I don't seek in any way to downplay
36 the significance or seriousness of complainant 2's
37 complaints - that, in many respects, complainant 1's
38 complaints were of a more serious nature?

39 A. That's correct, yes.

40
41 Q. But you and the team had had less contact with her in
42 terms of either email or telephone conversations?

43 A. That's correct. That was at her request.

44
45 Q. But, as at 3 January, I think it was the case that you
46 received an email from complainant number 1 requesting a
47 second interview; do you recall that?

1 A. No. I called complainant number 1 on 3 January asking
2 her to participate in a second interview. She then
3 responded by email as well as verbally.
4
5 Q. You're 100 per cent right and I apologise for that.
6 I have misread my notes. So it was your email on 3 January
7 requesting a second interview?
8 A. Correct.
9
10 Q. I think the same email, however, refers to a telephone
11 call or perhaps responds to a telephone call during which
12 complainant number 1 is recorded as having said that the
13 investigation was taking too long. Do you recall her
14 making that suggestion at some stage?
15 A. Yes, I think I do.
16
17 Q. Did you respond to that and seek to reassure her that
18 you were doing everything you could?
19 A. Yes, I did.
20
21 Q. I think that also around this time, 3 January,
22 complainant number 1 indicated that she was going to or was
23 thinking of at least getting some independent legal advice;
24 is that right?
25 A. That's correct, yes. She wanted to do that before the
26 second interview.
27
28 Q. Did that create any issues as far as the investigation
29 team was concerned?
30 A. It was obviously going to create a delay, but it was a
31 perfectly reasonable request and we said, "No problem."
32
33 Q. The delay being that she wanted that advice before she
34 attended the second interview?
35 A. That's correct, yes.
36
37 Q. Was it the situation that there was some number of
38 days delay before that interview could be held for that
39 reason?
40 A. That's correct.
41
42 Q. Did she ultimately get independent legal advice, to
43 your knowledge?
44 A. To my knowledge, I understood a lot later that she
45 actually didn't.
46
47 Q. Coming back then to complainant number 2, I think we

1 have referred to the issue about the request for a formal
2 interview or statement. Was there an email from yourselves
3 or yourself to complainant number 2 in relation to that
4 topic again on 5 January?

5 A. Yes, I would agree.

6
7 Q. Summarising it as best we can, was the situation that
8 complainant number 2 had said she didn't want to provide a
9 formal interview but she wanted to be provided with a
10 summary of the allegations that had been put to Mr Vaikunta
11 and his responses?

12 A. I think she might have actually asked for his
13 interview and we said we would provide a summary of
14 allegations, from memory.

15
16 Q. Did you provide that summary in due course?

17 A. Yes, I did, via email.

18
19 Q. The answer to this may be obvious, but may we take it
20 that, at this stage, and indeed throughout the course of
21 the investigation, you regarded it as a highly confidential
22 matter?

23 A. Yes, I did.

24
25 Q. Did you regard Mr Vaikunta's responses to the
26 allegations that had been put to him as highly confidential
27 information?

28 A. Yes, I did.

29
30 Q. Proceeding with the chronology, the next point of
31 significance seems to have occurred on 9 January when
32 Mr Houlihan conducted a second interview with the first
33 complainant, complainant 1; is that right?

34 A. Correct.

35
36 Q. That accounts for perhaps a couple of days delay as a
37 result of the issues relating to legal advice?

38 A. Correct.

39
40 Q. Coming back to complainant number 2, on 10 January,
41 there's an email from her which appears to be responsive to
42 the material that has been provided in relation to
43 Mr Vaikunta's responses to the allegations, where
44 complainant number 2 suggested that she didn't actually
45 consent to the allegations being put to Mr Vaikunta; do you
46 remember that becoming an issue?

47 A. Yes, I do.

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Q. But I think it's fair to say that, in that 10 January email, despite complaining about the fact that she didn't consent to the allegations being put to Mr Vaikunta, she then dealt at some length with her response to Mr Vaikunta's response, if I could put it that way?

A. That's correct.

Q. It may be fairly obvious from the evidence that you have given thus far, but is it fair to say, in a general way, that the dealings that you were having and the communications that you were having with the second complainant were adding an additional degree of complexity to what was already a complex investigation?

A. Yes, and taking a lot of our time.

Q. In terms of significant steps in the investigation, was it the case that some additional witnesses were interviewed again in early January, but perhaps of more significance, on 10 January, there was a second interview conducted with Mr Vaikunta?

A. Correct.

Q. Again you and Mr Houlihan conducted that second interview?

A. Yes, we did.

Q. May we take it that you or members of the investigation team considered that a second interview with Mr Vaikunta was necessary or desirable?

A. That's correct.

Q. Why was that?

A. Because we needed to hear his responses to the detailed allegations and responses of the complainants. We needed to test the veracity of his evidence in the first interview and particularly one of the other witnesses, we needed to ascertain what his views were on that witness's interview, who we interviewed twice. He gave us a lot more information in the second interview than he did in the first.

Q. But it's also fair to say, I think as you have already indicated, that there were some other interviews that were still taking place with witnesses at this time?

A. Yes, I think there were.

1 Q. I only mentioned one because his name has already been
2 mentioned in the evidence, and that is an interview with a
3 Mr Stewart Neish. Do you recall that?
4 A. Yes, I do.
5
6 Q. Was he a witness that related specifically to
7 complainant number 2's complaint?
8 A. That's correct.
9
10 Q. Was it the situation that it was thought that he would
11 potentially be able to corroborate one of the aspects of
12 complainant number 2's complaint?
13 A. That's what I believe, yes.
14
15 Q. So that was followed up?
16 A. That's correct, yes.
17
18 Q. On 17 January, was an investigation report by
19 Mr Houlihan in fact finalised?
20 A. Yes, I believe so.
21
22 Q. In due course he prepared and it was signed not only
23 by himself as the leading investigator but also by you and
24 Mr Anderson as members of the team?
25 A. Correct.
26
27 Q. May we take it that before you signed it, you reviewed
28 it?
29 A. Correct.
30
31 Q. You also had some significant input in relation to
32 what was included in it; is that right?
33 A. I didn't draft it or anything of that nature, but we
34 certainly had a few discussion about it.
35
36 Q. I think the report itself runs to some 51 pages and
37 also included a number of additional annexures including a
38 chronology and references to the legislation and the like
39 as well; is that right?
40 A. That's correct.
41
42 Q. Are reports, investigation reports, always that
43 lengthy and detailed?
44 A. Probably not that lengthy, but they're certainly that
45 detailed and include annexures and information and policies
46 and reference to legislation, where applicable, and that
47 sort of thing, yes.

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Q. Dealing quickly with what you've just referred to, that is policies, amongst the annexures were codes of conduct for both The Star and Echo Entertainment in relation to employee conduct and indeed workplace harassment; is that right?

A. That's correct.

Q. Without going into the detail of it, those policies made it abundantly clear that sexual harassment of any form and as defined would not be tolerated in the workplace?

A. That's correct.

Q. Was it the situation that the investigation report prepared by Mr Houlihan reviewed by yourself and Mr Anderson and finalised on 17 December found that the allegations of both complainants were substantiated?

A. Completely substantiated in relation to complainant number 1 and partially substantiated in relation to complainant number 2.

Q. But in relation to complainant number 2, to the extent that it was partially substantiated, that part that had been substantiated, nonetheless constituted sexual harassment as defined in the policies of Echo Entertainment and The Star; is that right?

A. That's correct, yes.

Q. And the allegations of complainant number 1 were found to be completely substantiated?

A. Correct.

Q. And again the finding that therefore Mr Vaikunta had engaged in sexual harassment contrary to its policies?

A. Correct.

Q. I don't want you to tell us the substance of any legal advice that you received. Was it the situation that the final investigation report was sent to your external lawyers?

A. Yes, it was.

Q. Was that for the purposes of review and consideration of available options?

A. Correct.

Q. It appears that you must have obtained the advice very

1 swiftly because the records indicate that, on 18 January,
2 that is the next day, there was sent to the chairman a
3 covering memorandum prepared by yourself which included a
4 summary of the investigation findings an the options, a
5 copy of the investigation report, and some legal advice; is
6 that right?

7 A. Correct, yes.

8
9 Q. And that was sent to the chairman, Mr Story. Was it
10 the situation he was overseas at the time?

11 A. That's correct, yes.

12
13 Q. I should have asked this before. Was it decided at
14 around this time or beforehand that Mr Story was to be the
15 decision maker in relation to the outcome of this
16 investigation?

17 A. We had referenced it and discussed on a number of
18 occasions and we were concrete at this point in time that
19 Mr Story was the decision maker, yes.

20
21 Q. Why was that thought to be appropriate?

22 A. Because we thought it was very appropriate given the
23 seniority of Mr Vaikunta and the fact of these allegations,
24 although without any substance by complainant number 2,
25 that Mr Mullin would cover it up and also that there'd been
26 a prior working relationship between Mr Mullin and
27 Mr Vaikunta.

28
29 Q. Following the sending of all of that material to
30 Mr Story, was it the situation that within days, I think
31 20 January, there was a meeting between yourself, Mr Story
32 and Larry Mullin?

33 A. That's correct, yes.

34
35 Q. That was to discuss with Mr Story the material that
36 had been sent to him as well as what should be done, to put
37 it in the vernacular?

38 A. That's correct.

39
40 Q. Without going through this in detail, was it the
41 situation that a decision in principle was made on that day
42 that, as a result of the findings of the investigation,
43 Mr Vaikunta's employment should be ended by way of
44 negotiated termination?

45 A. There were two options - that he was either going to
46 be summarily dismissed instantly or if agreed to sign a
47 deed, there would be a negotiated termination.

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Q. There were two options. Was there any decision made by yourself, Mr Story and Mr Mullin on the 20th as to which of those two would be the most desirable from the perspective of Echo Entertainment?

A. No.

Q. I don't want to go into the details of the legalities of it but what's the difference between a summary dismissal and a negotiated termination?

A. A summary dismissal means that someone is terminated on the spot with no payment nothing, and negotiated termination means that there is a small exchange of money for the signing of the deed which means he could not take legal action against us or any other parties.

Q. In due course the route that was chosen or the ultimate outcome was a negotiated termination by Mr Vaikunta?

A. That's correct.

Q. He was paid an amount of termination pay, but signed a deed of release; is that right?

A. That's correct.

Q. How did it end up that that was the option that was put in place?

A. When we advised Mr Vaikunta that we had formed the view that his employment would be terminated, in the subsequent meetings outlining the results of the investigation, we gave him two options and explained those options. We told him that he should get legal advice, that that was his call. He went off and got legal advice to decide which options he would take and he came back with the negotiated termination option.

Q. In terms of the benefits or otherwise of those two options, is it fair to say, again putting it in very general terms, that one of the benefits of a negotiated termination is you get a deed of release that prevents any objection for, for example, wrongful dismissal by the person being terminated?

A. He was too senior for wrongful dismissal. Our greater concern was that he would bring a complaint and that may then uncover the identities of the complainants. In my mind that was my strongest concern and if I had an opportunity to protect them and to maintain their

1 confidentiality, that would obviously be a desirable risk
2 to eliminate.

3

4 Q. So the downside of a negotiated termination is payment
5 of money. The upside is finality in particular from the
6 perspective of the victims of the sexual harassment?

7 A. That's correct.

8

9 Q. But your primary concern is the latter?

10 A. That's correct.

11

12 Q. Without going into the ins and outs of it, you had a
13 meeting with Mr Vaikunta and Mr Mullin on Saturday,
14 22 January, where you told him the findings of the
15 investigation?

16 A. That was on a Sunday.

17

18 Q. I just seem to have a note of an initial meeting on
19 the Saturday where the findings of the investigation were
20 communicated with you and you again meet the next day on
21 the Sunday; is that --

22 A. No. The first day when we communicated the findings
23 of the allegation was a Sunday and then when we advised him
24 that his employment was terminated was the Monday.

25

26 Q. My calendar is out then. In any event, there were two
27 meetings. The first was to advise of the findings and to
28 allow Mr Vaikunta the opportunity to consider his options
29 and his response; correct?

30 A. That's correct.

31

32 Q. Then the next day was when you had a further meeting
33 with Mr Vaikunta and ultimately the decision was made as to
34 which of those options would be taken?

35 A. That's correct.

36

37 Q. Then, in due course, having taken the negotiated
38 termination option, may we take it that documentation had
39 to be finalised in relation to that particular option?

40 A. That's correct.

41

42 Q. Finalised and negotiated?

43 A. Yes, negotiating took some time.

44

45 Q. Bringing it to its conclusion, was it the situation
46 that the terms of the negotiated termination were in fact
47 ultimately finalised at a meeting on 1 February again

1 between you, Mr Mullin and Mr Vaikunta and the
2 documentation finalised on the 2nd?

3 A. The documentation was still in negotiation and debate
4 going on in the morning of the 2nd. Jo Ede and I had a
5 conferring with Mr Vaikunta on the phone at 11am and we
6 were still negotiating then on the day that we announced.
7

8 Q. I may be going outside your sphere of responsibility
9 at Echo Entertainment, but were you aware that there were
10 discussions concerning the fact that once the situation
11 concerning Mr Vaikunta and the end of his employment was
12 finally determined and decided that there would need to be
13 an announcement to the Stock Exchange?

14 A. Yes, I was aware of that.
15

16 Q. Was that outside your sphere of responsibility or did
17 you have some involvement in that exercise?

18 A. I had limited involvement, but I had some dialogue
19 with Mr Anderson and particularly with Martin, our company
20 secretary, around that to alert them to where I was up to
21 and what was happening so that they could then give me
22 advice and they could prepare for the disclosure under the
23 obligations that we had.
24

25 Q. As we know, without going into any detail with you,
26 there was in fact a Stock Exchange release on the afternoon
27 of 2 February?

28 A. That's correct.
29

30 Q. I want to deal with two other topics before we
31 conclude. First, we have obviously heard some considerable
32 evidence from and relating to a gentleman by the name of
33 Mr Peter Grimshaw. Putting your mind back to the events
34 of December and to December 2011 and through to the January
35 2012, did you know him, Mr Grimshaw?

36 A. I knew him from his prior employment with The Star.
37

38 Q. Did you have any contacts with him, that's Mr Grimshaw
39 between December 2011 and January 2012?

40 A. No, never.
41

42 Q. To your knowledge, did any other member of the
43 investigation team, the core of the investigation team that
44 you referred to, have that contact?

45 A. To my knowledge, no.
46

47 Q. Do you recall his name being mentioned during the

1 course of the investigation in any context?

2 A. Yes, by complainant 2. She kept threatening to go to
3 Mr Grimshaw because he had contacts in the media.

4
5 Q. Was that particular threat which included
6 Mr Grimshaw's name made to you or was this second-hand
7 information as far as you're concerned?

8 A. I can't recall if she mentioned his name. She
9 certainly threatened going to the media and she had friends
10 who can put her in touch with the media. To Mr Houlihan
11 she used his name and to Mr Ede she used his name. I thing
12 with me she may not have used his actual name.

13
14 Q. Perhaps we can take that up with Mr Houlihan, but did
15 you know at any time during this period between December
16 2011 and January 2012 that complainant number 2 was in a
17 relationship with Mr Grimshaw?

18 A. No, never. Complainant number 2 projected that she
19 was married and was wearing a wedding ring and an
20 engagement ring.

21
22 Q. Was it the situation that concerns about aspects of
23 complainant 2's behaviour during the course of the
24 investigation during December 2011 and January 2012 arose?

25 A. Could you repeat the question?

26
27 Q. Did you become concerned about aspects of
28 complainant 2's conduct during the course of the
29 investigation?

30 A. Yes, I did.

31
32 Q. Did other members of the team that were conducting the
33 investigation?

34 A. Yes, we did.

35
36 Q. Did it also become a concern to you as the head of
37 human resources that complainant number 2 may not have been
38 complying with her obligations of confidentiality in
39 particular with relation to the investigation?

40 A. It was probably only a passing thought in December and
41 early January. It certainly became a more significant
42 question come February.

43
44 Q. I don't think we need to go into any detail. In terms
45 of concerns about other aspects of complainant 2's
46 behaviour or conduct during the investigation, are they the
47 sorts of matters that you have already referred to in the

1 course of your evidence?

2 A. That's correct, yes.

3

4 Q. Was that a matter of discussion between yourself and
5 other members of the investigation team?

6 A. Yes, it was.

7

8 Q. Having discussed with the investigation team, was the
9 decision made that complainant 2's email in-box, for want
10 of a better expression, was to be interrogated?

11 A. Yes. There was some information that was leaked to
12 the media in February post the announcement that was
13 greatly concerning because we felt it could only have come
14 from someone who was very closely associated inside the
15 investigation. She had made all the threats to go to the
16 media, so she was the first person to be looked at.

17

18 Q. As a result of that review of complainant 2's emails
19 did some other matters of concern, from a human resources
20 context, come to light?

21 A. Yes, a significant number.

22

23 Q. Did that include that you became aware of the fact
24 that complainant 2 was in a relationship with Mr Grimshaw?

25 A. Yes.

26

27 Q. Why was that a matter of concern?

28 A. Because she had represented to the contrary and she
29 was also in a relationship with another party as well.

30

31 MS FURNESS: Q. Why was that a concern to you as an
32 employer, Ms Marshall?

33 A. Because she was sending information - sensitive
34 business information - to that other person and she was
35 sending my correspondence to her, every single email in the
36 investigation to both of those parties.

37

38 MR WIGNEY: Q. Was it also ascertained, as a result of
39 the review, that you formed the view that complainant
40 number 2 had misled The Star in relation to whether she was
41 able to return to work on a particular date in February?

42 A. Yes, that's correct. She had told me that she needed
43 to take an additional week's leave to settle her daughter
44 into school. On the Monday morning she told me that. On
45 the Monday night at midnight she rang me to tell me that
46 she was in Fiji with her brother and his unwell partner.
47 When we reviewed her emails she was not actually doing

1 either of those things, she was holidaying in Bali with
2 Mr Grimshaw.

3

4 Q. Was it also ascertained, as a result of the review of
5 the emails, that at least as far as the emails disclosed
6 it, the second complainant had accepted a job with another
7 employer - and please don't mention the name of the
8 employer - is that right?

9 A. That's correct.

10

11 Q. As a result of those matters that you have just
12 referred to, was it the situation that complainant 2's
13 employment with The Star was terminated on or about
14 14 February?

15 A. That's correct.

16

17 Q. The point of all of this is, in a sense, this
18 question: did the complainant number 2's termination have
19 anything at all to do with the fact that she had raised
20 and pursued a complaint relating to sexual harassment
21 against Mr Vaikunta?

22 A. Absolutely nothing to do with it, it was in relation
23 to breaches of confidentiality, including sending very
24 sensitive commercial business information to those parties.

25

26 MR WIGNEY: Thank you.

27

28 MS FURNESS: Q. Ms Marshall, can I just take you back to
29 the chronology. You had two meetings with Mr Vaikunta, you
30 said, on 22 and 23 February?

31 A. That's correct.

32

33 Q. At the meeting on the 22nd he was told about the
34 findings and given a period of time to respond to the
35 findings; is that right?

36 A. That's correct.

37

38 Q. He took overnight and on the 23rd had no response to
39 the findings?

40 A. That's correct.

41

42 Q. Then he was given a period of time after the 23rd to
43 respond to the two options you'd referred to?

44 A. That's correct.

45

46 Q. Is it the case that he didn't come back to you with a
47 view as to which of those options he preferred until

1 1 February?
2 A. I actually had to follow him up. He had said the
3 earliest he would come back to us was Friday, I think that
4 was the 27th or 28th of January, and he did not come back
5 to me on the Friday. I let the weekend go because
6 I thought that was useful in the negotiation to close this
7 down. I rang him on the Monday morning, I think it was.
8 I said "We really need to reach a decision on this", I was
9 concerned that he could be stalling a little bit, and he
10 proposed he would meet with us on the Wednesday and
11 I accepted that and I met with him on the Wednesday.
12
13 Q. The Wednesday was 1 February?
14 A. That's correct, in the evening.
15
16 Q. So that week was passed in awaiting his response?
17 A. Yes.
18
19 Q. He left work and ultimately didn't return?
20 A. That's correct.
21
22 Q. When did he leave?
23 A. Well, it is a bit messy because he was in the US
24 renewing his green card in the period, I think, from 14 to
25 about 18 December. He then was due to return to work on
26 the 19th, which was the day that Mr Houlihan and
27 I interviewed him and we sent him home after that and
28 suspended him. He then had some what appeared to people
29 publicly as some annual leave that was planned, he was
30 going to the Gold Coast and he went to the Gold Coast and
31 then each week we just publicly extended his leave but he
32 was suspended while the investigation was being run.
33
34 Q. He was suspended from the 19th?
35 A. Yes.
36
37 Q. What was his last day of work prior to the meeting
38 with you on the 19th?
39 A. I think his last day in the office would have been
40 13 December.
41
42 Q. Was it your experience of complainant number 2 that
43 her responses to you and the team throughout December, from
44 December 12 to mid-to-late January, was that she was up and
45 down?
46 A. Yes.
47

1 Q. So on some occasions she was responsive to your
2 overtures and on other occasions she rejected them?
3 A. That's correct and that's why Ms Ede and I alternated
4 in terms of who contacted her, depending upon who could get
5 more functional dialogue going with her. She did go and
6 see - after a lot of encouragement from us she did go and
7 see a private counsellor, I think it was about 9 or 10
8 January, somewhere around there, and then the dialogue got
9 a lot more effective and what I would call functional. It
10 did make quite a difference.
11
12 Q. At any stage during December and January did either of
13 the complainants seek any money from the casino?
14 A. Never, to my knowledge.
15
16 Q. At any time during December or January did the casino
17 offer any money to either of the complainants?
18 A. Never, to my knowledge.
19
20 Q. So they received no payments whatsoever?
21 A. Correct.
22
23 Q. You will know, Ms Marshall, that one of the terms of
24 reference for this public hearing is whether there were any
25 attempts to influence the response by The Star and Echo to
26 those allegations. Leaving aside the issue of attempts, in
27 your view did you experience any influence from any person
28 external to the casino in the investigation which you were
29 part of?
30 A. No.
31
32 MS FURNESS: Thank you.
33
34 MS SHARP: If I may ask a few questions by leave.
35
36 **<EXAMINATION BY MS SHARP:**
37
38 MS SHARP: Q. Is it the case that complainant number
39 2 --
40
41 THE WITNESS: Could I have a break, please?
42
43 MS FURNESS: We are very keen to finish your evidence
44 today, Ms Marshall, and it is 10 to 4. You have been
45 giving evidence for about an hour and 15 minutes. Would
46 you prefer a break now?
47

1 THE WITNESS: Yes, please.

2
3 MS FURNESS: How long would you like?

4
5 THE WITNESS: Just five minutes.

6
7 MS FURNESS: We will adjourn for five minutes.

8
9 **SHORT ADJOURNMENT**

10
11 MS FURNESS: Ms Marshall, I remind you of the oath that
12 you took earlier still binds you, do you understand that?

13
14 THE WITNESS: Yes.

15
16 MR LOCKHART: Ms Furness, can I just indicate two things.
17 I object to Mr Grimshaw's counsel asking questions.

18
19 MS FURNESS: Without knowing what they are, Mr Lockhart?

20
21 MR LOCKHART: We have actually inquired as to what they
22 are. There are two grounds. One I think we can sort out
23 by agreement and I am prepared to read a note about details
24 of workers compensation matters onto the record. That
25 would solve one area: complainant number 2 submitted a
26 complaint for worker's compensation in respect of the
27 diagnosis of adjustment disorder arising from the conduct
28 of the investigation and The Star has, as required by
29 legislation, accepted provisional liability only for
30 medical expenses.

31
32 That, I believe, deals with the first area.

33
34 We understand the second area is going to be questions
35 about whether or not consideration was given to engaging
36 external investigators rather than internal investigators.
37 On that point my submission is that question was asked and
38 answered thoroughly and there is nothing more that can be
39 achieved by subjecting Ms Marshall to questions of
40 Mr Grimshaw's counsel who, in our submission, has no direct
41 interest in the question at all.

42
43 MS FURNESS: Thank you, Mr Lockhart.

44
45 Ms Sharp, did you want to put different questions to
46 the questions that counsel assisting put in respect of the
47 decision not to engage an external investigator?

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MS SHARP: I wanted to ask some further questions about why the decision was made at that early stage not to appoint an external investigator.

MS FURNESS: I think the answer to why the decision was made was given.

MS SHARP: Yes.

MS FURNESS: What else did you want to ask, if the evidence is clear about why?

MS SHARP: I simply wanted to contrast it with how many external investigations had been conducted in the past by the human resources department within The Star and also look at the reasons why a decision was made at a later point in time to appoint an external lawyer.

MS FURNESS: Mr Wigney, do you have anything to say?

MR WIGNEY: I object on the same basis as Mr Lockhart. I think it was a very detailed answer given to those questions at the very outset of the evidence.

MR LOCKHART: I press the objection.

MR SULLIVAN: In respect of the questions about why a decision was made to obtain independent external legal advice, I would object on the grounds of legal professional privilege, which is my client's privilege to take.

MS FURNESS: The privilege is not about why one might engage, the privilege is attached to the nature of the communication.

MR SULLIVAN: Yes, of course it is, with great respect, Ms Furness, but to the extent to which you can have information about why something has happened - to make a decision as to the advice that was given, what the content of the advice was --

MR WIGNEY: In any event, I think I asked the question prefaced by "We don't want any indication of what the advice was" and I think the question was answered again in some considerable detail as to why the external lawyers were retained.

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MS FURNESS: I think the objections are well-founded, Ms Sharp, in respect of that matter. In terms of the number of occasions on which external investigators have been engaged, your instructions come from Mr Grimshaw, who was last employed at the casino in December 2010 and was not employed in an area that was responsible for these matters.

MS SHARP: Yes.

MS FURNESS: I am not sure how your instructions would equip you to ask questions of this witness, who works directly in that area, in a way that would be helpful to me.

MS SHARP: In that case I don't press the request for leave to examine.

MS FURNESS: Thank you, Ms Sharp. Mr Sullivan?

MR SULLIVAN: I don't have any questions and I don't seek leave to ask any questions.

MS FURNESS: Mr Lockhart?

MR LOCKHART: I have no re-examination of this witness.

MS FURNESS: Thank you very much, Ms Marshall, you are excused at 1 minute past 4.

<THE WITNESS WITHDREW

MS FURNESS: Mr Wigney, we have now, with the exception of a very small area of evidence of Mr Houlihan --

MR WIGNEY: Yes, that's so.

MS FURNESS: -- completed the evidence in respect of term of reference 1 and I would propose that there be a timetable set for submissions.

MR WIGNEY: Yes.

MS FURNESS: Those submissions would cover, obviously, Ms Marshall's evidence, Mr Grimshaw's evidence and Mr Lipson's evidence and we will need to communicate with

1 Mr Lipson's representative.

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Given that the terms of reference overall require me to report by the end of April, the time period has to be quite short but I certainly don't expect lengthy detailed submissions from anybody. I would suggest, subject to what you say, Mr Wigney - and others might contribute - that counsel assisting's submissions on terms of reference 1, that is the cessation of employment, be made available made available to relevant parties by Tuesday, 10 April and that those submissions be the subject of any response by the Friday following, that is, the 14th.

MS SHARP: Yes, that's fine.

MS FURNESS: We will then set a timetable in respect of the terms of reference 2 - that is the other allegations - next week on the completion of evidence into those other obligations, but it will be similarly a short timetable. Mr Lockhart, you are obviously welcome to make submissions if you consider it is in the interests of your client to do so.

MR LOCKHART: Yes.

MR WIGNEY: That timetable is certainly suitable for us.

MS FURNESS: Does anyone have to say anything about the timetable?

MR SULLIVAN: Ms Furness, could I seek a clarification? Are the submissions on term of reference 1 confined to the public hearing on that matter or is it to the overall --

MS FURNESS: My terms of reference have never changed. The reasons why we are having this public hearing are set out and there are three matters that are the subject of the public hearing. My terms of reference have always been the same, and it's terms of reference 1.

MR SULLIVAN: So it is overall submissions in respect of both the private and the public hearings in respect of that matter?

MS FURNESS: Not necessarily. The submissions I am now referring to are in respect of the public evidence relating to terms of reference 1 and I anticipate that those

1 submissions which be made public.

2

3 MR SULLIVAN: Very clumsily, that's what I was asking.

4

5 MS FURNESS: I am expecting to receive submissions which
6 will be made public by counsel assisting and I will publish
7 the submissions of other parties in respect of terms of
8 reference 1 concerning the matters covered in the public
9 hearing.

10

11 In respect of any other matter concerning private
12 hearings, of which there have been many in relation to
13 terms of reference 1, there will not be a submission
14 process, but there will, of course, be procedural fairness
15 accorded to anyone whose conduct attracts it.

16

17 MR SULLIVAN: Thank you.

18

19 MS FURNESS: Does that give rise to any comments? No? We
20 will now adjourn until 10am tomorrow morning

21

22 **AT 4.00PM, THE HEARING WAS ADJOURNED TO**
23 **WEDNESDAY, 4 APRIL 2012 AT 10AM**

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