

## REPORT

# Review of The Star Pty Ltd

Inquiry under sections 143 and 143A of  
the *Casino Control Act 1992 (NSW)*

31 August 2022

VOLUME 2





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

Published 31 August 2022

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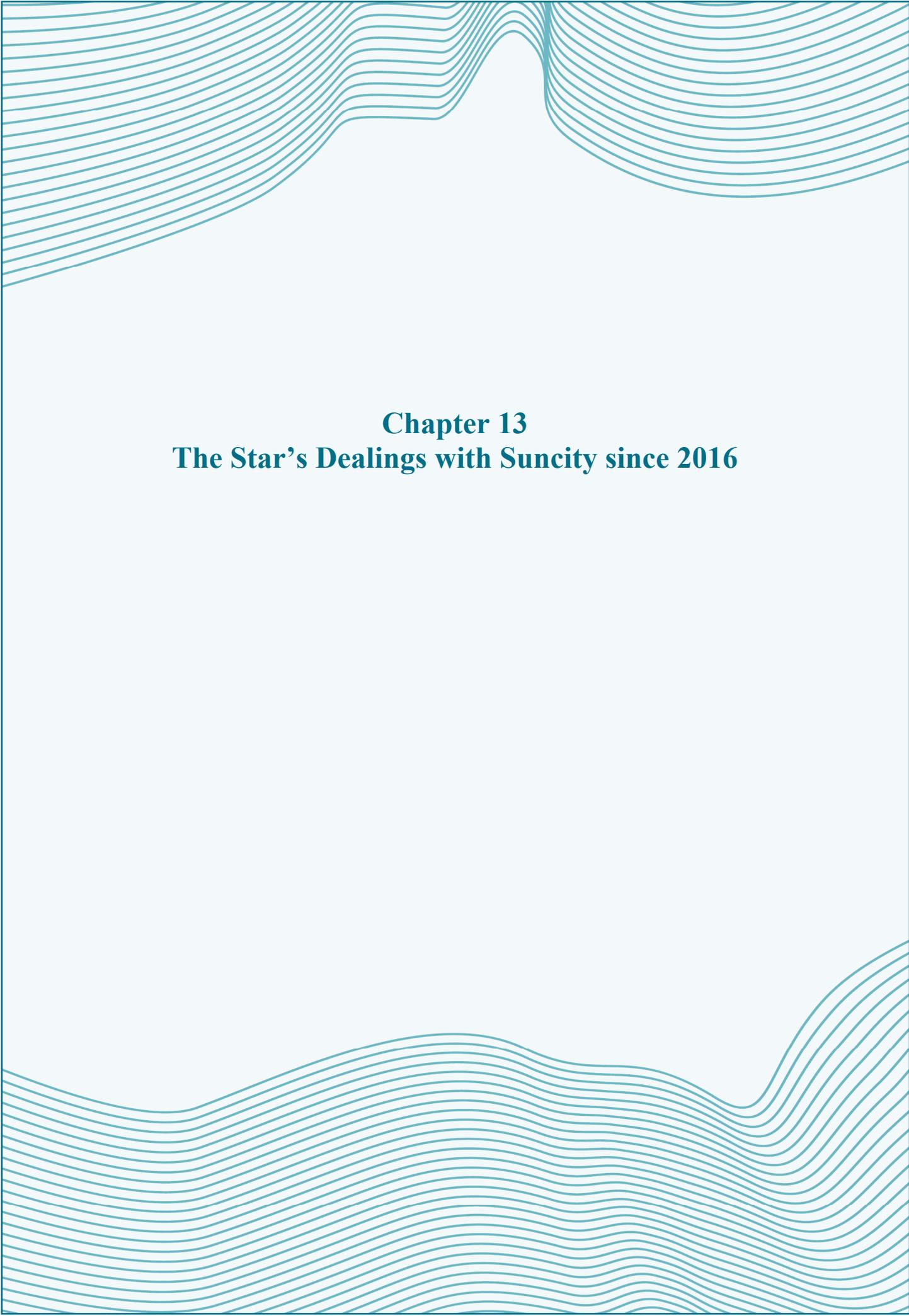
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**Chapter 13**  
**The Star's Dealings with Suncity since 2016**

# Chapter 13. The Star's Dealings with Suncity since 2016

## Chapter 13.1 Introduction

1. This Chapter considers The Star's dealings with the Suncity Group (**Suncity**) since 2016. During the Relevant Period, Suncity had various global business interests and was associated with a number of publicly listed companies in Hong Kong. Suncity's business interests included the provision of VIP junket services throughout Asia. Mr Cheok Wa Chau (also known as Alvin Chau) was the founder of Suncity. Between 2011 and 2016, and between 2017 and October 2020, Mr Chau held the CCF<sup>1</sup> for, and therefore funded, a particular junket group of which Mr Kit Lon Iek, an employee of Suncity,<sup>2</sup> was the junket promoter (**Iek junket**).<sup>3</sup> The Star had dealt with junkets funded by Mr Chau since 2011.<sup>4</sup>
2. For the financial years 2017, 2018 and 2019, the Iek junket turned over approximately \$1.29 billion, \$2.29 billion and \$1.27 billion respectively at The Star by way of non-negotiable chips.<sup>5</sup> By September 2017, Suncity was The Star's largest junket customer.<sup>6</sup> On 16 February 2018, the Board of Star Entertainment approved an increase in Mr Chau's CCF from \$50 million to \$80 million.<sup>7</sup> The Iek junket was one of the largest in terms of turnover with which The Star dealt during the Relevant Period.
3. An important feature of The Star's relationship with Suncity was the private and exclusive gaming room that The Star made available to the Iek junket. That gaming room was called "Salon 95". From late 2017, Suncity was the only junket operating at The Star that had its own, exclusive gaming salon.<sup>8</sup> The events that took place in that salon, many of which were captured on CCTV footage or recorded in contemporaneous emails and records, were an important focus of the Review's investigations and public hearings.
4. While The Star Entities made significant concessions regarding The Star's relationship with Suncity during the Relevant Period, which included severe errors of judgement with respect to Salon 95 and Suncity's service desk operations, those concessions were made belatedly during closing submissions in the public hearings. By that point, considerable time and resources had been expended by the Review in investigating these issues. In any event, the seriousness of the matters pertaining to Suncity and Salon 95 necessitate this Chapter exploring those issues.

## Chapter 13.2 The Establishment of Salon 95

### 13.2.1 The 2017 Rebate Agreement

5. On 30 June 2017, The Star entered into a “Win/Loss Rebate & Exclusive Access Agreement” with Mr Iek as the junket’s promoter (**2017 Rebate Agreement**).<sup>9</sup> The agreement was signed by Mr Chad Barton on behalf of The Star. Clause 6 of the agreement stipulated that The Star was to provide the promoter “with exclusive access” to a private gaming salon, namely, “Salon 95 located 1<sup>st</sup> floor of The Darling Hotel, above the Sokyo bar and restaurant ...”. The clause then stated:

Promoter acknowledges and agrees that The Star retains sole operational and management control of the Exclusive VIP Salon (including the operating hours, who may access the Exclusive VIP Salon, the conduct of gaming, **the operation of the Cage**, provision of food and beverage service and enforcing service standards and presentation). Promoter may have approved junket representatives present in the Exclusive VIP Salon (subject to The Star's approval) to assist in customer liaison and customer service for non-gaming matters. Any operational concerns or issues for Promoter or its customers will only be raised with The Star's nominated liaison representative and not with The Star's staff within the Exclusive VIP Salon directly.

(emphasis added)

6. The emphasised passage refers to a “Cage”. That word is undefined but appears to contemplate a form of cashier’s enclosure located within Salon 95. That is consistent with the subsequent conduct of Suncity whereby a request was made by junket staff in around August 2017 to The Star to “set up a cage with two windows and a service counter with two seats” in the salon.<sup>10</sup> The response of the officers of Star Entertainment in August 2017 is also consistent with the notion that it was at least an open question at that time that there would be a cage or buy-in desk in the salon.
7. If that is the correct construction, the clause did not make clear how the cage in the salon would be operated and by whom (i.e. whether by employees of The Star or by junket staff). However, the clause makes clear that The Star ultimately retained “sole operational and management control” of the salon. That is emphasised by the following additional provision of clause 6: “The Star will be responsible for all aspects of the operation of the Exclusive VIP Salon, at its own cost”.
8. There was little evidence regarding the origins and drafting of the 2017 Rebate Agreement. However, Mr Micheil Brodie, General Manager of Social Responsibility at Star Entertainment, gave this evidence:<sup>11</sup>

Well, I was – I was aware that in Macau, in particular, a common arrangement was for junkets, more generally – so not even necessarily Suncity, but junkets more generally were given a bit more unfettered access to particular gaming areas and particular salons. If you like, there was a capacity in the licensing structure there for subletting of licensed areas. And so it was – by about 2018, my recollection is that that had become a fairly common model in Macau casinos, to have some junkets that were, you know, effectively embedded as – as sublet operators.

And so we needed to be wary that that's not a model that was authorised in New South Wales, and we would want to be sure that they weren't tracking towards that kind of activity.

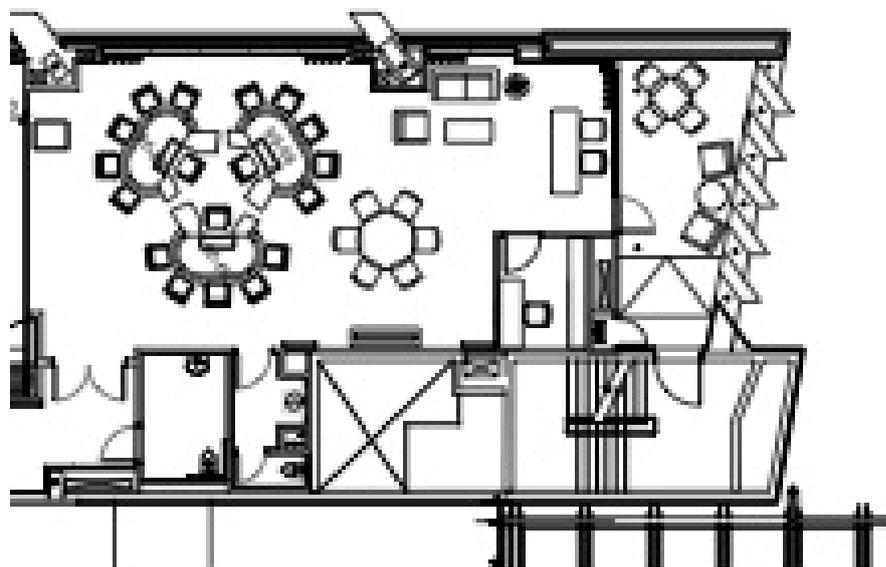
9. Mr Brodie also said that the “North Asian” model included “a right to operate a cage” by the junket.<sup>12</sup>
10. Under clause 1 of the 2017 Rebate Agreement, a minimum monthly “Non-Negotiable Turnover of A\$50m” was required. That clause also included various rates of rebate depending upon the type of rebate program. Under clause 5, if the minimum monthly turnover was not met in certain circumstances The Star at its discretion was permitted to withdraw the “exclusivity provided in clause 6”.<sup>13</sup>
11. Clause 10(y) of the 2017 Rebate Agreement imposed an obligation on the promoter to comply, and to ensure to the extent it was within his control that his customers complied, with “all applicable policies and procedures of The Star relating to the use of equipment and gaming salons, access to the property... and the conduct of gaming...”. This is consistent with the recognition in clause 6 that The Star would retain operational control of Salon 95.
12. Between 30 June 2017 and January 2018, at Suncity’s request “construction works were undertaken for the installation of Suncity signage and a service desk”.<sup>14</sup> During that period, Suncity did not operate from Salon 95.

### *13.2.2 The layout of Salon 95*

13. Salon 95 was located on the Rivers level. “Rivers” was the name provided to one of the areas of The Star Casino where private gaming rooms were located. There were several such areas.<sup>15</sup> The Rivers area was located above the Sokyo restaurant at the Darling Hotel.<sup>16</sup>
14. Within the Rivers area, there were a number of separate gaming salons<sup>17</sup> of which Salon 95 was one. A “satellite cage” was in operation within the Rivers area (**Rivers Satellite Cage**). Generally, within a particular zone of VIP salons there existed a cage or cashier facility that

managed that particular geographic zone.<sup>18</sup> The Rivers Satellite Cage was distinct and separate from the service desk in Salon 95.

15. The Rivers Satellite Cage was operated by employees of The Star or Star Entertainment. There is no suggestion of any wrongdoing by casino employees in the Rivers Satellite Cage. Due to the proximity between Salon 95 and the Rivers Satellite Cage, it was practical for employees of the junket in Salon 95 to walk from the salon to the Rivers Satellite Cage to exchange chips or cash.
16. The following image is taken from a diagram of the Rivers area dated 4 September 2017, enlarging the layout of Salon 95:<sup>19</sup>



17. Salon 95 contained three gaming tables. Clause 6 of the 2017 Rebate Agreement stated that the gaming tables in the salon were to be “exclusively used for playing baccarat”.<sup>20</sup>
18. Salon 95 had a balcony. The balcony was narrow and from the CCTV footage appeared to contain outdoor furniture in the form of a table and four chairs on one side and also another two chairs and side table close to the door connecting the balcony to the internal salon (at least as at June 2018).
19. There was only one surveillance camera on the balcony.<sup>21</sup> The camera had a blind spot beneath it, which would become material to the later use (and potential misuse) of the balcony by Suncity employees and patrons.

20. The salon also included a stand-alone desk referred to throughout the public hearings as the “service lounge”. The service lounge was a desk in the open area of the salon. It was apparently staffed by Suncity employees to field questions and provide general assistance to the patrons in the salon. The Suncity staff wore black suits with white shirts and black ties.<sup>22</sup>
21. The service desk, on the other hand, was a small office located in Salon 95. It was L-shaped internally. An internal cupboard was located on the shorter side. The desk was located opposite the longer side. The CCTV footage showed three or four Suncity staff sitting or standing along the desk and liaising with customers through the window.
22. There was one surveillance camera within the service desk office located in the corner of the longer side of the office.<sup>23</sup> There was a blind-spot in the room, as there was no or limited visibility of the wall of the shorter side of the room where the internal cupboard was located.

## Chapter 13.3 Knowingly Misleading Liquor & Gaming NSW

### 13.3.1 Contemplation of a cage or buy-in desk in Salon 95

23. From the middle of August 2017, there were internal communications between casino officers, and between casino officers and Suncity representatives, regarding the installation of a cage or buy-in desk in Salon 95.<sup>24</sup> One email dated 9 August 2017 from a representative of Suncity to Mr Michael Whytcross, who was the General Manager – Financial and Commercial at Star Entertainment, stated:<sup>25</sup>

Confirmed salon 95 is the proposed location.

Please kindly continue progressing to setup a cage with 2 windows and a service counter with 2 seaters.

24. The same day, Mr Whytcross forwarded the Suncity email to Mr Damian Quayle, stating:<sup>26</sup>

Please see below from Suncity.

Are you able to pass me on to someone who may be able to assist in progressing this request (i.e. CAD designs).

From there we can look to quantify cost etc and next steps but at face value doesn't seem to be too onerous.

25. In his evidence, Mr Whytcross confirmed he understood “what Suncity wanted” and that he had passed on those instructions to Mr Quayle “in Sydney so that Sydney could do what Suncity wanted”.<sup>27</sup>

26. On 10 August 2017, Ms Beata Ofierzynski, a Business Improvement Manager – Gaming at The Star, sent an email to Mr Whytcross stating:<sup>28</sup>

From what I gather in the email trail below, you are looking to add a cage with 2 windows and a service counter with 2 seaters in Salon 95?

Will this just be a buy in desk or fully enclosed cage? In regards to the service counter, will a desk suffice?

In addition, could you please confirm you would like to keep 3 tables in the salon before we engage our property service team?

27. The same day, Mr Whytcross replied:<sup>29</sup>

My preference would be for a buy in desk to minimise cost and disruption rather than a fully enclosed cage. The service counter will need to be better quality than a desk we have in storage and would envisage needing locked cupboards also.

28. Mr Whytcross accepted that in his email of 10 August 2017, he was “directing Sydney to put in a cage”. He said: “Yes. I was following the request from Suncity”.<sup>30</sup>

29. Further emails were exchanged regarding Suncity’s request and the layout of Salon 95. On 15 August 2017, Mr Whytcross sent an email to Mr Marcus Lim, Mr John Chong, and Mr Saro Mugnaini, stating:<sup>31</sup>

Salon 95 in the Rivers (far right as you walk in) has been identified by YM and the Suncity International Team as the preferred location which would not disrupt Leong Wa Fong (however turnover from them is still not strong and I feel this needs to be revisited).

Through Damian Quayle / David Croft I am waiting for some layouts / designs for the Suncity request which was “setup a cage with 2 windows and a service counter with 2 seats”. I am expecting this today / tomorrow however the key for them is being able to set up a computer and have their systems to talk back to Macau.

30. Mr Whytcross was examined upon his email of 15 August 2017. He understood that “cage was being distinguished from service counter” which was being requested by Suncity staff, who were requesting both a cage and a service counter.<sup>32</sup>

31. Also on 15 August 2017, Ms Ofierzynski sent Mr Whytcross a further email stating:<sup>33</sup>

Attached is a drawing for Salon 95 inclusive of new cage/buy in desk in addition to desk with 2 seats. We had to remove the dining table to accommodate the buy in desk.

Please let me know your thoughts....

32. The same day, Mr Whytcross responded stating:<sup>34</sup>

From previous experience I would expect Suncity to request further details of the cage/buy in and separate service desk (i.e. height, drawer space). Is this level of information available?

To the extent it is not (or may take further time), I would look to share the file you sent with them as a first step to get feedback.

33. Mr Whytcross confirmed in his evidence that he was referring to his previous experience at “Crown”, “when they had an exclusive Suncity room”.<sup>35</sup> However, he could not recall whether Suncity had operated a cage in the “Suncity room” at that casino.<sup>36</sup>
34. The above email chain shows that it was being contemplated that Salon 95 would include a cage or buy-in desk, and further, such a proposition did not appear to be controversial, at least to the parties to those emails who were representatives of The Star and Star Entertainment.
35. Mr Graeme Stevens, the Regulatory Affairs Manager employed by Star Entertainment at the time,<sup>37</sup> who was not party to the August 2017 email chain above, accepted that such conversations were taking place in the business about the cage in Salon 95 and it was the intention of the business to accommodate Suncity’s request for some sort of buy-in desk in Salon 95.<sup>38</sup> When shown that correspondence from August 2017, his evidence as to his state of knowledge was as follows:<sup>39</sup>

Q: And all I want to ask you here is, was it – were you aware of such conversations taking place in the business about the cage in Salon 95 and its particulars, how it was going to be set up?

A: Yes.

Q: And were you aware of the intention of the business to accommodate what clearly was a request in the contemplation of Suncity that it would be able to have some sort of buy-in desk in Salon 95?

A: Yes.

Q: Mr Stevens, you told me earlier that you understood that the agreement with the Suncity junket didn't permit the junket to operate a cage in Salon 95; correct?

A: Correct.

Q: So should I understand that these emails - and I appreciate you were not a party to them, but you would regard these emails as inconsistent with your understanding of what was permitted under that agreement with Suncity?

A: Yes.

...

Q: But I think your evidence was that you too were aware, as at August 2017, that it was being contemplated by The Star and/or Suncity that there would be a cage, and it would have some sort of buy-in desk?

A: Yes.

36. Mr Stevens said that his understanding of the 2017 Rebate Agreement was that it did not permit a cage in Salon 95.<sup>40</sup> That evidence of Mr Stevens' understanding is inconsistent with clause 6 of the agreement and, further, the surrounding circumstances by which the conduct of the staff of Suncity, The Star and Star Entertainment in or around August 2018 indicated that the existence of a cage or buy-in desk was not controversial.

### *13.3.2 The submission to Liquor & Gaming NSW dated 12 October 2017*

37. On 12 October 2017, Mr Stevens made a submission on behalf of The Star to L&GNSW via an email the subject of which was "Submission COA Lease Terms Approval -The Star Salon 95 building works".<sup>41</sup> The covering email (copied to Mr Whytcross) stated:<sup>42</sup>

The Star is proposing to make some minor changes to the Junket Operators office located in The Rivers Gaming Salon 95.

The purpose of these changes is to create a more customer friendly environment by installing a service desk in the salon and service window in the wall of the junket Operator's office.

Due to the nature of these works we believe that the COA Lease terms require owners consent from ILGA, which I understand to have been delegated to L&G. Please find attached the formal submission and plans of the work.

If you have any questions or require the submission in another format please let me know.

38. The attachments to the email included several diagrams and images of the proposed changes to the service desk in Salon 95.<sup>43</sup> Relevantly, one image showed how the proposed change was to install a window in the service desk which would face the gaming tables in the salon.<sup>44</sup> Importantly, the email attached a formal submission also dated 12 October 2017, which relevantly stated:<sup>45</sup>

#### **Reason for Submission**

To enable the junket operators who use Salon 95 to provide better service for the junket participants, The Star proposes to open a service window into the wall of the junket operator's office. The Authorities approval for this work is required under the provisions of the Casino Operations Agreement Lease terms. The Star therefore

requests the consent in writing from the Authority as required by clause 5.16 of the Casino Operations Agreement Lease terms.

**Details of Changes from Previous Approval**

Minor building works to allow the insertion of a service window into the interior wall of the Junket Operator office. Installation of a service desk adjacent to the Junket Operator's office.

**Newly Introduced Feature(s) / Function(s)**

The purpose of these changes is to create a more customer friendly environment by installing a service desk in the salon and service window in the wall of the Junket Operator's office.

39. Mr Stevens accepted that nowhere in the submission was there any reference to the cage or buy-in desk in Salon 95.<sup>46</sup> Mr Stevens accepted that the submission was misleading and that he had knowingly misled the regulator in the following evidence:<sup>47</sup>

Q: Thank you. You would agree with me, Mr Stevens, that this submission is misleading?

A: It - it - it doesn't detail that the junket operator was receiving cash from the players as to facilitate their buy-in - the junket operator was subsequently used to buy in to their rebate program with us. So - so it's not a fulsome explanation from that perspective.

Q: It was misleading, wasn't it, Mr Stevens?

A: Correct.

Q: And you knew at the time of sending the submission to the regulator that there was - it was in the contemplation of there to be a cage and/or a buy-in desk in that room?

A: Not a contemplation of a cage, but a contemplation that they would be - the players would be providing funds to the junket operator to - to participate within the junket.

Q: And you knew at the time of sending the submission that you had not included that additional information in the submission?

A: Yes.

Q: So you knowingly misled the regulator?

A: Yes.

40. This was serious misconduct. The Star Entities accepted that it “constituted grossly inappropriate and unethical conduct on the part of Mr Stevens”.<sup>48</sup> The Star Entities also accepted that Mr Stevens was the Regulatory Affairs Manager and therefore the “primary point of liaison between The Star and The Authority”.<sup>49</sup> The Star Entities accepted that Mr Stevens should have corrected his submission to L&GNSW, particularly in circumstances

where Mr Stevens was aware of the cash transactions taking place at the service desk as at May 2018.<sup>50</sup>

41. The misconduct was aggravated by the two facts that:
- (a) first, Mr Stevens was the Regulatory Affairs Manager and thus had an important role in facing and dealing with the regulator on behalf of The Star – as Dr Pitkin and Ms Lahey said in their evidence, it is “devastating” for the confidence that the regulator can have in The Star when a senior compliance executive knowingly misled them;<sup>51</sup> and
  - (b) secondly, the knowingly misleading conduct was in relation to something as serious as potential *cage operations* – something which goes to the very heart of the lawful gambling for which The Star holds its casino licence.

### ***13.3.3 Further communication with L&GNSW***

42. During his initial examination, Mr Stevens referred to a further communication he had with the regulator regarding the submission for the installation of a window in the service desk.<sup>52</sup> On 21 November 2017, a representative of L&GNSW sent an email to Mr Stevens stating:<sup>53</sup>

As mentioned in my voice messages, we require further clarifications in regard to the “better service” being provided to the junket participants as a result of the proposed changes for Salon 95. This includes a description of the current service being provided in Salon 95, and what “better services” will provided once the proposed structural changes are approved and completed.

43. Mr Stevens responded the same day, stating:<sup>54</sup>

To understand what we mean by ‘better services’ let me first explain the service and operation of a junket.

The junket operator/representative is the person who ‘buys in’ on behalf of the all of the junket. They are the ones who draw the funds down and purchase rebate chips for use in the program. When the operator receives the chips they then provide those chips to the players, who will then return them to the junket operator. The operator is the person who then ‘rolls them over’. This is the exchange of premium chips for non neg chips at the gaming table. At the completion of the junket it is the operator who then presents all of the chips back to the casino for redemption. As part of the above processes the junket operator keeps records of which players have given or returned chips to them. The players may have provided their own funds to play or be using the junket operator’s funds. Sometimes the junket operator will share some or all of the rebate earned through gaming with the players. The records kept by the operator enables them to keep track of what players have received chips and therefore owe funds to the operator and what chips they have then provided back to the operator.

The junket operator will also receive requests for food, air fare, accommodation and tours etc from the players which may subsequently be relayed to us.

Currently this provision of chips and the return of those chips takes place either at the gaming table or in the Junket Operators office. If it is at the table then there is a lack of privacy for the player, particularly when there are other players present.

When it is in the office, this takes place in a fairly enclosed space where there may be other documentation or records on display which the junket operator does not want the players to see.

By installing the desk and service window we are creating a more professional environments for these transactions to occur.

44. The L&GNSW representative responded to Mr Stevens' email later that day stating:<sup>55</sup>

Thank you for your clarification. I note from our phone conversation that Salon 95 is allocated to the Suncity Group, a junket operator. I also note that the proposed changes are being considered by the Star at the request of the Suncity Group.

45. Mr Stevens was recalled as a witness and was examined in relation to the above communications. Mr Stevens accepted that his further email to L&GNSW was misleading, in failing to disclose that it was proposed that cash transactions or cash/chip exchanges would occur in Salon 95,<sup>56</sup> but he denied knowingly misleading the regulator on this occasion.<sup>57</sup>

46. It is unnecessary to explore the plausibility of this denial. The result of this further communication was that, for a second time, the regulator was misled as to the nature of the transactions proposed to occur at the service desk in Salon 95.<sup>58</sup>

#### *13.3.4 The Star's breach of the Casino Operations Agreement*

47. A further question arises whether Mr Stevens' submission dated 12 October 2017 to L&GNSW constituted a breach by The Star of the Casino Operations Agreement. Under paragraph 3 of Schedule 3 of the Amended Casino Operations Agreement, The Star as a contracting party gave the following warranty:<sup>59</sup>

**(All information true):** All information given at any time and every statement made at any time by the Contracting Party to the Authority or its employees, agents or consultants in connection with this Agreement and any Transaction Document is and will be true in any material respect and is and will not by omission or otherwise be misleading in any material respect.

48. The Star also provided a similar warranty under paragraphs 1(b) and 7(c) of Schedule 1 of the Amended Compliance Deed.<sup>60</sup>

49. The Star Entities accepted that Mr Stevens' submission of 12 October 2017 to L&GNSW "sought the Authority's consent for the purposes of clause 15.16 of the 'Casino Operations Agreement Lease Terms'", and therefore "Mr Stevens' email and submission constituted statements made or information given on behalf of The Star in connection with the Casino Operations Agreement". The Star Entities conceded that it was open to the Review to find that The Star breached the warranties under paragraph 3 of Schedule 3 of the Casino Operations Agreement and under paragraphs 1(b) and 7(c) of Schedule 1 of the Amended Compliance Deed.
50. Mr Stevens' misleading communications to the Authority concerning the proposed use of the service desk in Salon 95 constituted a breach by The Star of its warranty under the Casino Operations Agreement.

## Chapter 13.4 The Unauthorised use of the Service Desk in Salon 95

### 13.4.1 The commencement of the service desk: mid-April 2018

#### **An important issue is raised regarding the "Suncity Cage": 12 March 2018**

51. On 12 March 2018, Mr Wallace Liu, Assistant Vice President of VIP International Operations at The Star, wrote in an email to Mr David Aloï (emphasis added):<sup>61</sup>

As Suncity is using salon 95 as junket salon, their manager TK inquire what amount of cash limit from patrons can they deposit into **Suncity Cage** without any AML requirement?

Junket doesn't want to cause any AML issue, however this is a very import part of their business.

Can you advise who I can check with if you are not sure. Thank you in advance.

52. It appears that Mr Wallace Liu's email had followed a meeting and discussion which Mr Anthony Lui, Senior Vice President of International Marketing at Star Entertainment, had had with representatives of Suncity around that time.<sup>62</sup> The minutes of Mr Anthony Lui's meeting with Suncity showed various requests that the junket had made "prior to their fix junket room soft opening", which included requests regarding cash deposit limits under a sub-heading titled "CAGE" such as "Cash deposit: How much of cash limit they can receive from patron by law".<sup>63</sup>
53. The same day, Mr Aloï forwarded Mr Wallace Liu's email to Mr Oliver White and stated further:<sup>64</sup>

I would assume Sun City would have an AML program in place prior to setting up a cash desk in the Rivers salons. Wouldn't that be one of the requirements for The Star allowing them to transact on property?

54. The same day, Mr White forwarded Mr Liu and Mr Aloï's emails to Mr Power and Mr Stevens stating:<sup>65</sup>

Please see the email below.

Have you been consulted at all in relation to this, as this is the first time I have been circled in.

Aside from reinforcing to the business that this is not a Cage, only a service desk, it raises an interesting point around what we are willing to permit SunCity to do at their service desk. I would have thought that they should not be handling cash payments, but if they are, then of course they will need to be AML/CTF compliant.

Can we get together to discuss this and the best way forward.

**Mr White's advice: 13 March 2018**

55. On 13 March 2018, Mr White responded to Mr Aloï and Mr Liu's queries and wrote in his email to them:<sup>66</sup>

As an initial point, I should point out that Sun City have a service desk in Salon 95 – they do not operate a cage and have no authority to operate a cage. A cage may only be operated by the casino operator, i.e. The Star Sydney in this instance.

In relation to the activities of the service desk, whilst Sun City's representatives are permitted to assist their customers with their service requests, any transactions involving cash must only take place at The Star Sydney's cage. Accordingly, if one of Sun City's customers wishes to make a cash payment, they must do this at The Star Sydney's cage in accordance with The Star Sydney's applicable policies and standard operating procedures (which I note means that the individual making the payment must attend the cage in person to make the payment). Sun City's service desk may handle usual junket operator/representative transactions involving chips only.

On the basis that Sun City's service desk does not and will not in future handle any cash transactions, you should not need to worry about AML/CTF requirements which may apply to Sun City's operations, as opposed to those of The Star Sydney. If you become aware that Sun City are handling cash transactions, please let me, Saro Mugnaini and Micheil Brodie know as soon as possible – please send an email to me including "Privileged and confidential" in the title and seek my advice on any incidents, including any details that are known.

56. Mr White's advice of 13 March 2018 was at odds with the initial understanding of those involved in the establishment of Salon 95, as shown in the August 2017 email correspondence considered above. Mr White's email made it clear that Suncity was not to operate the service desk as a casino cage, the junket had no authority to operate a cage and thus no cash transactions could take place at the service desk.

57. Mr White's advice was based upon cash payments only permissibly taking place at "The Star Sydney's cage in accordance with The Star Sydney's applicable policies and standard operating procedures". This appears to be the first occasion on which any objection was taken by The Star or Star Entertainment to the proposed cage in Salon 95. Mr White correctly recognised the fact that operating a cage may constitute casino operations and give rise to AML/CTF implications.
58. The same day, Mr Brodie forwarded Mr White's email to Mr McWilliams.<sup>67</sup> Mr McWilliams was responsible for signing off on the ultimate risk assessment (which would be prepared by Ms Arnott with Mr Brodie's guidance).
59. It appears that Mr Mugnaini requested a meeting with "TK", who was a representative of Suncity, to discuss Mr White's advice.<sup>68</sup>

#### **Suncity push-back after being denied a cage: 28 March 2018**

60. On 20 March 2018, a further meeting took place with Suncity at which the message was communicated: "even with a service desk they cannot do any cash transaction".<sup>69</sup> In other words, Mr White's advice had been communicated to the junket operator.
61. On 28 March 2018, Mr Mugnaini sent the following email to Mr White:<sup>70</sup>

##### **Legal Advice Required**

I met with Sun City's rep's yesterday.

They asked us to review the below decision and see if we allow them to operate as in Crown which is.

1. Suncity Reps accept cash from their players (same as occurs between junkets and players today)
2. Suncity will collect KYC (Photo ID)
3. Suncity makes a deposit to Star Cage each 24 hrs with a breakdown of all transaction copies of ID's in a list format.
4. Any large transactions (\$100K and above) will require additional KYC such as required source of funds documentations.

The above approach I would suggest meets our AML/CTF reporting obligations.

62. Mr Mugnaini's email was in response to Mr White's email of 13 March 2018 referred to above. Evidently, Suncity were still pressing to be able to handle cash from patrons.

63. The same day, Mr White responded to Mr Mugnaini indicating that he would “consider” the email and “come back” with a response.<sup>71</sup> Mr White gave evidence that he understood that Mr Mugnaini was asking him to reconsider his advice of 13 March 2018 and whether there was “a legal way for Suncity to handle cash at the service desk”.<sup>72</sup>

64. On 31 March 2018, Mr Mugnaini sent a further email to Mr White stating:<sup>73</sup>

bringing you on discussions on the following:

Points 1 & 3.

- Suncity in-house staff now wish to apply for a Junket Rep license without Police clearance. Police Clearance to be requested and submitted in 2-3 months.

- Cash handling at the service desk. As per my email seeking further advice on this matter on the 28 march.

65. The same day, Mr White responded to Mr Mugnaini stating:<sup>74</sup>

I will respond separately to the email chain re he first point.

On the second point, I have copied Micheil Brodie as this relates to AML/CTF. Until Micheil has provided clearance, they cannot handle cash at the service desk.

### **The Star seeks to accommodate Suncity's renewed request**

66. On 6 April 2018, Mr Brodie sent an email to Mr Lim stating:<sup>75</sup>

An action that flows from our conversations about what Sun City can do when operating at the Sydney property is for my team to conduct an AML risk assessment.

The objective is to review the operational structure and determine the suitability of the risk and control framework for this service.

Could you advise who in your team can give us a detailed picture of the arrangement with Sun City and the day to day flow of activity. I envisage that it will only need an hour or so of discussion and some review of what we write up for confirmation.

This will let us get a clear and pragmatic picture of the process and set realistic risk ratings.

67. The same day, Mr Lim responded to Mr Brodie's email stating:<sup>76</sup>

...

Could you send us the full questions prior to the meeting and we can have them answered and send back to you and we could conduct the call.

There is a real urgency to have this up and running asap as all sun city marketing collateral states their room is up by 1st april in sydney.

Alvin chau (CEO of sun city) has a direct influence with our partners CTF and FE.

68. The same day, Mr Brodie responded to Mr Lim stating “Just to be clear the risk assessment does not need to slow down the implementation of the arrangement”.<sup>77</sup> Mr Brodie was examined on this email. His evidence was:<sup>78</sup>

Q: Was there some haste at this time in getting the risk assessment done?

A: No, I think that's - I think that's a reference to the fact that these - that the risk assessment we were doing would not impede the work that they planned to do in terms of providing Suncity access to the room and some of the other activity around that. But I wouldn't have allowed the conduct of the risk assessment to be done anything other than at the pace that it needed to be completed at.

69. Further on 6 April 2018, Mr Lim then emailed Mr Mugnaini and Mr Whytcross (copied to Mr Hawkins) stating:<sup>79</sup>

How can we get the Junket room to be operational as soon as possible?

Alvin Chau will be making a trip to Sydney towards the end of the month.

70. Mr Hawkins responded stating:<sup>80</sup>

Let's set up the call with Michael Brodie and Paul McWilliams when I am in HK.

Is there a project plan around opening of the room? Clear actions and ownership?

71. Mr Whytcross responded to Mr Hawkins stating (emphasis added):<sup>81</sup>

...

Following the installation of Suncity equipment the room is operationally ready however **a further concern was raised around cash collection at the service desk (however I understood this to be addressed following a discussion with Micheil as per the attached).**

Assuming there is no AML concerns from Micheil and that the risk assessment can be done concurrently I do not see why implementation cannot occur immediately.

Will coordinate for a call when you are in HK.

72. Mr Mugnaini responded stating he would “chase for formal approval on the handling and have a final position by Thursday”,<sup>82</sup> to which Mr Lim responded “Who are we awaiting for formal approval?”.<sup>83</sup> On 7 April 2018, Mr Mugnaini responded that they were waiting on approval from Mr White from legal and Mr Brodie from compliance.<sup>84</sup> On 9 April 2018, Mr Mugnaini sent a further email to Mr Lim stating:<sup>85</sup>

Following actions as an outcome of the meeting:

-AML/CTF risk assessment as new product to be conducted.

This will provide guidelines for the operation to ensure we are compliant.

- Controls and recommendations will be issued in writing as a suitable solution. We should have this by Thursday.

73. The same day, Mr Lim responded: "Let's get the room operational by Thursday".<sup>86</sup>
74. If that deadline was met, then Salon 95 would have been operational by 12 April 2018. It is not clear precisely when the room began operating, but it is likely that it was around the middle of April 2018 and certainly by 18 April 2018 given CCTV footage produced from Salon 95.
75. The email correspondence shows that there was pressure being applied by Mr Lim to have the salon operating as soon as possible, including by reference to Mr Chau (a major source of business) and his connections to Star Entertainment's joint venture partners Chow Tai Fook and Far East Consortium. The evidence suggests that the risk assessment was not rushed to allow the room to open, but Salon 95 proceeded to open *before* the risk assessment was completed.
76. The Star Entities conceded that it was not appropriate for the service desk to operate before Mr McWilliams had provided his approval.<sup>87</sup>

#### **Ms Arnott's recommendations of 13 and 16 April 2018**

77. Ms Arnott had principal carriage for preparing the risk assessment.<sup>88</sup> Her evidence was that in early April 2018 Mr Brodie had requested that she perform such an assessment.<sup>89</sup> The assessment was to identify "money laundering and other risks that may lead to non-compliance with the *Casino Control Act*".<sup>90</sup> The first draft was prepared by 11 April 2018.<sup>91</sup>
78. On 12 April 2018, Ms Arnott had circulated a draft risk assessment to Mr Mugnaini and Mr Brodie copying in Mr McWilliams.<sup>92</sup> The same day, Mr Mugnaini forwarded a copy of the draft risk assessment to Mr Hawkins, Mr Lim and Mr Whytcross, and stated in the email "For today's meeting".<sup>93</sup> On 12 April 2018 Mr Mugnaini also forwarded Ms Arnott's email to Ms Angela Huang of Star Entertainment asking her some questions about the "controls" and to follow up with Ms Arnott.<sup>94</sup> It appears that two chains of emails then emerged from Mr Mugnaini forwarding Ms Arnott's email twice. This led to two important responses from Ms Arnott clarifying the way her controls were to be understood.

79. On 13 April 2018, Mr Whytcross sent an email to Ms Arnott in which he stated (emphasis in original):<sup>95</sup>

As discussed just now, understand the risk assessment document was for internal purposes only.

As we ran through, and in terms of feeding this information back with Suncity (for reference Marcus is due to speak with Alvin Chau this evening) would recommend we proceed on following approach:

- **Current identity check process is to continue unchanged;**
- **Cash received at the Suncity Service desk to be deposited into The Star cage on a daily basis** – Separately we can manage internally over the initial period to determine if this is reasonable / practical;
- **Customers can not receive cash in exchange for chips in the same transaction;**
- **Cash received at the Suncity Service desk cannot be used to settle with patrons. Any settlement must be at the cage.**

80. Mr Arnott explained that these were not controls proposed by Mr Whytcross, but rather she believed that he was “clarifying the information that would have been communicated to him around controls, making sure he understood it appropriately before relaying it to Suncity”.<sup>96</sup>

81. Mr Brodie stated in his evidence that this was a “kind of stage summary” of the controls.<sup>97</sup> He explained that while the controls were limited, this was because putting “some things in place right away and then once we’d completed the process of the risk assessment, then we were able to determine a more holistic set of controls”.<sup>98</sup>

82. Ms Arnott responded to Mr Whytcross’ email the same day, stating:<sup>99</sup>

I have discussed with Micheil and we are happy to proceed with this communication to Sun with a minor amendment to point 2. Can this please read “Cash received at the Suncity Service Desk to be deposited into The Star cage at least on a daily basis.” If they receive an very large deposit or a significant number of small deposits it would be good if they could clear that cash more quickly.

The reasonably practicable control here is to avoid the situation where a patron demands that the Sun staff provide cash that is being held at the service desk. It could be very difficult for Suncity staff to refuse if a patron is aware that cash is held for long periods. I agree that testing the adequacy of this control via surveillance and the cage in the first instance is the right approach.

83. Mr Brodie confirmed that this was “the first round of controls that were communicated to Suncity”.<sup>100</sup> Ms Arnott said that requiring Suncity to deposit the cash received at The Star

cage “was an effective control for stopping them from acting as a cage, the idea that the money flows through to The Star cage and isn't held for a long period of time”.<sup>101</sup>

84. On 13 April 2018, Ms Huang and Ms Arnott exchanged several emails. Late on 13 April 2018, Ms Huang sent an email to Ms Arnott stating:<sup>102</sup>

Can I ask if some of the controls are new? I don't have access to intranet from home so not sure if they are.

Also just having a quick glance at the document, I think we are basically saying to Suncity that players must be added prior to the junket with indicated fund on the front money summary before they can be disbursed with chips. Any winnings must be paid out to them once partials have been done to indicate that they money disbursed is the winnings from the program.

Basically ensuring that we have visibility of all players, player action and meeting AML/CTF laws.

85. On 16 April 2018, Ms Arnott responded to Ms Huang's email stating:<sup>103</sup>

The controls are mostly new, the first one relating to the collection of ID from SGR staff is existing (I believe) but the rest will be new.

We are basically asking for the following:

- That Sun City staff do not exchange cash for chips (or vice versa)
- All cash be taken to the cage as soon as practicable after it is received
- Cash received cannot be given to patrons as winnings. It must be banked
- Settlements and partial settlements must occur at the cage and the Junket rep can distribute the funds to relevant patron.

We are also recommending a position that will prevent patrons being added to junkets once they have started (so no month long junkets where people are added and removed as they arrive and leave) but this is now being discussed separately.

Just for your info – I spoke to Michael Whytcross on Friday night because Marcus was meeting with the Suncity reps. I will forward that email chain to you as it may be helpful.

86. Mr Brodie explained that Ms Arnott's communications above to Ms Huang were to ensure the “first line of defence” were also aware of the controls.<sup>104</sup> Ms Arnott explained the importance of each bullet point in her evidence:<sup>105</sup>

- (a) “That Sun City staff do not exchange cash for chips (or vice versa)” – according to Ms Arnott “that would be offering a designated service for the exchange of cash for chips”;

- (b) “All cash be taken to the cage as soon as practicable after it is received” – according to Ms Arnott this was because “the control should be that the money is banked with the cage so it can be allocated to the junket”;
  - (c) “Cash received cannot be given to patrons as winnings. It must be banked” – according to Ms Arnott “that's the reverse of the original designated service, which is that you - they should not be exchanging chips for cash. So the money had to all flow to the cage and then back out again (indistinct) winnings”; and
  - (d) “Settlements and partial settlements must occur at the cage and the Junket rep can distribute the funds to relevant patron” – according to Ms Arnott “that is a casino cage function”.
87. As at 18 April 2018, the risk assessment was not yet finalised and Mr Brodie was still liaising with Ms Arnott regarding its content.<sup>106</sup> This is important because concerning CCTV footage from Salon 95 had begun to emerge from at least 18 April 2018. It appears that only a “summary” of Ms Arnott’s controls had been communicated to Suncity at this point.
88. In any event those controls, which had been considered by Mr Brodie, acted as a halfway house between, on the one hand, seeking to prevent the service desk from operating as a casino cage, while, on the other hand, permitting the junket to handle cash at the service desk.
89. It appears that by 18 April 2018, The Star had acceded to Suncity’s request to engage in cash transactions (at least of some kind) at the service desk in Salon 95. In doing so, The Star did not follow the advice from Mr White’s email of 13 March 2018. At a minimum, The Star was courting significant risks by taking that course. It should not have done so.

#### *13.4.2 Large cash payments at the service desk: 18 April 2018*

##### **First piece of CCTV footage of 18 April 2018 (large sums of cash)**

90. On 18 April 2018, footage of cash transactions at the service desk of Salon 95 was captured on CCTV.
91. A truncated version of that footage was played during the examination of Mr Angus Buchanan.<sup>107</sup> The footage depicted a black bag with a blue trim being collected from the balcony of Salon 95 and taken into the service desk through the side door by a man in a

black suit. The bag was opened in the service desk room and many bundles of cash (holding a collection of \$50 notes in each) were removed from the bag. The money was then counted through a money counter and piled on the service desk, and then placed in a drawer underneath the desk. The footage then depicted a person who was not in the room, handling some of the money that had been placed on the desk.

92. Mr Buchanan, after being shown the footage, agreed that the footage was “completely contrary” to any instructions that Mr White had given in his email of 13 March 2018.<sup>108</sup> Mr Buchanan also accepted that it appeared that Suncity was engaging in “very similar activity to a cage”.<sup>109</sup>
93. Ms Arnott, who was also shown the footage during her examination,<sup>110</sup> gave evidence that the footage concerned her on the basis that it showed “large sums of cash that’s coming into the room that’s not associated with a customer directly, or at least not that we can see”.<sup>111</sup> The footage was therefore concerning to her due to the volumes of the cash being depicted.
94. However, Ms Arnott gave evidence the footage did not “necessarily” show non-compliance with the controls she recommended.<sup>112</sup> This is likely to be because her controls envisaged that cash would be deposited at the service desk.

#### **Second piece of CCTV footage of 18 April 2018 (further large sums of cash)**

95. Some further truncated footage from 18 April 2018, depicting a different incident, showed a man in a black suit removing a bag from the balcony of Salon 95 and taking it into the salon. The bag was taken into the service desk room. Numerous bundles of cash were then removed from the bag.<sup>113</sup> Mr Buchanan agreed that the second piece of footage from 18 April 2018 depicted “very large amounts of cash being taken into the enclosed rooms in Salon 95”.<sup>114</sup>
96. This further footage was shown to Ms Arnott during her examination. Ms Arnott gave evidence that the footage concerned her for similar reasons to the first footage of 18 April 2018.<sup>115</sup> Again, the second piece of footage of 18 April 2018 did not directly breach Ms Arnott’s recommended controls. Rather, this was a further instance of large sums of money being handled in a concerning manner by non-casino staff. This was also contrary to Mr White’s advice of 13 March 2018.

### 13.4.3 The completed risk assessment: 27 April 2018

97. On 27 April 2018, Mr McWilliams signed off on Ms Arnott's risk assessment for the service desk in Salon 95.<sup>116</sup> The following risks were identified:<sup>117</sup>

When considered in respect of both AML law and NSW Casino law the risks relating to the Sun City service desk activities are:

- the accidental provision of a designated service by Sun City without appropriate AUSTRAC registration or structures in place; and
- that operations of the casino could be (or be perceived to be) conducted by a person other than the casino operator which is prohibited under the Casino Control Act; and
- the operation of 'super junkets' where unrelated parties are added to an overarching junket agreement rather than each group of people being treated as an individual junket.

98. Those risks were ones with serious consequences. In particular, the first risk envisaged an entity operating within the casino performing a designated service while not being compliant with the *AML/CTF Act*, including the obligation to have an AML/CTF program. The second risk envisaged the operation of an unlicensed casino within The Star Casino in Sydney. That risk was a real and material one in circumstances where Suncity employees were handling cash and chips at the service desk while holding no licence to do so.

99. The "controls" that were proposed by Ms Arnott and approved by Mr McWilliams included:<sup>118</sup>

- Players may not be accepted in to junkets until they have undergone appropriate identity checks by an employee of The Star Entertainment Group. The employee will sight an appropriate identity document (such as a passport) and record details, including the customers address, in the CMS prior to guests being signed onto Suncity junket programs. These identity checks will meet with The Star Entertainment Group's requirements for KYC under the AML/CTF Program.
- Cash accepted from players must not be retained at the Sun City Service Desk or be provided to patrons as cash dispersals. Cash received must be deposited into the Sun City Front Money account (or exchanged for a chip purchase voucher) at the Star cage as soon as practicable after it has been received from the junket participant.
- Customers will not be able to provide cash and receive chips in the same transaction.
- The junket operator may not provide chips to players that have not been received from the casino cage in exchange for cash or as a result as of a CCF draw down. If the Sun City Service Desk draws down an excess of chips from the cage, these may be provided to the patrons. The provision of chips

will not be performed in the same transaction or receipted together with the acceptance of cash.

- Upon settlement (or partial settlement) of a junket, staff from the Sun City Service Desk must exchange chips for cash at The Star cage and then disperse cash to players. Sun City may not draw down (or retain) an excess of cash to provide directly to players at other times.

100. These controls appear to have built upon the “summary” Ms Arnott had provided in her emails of 13 April 2018 and which appear to have been communicated to Suncity. The risk assessment concluded that it was “possible for the Sun City Service desk to operate in a compliant fashion without significant compromise to the customer experience”.<sup>119</sup> In circumstances where the risk assessment facilitated cash transactions in Salon 95, and was contrary to Mr White’s advice of 13 March 2018, it is difficult to understand the basis and reasoning of the risk assessment.

#### *13.4.4 Chips for cash exchanges at the service desk: 8 May 2018*

##### **The Star’s surveillance staff start sounding the alarms**

101. From early May 2018 onwards, the level of concerning activity in Salon 95 escalated. On 3 May 2018, Ms Arnott sent an email to Mr Wayne Millett and Mr Brodie stating:<sup>120</sup>

Surveillance say that the suncity service desk is behind a little window and that patrons do not have access to the area. They are seeing Sun staff bring in cardboard boxes (that look like they were originally photocopy paper boxes) containing cash to the service desk area on a semi regular basis. I have asked to find out what the source of the funds that are being brought in are.

102. The following day, on 4 May 2018, Ms Arnott received correspondence from Ms Hunt of the Surveillance Team regarding CCTV footage of activities in Salon 95 stating:<sup>121</sup>

We haven’t forgotten about you but so far we are finding it hard to track that money you asked about back to an owner. We have bookmarked times where it may of interest to you but the cash seems to be brought in by Sun City staff. If you want to have a look at the Suspect Transaction footage to make a determination on if you need us to go further and what direction you may want us to go?

103. Ms Arnott gave evidence in her witness statement to the Review that she reviewed CCTV footage on or about 4 May 2018.<sup>122</sup> Ms Arnott also explained she communicated with Mr Kevin Houlihan at the time about the footage she had reviewed because Mr Houlihan “was investigating the unusual transactions into the room ... to identify if there was any illegal activity occurring”.<sup>123</sup> Indeed, Ms Arnott had emailed Mr Houlihan regarding footage she had “held out”.<sup>124</sup>

104. On 5 May 2018, Ms Leoni Augustus sent an email to Ms Arnott stating:<sup>125</sup>

A review is ongoing. We have exported footage for a number of bags with large sums of cash, mostly \$50 notes bundled with elastic bands. The footage is for different days from 14<sup>th</sup> April – 21<sup>st</sup> April. Also 1<sup>st</sup> May and 4<sup>th</sup> May. Origin of bags is yet to be found. The earlier days unfortunately we do not have footage for. There is also bookmarked footage of large transactions as requested.

105. On 6 May 2018, Ms Arnott was copied into a further email regarding CCTV footage, this time from Mr Ryan Patterson, Acting Surveillance Duty Manager:<sup>126</sup>

I have had zero luck in finding the origins of these money bags. I have only reviewed the red suitcase from April 17. I reviewed C2966 back 24 hours using the motion sensor and do not see any red suitcase arriving, I also reviewed C2911 back 2 hours, and again no red suitcase has been delivered. Unfortunately I wasn't able to dedicate too much time to it, due to staffing levels and all the action around from the Baccarat tournament. We will start to lose footage in Pit 95 in about 36 hours from now.

106. Ms Arnott indicated that she read Mr Patterson's email about the time it was sent and that the email suggested another incident of 17 April 2018 involving a red suitcase (i.e. which was in addition to the two instances of 18 April 2018).<sup>127</sup> Mr Patterson's email is consistent with Salon 95 being operational as at 17 April 2018.

107. On 7 May 2018, Mr Wayne Willett sent an email to Mr Brodie and Ms Arnott stating:<sup>128</sup>

Below is more cash paid out to a patron by Sun City. LIU has no history of junket play or known links with Sun City.

108. That email is important as it shows that Salon 95 was also being used by individuals who were not recorded junket participants. That fact, in and of itself, raises serious AML/CTF concerns around KYC. It was in addition to the large sums of cash being received at the service desk, as depicted in the 18 April 2018 CCTV footage.

#### **Evidence of chips exchanged for cash at the service desk: 8 May 2018**

109. On 8 May 2018, there was CCTV footage captured from Salon 95 in which a transaction involving the exchange of chips or gaming plaques for cash at the service desk.<sup>129</sup> Ms Arnott, after being shown the footage during her examination before the Review, gave the following evidence:<sup>130</sup>

Q: Now, do you agree that what this footage depicts are chips or plaques being exchanged for cash at the enclosed office in Salon 95?

A: Yes.

Q: Does this concern you in any way?

A: Yes, it does.

Q: And why is that?

A: Because it's an exchange of chips for cash, which is not supposed to occur one-for-one at that desk.

...

Q: But you do agree it depicts something that is in direct breach of the controls that were imposed on the Salon 95 room at that time?

A: Yes, I do.

110. The 8 May 2018 footage showed chips or gaming plaques being exchanged for cash at the service desk. As Ms Arnott accepted in the evidence quoted above, the 8 May 2018 footage showed a breach of her controls. Further, as Ms Arnott conceded (while making clear the question is complicated),<sup>131</sup> the footage may well have depicted the Suncity staff performing a designated service.
111. It should be interpolated that it is by no means clear that Ms Arnott's controls were themselves acceptable: Ms Arnott's evidence that there should not have been a "one-for-one" exchange of "chips for cash" does not explain what was occurring in substance. If patrons were depositing large amounts of cash in Salon 95, they would presumably have expected to receive chips to gamble with as a result – at least at some stage, whether directly or indirectly. It is unclear from Ms Arnott's controls how deposits and issuing of chips would be accounted for and reconciled, to ensure that junket play was taking place, not unlicensed casino operations. This was a particular concern in circumstances where, as noted above by reference to Mr Willett's 7 May 2018 email,<sup>132</sup> Salon 95 appears to have had non-junket participants being paid cash by Suncity.
112. On 8 May 2018, Mr Josh Coon, VIP Gaming Manager Table Games, sent an email to gaming managers at The Star relevantly stating:<sup>133</sup>

In simple terms, this desk cannot do 'cash for chips' exchanges or vice versa in the same transaction. The guest can give their cash to the desk; however will need to receive their chips at the table via a CPV or a Suncity Rep bringing the chips to the table. Should the guest wish to cash out or settle, this must be done at the Cage. Should you see any transactions that are not compliant, please report to your TGM immediately.

113. The same day, Mr Tony Breidi, GLDP Gaming Manager Table Games at The Star, sent an email to Mr Hugh Fraser and Mr Chum Mo stating (emphasis added):<sup>134</sup>

FYI Last night in Salon 95, the guest had finished play and took his chips (unknown amount) to the Suncity desk. The reps then **took the chips and gave the guest cash** (unknown amount).

Surveillance Daniel Cho was notified and has reported it and kept the footage.

114. On the same day, Mr Mike Bovan, VIP Gaming Manager Table Games, also emailed Mr Fraser and Mr Mo stating:<sup>135</sup>

This morning at 09:32 we had similar incident. The guest walked in the Salon 95 and did transaction on the Suncity desk. Soon after this he left the salon. Looks like \$100K plaque has been exchanged for \$100K cash.

I have asked surveillance to retain the footage.

115. On 8 May 2018, Mr Mugnaini sent an email to Mr Anthony Lui (copied to several individuals including Mr Whytcross, Mr Hawkins and Mr Lim) stating:<sup>136</sup>

Can you pls remind Suncity they must not exchange chips for cash at the Service Desk.

Can you pls confirm you have reminded Sun city on this requirement.

116. On 8 May 2018, Mr Lui responded to Mr Mugnaini (also copying in several individuals including Mr Whytcross, Mr Hawkins and Mr Lim) stating:<sup>137</sup>

I had reminded them this afternoon. As well as both Amy and Simon just met them in Salon 95 to confirm they acknowledge chips exchange to cash is prohibited in their salon.

117. On 9 May 2018, Mr Whytcross forwarded that email chain to Mr Hawkins.<sup>138</sup>

118. On 10 May 2018, Mr Mugnaini sent Mr Hawkins an email stating:<sup>139</sup>

As directed yesterday a meeting was held between The Star management and Suncity staff yesterday. See below confirmation email.

This is in addition to a strong message delivered 24 hrs prior under my instruction (see attached email).

I've reached out to Andrew Power this morning and will advise when the next step is complete.

119. Mr Mugnaini attached to his email to Mr Hawkins the email correspondence regarding the "reminder" to Suncity not to "exchange chips for cash at the Service Desk".<sup>140</sup>

120. The CCTV footage and the above emails suggest chips for cash exchanges occurred on more than one occasion, and in one case this included an exchange of a \$100,000 plaque for \$100,000 in cash at the service desk. This raises the question of whether this was

evidence of the service desk engaging in cage operations. Such instances were a clear breach of Ms Arnott's "controls".

121. This was in addition to evidence of large sums of money being deposited at the service desk in a concerning manner (in sports bags, suitcases and cardboard boxes), and also non-junket participants using the service desk.
122. By 8 May 2018, it is clear that Suncity staff were using the service desk to receive large sums of cash, engage in chips for cash transactions, and transact with individuals who were not junket participants. That conduct was not authorised and it follows that The Star did not have adequate control of Salon 95. This was an entirely unsatisfactory state of affairs.

## Chapter 13.5 The Star's Inappropriate Response to the Unauthorised use of the Service Desk in Salon 95

### 13.5.1 The first warning letter: 10 May 2018

123. It was against the backdrop described above that Mr Hawkins on behalf of The Star sent a "warning letter" to Mr Iek.<sup>141</sup> The letter was also translated.
124. The English component of the letter stated:<sup>142</sup>

Dear Mr Iek

#### **Exclusive Salon – operation of service desk**

I am writing to re-iterate the restrictions notified to you in April 2018 regarding the operation of the service desk in Salon 95 at The Star, Sydney (**Service Desk**).

Please note that:

- the Service Desk must not operate a cash float – any cash received at the Service Desk must be deposited with The Star, Sydney Cage. Likewise, any payments you make to your customers in relation to programs must be drawn from The Star, Sydney's Cage;
- in addition to the point above, the following transactions must not take place at the Service Desk:
  - exchange of cash for chips; and
  - exchange chips for cash; and
- the Service Desk is for the exclusive use of your customers – individuals who are not your customers should not seek services from the service desk;

Compliance with the points above is extremely important and non-compliance will result in The Star, Sydney terminating your use of the Service Desk.

The team from The Star, Sydney will liaise with your team in Sydney to assist with any operational questions in relation to the points above.

125. Mr Hawkins accepted that it was “a big problem for the casino operator ... if some other organisation is operating a pseudo cage in its casino ... [b]ecause that other organisation is not licensed to operate a casino”.<sup>143</sup> Mr Hawkins also accepted that the warning letter failed to bring a stop to the pseudo cage operations in Salon 95 and that the warning letter “was not an effective control”.<sup>144</sup>
126. Mr Hawkins did not seek to notify the Authority about the warning letter or the events which had led to it.<sup>145</sup>
127. Mr Brodie recommended that Mr Hawkins sign the letter.<sup>146</sup> Mr Brodie confirmed that the point of the letter “was to communicate that Suncity had to comply with the procedures that had been instituted by The Star”.<sup>147</sup>
128. Mr Hawkins said that he did not direct the salon to be shut down as at 11 May 2018 because there were still “a number of initiatives in place to correct the situation”, but he conceded that the process took too long.<sup>148</sup>

### ***13.5.2 Mr McGregor calls out Suncity's conduct in Salon 95: 14 May 2018***

129. On or around 11 May 2018, Mr Power, Mr Hawkins, Mr McWilliams and Mr Brodie had a meeting to discuss the situation in Salon 95 and the occurrence of cash transactions.<sup>149</sup> Mr Power's file note of the meeting, which he recorded in an email he sent to himself on 15 May 2018, relevantly stated:<sup>150</sup>

We understand that

During which cash for chip transactions

Reports that staff have observed

Salon 95

The Casino Control Act regulated the operation of the casino, including

On [date] an email was sent detailing the confines of Suncity's operations and expressly prohibited such transactions.

We will write further to you in relation to this incident once we have completed our enquiries, however, we now seek from you an unequivocal assurance that such conduct will cease immediately and there will be no repeat of the conduct.

AP to communicate with Investigators that no further emails etc

AP to review footage

130. When shown his file note during his examination, Mr Power explained that he expected that he would have been giving legal advice to the business, including whether The Star was meeting its “obligations” including to report matters to AUSTRAC and obligations under the *Casino Control Act*.<sup>151</sup>
131. Mr Power referred to an email he had sent to Mr Hawkins about “conduct” that had occurred in Salon 95 and “the potential risks and steps that needed to be taken”.<sup>152</sup> Mr Power said:<sup>153</sup>

I believe the risks that I advised in relation to were whether or not the Casino Control Act had been breached; whether or not any AML obligations arose out of the conduct in that room; and whether the actions that needed to be taken by The Star - any obligations arising on The Star as a result of that.

132. On 12 and 14 May 2018, emails were exchanged between surveillance staff to Mr Power and Mr Houlihan regarding a cash transaction in “Pit 95” regarding a particular patron.<sup>154</sup>
133. On 14 May 2018, in a separate email chain, Mr McGregor sent an email to Mr Power, Mr Houlihan and Ms Judd in relation to a \$45,000 cash transaction in Salon 95, stating:<sup>155</sup>

Today’s activities with SunCity have been very strange, we have an entity within our four walls which is totally non-compliant to reasonable requests for basic information. I’m going to call it out early, SunCity is operating a business model under our noses which is problematic for the SEG with regards to AML/CTF Laws.

134. Mr McGregor was clearly and unequivocally identifying the severity of the AML/CTF risks posed by the service desk being operated as a pseudo cage in Salon 95. The Star Entities accepted that Mr McGregor’s email was “obviously very concerning”.<sup>156</sup>
135. Subsequent correspondence from Mr McGregor shows that he was further investigating the issue and seeking answers from Suncity, and he was keeping Mr Power and Mr Houlihan updated.<sup>157</sup>

### ***13.5.3 “Operation Money Bags”: 15 and 16 May 2018***

136. Mr McGregor investigated the \$45,000 transaction in Salon 95, and also subsequent transactions. He recorded his findings in a memorandum titled “Operation Money Bags – Legal Summary” dated 15 May 2019 on the first page and 16 May 2018 on the sixth and final page.<sup>158</sup> The opening summary states:<sup>159</sup>

**Summary:** Operation Money Bags was commenced by the Investigations Team of The Star Pty Limited (The Star) on 14 May 2018 after becoming aware that a non-promoter customer had walked away from the Pit 95 Host Desk with AUD \$45,000 in cash on the afternoon of the 12 May 2018.

137. The memorandum discloses other investigations Mr McGregor undertook on 15 and 16 May 2018 in relation to other transactions in “Pit 95”.
138. On 16 May 2018, Mr McGregor viewed further CCTV footage of other incidents. Two examples show substantial sums of cash being brought into Salon 95 in unusual ways: one was through a “red suitcase”, the other in a “blue eski”. Mr McGregor described the footage in these two instances. Mr McGregor’s summaries of the CCTV footage disclose substantial sums of cash being brought into the salon, counted by Suncity staff, bundled and often placed back in the bag from which the cash was removed.<sup>160</sup>
139. The concluding summary in the memorandum states:<sup>161</sup>

**Summary:** I don’t have names attached to some of the above incidents/transactions as those names weren’t available to me at the time of preparing this information note. On many occasions I don’t have a dollar value of the transactions either although they clearly exceed \$10,000 AUD. It should be noted that on many occasions the cash appeared in The Rivers and Pit 95 in suitcases, backpacks and other carriers, which visually can’t be attributed to an owner/promoter’s customer and it is not known which amounts were ultimately attributed to whom.

140. The subsisting issue of the casino operator having difficulty in connecting large sums of cash entering Salon 95 with the junket’s patrons shows that there were clear and obvious money laundering risks in the way Suncity staff were utilising the service desk.

#### *13.5.4 Belated reaction from Senior Management: 15 and 16 May 2018*

141. Mr Hawkins, at that time the Managing Director of The Star, was aware of the investigations and review of CCTV footage taking place with respect to Salon 95 in early to mid-May 2018. He had been sent emails on 15 May 2018 from Mr John Lomax, General Manager Asset Protection, regarding requests from investigators seeking CCTV footage.<sup>162</sup>
142. On 15 May 2018, Mr Hawkins also received an important email from Mr Power, then the General Counsel for The Star, with the subject “Salon 95 and the IEK junket group”.<sup>163</sup> The email alerted Mr Hawkins to the “Legal and Regulatory Risks” following Mr Power’s review of “available footage and reports received from gaming staff”. Mr Power stated in his email:<sup>164</sup>

**Legal and Regulatory Risks:** In my opinion, the junket group's conduct has exposed The Star to an unacceptable level of risk and constitutes a breach of the agreement, of applicable laws or otherwise amounts to casino operations. In particular –

1. Cash for chip (and vice versa) transactions taking place at the service desk;
2. Withdrawal of cash (terms unknown) by non-junket participants at the service desk and other locations (including retail).

Equally, concerns are also held around –

1. Reporting requirements arising from the services offered and compliance with AML reporting requirements
2. source of funds and presentation of large quantities of cash into salon 95
3. Retention of documents relating to transactions
4. Reports by other junket groups that large quantities of cash had been sourced from the "Suncity Group" (presumed to be the IEK junket).

Finally, there are also a suggestion that one of the junket's staff was an excluded patron who was present in the salon 95 (a blue line area).

143. Mr Power's suggested "Next steps" recommended the cessation of cash transactions at the service desk "until such time as we have prepared a clear list of permitted activities and prohibited acts".<sup>165</sup> Mr Power explained in his evidence what he meant by "unacceptable risk":<sup>166</sup>

Q: And what was that unacceptable level of risk?

A: Well, I think it – the way that it was expressed in the email there, it's a risk around AML; it was a risk around the Casino Control Act and what constitutes "casino operations"; and then there was an element of whether or not it was a breach of the agreement or not.

144. Mr Power explained that his reference to "the agreement" may have been to the "arrangements that had been put in place in relation to that service desk".<sup>167</sup> Mr Power was then asked about whether he had any concern about whether it was possible that money laundering was occurring in Salon 95. His evidence was:<sup>168</sup>

A: Look, at this point in time, which is in the days that followed the initial report, I think the way that you've just described it – they were concerns that the conduct we'd observed could be money laundering.

Q: And these concerns were very serious concerns on your part, were they?

A: Yes, they were.

145. When examined on Mr Power's email advice, Mr Hawkins' evidence was:<sup>169</sup>

Q: In view of the fact that your general counsel was advising you at this time that there was an unacceptable level of risk, wasn't the only appropriate course for you, as managing director and head of the international rebate team, to direct that the room be shut down then and there?

A: My consideration at the time was that we still had the ability to get the room operating the way it needed to. I took on board the next steps that Mr Power had outlined and, at that – at that time, felt that the actions being taken were enough to bring about activities in the room that we would expect to be compliant with how we operate the property.

146. On 16 May 2018, Mr Hawkins sent an email to Mr Bekier forwarding Mr Power's advice in relation to Salon 95.<sup>170</sup> Mr Hawkins' email to Mr Bekier states "FYI as discussed".<sup>171</sup> Mr Hawkins' evidence as to what he had discussed with Mr Bekier was:<sup>172</sup>

Q: What did you discuss with Mr Bekier about this matter?

A: I don't recall it specifically, but I think it just would have been an update on the matters and the steps being proposed moving forward. That's all I --

Q: May we take it that he did not suggest to you that the room be shut down?

A: I – I don't recall that being presented.

Q: Well, had he done that, you would have done it, wouldn't you, that is, shut down the room?

A: Yes.

Q: And may we take it he did not tell you to alert the regulator to this situation?

A: I – I don't recall if he guided on that. I'm not sure.

Q: Well, had he provided that guidance, may we expect that you would have taken steps to alert the regulator at this time?

A: Yes.

147. Mr Bekier accepted he read the email "at the time", including Mr Power's email to Mr Hawkins.<sup>173</sup> Mr Bekier's evidence as to the discussion was as follows:<sup>174</sup>

Q: What did you do once that view from a senior lawyer was made known to you?

A: Well, I had spoken to Greg – or Greg raised this issue with me prior to this email, and he had given me assurance that the rectification would be in hand. And so from my point of view, you know, the first line of defence was dealing with a risk that, as Andrew points out, if not managed, is unacceptable. And I had no communication from the risk team that they held any concerns. So I – you know, once we had had that conversation, I trusted that this issue had been managed – resolved.

Q: Were you made aware that at this time, both the AML team and the investigations team were investigating concerning cash transactions within Salon 95 or involving Suncity staff?

A: No.

148. Mr Power's email of 15 May 2018 was also forwarded on 16 May 2018 to Ms Martin, Mr White and Mr Houlihan.<sup>175</sup>
149. Mr Power's recommendation in his 15 May 2018 email to Mr Hawkins to cease cash transactions at the service desk should be acknowledged. However, by 15 May 2018 it should have been obvious to The Star that allowing cash transactions at the service desk was a serious mistake and courted significant risks, including significant risks of money laundering.

### *13.5.5 The Service Desk SOP: 23 May 2018*

150. Instead of shutting down Salon 95, The Star elected to develop a set of SOPs for the service desk. The document was titled "Salon 95 Service Desk Processes" (**Service Desk SOP**). It also appears that external legal advice was provided on the draft of the SOP from an "AML perspective".<sup>176</sup> The final version of the Service Desk SOP is dated 23 May 2018.<sup>177</sup>
151. The Service Desk SOP contained nine "Standard Operating Procedures". The critical and relevant aspect of the Service Desk SOP is the attempt to prevent cash for chips (and *vice versa*) transactions. Relevant "Key Principles" included:<sup>178</sup>
4. only provide chips received from the Casino cage to junket participants
  5. only provide cash received from the Casino cage to junket participants at settlement, partial settlement or cash out
  6. cash transactions are only to take place at the Casino cage or Salon 95 service desk. No cash transactions are permitted anywhere else on The Star Entertainment Group property.
  7. perform each transaction from the appropriate drawer
  8. the Buy-In Drawer shall only contain cash collected from junket participants for buy-ins.
  9. the Settlement Drawer shall only contain cash collected from the Casino cage required to be provided for settlement, partial settlement or cash-out
  10. the Expenses Drawer shall contain a maximum of \$25, 000 AUD in cash. The cash contained in the expenses drawer shall only be used to cover incidental expenses which may occur and are not related to buy-in or settlement activity.
  11. at no time will chips be given to junket participants at the Salon 95 service desk. Chips are only to be provided to junket participants at gaming tables.
  12. only provide to junket participants buy-in, settlement and cash out services at the Salon 95 service desk
  13. deposit cash into the casino cage front money account no later than 2 hours after receipt

14. a junket participant must have recorded activity in the Casino Management System within no more than forty-eight (48) hours of the time of the service being provided by the Salon 95 service desk
  15. there will be no cash storage provided for any junket participant at the Salon 95 service desk. Any cash storage must be at the casino cage
  16. only provide cash received from the casino cage to junket participants e.g. expense reimbursement
152. Quite clearly, the principles envisaged cash transactions taking place at the service desk in Salon 95. The solution in the Service Desk SOP to the above-described issues was to prevent the exchange component of the transaction, which in theory, would have meant that the authorised main casino cage (or a satellite cage) was still overseeing the cash and chips distribution in the salon.
153. There were obvious shortcomings in the Service Desk SOP. For example, “Standard Operating Procedure 3 – Buy In Drawer Transactions” required that if a junket participant deposited cash at the service desk the junket representative was required to:<sup>179</sup>
5. Secure the cash into the buy-in drawer until such time as the cash can be transferred to the Casino cage.
  6. Provide the junket participant with a copy of the deposit receipt
  7. Ensure that cash deposits are made to the Casino cage no later than 2 hours after receipt of the cash from the junket participant.
  8. Keep accurate records of transactions relating to the contents of the buy-in drawer.
  9. There will be no cash storage provided for any junket participant.
  10. At no time will chips be given to junket participants at the Salon 95 service desk.
154. The effectiveness of those requirements was wholly or substantially dependent upon compliance by *junket staff*, who, unlike employees of the casino operator working in an authorised cage, were not licensed as special employees under the *Casino Control Act*.<sup>180</sup> There appeared to be no safeguard to ensure performance other than contractual incentives under the 2017 Rebate Agreement. This is in circumstances where the Service Desk SOP was never provided to the Authority.<sup>181</sup>
155. An important feature of the Service Desk SOP was SOP 4 which detailed the process by which chips were to be exchanged for cash. Service Desk SOP 4 relevantly stated:<sup>182</sup>

When a junket participant wants to cash out or is departing from the junket, the junket representative shall:

1. prepare all detail required for the player to settle, partially settle or 'cash out' their account as requested
  2. collect any remaining premium or non-negotiable chips belonging to the junket participant
  3. count the chips which are being deposited for the settlement
  4. document the value of chips being deposited for the settlement
  5. secure the program chips being deposited for settlement in the buy-in drawer
  6. transport the premium and non-negotiable chips to the Casino cage. (The Casino cage employee shall ensure that the cash out is completed in accordance with The Star Entertainment Group Cash Out Policy. For the cash out to be completed at the Casino cage, the records in the Casino Management System (CMS) must support the cash out request details. When the Casino cage employee is satisfied that requirements have been met, they shall issue required cash out amounts to the junket representative.)
  7. Return to the Salon 95 service desk with the Casino cage issued cash
156. Service Desk SOP 4 made clear that "one-for-one" transactions could not take place at the service desk by which chips were exchanged for cash by junket staff. This is consistent with Ms Arnott's evidence as to her concerns in relation to the 8 May 2018 CCTV footage.<sup>183</sup> It also exemplifies the problem with Mr Coon's email of 8 May 2018 wherein he stated that it appeared that "\$100K plaque has been exchanged for \$100K cash".<sup>184</sup>
157. Before the finalisation of the Service Desk SOP, there was no formal operating procedure or written document governing Suncity's use of Salon 95 and the service desk.<sup>185</sup> This meant the service desk was operating between the middle of April 2018 to around 16 May 2018 without any specific operating procedure in place (save for the summary of Ms Arnott's controls). The implementation of the Service Desk SOP was purely a reaction to the extreme risks which had been identified since April 2018 in relation to the service desk.

### *13.5.6 The second warning letter: 8 June 2018*

#### **Further concerning transactions**

158. The problems in Salon 95 continued throughout the rest of May 2018. In late May 2018, there were emails from cashier staff at The Star raising concerns as to cash deposits, and the manner of those deposits, occurring in connection with the Iek junket.<sup>186</sup>
159. On 29 May 2018, Mr Mike Anthony, a Cash Services Duty Manager at The Star, sent an email to "STAR AML" (addressed to Mr Willett) indicating that with respect to a particular transaction that "Cash is presented in a black square paper bag and majority is sealed in a

thick clear bag with bundles of \$50's in \$5k lots rubber banded".<sup>187</sup> That email was forwarded by Mr Willett to Mr Brodie (copied to Ms Arnott).<sup>188</sup> Mr Brodie then forwarded the email to Mr Power stating: "FYI – Some follow up to do but this seems very concerning".<sup>189</sup>

160. On 30 May 2018, Mr Peter Kerr the Cash Services Supervisor at The Star, sent an email to "STAR AML" in relation to a large deposit that was "brought over in a green 'Artic Zone' cooler bag" by a junket representative. The bag contained a substantial amount of money.<sup>190</sup>
161. This further correspondence of 29 and 30 May 2018 indicates that cash was still being brought into Salon 95 by means such as paper bags and cooler bags after the same practices had been uncovered in the middle of May 2018, and after the first warning letter had been issued. This was also in circumstances where only days earlier the Service Desk SOP had been provided to Suncity.

### **The second warning letter**

162. The second warning letter, though dated 5 June 2018, was delivered to Suncity on or around 8 June 2018.<sup>191</sup> Mr Hawkins signed the letter on behalf of The Star. The second letter was also translated. The English component of the letter stated:<sup>192</sup>

Dear Mr Iek

#### **Exclusive Salon – operation of service desk**

Further to my letter of 1 May 2018, I am writing as a result of further noncompliance in Salon 95.

On 23 May 2018, Mr Saro Mugnaini provided your junket representatives in Sydney with written processes to be complied with by your junket representatives present in Salon 95 and across The Star, Sydney property (the Processes). The Processes were communicated to [named individuals].

On 29 May 2018, I understand that certain material Processes were not followed. The Star views this breach very seriously and I note that any further breaches of the Processes will result in The Star terminating the use of the service desk for your junket representatives in Salon 95 and may result in The Star reviewing your exclusive access to Salon 95.

Mr Saro Mugnaini will liaise again with your junket representatives present at The Star, Sydney around the Processes, but it is your responsibility to ensure that all junket representatives are aware of their obligations under the Processes and comply with them fully at all times going forward.

163. The reference to the incident of 29 May 2018 in the second warning is not clear. It may have been the incidents referred to in the correspondences of 29 and 30 May 2018 to which

reference has been made. In any event, the second warning letter shows that the Service Desk SOP, which was recorded in the letter as having been provided to the junket representatives on 23 May 2018, had been ineffective.

164. Mr White and Mr Power both gave evidence in relation to the second warning letter such that they considered it a “weak” response given the pseudo cage operations taking place in Salon 95. Mr White called it “extremely weak” and Mr Power accepted that it “could be viewed as a weak letter – a weak response”.<sup>193</sup> Mr Hawkins was asked whether “looking back on [the decision] now” he accepted “that it was a weak response to the problem”. Mr Hawkins’ evidence was:<sup>194</sup>

A: I think the first letter that was sent was sent quite quickly when I engaged in oversight of that business. And based on what I know now, I accept that.

Q: And looking back on it now, would you accept that this was a circumstance where business goals took priority over compliance goals?

A: I think the – you know, the relationship with the junket was maintained and, from my point of view, I don't think there was necessarily any pressure applied to anyone else to continue that. So I think from a collective perspective, you know, the incorrect action holistically was probably taken. But, you know, the junket contribution in the scheme of things is far, far smaller than our local business is. I think it was just a matter of wanting to maintain the relationship and trying to get the area rectified to a compliance state as quickly as possible.

Q: I understand that this was a collective decision and you were a part of a collective decision. And I understand that you took certain action at the time. But bearing in mind that you accept that it was a weak response, looking back on it now, would you accept that it indicated that business goals were given priority by the organisation over compliance goals?

A: With the information I've subsequently been provided about the matters in the room, I accept the response was not appropriate. And I think the potential divisions of accountability within the organisation didn't assist with ultimately the position that we should have taken.

165. The Star Entities conceded that “[t]he response was inadequate and inappropriate” and they agreed with Counsel Assisting’s submission that the second warning letter “was not commensurate with the level of risk that was being presented at that time”.<sup>195</sup> The further concession was made that the evidence supported a finding that Mr Hawkins and others should have “entertained real doubt that Suncity could or would ensure that its staff complied with The Star’s requirements”.<sup>196</sup> Those concessions were properly made.

166. By early June 2018, the evidence which had emerged from Salon 95 of cash transactions and the manner by which cash was being brought into the salon should have resulted in a decision to close Salon 95 and notify the Authority of what had occurred. There was no

other reasonable course to take given the severity of the risks that had been identified in Ms Arnott's risk assessment of 27 April 2018.

167. Instead, a decision was made to permit Salon 95 and the service desk to continue. While Mr Hawkins must bear a good deal of the responsibility for that decision, this was not simply a case of poor judgment by a single individual. The decision to continue with Salon 95 should be seen as a collective decision by the senior management of The Star, which reflected a culture in which business goals were given undue priority over regulatory and AML/CTF risks.

### *13.5.7 The Salon 95 balcony blind-spot footage: 15 June 2018*

168. On or around 8 June 2018, Ms Arnott provided an "ECDD Plan" which she had prepared to Mr Houlihan and Mr Brodie which referred to observations that Suncity junket representatives at the Salon 95 service desk were supplying large volumes of cash to junket representatives unconnected to Suncity.<sup>197</sup> The Suncity staff in Salon 95 appeared to be showing an increasingly brazen disregard for the rules sought to be imposed by The Star.
169. On 15 June 2018, CCTV captured further disturbing footage in Salon 95.<sup>198</sup> The balcony on Salon 95 only had one camera which was located high up on the side wall of the balcony. The angle of the camera, which faced out onto the balcony, was such that it had no visibility of any activity directly beneath the camera.
170. The CCTV footage from 15 June 2018 showed Suncity staff leaving Salon 95 and proceeding to walk to the Rivers reception. The staff collected what appeared to be 7 bundles of cash comprising \$100 bills and returned to Salon 95. Upon re-entering the salon, one of the Suncity staff members went to the balcony and walked to the spot beneath the camera next to the wall. A second staff member communicated with a person in a black hooded jumper in the salon, who then followed the second Suncity staff member to the spot beneath the camera on the balcony.<sup>199</sup>
171. All three men were out of sight for a short period of time. Momentarily, one Suncity staff member can be seen taking a white bag that was already on the balcony before returning to the area underneath the camera.<sup>200</sup> A short time later all three men emerge from beneath the camera, with the man in the black hooded jumper now holding the white bag.

172. A shortened clip of the footage was played during the examination of Mr Stevens.<sup>201</sup> Mr Stevens gave the following the evidence when asked whether there would be any legitimate reason for those individuals to congregate beneath the camera in its blind-spot:<sup>202</sup>

Q: Yes. Seeing that footage, is that - in your experience as regulatory affairs manager at the casino, does that footage concern you?

A: Yes.

Q: Why does it concern you?

A: Because it appeared the individuals took cash from a casino cage, then went and met up with somebody else off camera and then came back in. That there was – there was no indication that they were out there smoking or talking for any period of time, and we don't know what happened underneath that camera.

173. It is not suggested that Mr Stevens viewed the footage at the time the events took place in June 2018. However, other individuals at The Star did view the footage. On 18 June 2018, Mr McGregor emailed Ms Judd, Mr Power and Mr Houlihan in an email titled “Salon 95 – latest reported observation 15/06/2018”. Mr Power and Mr McGregor exchanged further emails that day about the incident. Mr McGregor noted that the CCTV footage on the Salon 95 balcony was insufficient and suggested that the Suncity staff were “testing” the blind-spot to see if The Star responded to such activity.<sup>203</sup>

#### ***13.5.8 Renewal of the 2017 Rebate Agreement: 21 June 2018***

174. Even though The Star was aware of the serious problems with Salon 95, it proceeded to renew the 2017 Rebate Agreement with Mr Iek through the execution of a further “Win/loss Rebate & Exclusive Access Agreement” between The Star, The Star Entertainment Qld Limited and Mr Iek (**2018 Rebate Agreement**).<sup>204</sup>

175. The 2018 Rebate Agreement was signed by Mr Barton on behalf of The Star Entities. As with the 2017 Rebate Agreement, the new 2018 Rebate Agreement retained in clause 6 the Promoter’s entitlement to exclusive access to Salon 95. The clause then states (emphasis in underline added):<sup>205</sup>

Promoter acknowledges and agrees that The Star, Sydney retains sole operational and management control of the Exclusive VIP Salon (including the operating hours, who may access the Exclusive VIP Salon, the conduct of gaming, the operation of the Cage, provision of food and beverage service and enforcing service standards and presentation). Promoter may have approved junket representatives present in the Exclusive VIP Salon (subject to The Star's approval) to assist in customer liaison and customer service for non-gaming matters. The Promoter's junket representatives will conduct all activities in the Exclusive VIP Salon, including at the service desk provided in there ("Service Desk") in accordance with The Star's required processes

from time to time ("Processes"). The Star retains the right to audit the Promoter's activities at the Service Desk in accordance with the Processes at any time. In the event that The Star finds non-compliance with Processes, in addition to its right under clause 10(n)(v), The Star may restrict the activities permitted at the Service Desk or remove the availability of the Service Desk at its complete discretion.

176. Notably, the clause still retained reference to a “Cage” which suggests a continued contractual contemplation of a cage existing in Salon 95.<sup>206</sup> Under clause 1 of the 2018 Rebate Agreement, the minimum monthly “Non-Negotiable Turnover” increased from A\$50m to A\$100m.
177. The Star Entities conceded that the 2018 Rebate Agreement should not have been renewed “absent fully informed consideration of the matter by the Board”.<sup>207</sup>

### *13.5.9 Inadequate disclosure to the Board of issues in Salon 95: 26 July 2018*

178. The Star Entertainment Board met on 26 July 2018. The meeting was attended by directors and senior management. A paper styled “The Star Entertainment Group Limited – Managing Director & CEO Report – May 2018” (**May 2018 Report**) was taken as read at the meeting.<sup>208</sup>
179. The May 2018 Report was 27 pages in total. On pages 21 and 22, six bullet points appeared under the sub-heading “1.2 Projects & Commercial Matters”.<sup>209</sup> On page 22, the fourth bullet point stated:<sup>210</sup>
- **Salon 95 Service Desk:** In May, concerns emerged around certain activities undertaken at the junket service desk in Salon 95. At present functions at the service desk are limited pending the roll out of detailed processes for the junket representatives in that salon. It is expected that training will be completed by 8 June, with regular on-going compliance monitoring following resumption of services at the service desk
180. The minutes record that Mr Bekier “spoke to the key points of the papers, noting also that the preliminary FY18 results will be addressed in conjunction with the FY19 Budget presentation”.<sup>211</sup>
181. During the public hearings, Mr Bekier was not asked to explain why the May 2018 report took the form that it did. However, in his witness statement dated 4 February 2022, Mr Bekier gave evidence of his state of mind at the time of the entry into the 2018 Rebate Agreement. He stated:<sup>212</sup>

[32] ... At around that time, I became aware that a breach concerning a cash transaction in the Salon had been investigated. My understanding was that the breach was a one-off mistake, and that it had been addressed. My recollection is that Suncity

were going to be spoken to, reminded that no cash can be dealt with in the Salon, and warned to ensure future compliance. Beyond that general understanding, I do not recall being made aware of the May 2018 and June 2018 warning letters.

182. If this was Mr Bekier's state of mind at the time he prepared the May 2018 report, and it remained his state of mind when he reported to the Board on 26 July 2018, then his understanding was materially deficient. The effect of Mr Bekier's evidence is that he was unaware that there had been a significant number of cash transactions in Salon 95, including cash for chip (and *vice versa*) exchanges, or that the Service Desk SOP specifically contemplated cash transactions at the service desk.
183. Irrespective of Mr Bekier's particular state of mind, viewed as a collective report by management to the Board, the report in the May 2018 Report was deficient and misleading. It did not report on the activities and concerns arising from those activities that had been taking place in Salon 95.
184. Mr Heap, Mr Bradley, Dr Pitkin, Ms Lahey and Mr O'Neill all agreed in their examinations that the statement in the May 2018 Report as to the situation in Salon 95 was an inadequate disclosure of the issue to the Board.
185. Mr Heap gave the following evidence:<sup>213</sup>
- [W]hat clearly sat beneath this reference was a – was a matter that clearly had to come to the Board so that the Board could form a view and, if necessary, make a decision. My – my disappointment is that the way that it was framed, it ... it was a needle in a haystack. It was a – ... it put the obligation on the Board to find that and go looking for it. And I'm not resiling from the fact that that is, of course, part of the Board's responsibilities. But – but the board should not have to work against management to find these things; it should be assisted by management to find these things.
186. Mr Bradley described the report as “totally inadequate in terms of describing what had occurred”<sup>214</sup> and “meant to mislead the Board”.<sup>215</sup> Mr Bradley said that “[i]t's extremely disappointing and frustrating” that the information concerning Salon 95 which was known by management was not disclosed at the meeting<sup>216</sup> and that he felt “misled”.<sup>217</sup>
187. Dr Pitkin also said that she felt “misled” regarding the inadequate disclosure in the May 2018 Report of the issues in Salon 95, and that she found it “very distressing” that senior management attended the meeting and the material information “did not come out”.<sup>218</sup>
188. Ms Lahey agreed that the disclosure was “completely inadequate”<sup>219</sup> and said she was “disappointed” at the level of disclosure and she agreed that she felt “misled”.<sup>220</sup>

189. Mr O'Neill gave evidence that he did not consider the disclosure of the activities in Salon 95 in the May 2018 Report was an adequate briefing to the Board, that it would have been "preferable" that the activities in Salon 95 to have been "elevated", and that 'for identification purposes, Salon 95 ... needed the extra descriptor of "Suncity private saloon"'.<sup>221</sup>
190. Mr Hawkins said in his evidence that the disclosure regarding Salon 95 in the May 2018 Report was "a limited assessment of the matters that had occurred".<sup>222</sup> On the contrary, as has been found, it was deficient and misleading.
191. The serious misconduct in Salon 95 should have been brought directly and promptly to the Board's attention in a full and frank manner so that all directors could consider the issue. A number of directors gave evidence that the correct approach at that time would have been to shut down Salon 95 immediately.<sup>223</sup> Dr Pitkin said:<sup>224</sup>

I think I would have insisted that the services in Salon 95 be suspended immediately, that the regulators be advised immediately and there to be an investigation into how this had happened. And the investigation would have then been broadened into whether Suncity Group was an appropriate entity to be associated with.

192. Similarly, Ms Lahey said:<sup>225</sup>

Well, I think we would have closed that junket room down immediately, and we would have wanted to have an explanation from the staff involved from Mr Bekier down about why this was happening and why it was allowed to happen, in contradiction of, you know, the *Casino Control Act*, in contradiction of the – the regulator's need to know and the Board's need to know.

193. Instead, because of the deficient disclosure to the directors of Star Entertainment by senior management, the directors were not given the opportunity to take such action.

## Chapter 13.6 The Review of Salon 95 By Mr Stevens in 2019

### 13.6.1 Salon 95 remains in operation: late 2018 to early 2019

194. It is not clear whether the cash transactions at the service desk in Salon 95 continued between July 2018 to early 2019. During this period, however, Suncity persisted with requests for further privileges in Salon 95.
195. On 31 August 2018, Ms Amy Lim, Vice President of VIP International Operations at The Star, sent an email to Mr Stevens relaying requests from Suncity for "new signage" in Salon 95.<sup>226</sup> On 5 September 2018, Mr Stevens responded stating:<sup>227</sup>

While I understand that there is an existing sign which this will replace, I have a concern that this room is now beginning to look like the Suncity Casino and not The Star. I have discussed the matter with Andrew Power and he will be raising this with Oliver White.

196. This concern from Mr Stevens was pertinent. Mr Buchanan agreed that one of his concerns in 2020 from the materials that he had seen was that it appeared, at least on occasions in 2018, that an organisation with links to the triads had been running “a casino within a casino”.<sup>228</sup> At least in the period from late April to late May 2018, Suncity junket staff were conducting cage operations at the service desk in Salon 95, within the boundaries of The Star Casino.
197. It appears that The Star acceded to Suncity’s new signage request, with Mr Whytcross confirming the same in an email dated 23 October 2018, which also confirmed Mr Stevens’ approval of the request.<sup>229</sup>
198. On 28 November 2018, Mr McGregor provided a further memorandum titled “Salon 95/Sun City & Related matters” addressed to Mr Houlihan.<sup>230</sup> The memorandum disclosed that NSW Police had conducted a separate investigation into “several people associated with Salon 95 and the Sun City Group”. The outcome of the investigation was that a list of people would be subject of an exclusion order under section 81 of the *Casino Control Act*. That list of people included patrons, and persons described as Suncity junket representatives and Suncity staff members.<sup>231</sup>
199. On 10 January 2019, Ms Lim sent an email to Mr Stevens relaying a further request from Suncity “to place bottled water, ashtray and lighters with Suncity’s logo in Salon 95”.<sup>232</sup>
200. On 11 January 2019, Mr Stevens responded to Ms Lim’s email, stating (emphasis in original):<sup>233</sup>

Yes it is a business decision and there is no regulatory impediment. However the risk around the operation of a dedicated room like this is at what stage does it look like we are no longer in charge of the room and it belongs to Sun City. Having the sign at the service desk and a service kiosk is one thing but when we then expand that material through the room, in my view this level of branding gives that impression. I strongly recommend against us doing this.

Should the regulator form the view that this is Sun City's room and not ours it will mean they are probably a Close Associate and for that they need a L&G probity assessment. It may also mean that the Sun City Room is materially significant to our business and we need a controlled contract in place.

201. No action was taken by The Star to raise with the Authority Mr Stevens' concerns that Suncity might have become a close associate or that the Rebate Agreement with Mr Iek might be a controlled contract.

### *13.6.2 Mr Stevens' conducts his review: March to May 2019*

202. Mr Stevens and the Assurance Manager Gaming Operations, Mr Will Kumarasinghe, "conducted a review of Suncity's adherence to the procedures required for the operation of the Service Desk in Salon 95".<sup>234</sup> Mr Stevens stated that Mr Brodie requested that the review be undertaken.<sup>235</sup>

203. Mr Stevens sent an email on 19 March 2019 to Mr Mugnaini and Ms Lim requesting a copy of the records kept by Suncity as required under the Service Desk SOP.<sup>236</sup> Mr Stevens wrote that "no logs relating to the Buy-In Drawer or the Settlement Drawer were ultimately provided as Suncity was not performing the relevant transactions at the Salon 95 Service Desk".<sup>237</sup>

204. The steps that Mr Stevens undertook during the conduct of his review included:<sup>238</sup>

- (a) matching the junket representative list held by Suncity with the list held by The Star;
- (b) physically inspecting the cash box in the service desk to ensure it held no more than \$25,000;
- (c) some spot checks of CCTV footage;
- (d) reviewing two incident reports neither of which related to the handling of cash;
- (e) checking the Protecht system for any reports in the incident register relating to Salon 95; and
- (f) speaking with the Gaming Manager and Assistant Gaming Manager regarding their awareness of any dealings with cash in Salon 95.

### *13.6.3 Mr Stevens' report on Salon 95: 23 May 2019*

205. The final version of Mr Stevens' report was dated 23 May 2019.<sup>239</sup> It was a two-page document addressed to Mr Power. The report gave a rating of "Satisfactory". The report stated:<sup>240</sup>

The overall control environment was satisfactory and representative of good practices. However, the agreed upon procedures require changes as the SOP did not reflect the actual operational model that was agreed with Suncity in May 2018. Some of the changes that have taken place are strengthening the internal controls but were not documented. Overall, there was commitment by the International VIP business unit and Suncity Service Desk Team to achieving compliance with the spirit of the Agreed Upon Procedures.

206. Mr Stevens' report concluded:<sup>241</sup>

The International VIP business unit and Suncity Service Desk Team responded positively to the review conducted by Regulatory Affairs which was appreciated and the areas for improvement were advised. There was no evidence of the practices that raised a concern around the operation of the room in 2018 continuing and the Star now has an effective level of oversight of the operation of the room.

#### *13.6.4 The email from Mr Tomkins: 24 June 2019*

207. During his examination, Mr Stevens was taken to an email dated 24 June 2019 from Mr Ian Tomkins to Ms Arnott to which Mr Stevens was copied.<sup>242</sup> Mr Tomkins is a Senior Regulatory Manager who reported to Mr Stevens. The subject of Mr Tomkins's email was "Salon 95" and referred to recent CCTV footage of incidents in Salon 95.<sup>243</sup>

208. There were two sets of bullet points in the email. The first set of bullet points referred to CCTV footage of four incidents which took place on 20, 25, 30 and 31 May 2019. The second set of bullet points referred to CCTV footage of three further incidents which that took place on 9 and 22 May 2019. The incidents described at the Salon 95 service desk included money being stored in a computer cupboard, money being placed into envelopes, and envelopes presumed to be full of money being provided to other persons.

209. Following the bullet points, Mr Tomkins wrote:<sup>244</sup>

To me and immediately, no bags should be permitted in that office. Also despite that we know the money is leaving the cupboard, there was no way of knowing how the money is getting into the cupboard unless it is being secreted in the male coat pockets via smaller amounts. Any envelopes should be substituted with see through plastic folders for use in there.

There was some obvious movements of on occasion three persons going into the cabinet with the door shut in such a confined space and appeared ridiculous.

To deter this- if the computer cupboard is our property – why cannot this be locked and force them into other overt activity.

There needs to be another camera on the balcony. It would appear activity occurs beyond camera range which is obvious to them. It also makes it hard to track where they go or cash coming in and being removed from bags out there.

210. While some of the events depicted in the email post-dated Mr Stevens' report (the events of 25, 30 and 31 May 2019), there were three events which fell within the period of Mr Stevens' review (the events of 9 and 22 May 2019). The concerns raised by Mr Tomkins in his email contradicted Mr Stevens' conclusion that:<sup>245</sup>

There was no evidence of the practices that raised a concern around the operation of the room in 2018 continuing and the Star now has an effective level of oversight of the operation of the room.

211. Mr Stevens accepted that the conclusion in his report was "highly problematic" and the "business may have relied on that conclusion and not taken the appropriate measures to respond to risks and, in fact, matters that were happening on the ground that needed to be addressed as a matter of urgency".<sup>246</sup>

#### ***13.6.5 Mr Buchanan's reliance on Mr Stevens' report***

212. Mr Stevens' failure to qualify his written report in light of the information subsequently provided to him by Mr Tomkins had adverse consequences for the casino operator.
213. In his 7 January 2021 memorandum,<sup>247</sup> Mr Buchanan relied upon Mr Stevens' report in support of the option of continuing to do business with Suncity and Mr Chau. After citing Mr Stevens' report, Mr Buchanan stated in his memorandum that the audit found Suncity staff were compliant and The Star had effective oversight of the operation of the salon.<sup>248</sup> Mr Buchanan's memorandum relied upon Mr Stevens' report to state that comfort could be taken that Suncity were capable of operating compliant junket programs.<sup>249</sup>
214. If Mr Stevens had qualified his earlier report, Mr Buchanan may have provided a different analysis in his 7 January 2021 memorandum which referred to and relied upon Mr Stevens' report.

#### ***13.6.6 Further concerning conduct in Salon 95 in 2019***

215. In an email dated 22 July 2019, Mr Brodie notified Mr Hawkins and Ms Martin of the NSW Police Commissioner's decision to exclude from The Star six individuals associated with Suncity.<sup>250</sup>
216. In an earlier memorandum dated 5 June 2019 prepared by Mr McGregor, details of further investigations he performed in late May 2019 were disclosed.<sup>251</sup> The memorandum suggested that the six exclusions were linked to the events of 2018 in Salon 95. Mr McGregor also detailed events taking place in Salon 95 in late May 2019. Mr McGregor

stated that “[i]t appears that Sun City associates bring cash into Salon 95 concealing it in a few ways and that this concealment has thwarted casino surveillance’s efforts to track its source and or arrival time”.<sup>252</sup> Mr McGregor further stated:<sup>253</sup>

The balcony area adjacent to Salon 95 is used by them as a storage area with several items of luggage kept there today. In the past, the presence of these bags was indicative of covert cash movements into and out of Salon 95. I recommend that these items be cleared out of the area to open the view of CCTV cameras and allow better monitoring.

...

CCTV coverage should be extended to include additional cameras which will decrease the number of current blind-spots.

217. Mr McGregor’s memorandum provides further evidence that as at May 2019 there were still significant problems with Suncity’s conduct in Salon 95. The CCTV blind spot on the Salon 95 balcony continued to be used in this period for covert purposes.
218. The Star Entities conceded that in light of Mr McGregor’s investigation reports, Mr Stevens’ review should have been “withdrawn or corrected so as to avoid the possibility (which ultimately transpired) that any reliance would subsequently be placed on it”.<sup>254</sup>

### Chapter 13.7 The Hong Kong Jockey Club Report

219. It emerged during the public hearings that a number of officers of Star Entertainment had a copy of a Hong Kong Jockey Club Report (**HKJC Report**) which had been prepared in April 2018.<sup>255</sup>
220. The Hong Kong Jockey Club is the regulator of racing in Hong Kong. Mr Buchanan previously worked at the Hong Kong Jockey Club as an Executive Manager of Anti-Bribery and Integrity Assurance. Mr Buchanan was a participating author of the HKJC Report.<sup>256</sup>
221. The HKJC Report was accompanied by a one-page memorandum from the “Director of Security & Integrity” and was addressed to the CEO and others at the Hong Kong Jockey Club.<sup>257</sup> The memorandum stated:<sup>258</sup>

The attached report from Angus Buchanan's team is an update of our monitoring of Suncity Group, the Macau casino junket operator that has expanded into diverse other businesses including the horse racing industry.

We have considered Suncity Group a threat to the Club since we became aware of the expansion of the organisation and the interest of some of the principals in horse racing. Our monitoring started in 2012 and since then we have not only developed a good understanding of the group but also successfully excluded a number of related

persons from membership of the Club (which is detailed in the report) as well as horse ownership through the Horse Ballot.

...

Suncity clearly involves a number of criminal enterprises, although the business lines are so diverse that these are well hidden in more obscure legitimate businesses. Given the known criminality and also the background of the main principals in triad societies we continue to see Suncity as a threat to the Club and I recommend continued monitoring to ensure that we exclude related persons from membership, horse ownership, and race sponsorship.

222. The purpose of the HKJC Report was identified in paragraph 1 as being to “provide both an update and overview of Suncity Group’s business operations, key personalities and links to organised crime both in Hong Kong and overseas”.<sup>259</sup> The executive summary stated:<sup>260</sup>

Suncity Group is one of Macau’s largest VIP junket operators and was founded by Alvin Chau Cheok Wa in 2007. Alvin Chau, who has a long history of operating VIP rooms, established the initial Suncity Group VIP room in Wynn Macau casino in 2007. He is alleged to be a member of the Macau faction of the 14K triad society and follower of former 14K leader Wan Kuok Koi (aka “Broken Tooth Koi”). It is suspected the Suncity Group also has connections to Charles Heung Wah Keung, a senior office bearer of the Sun Yee On triad society.

Cheng Ting Kong, Chairman and Executive Director of Sun International Resources Ltd. is Alvin Chau’s major business partner who was primarily brought in to Suncity Group to assist with the acquisition of new investments. Cheng and Alvin Chau have eleven common directorships in Hong Kong. Cheng is believed to be a member of the 14K triad society in Hong Kong. Intelligence sources report that Cheng is involved in illegal bookmaking, drug trafficking and large scale money laundering activities.

223. The HKJC Report addressed the topics of “Links to organised crime” and “Money laundering”.<sup>261</sup> It stated:<sup>262</sup>

*Links to organised crime*

Alvin Chau was reported to be a 14K triad member and follower of Wan Kuok Koi who was jailed for triad-related crimes in 1999. Wan Kuok Koi was released from prison on 1 December 2012. Alvin Chau is also reported to have associations with Cheung Chi Tai, Lin Cheuk Chiu and Herbert Liu Kee Chan, all of whom are known to have triad related associations.

Prior to launching the Suncity Group VIP rooms Alvin Chau was reported to be Cheung Chi Tai’s representative at the Grand Neptune VIP Club. Cheung Chi Tai is reportedly a leader of the Wo Hop To triad society and an investor in the Neptune Group which is one of Macau’s largest junket operators.

*Money laundering*

...

In February 2016, a cyber-attack was made against the Federal Reserve Bank of New York during which USD 101 million was stolen from the accounts of the Bangladesh

Bank. USD 20 million was traced to Sri Lanka and was recovered. USD 81 million was traced to the Philippines but only USD 18 million was subsequently recovered. Alvin Chau was reported to be the recipient of an estimated USD 18 million and Chang Lai Fong, of Macau junket operator Gold Moon Group, the recipient of a similar amount. To date, no charges have been laid as the FBI continues with their investigation. Lawyers for the Suncity Group indicated they will submit a report to the Philippines Senate once they have accounted for the funds.

224. Further, in relation to Mr Cheng the HKJC Report stated:<sup>263</sup>

*Links to organised crime*

According to intelligence in October 2013, Cheng is a member of the 14K triad society in Hong Kong. The source reported that Cheng is a follower of 14K triad member Li Wai Ki, alias “Ko Lo Ki”, who is serving a prison sentence in Dongguan City.

The intelligence also suggests that Cheng is involved in a number of criminal activities such as illegal bookmaking, money laundering and other criminal activities. The source stated that Cheng conducts illegal bookmaking through Shilong City and Dongguan City, Guangdong Province, China. The illegal bookmaking is allegedly managed by a local triad member nicknamed “Lo Keung”.

The same intelligence source also suggests that Cheng holds an interest in triad controlled casino vessels through 14K triad member, Shing Sai Wing, alias “Dau Fi Wing”. Cheng is reported to have provided financial support to Shing.

225. The HKJC Report found that Suncity posed “major risks” including:<sup>264</sup>

- Suncity key personalities have demonstrated links to numerous triad societies and organised crime figures. Both Cheng Ting Kong and Alvin Chau are reportedly members of factions of the 14K triad society. Other Suncity entities are connected to known triad figures such as Wan Kuok Koi and Li Wai Ki. Triad societies are sophisticated criminal networks that facilitate, as well as benefit from, the proceeds of crime. Triad societies also typically operate in other businesses which generate large volumes of cash for a number of reasons, primarily in order to assist these criminal groups with the laundering of their proceeds of crime.
- Reliable intelligence indicates that Cheng is an Australian law enforcement person of interest due to money laundering and drug trafficking activity which he reportedly orchestrates from Hong Kong.

226. The HKJC Report concluded:<sup>265</sup>

Due to the reasons detailed above, it is assessed that Suncity Group’s controlling entities, Cheng and Alvin Chau, would pose tangible criminal as well as reputational risks to the Club, and indeed racing integrity in Hong Kong, should they, or their associates, become Members and horse owners. Accordingly, the role of the Security and Integrity Department, in vetting Membership applications, is key to protecting the Club through identifying potential Suncity Group associations and preventing their access to Membership.

227. Those conclusions, in particular of “tangible criminal as well as reputational risks”, were extremely serious conclusions.<sup>266</sup> Mr Heap said of them:<sup>267</sup>

[I]t goes to our very licence. We have an obligation under our licence not – to ensure the casino remains free of criminal influence. It's – it's fundamental information to the board, and to management for that matter, in – in determining who we should have associations with at the casino.

228. Mr Buchanan said that when he started work at Star Entertainment in May 2019, he had the same opinion of Suncity as quoted above from the HKJC Report.<sup>268</sup>

### Chapter 13.8 Those who knew: the dissemination of the Hong Kong Jockey Club Report at Star Entertainment

229. On 12 June 2019, Mr Buchanan sent an email entitled “HKJC Sun City Report” containing the HKJC Report in four separate attachments. The recipients of the email were Ms Martin, Mr White, and Mr Houlihan.<sup>269</sup> The email stated:

Please find attached a copy of the 2018 Sun City report my intelligence team compiled whilst I was with the Hong Kong Jockey Club.

It is a comprehensive report and was prepared due to the potential threat Sun City posed/poses to the integrity of racing in Hong Kong.

I suspect certain aspects of the report may be of interest to The Star.

...

Given the confidentiality of the report, would appreciate if the document is not distributed beyond this group.

230. When asked why he provided a copy of the report to his colleagues, Mr Buchanan's evidence was:<sup>270</sup>

Q: You did, of course, provide a copy of this report to The Star, didn't you?

A: I did, and the reason I did that was I was still compiling a report on due diligence procedures and having to potentially improve them. That was just after I joined. And this report was based as an example of what a mature due diligence area could provide. And that was - there was a co-interest in the Suncity Group, and that was why it was provided.

231. When asked whether he had discussed the HKJC Report with any of the email's recipients, Mr Buchanan said:<sup>271</sup>

Ms Martin acknowledged on passing that she had received it. Mr White, no. And Mr Houlihan – we discussed it previously, as I referenced yesterday, when we went to – we went to the Hong Kong Jockey Club – I think it was July 2019, and we discussed it prior to meeting with them and during the meeting.

232. Mr Buchanan explained that he and Mr Houlihan went to Hong Kong in July 2019, at which time they met with representatives of the Hong Kong Jockey Club.<sup>272</sup>

233. Mr Houlihan's evidence was that he read the HKJC Report and he discussed it with Mr Buchanan.<sup>273</sup> Mr Houlihan accepted that he read the HKJC Report carefully.<sup>274</sup> However, Mr Houlihan was surprisingly dismissive of the findings in the HKJC Report on the basis of a lack of "direct evidence". He gave these answers to questions from Counsel Assisting:<sup>275</sup>

Q: But didn't it contain information about Suncity that was of – that was of – clear and direct relevance to Star Entertainment?

A: When I read this report, there was no direct evidence that led me to this "criminal enterprises" as defined by Mr Martin in that comment.

Q: Well, you've got a conclusion of the director of security and integrity at the Hong Kong Jockey Club that Suncity clearly involves a number of criminal enterprises.

A: Which they continue to monitor. Correct.

Q: Well, what evidence are you looking for here, Mr Houlihan?

A: Something more than somebody's commentary in a document. In the document supplied to me by Mr Buchanan, I did not see any direct evidence or any direct correlation to Suncity's involvement in criminal enterprise.

234. Mr Houlihan did not even accept that the HKJC Report had information which was relevant to him at the time. When asked why, he said this:<sup>276</sup>

Because this is, as I said before, a report completed by Mr Buchanan on behalf of the Hong Kong Jockey Club. We had our own reports around this time as well that may have been contradictory to this report.

235. Mr Houlihan accepted that no further due diligence on Suncity or Mr Chau was undertaken by Star Entertainment at the time he received the HKJC Report.<sup>277</sup>

236. Ms Arnott also had a copy of the HKJC Report. Her evidence was that she was not sent a copy from Mr Buchanan, but rather she "was given a paper copy ... [p]robably sometime in 2019". Ms Arnott was provided a copy from either Mr Power or Mr Houlihan.<sup>278</sup> She carefully reviewed the HKJC Report.<sup>279</sup> Ms Arnott also had "concerns" about the HKJC Report due to its reliance on secondary sources. She gave this evidence:<sup>280</sup>

Q: Ms Arnott, you have said twice now that you had concerns with the Hong Kong Jockey Club report. What were your concerns about?

A: Exactly this, Mr Bell. So the 14K triad membership is linked to Next Magazine, which is not necessarily a particularly authoritative source. And the next sentence reads as if to say that the next reference indicates that Alvin Chau was a follower of Broken Tooth Koi, who was jailed in 1999. But that next reference is a BBC article which states that – it is an article

about Broken Tooth being arrested in 1999 but doesn't have any reference to Alvin Chau being related to him at that point. And there were numerous points through this report where I found that there were things that were opinion being placed very close to things that were fact in an effort to make them look like they were – should be read together. And I found that to be concerning at the time.

237. In subsequent answers Ms Arnott gave this evidence:<sup>281</sup>

Q: And I take it you were extremely concerned when you read this?

A: Well, again, Mr Bell, the problem I have with this report is I don't know whether or not – how much of a link Alvin Chau had to it because, as we've previously stated, there were a number of occasions where there – I'm certain that there was \$101 million stolen from banks in Bangladesh, and it has been stated here that Alvin Chau was reported to be a recipient of it. But with no charges laid by the FBI and no referencing to give information about how you can see Alvin Chau linked to it or what report it was that links him to it, it's difficult to assess the validity of – of the statement.

Q: So just so I am clear, was your reaction when you read this to reject it because you weren't satisfied with the source material? Or was it a matter which you regarded needed to be investigated further?

A: It was – some of it was I didn't – I didn't consider the source material to – to be relevant or helpful. And there are some elements of it that I probably should have investigated further. But – but it was – there were – yes, I did have concerns about it, but – for that reason.

238. Mr White confirmed he read the main body of the HKJC Report.<sup>282</sup> He had a poor recollection of the report generally, saying at one point that he was “having a bit of a mental blank about [the report]”.<sup>283</sup>

239. Mr Power said that he was aware of the HKJC Report through references in the media.<sup>284</sup> He gave the following evidence:<sup>285</sup>

Q: When do you say you first became aware of this report?

A: I don't recall when I first became aware of it. I have a recollection – vague recollection that there was references to it in the media at some stage. But whether I became aware of it at the time it was referenced in the media or whether I read that in various reports later on, I can't – can't say when I first became aware of it. But I certainly – I don't believe I've ever read the Hong Kong Jockey Club report.

240. Mr Power said that he had never read the report nor had he ever received a copy.<sup>286</sup> Mr Power said that the first time he became aware that The Star had a copy of the HKJC Report “would have been in the course of one of Mr Buchanan's reports in relation to Suncity” which Mr Power said he received “[a]t the end of 2020, beginning of 2021”.<sup>287</sup>

241. Mr Power also gave evidence that Ms Martin did not make him aware that she held a copy of the HKJC Report when preparing the board paper dated 15 August 2019,<sup>288</sup> or when preparing the response to L&GNSW's letter of 8 August 2019.<sup>289</sup>
242. Ms Martin recalled that she had received an email from Mr Buchanan providing her with a copy of the HKJC Report.<sup>290</sup> Ms Martin had a poor recollection of the report. She did not recall when she read it.<sup>291</sup> The most that Ms Martin was prepared to accept was that she had read the HKJC Report prior to giving her evidence (i.e. "prior to today" on 13 April 2022).<sup>292</sup> She did, however, say that she recalled looking at some sections of the HKJC Report in discussions with Mr Buchanan which had occurred in the weeks after 12 June 2019.<sup>293</sup> She thought she may have read "certain sections at the time that Mr Buchanan was talking to me about that had more relevance to The Star in our circumstances".<sup>294</sup>
243. Ms Martin recalled discussing with Mr Buchanan that Suncity was of interest to law enforcement in connection with money laundering activities.<sup>295</sup> She also recalled speaking to Mr Buchanan about any link between Suncity and triads, but she said that the discussion with Mr Buchanan was more specific to individuals and Mr Chau "rather than Suncity in general terms".<sup>296</sup>
244. Ms Martin said that she discussed the HKJC Report with Mr Houlihan.<sup>297</sup> She did not recall discussing the report with Mr White.<sup>298</sup> In relation to Mr Power, Ms Martin said that she recalled discussing some aspects of the report with him in 2020 but she could not be sure about 2019.<sup>299</sup>
245. The Star Entities conceded that the HKJC Report "raised extremely serious concerns about the probity of Mr Chau and Suncity – it suggested ongoing connections with the triads and the facilitation of organised crime by Suncity".<sup>300</sup>
246. An objective review of the HKJC Report indicates that it contained very important information, including information from both public sources and Australian law enforcement sources, identifying that Suncity and Mr Chau had links to Chinese organised crime and were unsuitable business associates of The Star or Star Entertainment. Indeed, not all references in the report were to secondary sources.
247. Mr Bekier said that he had read the HKJC Report prior to giving his evidence. He concluded that it was a "very good report", which assembled a lot of evidence "to paint a picture of somebody we shouldn't be doing business with".<sup>301</sup> He said that "what the Hong

Kong Jockey Club report does really well is it pieces together essentially public information and paints what I think is quite a compelling picture”.<sup>302</sup>

248. Mr Heap indicated in his evidence that he had read the HKJC Report in his preparation for giving his evidence to the Review.<sup>303</sup> Mr Heap gave this evidence:<sup>304</sup>

Q: Are you aware of Mr Bekier's evidence that the Hong Kong Jockey Club report is a very good report which assembles a lot of evidence to paint a picture of somebody we shouldn't be doing business with?

A: I wasn't aware of that evidence, but I would agree with it.

Q: Would you agree that if the board had received either a copy of the Hong Kong Jockey Club's report or at least a briefing on it – a thorough briefing on its contents, the board should have stopped doing business with Suncity and Alvin Chau?

A: Yes, I would agree with that.

249. Mr Heap said that the issues raised in the HKJC Report about Suncity went “to our very licence” and The Star’s obligation to ensure that The Star Casino remains free of criminal influence.<sup>305</sup>

250. Mr Bradley, Dr Pitkin, Mr Sheppard, Ms Lahey and Mr O’Neill all gave evidence to similar effect.<sup>306</sup>

251. There was a clear disconnect between the evidence of the directors of Star Entertainment and the evidence of the members of the legal, investigations and compliance teams who in fact were provided with the HKJC Report. While some of the information in the HKJC Report was sourced from media articles, that was no justification for regarding the information which it contained as irrelevant or insufficiently “direct”. So far as the HKJC Report relied on secondary sources, that meant, at the very least, that the information needed to be reported internally and that further urgent investigations were necessary. The response of the members of the legal, investigations and compliance teams of Star Entertainment who read the HKJC Report represented, at the very least, a fundamental failure to appreciate the seriousness of the issues and conclusions in that report.

252. The existence and contents of the HKJC Report were disclosed in the media in August 2019. Mr Bekier’s evidence was that he “asked around” for the report as soon as it was “in the media”.<sup>307</sup> He said that he asked Mr Buchanan, who said he had a copy of the report but was not at liberty to provide a copy “because it was IP of the Hong Kong Jockey Club”.<sup>308</sup> According to Mr Bekier, Mr Buchanan did not disclose to him that he had

provided a copy of the report to Ms Martin, Mr White and Mr Houlihan.<sup>309</sup> Nor did any of those individuals, or Ms Arnott, inform Mr Bekier that they had a copy of the HKJC Report.<sup>310</sup>

253. In his email of 12 June 2019, Mr Buchanan had stated that “[g]iven the confidentiality of the report, [he] would appreciate if the document is not distributed beyond this group”.<sup>311</sup> It may be that the group who received the HKJC Report at that time felt constrained not to breach confidentiality or to disclose that they had received the report from Mr Buchanan.
254. However, even allowing for the fact that Mr Buchanan may not have been authorised to distribute the HKJC Report to officers of Star Entertainment, the information contained in the HKJC Report and the substance of the concerns and allegations about Suncity could have been provided to a wider audience internally without breaching any obligation of confidence or disclosing that a copy of the HKJC Report was held or had been provided by Mr Buchanan.
255. One way or another, the information in the HKJC Report needed to be escalated within Star Entertainment’s risk management systems and databases. Mr Bekier and the rest of the directors of Star Entertainment needed to know the serious information contained in the HKJC Report immediately, given the significance of Star Entertainment’s relationship with Suncity, and to allow them to determine an appropriate response in light of the risks.
256. When Mr Bekier was asked whether he was aware that certain individuals at The Star and Star Entertainment held a copy of the report by 12 June 2019, he visibly shook his head as he gave his answers. Mr Bekier’s evidence was:<sup>312</sup>

Q: And you’re aware now, aren’t you, that, in fact, Angus Buchanan, Paula Martin, Kevin Houlihan and Oliver White held a copy of that report by 12 June 2019?

A: I’m aware of that now.

Q: Were you shaking your head then?

A: I’m agreeing with you, but I was – you know, I was aware of the report and I was – I’m aware now that some of our people had access to the report. If I was shaking my head, it was because, you know, I had been – I and others, I know, had been trying to get that report.

Q: When were you first made aware of this report?

A: In the – that the report existed?

Q: No. When were you first made aware that The Star, in fact, held a copy of this report?

A: In my review of the court papers.

Q: You mean the papers before Mr Bell's review?

A: Yes. Sorry. Those – yes, the papers in front of Mr Bell.

257. The fact that only a small group of officers and employees of Star Entertainment held a copy of the HKJC Report in an “unofficial” capacity caused material problems with risk management at The Star and Star Entertainment. It led to a siloing of important information as to the probity of Suncity and Mr Chau as business associates of The Star. This meant that senior leaders at The Star and Star Entertainment were not aware of important risks which the business was taking by continuing to deal with Suncity and Mr Chau.

### Chapter 13.9 Mr Buchanan and Mr Houlihan's Trip to Hong Kong in July 2019

258. In July 2019, Mr Buchanan and Mr Houlihan travelled to Hong Kong.<sup>313</sup> Ms Martin authorised the trip.<sup>314</sup> Mr Bekier also had to approve the trip.<sup>315</sup>

259. On 17 July 2019, Mr Houlihan sent Ms Martin an email with a “general update” on the Hong Kong trip and a meeting with the Hong Kong Jockey Club.<sup>316</sup> He commented on the club's access to intelligence and how it was “of great interest to what we need”.

260. Mr Buchanan prepared a document titled “Brief Synopsis of Hong Kong and Macau Based Meetings” (**Hong Kong Briefing Note**).<sup>317</sup> The Hong Kong Briefing Note recorded that on 16 July 2019, a meeting occurred with officers of the Hong Kong Jockey Club.<sup>318</sup>

261. The Hong Kong Briefing Note also recorded that on 18 July 2019, a meeting took place with the Australian Federal Police – Overseas Liaison.<sup>319</sup> There is the following notation:<sup>320</sup>

During the meeting, we discussed Suncity including their attempts to legitimise their business and mask their criminal antecedents. It was apparent the Suncity group continues to be of interest to the AFP both domestically and offshore.

262. Although Ms Martin could not recall if Mr Buchanan gave her a copy of the Hong Kong Briefing Note and could not say if it was likely that she received a copy from Mr Buchanan, Ms Martin agreed that it was most likely that Mr Buchanan “took me through” the Hong Kong Briefing Note.<sup>321</sup>

263. The information which Mr Buchanan and Mr Houlihan obtained in Hong Kong in July 2019 and which was communicated to Ms Martin referred to the criminal connections of Suncity and the continued interest of Australian law enforcement in its activities. This information, in conjunction with the HKJC Report, should have emphasised that Suncity was an unsuitable business associate for The Star and Star Entertainment and should also have been communicated to the senior leadership of Star Entertainment.

### Chapter 13.10 Media Allegations Concerning Suncity in 2019

264. On 27 July 2019, *The Sydney Morning Herald* and *The Age* published an article titled “Gangsters, gamblers and Crown casino: How it all went wrong”.<sup>322</sup> The article listed junkets with which Crown Resorts dealt, including Suncity.<sup>323</sup> Suncity was described as “Macau’s biggest and most successful junket operator”.<sup>324</sup>
265. On 28 July 2019, Channel 9 broadcast a story in the *60 Minutes* program called “Crown Unmasked”.<sup>325</sup> The program featured a segment on Suncity in which it was stated:<sup>326</sup>

In a secret report obtained by us one of the world’s largest bookmakers the Hong Kong Jockey Club reveals its own deep mistrust of Suncity which has always denied any wrongdoing.

266. It was stated that the Hong Kong Jockey Club had “black banned” Suncity and this was contrasted with the approach taken by Crown Resorts, which was said to have “rolled out the red carpet”.<sup>327</sup> It was reported that Crown Resorts had paid Suncity “tens of millions of dollars”, flown the junket’s VIP gamblers to Australia “on private jets”, helped Suncity get visas for these individuals, and “providing the junket with its very own high roller room at Crown Melbourne”.<sup>328</sup>
267. On 16 August 2019, the *Sydney Morning Herald* and *The Age* published an article entitled “Suncity to shut its Australian casino high-roller rooms after reports of crime links”.<sup>329</sup> The article reported Suncity’s “retreat” from the Australian casino market. The article stated:<sup>330</sup>

The world’s biggest recruiter of high-roller Chinese gamblers, Suncity, is dramatically scaling back its Australian operations after revelations of its alleged links to organised crime.

Star Entertainment, Australia’s second largest casino operator, on Friday said a mutual decision had been reached with Suncity “in the last 10 days” to shut down Suncity’s fixed high-roller room inside The Star’s flagship Sydney casino.

And sources with knowledge of the situation have confirmed that Suncity’s fixed high-roller room at the Crown casino in Melbourne’s Southbank will also be closing as a result of the company’s retreat.

268. The article reported the following in relation to Suncity's operations at The Star:<sup>331</sup>

"The fixed room of Suncity will be discontinued here," Mr Bekier said on Friday of The Star casino. "They had a small fixed room. That room is being closed."

Star's announcement comes after Crown's high-profile board of directors took out public advertisements backing the company's relationship with Suncity and other junket operators.

The decision to shut down its fixed gaming salons and withdraw its staff follows revelations by *The Age*, *Sydney Morning Herald* and *60 Minutes* that the head of Suncity, Alvin Chau, had been barred from entering Australia by the Department of Home Affairs.

Mr Bekier would not comment on the extent to which Star, Australia's second-biggest casino company, would continue to have dealings with Suncity following the closure of the room.

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

"Suncity is the largest junket operator in the world and we work in a very prescribed and lawful way with junkets that are credible and have been approved, in some states, by the regulators."

269. The article also made reference to the HKJC Report, stating:<sup>332</sup>

Leaked reports from the Hong Kong Jockey Club obtained by *The Age*, *Sydney Morning Herald* and *60 Minutes* reveal club officials were briefed by "Australian Law Enforcement" in May 2017 about their concerns about Suncity. Among the concerns was suspected "large-scale money laundering activities".

The report also states that "Suncity Group's controlling entities ... pose tangible criminal and reputational risks to the [Hong Kong Jockey] club and indeed racing integrity in Hong Kong."

Suncity key personalities have demonstrated links to numerous triad societies and organised crime figures, said the intelligence report.

270. The 16 August 2019 article is material to a number of issues before the Review:

- (a) The "fixed room of Suncity" referred to by the quotation attributed to Mr Bekier was Salon 95.
- (b) There is no reference in the article to the fact that Suncity was to operate from a new gaming salon, namely, Salon 82 (which is addressed later in this Chapter).
- (c) The report records Mr Bekier providing a response of "Why not?" to the question of any continuing relationship with Suncity.
- (d) The article makes reference to the HKJC Report as a document containing conclusions that Suncity was linked to organised crime.

271. On 17 August 2019, Mr Peter Jenkins sent an email copying this article to Mr Bekier, Mr Theodore, Ms Martin and Mr Hawkins.<sup>333</sup> Mr Bekier agreed that he made the comments regarding the shutting down of the “fixed room” and that he made no mention of the fact that Suncity had instead been allocated a new private gaming room.<sup>334</sup> His evidence was that Salon 82 was not to have the “special privileges” of Salon 95, including no service desk.<sup>335</sup>
272. In relation to the “Why not?” comment regarding continuing to deal with Suncity, Mr Bekier’s evidence was that this “[p]robably was not my finest moment”.<sup>336</sup> His explanation for the comment was:<sup>337</sup>

I was – you know, in 2019, I was in a world where I thought that we’re doing the appropriate due diligence on Suncity. I was in a world where I believed that Suncity was operating in a legal way with us and that we had good control over their operations. And it’s on that basis that I said, “Well, it’s legal for us to operate with these junkets. Why would we not do that?” Now, with what I know now, that looks stupid.

### **Chapter 13.11 The Star’s Disclosures to the Board in response to the 2019 Media Allegations**

273. Following the July 2019 media allegations, Star Entertainment’s management formed a focus group of senior leaders from operational areas, finance, compliance, legal and regulatory to monitor the media and assess unfolding information, update risk assessments on areas of potential vulnerability, act on recommendations arising from a review of the Crown allegations and coordinate responses to regulator inquiries.<sup>338</sup>
274. On 29 July 2019, Ms Arnott, Mr Houlihan and Mr Brodie provided Ms Martin with a summary of information relating to patrons and others adversely named in the media reports.<sup>339</sup> Also on 29 July 2019, Mr Whytcross sent Mr Hawkins player profile summaries of a number of people named in the media reports.<sup>340</sup> It was noted that Salon 95 had been established in early 2018 “as a permanent area for Suncity patrons”.<sup>341</sup> A summary was provided of Suncity revenue since FY15.<sup>342</sup> No reference was made to the various issues of concern in Salon 95.
275. Ms Martin emailed Mr Brodie and Mr Whytcross, copying Ms Arnott, Mr Power, Mr Houlihan and Mr Hawkins on 8 August 2019.<sup>343</sup> She stated that arising from the Board’s Audit Committee meeting the previous day, the directors had requested that a paper be presented to the Board regarding the media allegations, and that Mr Bekier would review it prior to submission.<sup>344</sup> As Mr Sheppard explained in evidence, the Board wanted to

understand whether the allegations levelled against Crown Resorts could also be levelled against Star Entertainment.<sup>345</sup>

276. On 12 August 2019, Mr Brodie emailed a draft board paper together with attachments to Ms Martin advising that they had been prepared with the assistance of Ms Arnott and Mr Whytcross.<sup>346</sup> Ms Martin forwarded this draft to Mr Power, Mr Houlihan and Mr White on 13 August 2019 and said “I am doing substantive eds on the paper so probably best to discuss with me before you do any substantive edits”.<sup>347</sup> Ms Martin sent a further draft of the paper to Mr Hawkins on 14 August 2019, copying Mr Brodie, Mr Whytcross and Ms Arnott, and wrote in the covering email:<sup>348</sup>

Here is the proposed draft of the Board paper. Attachment 2 is still being finalised, but will be a stripped back version of the detailed table prepared for your reference ahead of the Board call on 30 July. (I have the pen on that currently.)

The initial draft was prepared by Micheil B and Michael W and I have added to the background and streamlined some of the content.

Please let me know if you have any comments / concerns on the draft before we finalise it this afternoon.

277. The board paper was tabled at the meeting on 15 August 2019, and Mr Hawkins and Ms Martin spoke to it.<sup>349</sup> The paper commenced by referring to the focus group that had been established, outlined the inquiries received by that date from regulators and advised on the current status of Star Entertainment’s AML/CTF Program and risk framework review.<sup>350</sup> The paper identified a series of current key processes “which reduce risk in respect of junkets” and stated that “[a]ll of the people adversely identified in the Crown allegations (Attachment 2) are the subject of a risk rating review for the purposes of The Star’s AML/CTF Program”.<sup>351</sup>
278. The board paper also said that action areas as part of a risk mitigation plan associated with the recently approved AML/CTF Program included enhanced procedures for reviewing and approving new junket operators and representatives, as well as an updated AML/CTF risk assessment of Suncity, including consideration of enhanced compliance assurance procedures. The board paper identified that Suncity and Mr Simon Pan were both “junket operators” who had been adversely named but with whom Star Entertainment continued to deal.
279. The first attachment to the board paper summarised allegations made against Crown Resorts and The Star. One allegation identified was that.<sup>352</sup>

Crown was wilfully blind to the criminal activity of key business partners. Particularly Junket Operators. This included claims related to Hong Kong Jockey Club ban on Suncity.

280. The key risk/vulnerability identified in relation to this allegation was:

Failure to identify and cease trading with criminals might expose a casino to exploitation related to a range of criminal activity.

281. The existing process of The Star identified in relation to this allegation included.<sup>353</sup>

– The Star has detailed cease to trade policies embedded in the AML/CTF Program. These protocols see The Star considering banning people on a monthly basis.

...

– Junket operator approval process includes criminal history checks and other background checks in country.

282. There was no disclosure in the board paper of:

- (a) the fact that various members of senior management held a copy of the HKJC Report and it contained serious adverse information about Mr Chau and Suncity including that they were linked to organised crime and suspected of money laundering;
- (b) that Mr Houlihan and Mr Buchanan had met with the Hong Kong Jockey Club and the AFP in July 2019 in Hong Kong in relation to Mr Chau and Suncity and that the AFP had confirmed that that Suncity and Mr Chau were of continuing interest to it at that time;
- (c) the multiple incidents of concerning cash transactions in Salon 95 until at least in or around June 2019 and suspicions of Suncity involvement in money laundering at the casino;
- (d) Suncity's repeated breaches of controls imposed by The Star in relation to Salon 95 and its lack of cooperation in The Star's investigations;
- (e) the fact that the NSW Commissioner had excluded six people associated with Suncity from the casino in July 2019, and there were criminal investigations on foot;<sup>354</sup> and
- (f) that no risk assessment had been conducted of Suncity and Alvin Chau in light of the media allegations.<sup>355</sup>

283. Ms Martin knew of each of the above matters as did various other senior managers who helped prepare the board paper. Mr Hawkins was also aware of a number of these matters although not that The Star held a copy of the HKJC Report. The clear impression with which a reader would have been left upon reading the board paper and its annexures was that there was no problem with The Star or Star Entertainment continuing to deal with Suncity and Mr Chau.
284. The minutes of the 15 August 2019 board meeting do not suggest that any further information relevant to the risks of continuing to deal with Suncity or Mr Chau was conveyed by management at the meeting. The minutes record:<sup>356</sup>
- Management spoke in particular to the corporate history of Suncity, specific allegations made in relation to them, and the changes that Suncity is making in relation to their business across Australian jurisdictions.
285. Mr Sheppard said that the failure to disclose that senior managers had a copy of the HKJC Report was a material omission.<sup>357</sup> Mr Heap also said that matter should have been disclosed to the Board.<sup>358</sup> Mr Sheppard considered this to be a failure of the risk management framework.<sup>359</sup> Mr Sheppard said material information was missing from the board paper and that it failed to equip the Board to understand whether there were problems at The Star similar to those that the media reports alleged existed at Crown Resorts.<sup>360</sup>
286. The Star Entities accepted in closing submissions that it was a matter of very serious concern that not one of the people at the board meeting who was in possession of the HKJC Report made that fact known to the Board when it sought a briefing in relation to the media allegations.<sup>361</sup> That is clearly correct.
287. Ms Martin said in evidence that she did “not necessarily” think it would have been useful for the Board to know that The Star held the HKJC Report.<sup>362</sup> Ms Martin did not agree that the omission of the facts of Mr Houlihan and Mr Buchanan visiting the Hong Kong Jockey Club and their discussions with the AFP about Suncity and Mr Chau in June 2019 meant that the Board was not briefed with important information about the allegations insofar as they related to Suncity and Mr Chau.<sup>363</sup> Ms Martin’s evidence on this issue is discussed in Chapter 26.
288. Ms Arnott, who at that time was the Group Manager AML/CTF and Financial Crime, saw a draft of the board paper and had the opportunity to comment upon it.<sup>364</sup> Ms Arnott agreed in evidence that the Board was not provided with all information relevant to assessing the probity of Suncity and Mr Chau.<sup>365</sup>

289. The Star Entities described the 15 October 2019 board paper as “distinctly misleading”.<sup>366</sup> Irrespective of senior managers’ subjective intent in that regard, this was undoubtedly the outcome.

290. On 15 October 2019, further allegations were made about Crown Resorts in the media including CCTV footage depicting very large amounts of cash being brought into the Suncity room at Crown Melbourne in an Aldi shopping bag.<sup>367</sup> Dr Pitkin gave evidence that the CCTV footage was discussed at a board meeting and that she had a “very clear recollection of the Board hearing from Mr Hawkins in detail on, particularly, allegations around the fixed room and Suncity at Crown”.<sup>368</sup> Dr Pitkin said:<sup>369</sup>

So the board was very concerned to understand whether what appeared in that CCTV footage, which was cash in a fixed room in exchange for chips – was that happening at Star? And the board was assured a number of things: firstly, that it wasn't; secondly, that that couldn't happen at Star because all cash transactions occurred at The Star cage and all of the junket players – AML and CTF procedures under our program were followed.

And I recall Mr Hawkins talking to the differences in the regulatory regimes between Victoria and Sydney. I also recall Mr Hawkins saying that this wasn't a reflection on Suncity as a whole and that it was most likely, you know, not only the differences in the regulatory regime where cash transactions could happen in a salon in Crown, but also that if anything had been done in breach of the Crown licence, it was most likely an inappropriate junket representative rather than it being a reflection on Suncity as a group.

291. Dr Pitkin said that she was misled and felt that conduct was hidden from the Board.<sup>370</sup> Likewise, Ms Lahey gave evidence that upon raising this footage at a board meeting Mr Bekier gave assurances that such conduct was not occurring at The Star.<sup>371</sup> She feels she was misled.<sup>372</sup>

292. On 24 September 2019, Ms Arnott provided a report to the Board’s Risk and Compliance Committee entitled “Anti-Money Laundering/Counter Terrorism Financing Program Update”.<sup>373</sup> By this time, in addition to Ms Arnott’s other duties, she was the AML/CTF Compliance Officer, and accordingly had a role in bringing to the attention of the Board any non-compliances with the AML/CTF program.

293. Ms Arnott’s paper referred to the media allegations and the 15 August 2019 board paper. Ms Arnott wrote:<sup>374</sup>

The Star has reviewed the junket operators and customers referred in the media for relevance. Action has been taken where necessary to manage risk associated with individual customers.

294. No mention was made of the fact that Suncity was operating in Salon 82 (as addressed later in this Chapter) or of the multiple concerns held in relation to Suncity by that time.
295. Ms Arnott agreed that by this time she considered that transactions had taken place in Salon 95 which were indicative of money laundering.<sup>375</sup> She said she did not refer to this in the paper because Salon 95 had been closed,<sup>376</sup> and she thought it had been reported to the Board through “other channels” but could not be sure one way or the other.<sup>377</sup> In retrospect, Ms Arnott accepted that she should have reported these matters to the Board.<sup>378</sup>

### Chapter 13.12 The Star's Disclosures to the Authority in response to the 2019 Media Allegations

296. On 29 July 2019, L&GNSW wrote to The Star noting that the media reports questioned the suitability and conduct of some junket operators and their representatives.<sup>379</sup> The letter stated:<sup>380</sup>

I am writing to request that The Star undertakes a risk assessment of its practices and procedures which mitigate against the types of issues raised in the media reports, and reports the findings to Liquor & Gaming NSW. Specifically, I request that the Star details what steps it takes to ensure that only suitable operators and representatives operate junkets in its casinos.

I also request that The Star reviews any current associations or arrangements with junket operators or related individuals to ensure the suitability of any existing relationships.

297. Clearly enough, L&GNSW appears to have been concerned to establish the suitability of the junkets with which The Star dealt and any risks they may present.
298. On 31 July 2019, Mr Power emailed L&GNSW in response to its 29 July 2019 letter, requesting that a meeting take place.<sup>381</sup> He wrote: “[a]s for allegations relating that Crown was wilfully blind to the criminal activity of key business partners, we remain comfortable that The Star's processes are robust”.<sup>382</sup> No mention was made of recent incidents involving Suncity and Salon 95.
299. By letter dated 8 August 2019, L&GNSW replied to Mr Power, stating that:<sup>383</sup>

[A]s a more immediate action I seek your response particularly in relation to those specific individuals and entities that have been named in recent media reports stemming from the ‘Crown Unmasked’ joint investigation by 60 Minutes, The Age and the Sydney Morning Herald.

Liquor & Gaming NSW seeks to understand what, if any, ongoing association the Star has with those named individuals or entities, and what, if any, ongoing risks may arise as a result of ongoing associations.

...

I now request more specific information relating to the entities and individuals named in the media reports. For this purpose I have attached a list of names at Annexure 1.

Specifically, I request that The Star:

- Advises whether any of the entities or individuals listed at Annexure 1 are or have been authorised as Junket Operators, Promoters or Representatives with The Star.
- Advises what, if any, steps have been taken to mitigate ongoing risk relating to individuals or entities listed at Annexure 1 that are authorised as Junket Operators, Promoters or Representatives with The Star.
- Advises whether any of the individuals listed at Annexure 1 have attended The Star as a participant in a junket arrangement.
- Advises of what, if any, steps have been taken to mitigate ongoing risk relating to individuals listed at Annexure 1 who have attended the Star as a participant of a junket arrangement.
- Details its current investigation and assessment criteria for the authorisation of Junket Operators, Promoters or Representatives and Junket participants.
- Details its current approach to ongoing monitoring of authorised Junket Operators, Promoters or Representatives and Junket participants.
- Details its risk rating methodology used for ongoing due diligence checks on authorised Junket Operators, Promoters or Representatives and Junket participants.
- Provides a copy of its updated AML Program.

300. Annexure 1 relevantly identified Suncity (and its subsidiaries) as well as Mr Chau.

301. It took around one month for Star Entertainment to respond to L&GNSW's inquiries and on 6 September 2019, Ms Natasha Mann from L&GNSW emailed Mr Power seeking advice on when a response would be provided.<sup>384</sup> Mr Power replied the same day advising that a response would be provided the following week.<sup>385</sup>

302. On 10 September 2019, Mr Power signed a letter in response on behalf of The Star (**10 September letter**).<sup>386</sup> Although the letter was signed by Mr Power the draft response had been widely circulated within management ranks and had been approved at the highest levels of management. The 10 September letter commenced by noting.<sup>387</sup>

The Star Entertainment Group (The Star) is a top 100 ASX listed company with a strong culture of compliance, a record of self-reporting and a proactive strategy for engagement with regulatory authorities and law enforcement agencies.

303. In answer to question 1, the 10 September letter stated that Suncity was not a junket operator or promoter at The Star but had a “relationship” with junket operator Mr Iek. The letter also stated that Mr Chau was not a junket promoter or representative and had not engaged in premium or junket play at The Star. However, the 10 September letter noted that Mr Chau held the CCF which funded Mr Iek’s junkets and was the CEO of Suncity.
304. Question 2 had asked what, if any, steps had been taken to mitigate ongoing risk relating to individuals or entities listed at Annexure 1 that were authorised as Junket operators, promoters or representatives. In this respect, the 10 September letter made no mention of Mr Chau, Suncity or any of the steps that had been taken to manage Suncity in relation to the operation of Salon 95. Technically, they were not operators, promoters or representatives. Moreover, the 10 September letter made no mention at all of any of the events of concern in or connected to Salon 95 or that the NSW Police Commissioner had excluded a number of persons associated with Suncity, and that criminal investigations were afoot.<sup>388</sup>
305. The 10 September letter adopted a highly technical approach. Because L&GNSW had asked a question specifically about junket promoters and representatives, and Mr Chau and Suncity did not fit those descriptors, the 10 September letter made no mention of them. This was despite the fact that it was well understood within The Star, and was noted in the 10 September letter, that Mr Chau was the funder of the Suncity junket. As The Star Entities conceded, the response was “narrow, technical and inappropriate”.<sup>389</sup> It was highly inappropriate for a casino operator to adopt such a narrow and technical approach to answering the inquiries of the regulator.
306. However, the 10 September letter went further than that. It was misleading. A document may be misleading through express words, silence or implication. Representations must be understood in their complete context. Conduct is misleading if it has “a tendency to lead into error”.<sup>390</sup> It was abundantly clear that L&GNSW was concerned about the suitability of The Star’s business partners, including Suncity, and was concerned to ensure that The Star was taking appropriate risk management steps. Fairly read in the context of the 29 July 2019 and 10 August 2019 requests, a reasonable person in the position of the regulator would be misled into thinking it need not be concerned with The Star’s association with Mr Chau and Suncity. Mr Power agreed in evidence that it was “pretty clear” that L&GNSW wanted to understand what ongoing risks might arise as a result of ongoing associations with Mr Chau and Suncity.<sup>391</sup> The 10 September letter stands in stark contrast

to Mr Power's 15 May 2018 email to Mr Hawkins that the conduct of the junket with which they were associated had exposed The Star to an unacceptable level of risk,<sup>392</sup> as well as his admitted discomfort about the activities of Suncity in Salon 95 at the time of the response.<sup>393</sup>

307. A number of people were involved in the preparation of the 10 September letter. On 14 August 2019, Mr Power emailed Mr Houlihan, Ms Arnott and Mr White a draft response, stating:<sup>394</sup>

This response is still needing some work, in particular, those areas highlighted green. Please provide any changes in mark-up and distribute to the group for discussion.

@Skye Arnott, I would appreciate any assistance you can give us, but in particular can you please focus your contribution to telling our story in the final 2 questions about risk ratings and the new program.

308. Ms Arnott emailed back to Mr Power her contributions to the draft on 16 August 2019,<sup>395</sup> which related to providing details of AML/CTF processes at Star Entertainment.<sup>396</sup> On 19 August 2019, Mr Power forwarded this email to Mr White.<sup>397</sup> In response, Mr White made substantial amendments and added some questions.<sup>398</sup> Later on 19 August 2019, Mr Power circulated the latest draft to Mr Stevens and Mr Brodie, copying Ms Arnott and Mr White. He said they would meet shortly to discuss the draft and, in the meantime, welcomed their comments.<sup>399</sup>
309. On 27 August 2019, Mr Power circulated a further draft to Ms Arnott, Mr White, Mr Stevens, Mr Houlihan and Mr Brodie, and requesting that they add any further information or clarifications.<sup>400</sup> On 27 August 2019, Mr David Smart, the Cashier Services Manager, provided some additional information in relation to named individuals, and following from that Mr Power requested a meeting to finalise the answers and expressed concern that some information he was receiving was "conflicting".<sup>401</sup> On 6 September 2019, Ms Arnott emailed Mr Power some further amendments relating to AML/CTF processes.<sup>402</sup>
310. Documents show that both Mr Bekier and Ms Martin approved the letter before it was sent. The Review was only made aware of the existence of these documents when Mr Power referred to them in his written closing submissions. The documents show that on 7 September 2019, Mr Power emailed a draft to Ms Martin advising that he was being "chased" for a response, requested any feedback, suggested changes or corrections and asked whether he should circulate the draft to anyone else internally.<sup>403</sup> Ms Martin replied

by email on 9 September 2019, copying in Mr Hawkins, Mr Jenkins, Ms Arnott, Mr Houlihan, Mr Brodie and Mr Stevens. Ms Martin wrote:<sup>404</sup>

This response looks comprehensive to me and is well-positioned in the first section.

I have a couple of minor points to run by you, and will give you a call around lunchtime to discuss.

Given the Board focus on this correspondence from L&GNSW, I think that the draft should be provided to Matt for review before it is submitted.

311. It is not known what feedback Ms Martin gave to Mr Power. In oral evidence, Ms Martin said she had no recollection of reviewing Mr Power's letter before it was sent.<sup>405</sup> The emails noted above show that she did in fact do so. Further, by the time of reviewing the draft response Ms Martin was aware of significant problems relating to Salon 95 and Suncity, and had also been provided with the HKJC Report by Mr Buchanan.

312. As suggested by Ms Martin, on 9 September 2019 Mr Power emailed a draft to Mr Bekier and copied Ms Martin, Ms Arnott, Mr Stevens, Mr Houlihan, Mr White and Mr Brodie. Mr Power stated that the letter "has been reviewed internally but given the subject matter, we were wanting your comments before sending it off".<sup>406</sup> Mr Bekier replied (copying in the same group of people) stating:<sup>407</sup>

Thank you, this is fine with me. It reads well.

Paula, we [should] put this correspondence in the appropriate section of the Board portal and provide a verbal update at the Board.

313. It is unknown whether the letter was placed in the Board portal and whether a verbal update was provided to the Board.

314. By letter dated 5 August 2022 the Review invited any further submissions from The Star Entities, Mr Bekier and Ms Martin in relation to the documents and the 10 September letter to L&GNSW.

315. The following response was received from The Star Entities:<sup>408</sup>

From the documents referred to in your letter and above, it appears that Ms Martin received at least two drafts of the response, and discussed the response with Mr Power on at least two occasions. Ms Martin was asked for "feedback about the proposed approach" over a week before the response was sent. The correspondence was self-evidently important, as indicated by Ms Martin's reference to "Board focus" and her suggestion that the response be shared with Mr Bekier before being sent. ... Ms Martin was familiar with a number of important matters concerning Suncity. In those circumstances, The Star and TSEG submit that that Ms Martin can fairly be

described as one of the staff responsible for the approach adopted by the 10 September 2019 response, albeit that she was not its principal author.

As for Mr Bekier, he approved the response a little over an hour after receiving it. The email sent to him by Mr Power suggests that he had not been shown any prior draft or asked to comment on the proposed approach. Mr Bekier had less familiarity than Ms Martin with matters concerning Suncity. In those circumstances, while Mr Bekier approved the response, The Star and TSEG make no submission that he could fairly be criticised for its narrow, technical and inappropriate nature.

316. Mr Bekier's submissions were to a similar effect in relation to his conduct.<sup>409</sup>
317. Ms Martin's submissions, by contrast, were at pains to note that these matters had not been put to her and that "Ms Martin has not been afforded an opportunity to provide any further evidence in relation to the 7 to 9 September 2019 email chains referred to in the Power Submissions".<sup>410</sup> That was the very point of communicating the materials to Ms Martin on 5 August 2022. Ms Martin's submissions did not identify any further evidence which she wished to provide or why there might otherwise be unfairness. Ms Martin submitted of the 10 September letter that there was nothing "actually incorrect in its contents".<sup>411</sup>
318. The Star Entities' submissions concerning the conclusions which should be drawn about the involvement of Mr Bekier and Ms Martin in the 10 September letter are accepted.

## Chapter 13.13 Suncity moves to Salon 82

### *13.13.1 No updated risk assessment*

319. By 21 August 2019 Star Entertainment had decided to continue the business relationship with Suncity with an "improvement team" to oversee the relationship.<sup>412</sup> In an "Agreed Tasks" document of that date,<sup>413</sup> Ms Arnott was tasked with performing a risk assessment (the target date was originally recorded as December 2019, but was amended to March 2020), cash buy-in control (the target date was November 2019, but recorded as completed), customer source of wealth improvement (the target date was November 2019, and had been partly completed), and improving OCDD and ECDD source data (the target date was December 2019).
320. Despite the cage operations conducted by Suncity at The Star in 2018, the two warning letters sent in 2018, the concerning cash transactions which were observed to be continuing to occur in May and June 2019, the HKJC Report held by a number of senior officers in risk, legal, compliance and investigation areas, the intelligence received from the AFP in July 2019, the arrests in NSW of several people associated with Salon 95, the media allegations concerning Suncity in July and August 2019 and the concerns expressed by the

Authority in correspondence in July and August 2019, no updated risk assessment of dealing with the Suncity junket had been conducted by The Star or Star Entertainment since the initial inadequate risk assessment in April 2018.

321. Despite the tasks allocated to Ms Arnott on 21 August 2019 no further risk assessment was conducted by The Star or Star Entertainment on Suncity or Mr Chau until Mr Buchanan's due diligence reports began to evolve in October 2020. Those reports are discussed later in this Chapter.
322. The failure of The Star Entities to conduct any further risk assessment of Suncity and Mr Chau by at least the second half of 2019 in light of the knowledge then held by the risk, legal, compliance and investigations teams is inexcusable and wholly inconsistent with the casino operator's obligations to manage the risks of criminal infiltration and money laundering.
323. Ms Martin was examined on whether she was aware of any risk assessment having been completed on Suncity and Mr Chau in the second half of 2019. Ms Martin's evidence was difficult to understand:<sup>414</sup>

My recollection is that there was a risk assessment on different aspects - I'm not trying to be difficult, but there was a risk assessment on their operations - is my recollection - including a salon. And then there was another reference to due diligence on them as well. So there was a list of activities, some of which related to risk assessments.

...

So I'm aware of some assessments that were completed against information on Suncity and Alvin Chau from the interactions Mr Buchanan and the AML team and Mr Houlihan had on some of the information. So I am referring to those as updated assessments or due diligence in the form of enhanced customer due diligence that were initial steps. There was then later and separately - and I'm not sure it was completed in 2019 - further due diligence. We were --

324. The Star Entities acknowledged that Ms Martin could not give an explanation for why a risk assessment "did not occur as a matter of urgency" by July 2019.<sup>415</sup>
325. A call was made during Ms Martin's examination for any risk assessment performed on Suncity and Mr Chau in the second half of 2019. No documents were produced.<sup>416</sup>

### ***13.13.2 Suncity moves from Salon 95 to Salon 82: September 2019***

326. Instead of performing a risk assessment, in early September 2019 The Star moved Suncity to a new private gaming salon called "Salon 82". The new salon was located in the

“Sovereign Lakes VIP area” on level 17 of The Star Grand.<sup>417</sup> In Salon 82, Suncity did not have a service desk or fixed signage but it was able to display the Suncity logo from TV monitors.<sup>418</sup>

327. According to Mr Hawkins, from the time that Suncity commenced using Salon 82 to March 2020, “there were no other premium players or junket groups who used Salon 82 during this time”.<sup>419</sup> Mr Hawkins was not aware of any compliance issues with Salon 82.<sup>420</sup>

328. On 13 August 2019, Mr Lim had sent Mr Hawkins the following email with the subject “Sun city arrangements” (copied to Mr Whytcross, Ms Heidi Huang and Ms Silvia Mui) stating:<sup>421</sup>

By way of final confirmation.

1) will exit the fixed room on their own accord.

2) business will carry on as usual like every other junkets

Silvia and myself have convened with Alvin and our relationship is still good and business will not be impacted. I have stated to having the exiting deal remain with a 3 months review which is October.

We have managed to de risk ourselves while maintaining a good relationship to ensure the business is not impacted.

Heidi, we shall remove their logos off of the room by the end of this month latest. Please work with Silvia for details. Facilities must take this as priority once the date is confirmed.

Thank you all, this is a good outcome.

329. On 29 August 2019, Ms Mui sent an email to Mr Lim and Ms Heidi Huang (copying others) titled “Macau Suncity Meeting 28/8”. The email included:<sup>422</sup>

I just had a meeting with Suncity today with Alan Iek and Sandra Cheong, who are the senior representatives of Suncity.

We indicated that from September 1st, we will move their fixed room (Salon 95) to a Salon in Lakes 17th. After we allocate a new Salon for Suncity, Johnny Hui will take pictures of new Salon for Mr. Alvin Chau to be notify.

I have also stated that we hope there will be no brand logo in the new Salon and suggested that they can put it on the TV screen, or put the brand ads like a name sign on the tables, and also being advise not to wear any company badges on staffs uniforms as well.

330. After the exchange of further emails, Ms Mui circulated the following email dated 30 August 2018 to the same individuals summarising the agreement with Suncity regarding the closure of Salon 95 and the new Salon 82:<sup>423</sup>

Here is the conclusion of Suncity, notified by Mr. Alvin Chau.

1. Effective from 1/ Sept 00:00, Salon 95 will officially move to Salon 82, and Salon 95 will return to us immediate.
2. Salon 82 will not have signage of SC, but will put TV screens on.
3. They will fill up Salon with branded amenities like ash trays and lighters.
4. If in needs, we will assign extra Salon for them for special VIPs
5. If there are no guest, shall discuss with Ops team about closing tables.
6. SC staffs was approved not to wear badges while on shift.
7. Complimentary room for SC (RM#810), they wish to request one more room.
8. Settlement SOP stays the same as it was.
9. Since TT funds from Macau to Australia is not as smooth and easy as it was, so in future for SC paying outstanding funds, maybe we have to collect money from their Macau JK cage.
10. The key contact person for Australia business of SC is —[named person].

331. Ms Arnott was asked about the risks of dealing with Suncity in Salon 95:<sup>424</sup>

Q: Isn't it right that in 2019, the operations of Salon 95 were extremely high risk, from a money laundering perspective?

A: They were certainly high risk. I - having not done the risk assessment in relation to that, I - yes, they are - they were high risk.

Q: And isn't it right that on the information available to you in 2019, you could have no confidence at all that Suncity was complying with the controls that had been imposed by Star Entertainment?

A: No, but when - no.

Q: So you agree with me?

A: I agree that they weren't complying with the controls in 2019. No.

Q: And you could have no confidence that they were capable of complying?

A: With those controls? No.

332. No doubt there was a perception at The Star and Star Entertainment that the risk exposure of continuing the relationship with the Suncity as at August or September 2019 was reduced due to the cessation of the service desk arrangement in Salon 95 and the move to Salon 82. However, the circumstances dictated that the casino operator needed to rigorously assess the propriety of continuing any business relationship with Suncity at that point.

333. Mr Bekier was asked about his comment “Why not?” recorded in *The Sydney Morning Herald* and *The Age* in response to being asked whether The Star would still be “using” Suncity. Mr Bekier explained in his evidence that he made the comment on the assumption that appropriate due diligence had been performed regarding Suncity.<sup>425</sup> That assumption was incorrect.

### Chapter 13.14 Relevant Evidence given to the Bergin Inquiry

334. The Bergin Inquiry commenced on 14 August 2019. The Bergin Inquiry was not concerned with The Star, as the sole existing casino licensee in NSW at the time. That inquiry was solely focused upon Crown Sydney and its parent company, Crown Resorts. However, two employees from The Star gave evidence to Commissioner Bergin SC during the public hearings. Ms Arnott gave evidence on 3 and 6 August 2020,<sup>426</sup> and Mr Hawkins gave evidence on 4 August 2020.<sup>427</sup> Both witnesses had also provided witness statements to the Bergin Inquiry.

#### 13.14.1 Mr Hawkins' evidence before the Bergin Inquiry: 4 August 2020

335. On 4 August 2020, Mr Hawkins' evidence related to the IRB at The Star. Mr Hawkins was asked questions in relation to Salon 95. Mr Hawkins gave the following evidence in relation to whether any cage was operated in Salon 95:<sup>428</sup>

Q: Did Suncity staff operate their own cash desk in the Suncity Room?

A: No, they didn't operate a cash desk; they operated what we call a service desk.

Q: And at that service desk could cash be exchanged for chips with Suncity staff?

A: I think they would perform some of what we call the rolling of the non-negotiable chips may have occurred there, but I expect there wouldn't have been cash to chip exchanges happening that desk.

...

Q: [Was] the understanding of Star, if you can speak to that, was that cash transactions should not occur at that service desk?

A: Yes, that would be right. The service desk was there to assist with general service of the customers that Suncity may have had playing on various programs.

Q: Was there – just so we can understand more about the Suncity service desk, what exactly – what activity was conducted there?

A: They would – for example, it could be managing tourism-related experiences for their customers. It could be used to facilitate transportation arrangements for customers who are in the room. It could be used as a point for any of the customers who may be visiting Australia for the first time to interact with one of the staff there to assist them with their guest experience.

...

Q: And that we now know depicted somebody depositing from an Aldi cooler bag very large bundles of cash on to the Suncity service desk at Crown Melbourne. Now, that particular activity, could that ever have happened at the Suncity desk at the Star in Sydney?

A: I would expect not. If it were to occur or the presentation of cash were to occur there that would be directed to the satellite cage or immediately picked up by a surveillance team and reported as a suspicious transaction.

Q: I was just going to ask you why wasn't it appropriate for that kind of activity to occur at the Suncity desk?

A: Because the desk was established as a service desk, not for a front money or transaction desk for funds.

336. During his examination before this Review, Mr Hawkins was taken to his evidence before the Bergin Inquiry.<sup>429</sup> It was suggested to Mr Hawkins that the evidence he gave to the Bergin Inquiry “was not correct”.<sup>430</sup> Mr Hawkins said: “It was certainly what I recalled at the time of that questioning”.<sup>431</sup> It was drawn to Mr Hawkins’ attention that at time of giving evidence before the Bergin Inquiry, he had issued two warning letters to Suncity “telling them not to engage in cash transactions at the service desk”, which Mr Hawkins agreed that he had.<sup>432</sup> It was also drawn to Mr Hawkins’ attention that the Service Desk SOP had been provided to Suncity “that said they could engage in some cash transactions at the service desk”.<sup>433</sup> Mr Hawkins agreed with that proposition.<sup>434</sup>

337. Mr Hawkins then gave the following evidence:<sup>435</sup>

Q: Well, you must have known that these answers you gave to Commissioner Bergin were wrong at the time you gave them?

A: No, that’s not right. I mean, my response to your questions at the time was what I recalled. I think the witness – the statement that I provided didn’t specifically cover off any of this questioning. So at the time that you were providing those questions to me, that is what I recall at that stage.

Q: And, in fact, in between the period when you sent the *first* warning letter and the second warning letter to Suncity, the general counsel at Star Sydney, Andrew Power, had advised you there was an unacceptable risk occurring in Salon 95, hadn't he?

A: Yes. He had sent that letter, yes.

Q: So it was clear to you at the time you gave your evidence to Commissioner Bergin that there had, in fact, been a significant problem with cash transactions in Salon 95; correct?

A: I accept that that had occurred. But at – at the time, in wanting to respond without having had prepared for it, I just could not – I didn't recall that at the stage. And I recall there was some other interjection occurring at the time when I was giving the responses, but –

Q: Did you set out to mislead Commissioner Bergin in the evidence you gave that day to that inquiry?

A: No, absolutely not.

### *13.14.2 The correctness of Mr Hawkins' answers to the Bergin Inquiry*

338. In evidence before Commissioner Bergin SC Mr Hawkins was directly asked about three matters pertaining to Salon 95 to the effect of:<sup>436</sup>

- (a) first, whether cash could be exchanged for chips with Suncity staff;
- (b) second, what exactly was conducted at the Suncity service desk; and
- (c) third, whether the activity recorded at Crown involving the Aldi cooler bag could ever have happened at the Suncity desk at The Star Casino.

339. Mr Hawkins' answers to each of the above questions was:<sup>437</sup>

- (a) first, Suncity would perform some rolling of the non-negotiable chips but there would not have been cash to chip exchanges happening that desk;
- (b) second, the Suncity service desk could be managing tourism-related experiences for their customers, facilitate transport, and similar; and
- (c) third, that Mr Hawkins would expect that the activity recorded at Crown involving the Aldi cooler bag could never have happened at the Suncity desk at The Star Casino.

340. Each of those answers was incorrect.

341. As to the first answer, there were ongoing cash for chip transactions occurring at the service desk in Salon 95 between April and May in 2018. Mr Hawkins knew of that fact. He had sent two warning letters, the first on 10 May 2018 and the second on 5 June 2018, to Suncity.<sup>438</sup> The first warning letter specifically stated that the exchange of cash for chips was prohibited. The second warning letter did not make express reference to cash for chip transactions.<sup>439</sup> However, the second letter was sent because the conduct which caused the

first warning letter to be sent and the Service Desk SOP to be provided to Suncity was subsisting. Further, on 15 May 2018, Mr Power's advice to Mr Hawkins had stated:<sup>440</sup>

**Legal and Regulatory Risks:** In my opinion, the junket group's conduct has exposed The Star to an unacceptable level of risk and constitutes a breach of the agreement, of applicable laws or otherwise amounts to casino operations. In particular –

1. Cash for chip (and vice versa) transactions taking place at the service desk;
2. Withdrawal of cash (terms unknown) by non-junket participants at the service desk and other locations (including retail).

342. As to the second answer, the service desk's purpose was not solely limited to "managing tourism-related experiences for their customers". Mr Hawkins was asked what "exactly" went on at the service desk and his answer was incorrect in suggesting that only guest experience-type interactions took place. The service desk window was utilised by Suncity staff to receive and provide cash and chips to patrons. While it may well have also had other purposes that were connected with the customer "experience", a purpose, about which Commissioner Bergin SC should have been informed in Mr Hawkins' evidence was that the Service Desk SOP specifically permitted cash transactions at the service desk. In fact, at least between late April and late May 2018, though unauthorised by The Star, the service desk engaged in cage functions.

343. As to the third answer, there were numerous cash transactions involving large amounts of cash occurring at the service desk in Salon 95. Indeed, several CCTV footage excerpts were played during the public hearings during this Review depicting bags of cash being dropped off at the service desk and then counted by Suncity staff. Mr Power directly raised the issue of large quantities of cash being distributed through the service desk in his email of 15 May 2018 to Mr Hawkins. The email relevantly stated:<sup>441</sup>

Equally, concerns are also held around –

1. Reporting requirements arising from the services offered and compliance with AML reporting requirements
2. source of funds and presentation of large quantities of cash into salon 95
3. Retention of documents relating to transactions
4. Reports by other junket groups that large quantities of cash had been sourced from the "Suncity Group" (presumed to be the IEK junket).

344. Mr Hawkins' third answer is contradicted by Mr Power's email. Large quantities of cash had been deposited into Salon 95.

### *13.14.3 Mr Hawkins' explanation for his evidence to the Bergin Inquiry*

345. Mr Hawkins gave the following evidence to the Review as his explanation for his evidence before Commissioner Bergin SC:<sup>442</sup>

Q: Mr Hawkins, are you asking me to accept that when you gave this evidence to Commissioner Bergin SC in 2020, you had forgotten that there had been cash for chips exchanges occurring at the Suncity desk in 2018 and large cash transactions occurring in both 2018 and 2019?

A: Mr Bell, I'm – I'm asking you to accept that at that time, I had been particularly focused on the statement I'd prepared, which didn't include this line of questioning. And my responses then, this was the best of my recollection. I accept that I clearly was aware of other matters. But at that point in time, that's what I could recall.

Q: You hadn't forgotten those matters, had you?

A: I certainly didn't recall them specifically at the time of this. I hadn't researched and improved my level of understanding in terms of responding to those questions at the time.

Q: So you are asking me to accept, aren't you, that at the time you gave this evidence to Commissioner Bergin in 2020, you had forgotten the cash for chip exchanges that had occurred at the Suncity desk in 2018 and the large cash transactions that had occurred there in 2018 and 2019; is that the case?

A: I'm asking you to accept that the – the cash for chip transactions, I didn't recall at the time. And as guided previously, I was only at the time aware – now I know of one cash transaction in the room. I wasn't aware of those others. I only became aware of that over the last few months.

Q: And are you asking me to accept that you had forgotten that you had issued two warning letters to Suncity for serious breaches of protocols and procedures?

A: At the time I was responding to that, I – I didn't recall that and apply it to that scenario. So I accept – accept that.

Q: How could you have forgotten those matters, Mr Hawkins, at the time you gave your evidence on oath to Commissioner Bergin?

A: I think at the time, as I said, I wasn't necessarily prepared for this line of questioning. I had been focused on other matters that I was expected to be asked about. So I hadn't reviewed or been prepared in any way for those matters that occurred a couple of years prior.

### *13.14.4 Conclusions concerning Mr Hawkins' evidence to the Bergin Inquiry*

346. Counsel Assisting made the following submission<sup>443</sup>:

We submit that evidence that Mr Hawkins gave to the Bergin Inquiry, which was drawn to his attention on day 25, is of considerable concern and that he did not have a good answer to that when it was put to him. We do submit that he gave false

evidence to the Bergin Inquiry in relation to not being aware of cash transactions of concern happening there and, in that regard, we refer to the transcript at day 25 at page 2807 to 2809

347. In written submissions, counsel for Mr Hawkins submitted that Mr Hawkins' failure to refer to issues in evidence to the Bergin Inquiry which had arisen in relation to Suncity was in no way false or a deliberate attempt to mislead or obscure the truth.<sup>444</sup> This was for three reasons:<sup>445</sup>
- (a) Mr Hawkins understood what was sought from him as part of the Bergin Inquiry was to provide context of the way The Star, as a comparable casino to Crown, operated at a general level. He did not expect to be required to give evidence on specific and more granular aspects of The Star's operations;
  - (b) Mr Hawkins therefore reasonably focused his preparations for his evidence to the Bergin Inquiry by reference to proposed topics provided by the Solicitors Assisting that inquiry. He did not seek to refresh his memory on any other matters; and
  - (c) Commissioner Bergin SC recognised that Mr Hawkins had not been properly put on notice of questions in relation to specific matters at The Star and specifically stated that Mr Hawkins would not be at risk of any adverse comment without such notice.
348. In relation to the third matter, counsel for Mr Hawkins pointed to the following exchange between counsel for The Star and Commissioner Bergin SC when Counsel Assisting sought to revisit questions about the service desk for Suncity:<sup>446</sup>

MS RICHARDSON: Sorry. There is also a procedural aspect – a procedural fairness issue with these questions, in my submission, in circumstances where the Star has been given specific notice about the subject areas of questioning of these witnesses and he is now being asked very specific questions about specific customers in specific rooms, and I apprehend if he doesn't know the answer to a question, that might be the subject of adverse suggestion when these witnesses have come along to answer questions about identified separate subject areas.

COMMISSIONER BERGIN: I think there was notification certainly to Star that the subject of junkets would be explored. There's no doubt about that. That is irrespective of what was covered in the detail of his submission, but he can be asked this question and I think your point – have I understood you correctly, you're concerned about adverse – was it adverse comment that you said?

MS RICHARDSON: Well, in the sense that if the witness doesn't know the answer to a particular question, which is in a subject area about which we've not had notice would be the subject of questioning, in circumstances where we were given specific notice that certain other identified topics, all of which relate to matters at a level of generality, would be dealt with.

COMMISSIONER BERGIN : Yes. No, certainly, Mr Hawkins will not be at risk, neither will Star, of any adverse comment without notice of information to be provided and answered, so fear not, Ms Richardson.

349. Mr Hawkins' evidence to the Bergin Inquiry was objectively incorrect. However to find that Mr Hawkins *may* have given deliberately false evidence to Commissioner Bergin SC, which would be a basis to refer the matter to a law enforcement agency under section 12A(2) of the *Royal Commissions Act*, would be a very serious finding. In light of the exchange between counsel for The Star and Commissioner Bergin SC extracted above in relation to how Mr Hawkins' evidence would be treated by the Bergin Inquiry, it would be profoundly unfair to make such a finding. No such finding is made.
350. A separate issue is that Mr Hawkins and (more relevantly for present purposes, given that Mr Hawkins has resigned) The Star had plenty of opportunity to take steps subsequently to correct the erroneous evidence which Mr Hawkins had given to Commissioner Bergin SC. That evidence should have been corrected. It was not.
351. The Star Entities submitted that The Star ought not to be criticised for failing to correct Mr Hawkins' evidence because Ms Arnott's evidence to Commissioner Bergin SC did so.<sup>447</sup> Accordingly, it is necessary to consider Ms Arnott's evidence to the Bergin Inquiry.

#### ***13.14.4 Ms Arnott's evidence before the Bergin Inquiry: 3 and 6 August 2020***

352. On 3 August 2020, Ms Arnott gave the following evidence before Commissioner Bergin SC:<sup>448</sup>

Q: Now, did that Suncity service desk have the ability to receive cash deposits?

A: They would accept cash from customers that would be brought through to the casino cage for the actual buy-in to take place.

Q: Was it possible at the Suncity service desk for somebody to provide cash to that desk and then have chips given to them at that same desk in exchange?

A: My understanding is that there were some instances of that occurring and we took steps to make sure that didn't occur because we thought it was inconsistent with the way that should be operating.

...

Q: And what steps do you say were taken in relation to those incidents?

A: So we spoke with Suncity and we developed a protocol for them to follow to say if they wished to maintain a room with us then they would have to make sure that they complied with all of the relevant – or helped us to comply with all of our relevant obligations. So if they were accepting cash

then that – it couldn't be a direct one for one swap where they provided cash – took cash from a customer and provided chips because we took the view that that would in fact be offering a designated service. So they could accept cash as they would ordinarily from any junket – any junket operator will accept cash from their customers and then they bring it to the cage as they ordinarily would and deposit it in the cage. And then once that had happened they were able to issue chips.

353. On 6 August 2020, Ms Arnott gave further evidence before Commissioner Bergin SC regarding cash/chip transactions occurring at the “Suncity desk” and she provided an estimate of the number of such transactions that took place.<sup>449</sup> Ms Arnott was examined about Mr Hawkins' evidence on the topic. Ms Arnott gave the following evidence to Commissioner Bergin SC:<sup>450</sup>

Q: Would it surprise you to know that Mr Hawkins gave evidence that cash was not exchanged at the Suncity desk?

A: So they accept cash and then bring it to the cage. I'm not sure - - -

Q: Yes, so when you say the cage do you mean the cage on the casino floor do you?

A: Yes, that's right.

Q: So the exchange takes place within the casino, that's the Star Casino desk, even though it's presented, perhaps, at the service desk of Suncity. Is that what you're saying?

A: That's correct, because at the cage the – and this – at the cage the only people who are able to transact on the junket operator's accounts are the junket operator and the junket representatives, so at some time they – if they're bringing cash to the cage to transact they have to have gotten that cash from somewhere, whether it's a customer of theirs or from their own business.

Q: But just let me understand - - -

A: And then they would bring it to the cage.

Q: I'm sorry, Ms Arnott.

A: No, you're fine.

Q: In respect of the Suncity Room - - -

A: Yes.

Q: - - - when you changed your policy after you found this unsatisfactory arrangement, it was a requirement that the money that was presented to the Suncity people had to be brought within the casino cage, that is, the Star cage. Is that right?

A: That's correct.

Q: Yes, I understand. Yes. Thank you.

354. The Star Entities are correct in pointing out that Ms Arnott's evidence to the Bergin Inquiry did reveal problems regarding the Salon 95 service desk, including the occurrence of cash for chip exchanges. Further, the discrepancy between Ms Arnott's evidence and Mr Hawkins' evidence was raised, though perhaps not finally resolved having regard to the way in which the evidence developed. It is also relevant that the activities at The Star were not the focus of the Bergin Inquiry's investigation.
355. Nevertheless The Star was closely monitoring the evidence in the Bergin Inquiry.<sup>451</sup> It would have been appropriate for The Star to provide a written correction to those assisting Commissioner Bergin SC to ensure that any misleading impression arising from Mr Hawkins evidence did not subsist. The Star did not take that course.

#### *13.14.5 Disclosure to this Review of the events in Salon 95*

356. A letter from the Solicitors Assisting this Review dated 1 October 2021 to Star Entertainment requested the following information:
8. Please state all facts, matters or circumstances which The Star considers may affect the suitability of The Star or any Close Associate in the period from 28 November 2016 to date (Relevant Period) which have not previously been disclosed in writing to the Authority.
357. Although a number of matters were identified in answer to that question in the information response to the Review dated 8 November 2021, The Star Entities accept that The Star did not address Suncity and should have done so.<sup>452</sup>

### **Chapter 13.15 The Evolving Due Diligence Reports of Mr Buchanan**

#### *13.15.1 The 1 October 2020 memorandum*

##### **Mr Buchanan's chronology**

358. On 20 January 2020, Mr Buchanan gave evidence that he met with Mr Power, Mr Houlihan and Mr White regarding the preparation of a chronology of Star Entertainment's relationship with Suncity between 2011 and September 2019.<sup>453</sup> It was Mr Buchanan's understanding that this was to assist the legal team to provide advice in relation to the Bergin Inquiry. Mr Buchanan prepared that chronology, which is dated 13 February 2020 (**Buchanan Chronology**).<sup>454</sup> The chronology was detailed and consistent in many respects with the narrative regarding the operation of Salon 95 discussed in this Chapter.

**The 1 October 2020 memorandum**

359. On 2 September 2020, Mr Buchanan had a telephone conversation with Mr Houlihan who told Mr Buchanan to provide an “updated due diligence assessment” of Mr Chau.<sup>455</sup> Mr Buchanan had understood that the instructions for the report had come from Mr Power (and the instructions were conveyed by Mr Houlihan), and the report was to make a recommendation about how Star Entertainment “might proceed in its relationship” with Suncity and Mr Chau.<sup>456</sup> Mr Buchanan described the initial conversation he had with Mr Houlihan as an “initial briefing”.<sup>457</sup>

360. On 1 October 2020, Mr Buchanan completed his first due diligence report titled “Updated Assessment - Alvin CHAU Cheok Wa (Suncity Group Ltd)” (**1 October 2020 memorandum**).<sup>458</sup> The report-like memorandum was addressed to Mr Power and was copied to Mr White and Mr Houlihan. Mr Buchanan referred to the document in his evidence as “the first draft”.<sup>459</sup> The email subject was “Privileged and Confidential - Draft Report”.

361. The stated “purpose” of the 1 October 2020 memorandum was:<sup>460</sup>

[1] This paper is to assist the Legal team provide advice to the Board on matters pertaining to both Alvin CHAU Cheok Wa (Mr CHAU) and Suncity Group Ltd (Suncity) who have repeatedly been referred to during the Independent Liquor & Gaming Authority’s (ILGA) Bergin Inquiry.

362. The “executive summary” stated:<sup>461</sup>

[2] Following widespread media allegations during July 2019, which suggested Mr CHAU was a triad member with organised crime links, the ILGA established the Bergin Inquiry in August 2019. Public hearings subsequently commenced during January 2020. This report provides an assessment of The Star’s commercial relationship with Mr CHAU (Suncity) and evaluates how effective the Joint Anti-Money Laundering/Counter Terrorism Financing (AML/CTF) Program has been during this business engagement.

[3] Taking cognizance of all available information, it is assessed Mr CHAU, as alleged, was indeed a member of the 14K triad group in his youth. Contemporary information suggests he is no longer an active member and that he has disassociated himself from his triad antecedents as he attempts to ‘gentrify’ his varied business interests. However, it is suspected Mr CHAU, and/or his subordinates, retain close links with triad entities who assist with certain aspects of his VIP junket business i.e. collecting gambling debts in China etc.

363. The executive summary proceeded to set out some important facts and steps in the course of Star Entertainment’s dealings with Suncity (also expressing Mr Buchanan’s own opinions), including:<sup>462</sup>

- (a) following a 2014 ABC Four Corners program, “High Rollers, High Risk”, no reference to the triad related allegations was entered in Protecht, that is, The Star’s AML/CTF database and risk register (paragraph 4);
- (b) in May 2018, an internal investigation was instigated after it emerged that Suncity were not adhering to the Service Desk SOP (paragraph 5);
- (c) during May and June 2018, the Chief Casino Officer issued two warning letters to Mr Iek. On 21 June 2018, the 2018 Rebate Agreement was signed (paragraph 6). Mr Buchanan noted here in relation to that decision that “the signing of a new agreement with Mr Iek, following repeated non-compliance behaviour by his staff, is questionable from a probity standpoint”;
- (d) the comment was made that “Given the serious nature of the non-compliant behaviour, it is surprising that an official audit/review of Suncity’s operations did not take place as a matter of urgency. A review subsequently took place some eight months later” (paragraph 7). Mr Buchanan was critical of the minimal “risk mitigation measures” undertaken by The Star and then stated “Given the extent of Suncity’s continued noncompliance, The Star’s response was a somewhat weak and not proportionate to the risk”;
- (e) on 10 September 2019 an “Improvement Team” was established following the media allegations relating to Crown Resorts and Suncity. Mr Buchanan stated that this step should have been taken in 2018 “following the 2018 investigation into Suncity’s suspected money laundering activities at Salon 95” (paragraph 8); and
- (f) during the course of The Star’s business relationship with Mr Chau and Suncity, The Star’s “AML/CTF processes/procedures have strengthened considerably in recent times” (paragraph 9). He referred to recent improvements such as the transition from Protecht to TrackVia.

364. Mr Buchanan then concluded the executive summary by recommending that:<sup>463</sup>

[T]he business undertakes a review as to the appropriateness of continuing to maintain a business relationship with Mr CHAU and Suncity. Given the widespread media coverage, and subsequent negative commentary pertaining to Mr CHAU during the Inquiry, there is some concern that should The Star continue to engage with Mr CHAU, it may be construed that the business is willing to ‘turn a blind eye’ to his triad antecedents and purported links to organised crime.

365. At paragraph 34 of the 1 October 2020 memorandum, Mr Buchanan stated:<sup>464</sup>

[34] During 2019, Nine Entertainment Co reported that the HKJC received a Suncity related briefing from Australian Law Enforcement in 2017. The briefing is alleged to have referenced Mr CHENG's i) suspected triad associations ii) purported involvement in large scale money laundering activities and iii) interest to Australian Law Enforcement. This reporting is known to be factual.

366. Mr Buchanan concluded the 1 October 2020 memorandum by making the following recommendations:<sup>465</sup>

- That the business undertakes a holistic review as to the appropriateness of continuing to maintain a business relationship with Mr CHAU and Suncity. Given the widespread media coverage, and subsequent negative commentary pertaining to Mr CHAU during the Inquiry, there is some concern that should The Star continue to engage with Mr CHAU, it may be construed that the business is willing to 'turn a blind eye' to his triad antecedents and purported links to organised crime. In the current climate, continuing the business relationship may pose a reputational risk.
- That any future serious AML/CTF related non-compliance is comprehensively documented in TrackVia. For completeness sake, and transparency, actions taken to rectify the non-compliance should also be documented.
- That as a business risk mitigation measure, The Star continues to improve and expand the AML/CTF work area. To this end, it is suggested the recently proposed Financial Intelligence Unit would be a major step in augmenting the business' financial crime risk capability.

367. The 1 October 2020 memorandum attached the Buchanan Chronology.<sup>466</sup>

#### ***13.15.2 Mr Buchanan's meetings with Mr Power and Mr Houlihan***

368. Mr Buchanan's 1 October 2020 memorandum subsequently underwent a process of amendment due to input and feedback from Mr Power and, to a lesser extent, Mr Houlihan. Mr Buchanan agreed that he had "changed [his] report very substantially".<sup>467</sup> He agreed that the changes were "on the basis of conversations [he] had with Mr Power and Mr Houlihan".<sup>468</sup> Mr Buchanan denied that Mr Power and Mr Houlihan encouraged or pressured him to make changes, and instead, his evidence was that they told him to "shorten" his report and "provide options".<sup>469</sup> Those options ended up including a choice between ceasing and continuing the Suncity relationship, and reasons for and against each "option".

369. Between June 2020 and December 2021 (while Ms Arnott was on maternity leave), Mr Power and Mr Houlihan were acting as joint AML/CTF Compliance Officers at Star Entertainment.<sup>470</sup> Mr Buchanan said that he reported to Mr Houlihan; this was "officially" from November 2021, but Mr Buchanan explained that in reality he was predominantly

reporting to Mr Houlihan shortly after he commenced his employment at Star Entertainment in May 2019.<sup>471</sup> It is also the case that both Mr Power and Mr Houlihan were Mr Buchanan's superiors.<sup>472</sup> That relationship is relevant to understanding the dynamic between them.

370. On 16 October 2020, Mr Buchanan sent a follow-up email to Mr Power regarding the 1 October 2020 memorandum stating:<sup>473</sup>

Was just wondering, from your perspective, if my recent report/review adequately covered the subject matter in question?

If you believe I may be able to assist with other matters relating to the Inquiry, do let me know.

371. On 19 November 2020, Mr Buchanan met with Mr Power and Mr Houlihan.<sup>474</sup> Mr Buchanan stated that at that meeting he was asked to "shorten" the 1 October 2020 memorandum.<sup>475</sup> Mr Houlihan denied asking Mr Buchanan to amend his memorandum. His evidence was that he and Mr Power "made some directions to make a recommendation as to whether we should cease to deal with, or to continue a relationship with" Mr Chau and he thought that "there was a discussion about making it more succinct and shorter, but not to change the context" of the memorandum.<sup>476</sup>
372. Mr Power gave evidence that the feedback he provided to Mr Buchanan "was more in the style of feedback in relation to the report".<sup>477</sup> Mr Power denied asking Mr Buchanan to "water down" assertions that Mr Buchanan had made regarding "Alvin Chau and his links to organised crime" and "Alvin Chau's links to money laundering".<sup>478</sup>
373. On 25 November 2020, Mr Buchanan sent an email to Mr Power and Mr Houlihan attaching a "DRAFT – Revised AC SC Assessment" dated 24 November 2020 (**24 November 2020 memorandum**). The email stated:<sup>479</sup>

Please find attached the revised draft of the Alvin CHAU/Suncity related assessment. Apologies, it took a little longer to compile than initially anticipated.

Again, happy to make any changes/additions as may be required.

374. The 24 November 2020 memorandum was substantially amended from the 1 October 2020 memorandum. A key change in the 24 November 2020 version was that Mr Buchanan proffered two options to the business in the concluding "assessment" part of his report, namely, the first option was to cease the relationship with Suncity and Mr Chau, and the

second option was to continue the relationship.<sup>480</sup> He did not make a recommendation either way.

375. On 7 December 2020, Mr Buchanan had a further meeting with Mr Power and Mr Houlihan.<sup>481</sup> At that meeting, Mr Power handed Mr Buchanan a hard copy mark-up of the document that Mr Buchanan had circulated in his email of 25 November 2020.<sup>482</sup> Mr Buchanan stated that he discussed with Mr Power the proposed amendments and that Mr Buchanan was comfortable with those amendments.<sup>483</sup>

376. On 8 January 2021, Mr Buchanan sent an email to Mr Power and Mr Houlihan attaching a further updated version of his memorandum (**7 January 2021 memorandum**).<sup>484</sup> The email also attached an updated “ECDD Profile – Alvin CHAU Cheok Wa”.<sup>485</sup> The email stated:<sup>486</sup>

Please find attached the revised Alvin CHAU/Suncity Assessment.

For ease of reference, I have also attached the Updated ECDD Profile.

377. In total, there were three main versions of Mr Buchanan’s memorandum:

- (a) the 1 October 2020 memorandum<sup>487</sup> – this version had no direct input from any other person;
- (b) the 24 November 2020 memorandum<sup>488</sup> – this version reflected comments made by Mr Power and Mr Houlihan at the meeting of 19 November 2020; and
- (c) the 7 January 2021 memorandum<sup>489</sup> – this version reflected comments made by Mr Power and Mr Houlihan at the 7 December 2020 meeting and also the physically marked-up document provided by Mr Power to Mr Buchanan at that meeting.

### *13.15.3 Changes between the 1 October 2020 and 24 November 2020 versions*

378. It was repeatedly suggested to Mr Buchanan during his examination that he “watered down” his 1 October 2020 memorandum.<sup>490</sup> Mr Buchanan denied the suggestion on each occasion, and maintained that the comments and feedback, principally from Mr Power, were in the nature of shortening the memorandum.

379. A material change between the 1 October 2020 and the 24 November 2020 memoranda was that several criticisms by Mr Buchanan of The Star and its response to the situation in Salon 95 were removed. One example of this is the removal of Mr Buchanan’s opinion that “Given the extent of Suncity’s continued non-compliance, The Star’s response was a

somewhat weak and not proportionate to the risk” (expressed at paragraph 7).<sup>491</sup> That criticism was entirely appropriate given that Mr Buchanan was addressing the inadequacy of The Star’s response to the very concerning breaches by Suncity at the service desk around the period of May 2018. That opinion and wording did not appear in the 24 November 2020 memorandum.

380. A second example was Mr Buchanan’s opinion in the 1 October 2020 memorandum that “Given the widespread media coverage, and subsequent negative commentary pertaining to Mr CHAU during the Inquiry, there is some concern that should The Star continue to engage with Mr CHAU, it may be construed that the business is willing to ‘turn a blind eye’ to his triad antecedents and purported links to organised crime”.<sup>492</sup> This opinion and wording did not appear in the 24 November 2020 memorandum.

381. Mr Buchanan was asked whether the second example, and the removal of his criticism, was because he knew that The Star may wish to continue in a business relationship with Suncity. His evidence was:<sup>493</sup>

No, it wasn’t that. Honestly, I just – it was to give a couple of – there’s two options – there were only two options to give. There was one that we continue to deal and one that we cease the relationship, and that was trying to get supporting arguments on both sides. Otherwise, as I said earlier, it would just be – the – the options are cease to deal or continue.

382. Mr Buchanan’s answer alluded to the fact there were two options introduced in the 24 November 2020 memorandum. It is not clear why that change was made. Mr Power’s evidence (albeit in relation to a later document as part of the “Project Congo” review, which reproduced the “options approach”, see below) on this question was that he wanted Mr Buchanan to provide a recommendation, not options. Mr Power’s evidence was:<sup>494</sup>

I believe it is a view expressed by Mr Buchanan. I don't – I don't – I don't agree that it's necessarily intended to mislead. I think it reflects the fact that Mr Buchanan – I mean, I don't find this particularly helpful, him outlining options. What Mr Buchanan was asked to do was to provide a recommendation, and I think this reflects the fact that he was – he was having difficulty with that.

383. Mr Buchanan did not appear to be struggling towards a recommendation in the 1 October 2020 memorandum; he removed the reference to the “concern that should The Star continue to engage with Mr CHAU, it may be construed that the business is willing to ‘turn a blind eye’ to his triad antecedents and purported links to organised crime” after receiving Mr Power’s and Mr Houlihan’s comments on that draft.

#### 13.15.4 Mr Power's deletions in the marked up copy

384. Mr Power's annotated copy of the 24 November 2020 memorandum shows that he suggested significant deletions.<sup>495</sup> Mr Buchanan gave evidence that he "basically made all of the changes that Mr Power suggested".<sup>496</sup> There were several key changes which were accepted by Mr Buchanan and which were implemented and given effect to in the final 7 January 2021 memorandum.

385. One such example was the deletion of the final sentence in paragraph 13 of the 24 November 2020 memorandum:<sup>497</sup>

[13] As way of background, The Star entered into a business relationship with Mr CHAU and Suncity during 2011. ~~A chronology, detailing the main events that occurred during the relationship (from 2011—2019), was compiled during February 2020 and is attached for reference purposes (Attachment 1 refers).~~

386. This had the effect of removing the Buchanan Chronology from the memorandum as an attachment. That chronology contained important and material information, including the references to the primary sources and internal emails. The Buchanan Chronology did not appear as an attachment in the 7 January 2021 memorandum.

387. Another deletion suggested by Mr Power was made to paragraph 36 of the 24 November 2020 memorandum:<sup>498</sup>

[36] On 21 June 2018, a Renewal Agreement (Win /Loss Rebate & Exclusive Access Agreement) was signed between The Star and Mr IEK. ~~It is suggested that a clause should have been added to this agreement stating future non-compliance would not be tolerated and may lead to the voiding of the agreement. From an external optics perspective, the signing of a new agreement with Mr IEK following repeated non-compliance by his staff is questionable.~~

388. The equivalent paragraph in the 7 January 2021 version states:<sup>499</sup>

[36] On 21 June 2018, a Renewal Agreement (Win /Loss Rebate & Exclusive Access Agreement) was signed between The Star and Mr IEK.

389. Evidently, the criticism of the entry to the 2018 Rebate Agreement was removed. That criticism by Mr Buchanan in the 24 November 2020 memorandum was justified and important.

390. In another series of deletions by Mr Power, criticisms of The Star's own due diligence processes and steps were removed. These included the following deletions:<sup>500</sup>

~~[37] No entries in Protecht reference the fact Warning Letters were issued to Suncity in relation to non-compliance at Salon 95.~~

~~[38] Taking cognizance of the suspected money laundering activity which occurred at Salon 95, it is surprising an official audit/review of Suncity's operations did not take place. It is suggested that a revised risk assessment should have been completed as a matter of course. No additional ECDD was conducted on Mr CHAU, Mr IEK or indeed any of the Junket Representatives. AML risk ratings remained the same despite the fact suspicious money laundering activity appeared to be continuing at Salon 95. [Redacted], the AML/CTF area appears to have taken no risk mitigation measures~~

...

~~[42] The Review found The Star's existing ECDD methodology did not take account of the fact the majority of The Star's Junket Promoters, Representatives, Funders and Participants come from China, Hong Kong and Macau. Given the demographic of these individuals, the fact that Chinese language databases were not being utilised as part of the ECDD process was deemed as being a vulnerability. 'World Check' and 'Google' checks, though useful, were considered as being too narrow in scope when conducting ECDD on Patrons from Greater China.~~

~~[43] Consequently, several Chinese language databases and news aggregator sites were introduced to supplement the existing ECDD methodology. The databases assist the AML team in determining more accurate AML/CTF risk ratings based on in-depth due diligence screening.~~

~~[44] The Review found that ECDD related 'Google' searches were not being completed as rigorously as perhaps they should. An example of information having been overlooked on 'Google' is the fact The Star was unaware of Mr CHAU's PEP status until March 2020 when his risk rating was raised to Very High. Mr CHAU had in fact become a PEP during 2013. This information was openly available in 'Google' and could have been ascertained had the correct search parameters been set. Mr CHAU's PEP status should also have been identified and promulgated by 'World Check' in 2013 via the automated Transwatch monitoring system.~~

...

391. Mr Power's evidence in relation to some of these deletions was:<sup>501</sup>

Q: And at paragraph 42, 43 and 44, which I will have shown to you, you are also directing the deletion of a criticism of the process, aren't you?

A: If I could just see those paragraphs, please. Apologies, Ms Sharp. Would you mind repeating the question, please?

Q: What you are doing is deleting from this document criticisms of the process that The Star had followed in managing Alvin Chau and Suncity?

A: I'm not sure I would agree to that characterisation. I accept that paragraphs 42 and 44, I have suggested the deletion of commentary about the effectiveness of The Star's AML program historically. But if you take paragraph 43, I actually think that's an attempt to positively assert that The Star's AML program has been improved and working more effectively, and I also suggested that that be deleted from a due diligence report about Mr Chau.

Q: And Mr Power, to be precise, the amendments that you proposed to paragraph 44 were to remove Mr Buchanan's criticism of the failure of The Star to identify Mr Chau as a politically exposed person between 2013 and 2020; is that correct?

A: I believe that's contained elsewhere in the report, Mr Bell. But I think what I was trying to take out was the fact it was commentary about whether the Google searches were effective or not. For me, I didn't regard that as a matter that went to whether Mr Chau was someone who we could continue to deal with moving forward.

392. It is clear that by reason of Mr Power's deletions the final 7 January 2021 memorandum was shorter. However, the final version omitted many of the criticisms Mr Buchanan had made which appeared in the 1 October 2020 memorandum and the 24 November 2020 memorandum. The changes emerging from those deletions were substantive.

### *13.15.5 Conclusions regarding the evolution of Mr Buchanan's memorandum*

393. Mr Buchanan was investigating and reporting on a sensitive subject matter, namely, the probity of an extremely significant junket, Suncity, and its funder, Mr Chau, and the appropriateness of the casino operator's business relationship with them. The investigation was belated and seems to have only emerged due to developments in the Bergin Inquiry. The final version of the memorandum did not recommend a cessation of the business relationship and instead only provided competing "options".

394. An expression such as "watering down" is colourful, but imprecise. What is undeniable is that between the 1 October 2020 memorandum and the 7 January 2021 memorandum, important and substantiated concerns about the deficient processes of assessing the risk which the Suncity relationship involved were removed. This was detrimental to The Star Entities because Mr Buchanan's important and substantiated concerns ought to have made their way to more senior management and the Board.

395. In closing written submissions on his behalf Mr Power made a number of concessions about what had occurred:<sup>502</sup>

- (a) On reflection Mr Power accepts that he should not have provided handwritten edits or electronic mark-ups and that feedback should have been confined to suggestions or points raised for Mr Buchanan's consideration, as then it would remove doubt about whether the recommendations of Mr Buchanan were his own.
- (b) Mr Power accepts he should have requested Mr Buchanan to include those comments that were adverse to The Star in respect of historical matters, including in relation to the adequacy of The Star's AML program, in a separate report.
- (c) Mr Power accepts that while The Star retained the benefit of the chronology (through various employees), and so that knowledge was not lost when the chronology was no longer an attachment to the report, retaining it as an attachment to the Buchanan Report may have been preferable, and leaving

it in would have made it more fulsome and in that sense may have assisted any future readers of that report.

396. Beyond noting these concessions, which were correctly made, it is unnecessary to express an opinion about how this episode reflects on Mr Power and Mr Houlihan personally. Since giving evidence to the Review, both Mr Power and Mr Houlihan and have resigned.
397. Mr Buchanan is a senior investigator with substantial investigative and policing experience.<sup>503</sup> That experience also included the fact that he was a participating author of the HKJC Report, which gave Mr Buchanan a particular expertise regarding the probity of Suncity and Mr Chau.<sup>504</sup> As at the date of closing submissions to this Review, Mr Buchanan remained employed by Star Entertainment as Group Manager Due Diligence and Intelligence.
398. Counsel for Mr Buchanan made the following submissions in closing:

To the extent that it has been suggested that Mr Buchanan “watered down” the contents of his reports or findings, the evidence before the Review establishes that Mr Buchanan did so at the direction of senior personnel at the Star Entertainment group to which he reported, such as Mr Houlihan and Mr Power....

In this context, no adverse finding should be made as to Mr Buchanan. He played a critical role in raising the alarm about Suncity and individuals connected to that entity. He diligently attended to the task of preparing report directed towards such matters. The changes to his report were all made at the direction of senior personnel within his employer to whom he reported. Mr Buchanan did not have a direct reporting line to the Board (or the Chief Executive Officer). The criticism that rightly emerges from these events ought be levelled at those senior employees who interfered in the preparation of the report in the manner they did, and the “workplace culture” they contributed to fostering.

399. In their closing submissions, The Star Entities also referred to the cultural implications of this episode. They conceded that it was open to the Review to find.<sup>505</sup>

[T]hat it is inherently likely from the progress of those drafts that Mr Buchanan ‘read the room’ and tailored his report to suit what he perceived to be the desires of others in the business, even if he was never given an express direction to that effect; and that the fact this occurred reflects poorly upon The Star’s broader culture.

400. Just as Ms Dudek and Ms Scopel could and should have challenged senior management in relation to communications with NAB concerning CUP, Mr Buchanan could and should have resisted making detrimental changes to his report at the instigation of his superiors. Like Ms Dudek and Ms Scopel, he failed to do so.
401. The most significant lessons from these events are the insights it provides into a culture at Star Entertainment which did not welcome bad news and in which more junior employees

felt unable to challenge their superiors. In the context of these events, the dysfunction had significant adverse consequences for The Star's capacity to withstand the risks of criminal infiltration and money laundering.

## Chapter 13.16 The Final Due Diligence Assessments of Suncity and Alvin Chau

### 13.16.1 The question of "good repute"

402. The Star Entities conceded in their written submissions that The Star had applied the wrong test when assessing whether a person was of "good repute". The precise submission was as follows:<sup>506</sup>

[C.13] The Star's assessment process for junket operators and funders did not appropriately consider whether those persons were not of good repute. Instead, in the case of Suncity, The Star directed itself to a different (and wrong) question of whether it had been clearly proven that Mr Chau and Mr Iek were of bad character. Had The Star directed itself to the correct question, the appropriate answer during the Relevant Period would have been to cease to deal with Suncity.

[C.14] The failure of The Star properly to address the question of "good repute" explains a significant number of the failings made in relation to Suncity.

403. That error may well explain how it was that Star Entertainment and its relevant officers repeatedly considered it appropriate for the relationship with Suncity and Mr Chau. What was left unclear was how it was that Star Entertainment had misunderstood for such a large part of the Relevant Period the correct test to be applied.

404. It is necessary here to refer to Commissioner Bergin SC's observations regarding an "industry practice" whereby Australian casino operators required a high level of proof of wrongdoing or criminality before ceasing to deal with a certain individual or entity.<sup>507</sup> As the Bergin Report acknowledged, a "dilemma" emerges for a casino operator when determining whether to cease dealing with a particular junket.<sup>508</sup> This is due to mere "allegations of links to organised crime, as opposed to certainty or real probability", and if the operator ceases to deal with a junket then a competitor may "steal a march on them". Indeed, as Commissioner Bergin SC observed, "shareholders may well expect the continuation of business and the prevention of others obtaining a competitive edge".<sup>509</sup> The Bergin Report then stated:<sup>510</sup>

[124] The fact is that numerous casino operators around Australia were dealing with Mr Chau and the Suncity Junket including relevantly in New South Wales, The Star. It is apparent that no casino Regulator in any Australian jurisdiction required or suggested the cessation of such a relationship. That is of course until the Authority raised the questions in its Terms of Reference in August 2019. It has been contended by Crown that in these circumstances, it would be inappropriate to find that Crown

and/or the Licensee are not suitable when Crown was only doing what every other casino operator in the Australian jurisdiction was doing.

[125] Crown referred to this as “industry practice”. It is more accurately just a group of casino operators wishing to deal with lucrative Junket operators who probably have links to organised crime which cannot be proved beyond reasonable doubt.

[126] However where the object of the *Casino Control Act* is to prevent any criminal exploitation or criminal influence, casino operators must not apply such stringent standards. This is particularly so where the operations of money launderers and organised criminal groups are sophisticated, agile, flexible and cunning. Casino operators, at least in New South Wales should have as their first aim to ensure the protection of the casino from criminal influence. It is simple.

405. Those observations from Commissioner Bergin SC are pertinent to this Review as well. They provide guidance in trying to understand just how it was that the members of the investigations and compliance teams of Star Entertainment, at least some of whom had the benefit of the HKJC Report, did not immediately recommend a cessation of the relationship with Suncity and Mr Chau. Their approach likely reflected the prevailing attitude in the industry whereby business interests took precedence over compliance and probity considerations.
406. This may help to explain why it was that for so long Star Entertainment had misapplied the appropriate test. However, that is not an excuse. Star Entertainment had the benefit of observing the evidence in the Bergin Inquiry and thus the opportunity to make any necessary adjustments to its systems and processes as the evidence emerged from that inquiry. It failed to do so.

### *13.16.2 The Project Congo memorandum: 16 August 2021*

407. Despite having the benefit of the Bergin Report in January 2021, on 16 August 2021 the recommendation was made that a relationship with Mr Chau, if managed appropriately, could be maintained.
408. On 17 August 2021, Mr Houlihan sent Mr Power an email titled “Private and confidential Congo”.<sup>511</sup> Attached to the email was a document called “Project Congo – High Risk Customer Review (Phase 1)” (**Project Congo memorandum**).<sup>512</sup> A spreadsheet was also attached. The email stated “For discussion in five minutes”.<sup>513</sup>
409. Mr Buchanan was the author of the Project Congo memorandum. It was addressed to Mr Power and copied to Mr Houlihan and Ms Marcela Willoughby. The introduction of the memorandum stated:<sup>514</sup>

[1] The purpose of this report is to provide the findings of a holistic review undertaken on Patrons, and non-Patrons, considered by The Star Entertainment Group (“The Star”) as being ‘high risk’. The twenty-two persons of interest (POIs) received adverse mention during either the Bergin Inquiry, the 60 Minutes ‘Crown Unmasked’ programme (2019) or in associated media reporting.

[2] The review’s findings and recommendations, detailed in the accompanying Project Congo spreadsheet, are designed to assist the business in assessing the suitability for The Star to continue, or establish, customer relationships with these individuals.

410. Mr Chau was referred to as a “Non-Excluded POI”.<sup>515</sup> The commentary for Mr Chau appears to reproduce and repeat the two options included in the 7 January 2021 memorandum. Mr Power agreed with that categorisation.<sup>516</sup>

411. Mr Buchanan recommended that The Star could continue a business relationship with Mr Chau, provided specific risk mitigation processes were in place. The specific recommendation for Mr Chau was stated as:<sup>517</sup>

Taking cognizance of both options, it is recommended that given the robust nature of The Star’s revised AML/CTF Program coupled with the new structure of the AML work area, if Patron specific risk mitigation processes are put in place, the business could safely continue to engage in a business relationship with this Patron.

412. Mr Buchanan gave this evidence relating to the substance of his recommendation:<sup>518</sup>

Q: Well, knowing what you knew about Mr Chau and Suncity by April 2021, should you not have immediately recommended to Mr Houlihan that Mr Chau's licence be withdrawn?

A: Well, we weren't doing business with Suncity at that time due to the borders closing, COVID – the casino was shut for quite some time. And we came up with the belief that we could manage Mr Chau's risk on an individual basis with the new uplifted, enhanced AML program and system.

Q: When you say you came up with that belief, who are you referring to?

A: That would be Mr Houlihan, myself, Mr Power, and we briefed Ms Martin and Mr Hawkins.

Q: So who made that decision, that his risk could be managed?

A: I proposed it on an individual basis with Mr Chau, and then the decision to agree with that was Ms Martin and Mr Power.

Q: And, sorry, when did you make that recommendation?

A: I believe that was August 2021. With some stringent risk mitigation strategies in place.

Q: I suggest that there was no amount of risk management that could have managed Mr Chau's risk. Do you agree or disagree?

A: Mr Chau on an individual basis, no, I think we could – we could manage the risk.

Q: Well, I suggest that was a completely inappropriate conclusion based on the information then available to you.

A: No, I don't agree.

Q: I suggest the only appropriate course based on the information available to you was to cease dealing with Mr Chau.

A: With respect to Suncity, I agree entirely. With respect to Mr Chau, we could have managed the risk.

Q: Mr Buchanan, Mr Chau controls Suncity, does he not?

A: He did.

Q: The only appropriate way to deal with Mr Chau as at April 2021 was to cease all dealings with him, wasn't it?

A: I don't agree.

### ***13.16.3 Further decisions to “Maintain customer relationship” with Mr Chau: 18 August 2021 and 6 December 2021***

413. There is a question whether Mr Buchanan's recommendation was merely part of assessing the AML risk and whether the recommendation was thus limited in that regard (i.e. Mr Buchanan was not considering whether Mr Chau was of “good repute”). This seems to be supported by a decision made in an out-of-cycle JRAM meeting which took place on 17 August 2021.<sup>519</sup> The decision made at that meeting was recorded in the Board report dated 22 September 2021 as follows:<sup>520</sup>

#### **4. High Risk Customer Review**

An out of cycle Joint Risk Assessment Meeting (JRAM) was conducted by the AML team on 17 August to undertake a review of various patrons of interest, focussing on those persons who were mentioned in the Bergin Report. An assessment was undertaken under the AML Program as to whether The Star would continue to deal with these individuals, and whether there are suitable controls in place to address AML risks.

A further assessment has now commenced as to whether these persons are ‘not of good repute’ which may be ongoing and necessitate engagement with the NSW regulator and law enforcement in relation to persons of interest.

414. Even if limited to the AML question, The Star Entities still conceded that Mr Buchanan's recommendation “was a serious error of judgment on his part and ought never have been made”.<sup>521</sup> It was indeed an error of judgment.

415. In any event, it appears that a decision was made to continue the relationship with Mr Chau. The AML DD Review Report for Mr Chau (**AML DD Review Report**) records that Mr Buchanan provided an “Update” regarding the six mitigation strategies “in the event that a decision was made to maintain a business relationship with the Patron”.<sup>522</sup> The entry then records:<sup>523</sup>

Over the past eighteen months, a number of comprehensive due diligence reports/profiles have been prepared with respect to this Patron all of which were forwarded for your attention. This Review will not repeat the same information detailed in these reports/profiles.

The last OCDD was conducted during January 2021 shortly before we transitioned to TrackVia.

Very little new information has been forthcoming during this screening process other than the fact it has been confirmed, via Dow Jones Risk and Compliance, that the Patron is no longer classed as being a Foreign PEP. By virtue of his previous status he will retain a Very High Risk rating.

...

A fuller synopsis of the Patron, and a recommendation as whether we should consider to continue to do business with this Patron will, of course, be referenced in the Project Congo Report.

I recommend that should comprehensive and Patron specific risk mitigation measures be put in place, The Star could, moving forward, safely maintain a customer relationship with this Patron.

416. A further entry of 18 August 2021 records Mr Houlihan as the “AML Compliance Officer” responding to Mr Buchanan stating:<sup>524</sup>

Thank you for the above information, I note your comments and agree with your recommendations, however I would request a comprehensive ECDD if we wish to re-establish a business relationship. I understand we are reviewing a recommendation to the business for an enhanced Risk Mitigation process for specific individuals, where this Patron falls within this category and will be subject to undertake a further risk mitigation process before engaging in any casino related business relationship, or CCF approvals.

Could you please identify away to record this recommendation against the patrons account. In light of the above I am satisfied to maintain an active account for this patron at this time.

417. A “Final Decision” is then recorded for 18 August 2021 at 7:48pm as “Maintain customer relationship”.<sup>525</sup> It appears that there was no active CCF for Mr Chau at that point. Nevertheless, there was still a recommendation to a continue a relationship with Mr Chau.
418. The AML DD Review Report recorded an entry from Mr Buchanan from 3 December 2021 where he detailed the reports of Mr Chau’s arrest by Macau police. The entry states:<sup>526</sup>

As you are aware, the Patron was recently discussed at an out of session JRAM meeting following the completion of Project Congo. Suggested risk mitigation measures, which would potentially allow the business relationship, were formulated and are awaiting approval/comment from senior management.

Given the recent Bergin and Finkelstein inquiries, in which the Patron featured prominently, it is considered likely that the Australian media will pick up on his arrest. This may well result in negative reporting which could potentially reference The Star and its business relationship with Suncity.

Suggest no further action requires to be taken at this time.

419. On 6 December 2021, Mr Houlihan is then recorded as responding:<sup>527</sup>

Thank you for the updated information and comments. I agree with your recommendations that at this time we continue to monitor as a result of the recommendations from Congo and the outcome of the court matters as mentioned in the media.

For points of reference, I have sought to have Mr CHAU front money account and CCF closed at this time awaiting the results of the court matters.

420. The decision is then recorded for 7 December 2021 at 8:44pm as “Maintain customer relationship”.<sup>528</sup> It is remarkable that as at 7 December 2021 those responsible were still recommending to the business, and apparently deciding, that a customer relationship could be maintained with Mr Chau.

#### ***13.16.4 Withdrawal of Licence issued to Mr Chau: 14 December 2021***

421. It was not until 14 December 2021 that a Withdrawal of Licence was issued to Mr Chau.<sup>529</sup> The basis of the decision to issue the Withdrawal of Licence to Mr Chau were the reports of Mr Chau’s arrest in Macau. As Mr Buchanan stated in his witness statement:<sup>530</sup>

[75] On 1 December 2021, I became aware of media reporting in relation to Mr Chau having been detained in Macau. In response to these media reports, on 3 December 2021, I conducted an ECDD review of Mr Chau based on the information available at that time (STA.3009.0003.0468).

[76] Subsequently, on or around 13 December 2021, I became aware of further media reporting in respect of Mr Chau, namely that:

Mr Chau had been detained by Macau Police after the Wenzhou People's Procuratorate in Zhejiang, China issued an arrest warrant for Mr Chau. The warrant intimated that Mr Chau was suspected of:

- i. operating a 'cross-border criminal gambling syndicate' which arranged for Chinese nationals to gamble at his overseas casinos;
- ii. facilitating cross-border capital transfer through the use of underground banks; and

- iii. arranging for Chinese citizens to take part in cross-border online gambling activities which is contrary to Chinese law.

Numerous English and Chinese language media articles reported on Mr CHAU's detention. (STA.3009.0003.0468)

### *13.16.5 A most concerning state of affairs*

422. The Star Entities submitted as follows in relation to the assessments of Suncity and Mr Chau:<sup>531</sup>

In conclusion, it is open to the Review to find that the recommendation by Mr Buchanan, and the conclusion by Mr Houlihan, that The Star could continue to deal with Mr Chau and Mr Iek in accordance and compliance with The Star's AML Program showed serious errors of judgement; that the information presented by Mr Buchanan in support of that recommendation was incomplete and misleading; that Mr Buchanan's recommendation that The Star could continue to deal with Mr Chau and Mr Iek (even if only considering the issue from the perspective of the AML Program) ought never to have been made; and that it ought to have been obvious to those involved in Project Congo, including Mr Houlihan, Mr Power and Ms Martin, that it was impossible for The Star to do business with Mr Chau in future.

423. It should not have taken Mr Chau's arrest in December 2021 to prompt Star Entertainment to cease the relationship with him. The relationship with Suncity and Mr Chau should have been terminated in June 2018 when cage operations and bags of cash were observed in Salon 95. The delay in terminating the relationship with Mr Chau and Suncity was also identified by Ms McKern in her report:<sup>532</sup>

[2.11.2] Mr. Chau (Chairman of the junket Suncity) raised red flags internally within Star through behaviour occurring within the Suncity Junket rooms and service desks as far back as 2018, The Star did not reconsider their relationship with Suncity or Mr. Chau based on internal findings. Multiple adverse media articles were released from August 2019 through to 2021. Mr. Chau and Suncity were mentioned heavily within the Bergin Inquiry and The Age's Expose into Crowns dealings with junkets. The Star subsequently raised Mr. Chau's risk ratings and reviewed him at PAMM and JRAM meetings but did not exclude or WOL him from the Casino throughout this period noting they would "further discuss action in regard to Mr. Chau based on the outcome of the inquiry". In December 2021 media articles were released reporting that Mr. Chau had been arrested in Macau for alleged illegal gambling and money laundering. The Star issued Mr. Chau a groupwide WOL on 16 December 2021.

...

[10.3.3] Adverse media and law enforcement information was available during the period that Star allowed Suncity and Mr Chau to attend and game. The Star did not ban exclude or ban Mr Chau from Star when the department of Home Affairs blocked Mr. Chau from entering Australia or allegations or links to organised crime appeared in The Age linked to Suncity's operations at Crown. The Star issued a withdrawal of license ten months after the Bergin Inquiry report was issued.

424. Much of the analysis being undertaken by The Star Entities related to the binary options of continuing or not continuing the relationship with Suncity at given points in time. However there was also an intermediate option, of suspending business while relevant enquiries (such as a risk assessment) were being undertaken. That approach would be the same as the approach taken with a patron who was denied entry pending satisfaction of source of wealth.<sup>533</sup> Mr Houlihan accepted it was an option that could have been taken with Mr Xiangmo Huang and other patrons.<sup>534</sup> There is no reason why it could not have been taken with a junket business such as Suncity.

## Chapter 13.17 Consideration of the Lawfulness of the Service Desk in Salon 95

### 13.17.1 The legal issues

425. It remains for the Review to consider the lawfulness of the service desk's operation in Salon 95. The Review's Terms of Reference 2.1 and 2.3 contemplate consideration by the Review of the extent to which The Star has complied with its obligations under the *Casino Control Act* and licence.

426. It is clear from the contemporaneous written materials that Star Entertainment's employees and officers were of the opinion that any operation of the service desk in Salon 95 by Suncity as a cashier's or buy-in desk would risk causing The Star to contravene the *Casino Control Act*. Evidence in that regard included:

- (a) Mr White's email of 13 March 2022 to Mr Aloï and Mr Liu in which he relevantly stated:<sup>535</sup>

As an initial point, I should point out that Sun City have a service desk in Salon 95 – they do not operate a cage and have no authority to operate a cage. A cage may only be operated by the casino operator, i.e. The Star Sydney in this instance.

- (b) Ms Arnott's risk assessment (signed by Mr McWilliams) dated 27 April 2018 states:<sup>536</sup>

When considered in respect of both AML law and *NSW Casino law* the risks relating to the Sun City service desk activities are:

- the accidental provision of a designated service by Sun City without appropriate AUSTRAC registration or structures in place; and
- that operations of the casino could be (or be perceived to be) conducted by a person other than the casino operator which is prohibited under the *Casino Control Act*;

- (c) Mr Power's email to Mr Hawkins dated 15 May 2018 in which he stated:<sup>537</sup>

In my opinion, the junket group's conduct has exposed The Star to an unacceptable level of risk and constitutes a breach of the agreement, of applicable laws or otherwise amounts to casino operations. In particular –

1. Cash for chip (and vice versa) transactions taking place at the service desk;
2. Withdrawal of cash (terms unknown) by non-junket participants at the service desk and other locations (including retail).

(d) Mr Brodie's "explicit concerns" in his evidence to the Review, when he said:<sup>538</sup>

Well, the explicit concerns were in relation to needing to be sure that there weren't chip-cash or cash-chip exchanges going on in that area because there [were] no licensed staff from Suncity – I mean, New South Wales Casino Control Act licensed staff, and to allow those things to occur in that space would be in contravention of a range of – a range of requirements, not least of which being that exchanges like that are required to occur at a cage and either have chips issues or a CPB issued. So we were keen to ensure that Suncity didn't think that they had a right to operate a cage in that environment as they – as they did in some other environments in North Asia.

427. Counsel Assisting's closing submissions, including further written submissions following the conclusion of the public hearings, identified three general and separate bases on which it was contended that the cage operations at the service desk in Salon 95 were unlawful:

- (a) first, that Suncity's service desk operations in Salon 95 caused The Star to contravene sections 12, 31 and 32 of the *Unlawful Gambling Act 1998* (NSW) (*Unlawful Gambling Act*) because those operations were not made lawful by section 4 of the *Casino Control Act*;
- (b) secondly, that the service desk was functionally operating as a cage or cashier's desk and therefore:
  - (i) such operations were required to comply with The Star's ICMs that regulated cage operations; and
  - (ii) the service desk operations did not, in certain particularised respects, comply with the relevant ICMs and, accordingly, The Star contravened section 124 of the *Casino Control Act*; and
- (c) thirdly, that chips for cash transactions took place at the service desk and as such required The Star's consent as per sub-sections 70(1)(i) and (2)(c) of the *Casino Control Act*, and in the absence of such consent The Star contravened section 70(2)(c) in breach of a condition of its casino licence.

428. The Star Entities provided written submissions to the Review addressing each of the above issues. The Star Entities denied any contravention of the *Unlawful Gambling Act* or the *Casino Control Act* resulting from the service desk's operations in Salon 95.

### *13.17.2 Sections 12, 31 and 32 of the Unlawful Gambling Act 1998 (NSW)*

429. To operate a casino in NSW, it is necessary to have a casino licence. That is because of the combination of:

- (a) the prohibition of organising any “unlawful game” in sections 5 and 12 of the *Unlawful Gambling Act*; and
- (b) the declaration in section 4 of the *Casino Control Act* as lawful, “[d]espite the provisions of any other Act”, the conduct and playing of a game where the game is conducted and the gaming equipment is provided by a licensed casino operator.

430. Section 25(1) of the *Casino Control Act* provides that if a casino licence is suspended, “it is of no effect for the purposes of section 4”, which suggests that section 4 has the operative effect just described. Similarly, section 7(e) of the *Unlawful Gambling Act* contemplates that the *Casino Control Act* may declare certain gambling to be lawful.

431. More particularly, section 12 of the *Unlawful Gambling Act* provides:

#### **12 Organising unlawful game**

- (1) A person must not –
  - (a) organise or conduct, or assist in organising or conducting, an unlawful game, or
  - (b) receive a percentage or share from any amount wagered on an unlawful game.

432. Section 5 of the *Unlawful Gambling Act* defines an “unlawful game” to include baccarat (which was the game played in Salon 95).

433. Sections 31 and 32 of the *Unlawful Gambling Act* provide:

#### **31 Using premises as gambling premises--offence by owner or occupier**

A person who is the owner or occupier of any premises must not knowingly allow the premises to be used as gambling premises.

#### **32 Using premises as gambling premises--offence by operator**

- (1) The operator of any premises must not knowingly allow the premises to be used as gambling premises.

(2) For the purposes of this section, a person is the “operator” of premises if the person--

(a) is employed by, or is acting for or on behalf of, the owner or occupier of the premises, or

(b) has the care or management of the premises, or

(c) is, in any manner, conducting a business on the premises.

434. Section 4 of the *Casino Control Act* provides:<sup>539</sup>

#### **4 Gaming in licensed casino declared lawful**

(1) Despite the provisions of any other Act or law but subject to this Act, the conduct and playing of a game and the use of gaming equipment is lawful when the game is conducted and the gaming equipment is provided in a casino by or on behalf of the casino operator (that is, the holder of the licence for that casino under this Act).

(2) The *Unlawful Gambling Act 1998* and the *Community Gaming Act 2018* do not apply to the conduct and playing of a game and the use of gaming equipment when the game is conducted and the gaming equipment is provided in a casino by or on behalf of the casino operator and in accordance with this Act, except to the extent (if any) that the regulations otherwise provide.

435. To engage section 4 of the *Casino Control Act*, the relevant “game” is only lawful if two conditions are satisfied:

(a) first, the “game” must be “conducted” by a licensed casino operator; and

(b) second, the “gaming equipment” must be provided by a licensed casino operator.

436. There is no evidence to suggest that the second requirement was not met in relation to Salon 95. That is, there is no evidence to suggest that the gaming equipment comprising the devices and things used for the baccarat played in Salon 95, including the chips, were not provided by The Star.

437. But as to the first requirement, there is evidence – as Mr Power recorded in his email quoted above – of there having been “Cash for chip (and vice versa) transactions” taking place in Salon 95. Of the video footage from Salon 95 in evidence, the 8 May 2018 footage showed chips being presented at the service desk and cash being provided to the person who presented those chips in exchange for them. Similarly, Mr Hawkins gave this evidence:<sup>540</sup>

Q: But you had been made aware, hadn't you, of a number of instances where cash and chips had been exchanged at the Suncity service desk?

A: I had, yes.

438. Mr Bekier said in his evidence that “[a]ny cash exchange for chips should have been happening at The Star main cage” and “it appears ... there has been a series of contraventions on that”.<sup>541</sup>
439. If the concept of a “game” being “conducted” for the purposes of section 4 of the *Casino Control Act* only involves the specific game itself (here, baccarat), then the transactions referred to by Mr Power and shown in the 8 May 2018 footage would be irrelevant to a consideration of section 4 of the *Casino Control Act* because those activities did not involve baccarat. The Star Entities urged the Review to construe section 4 of the *Casino Control Act* in that way.<sup>542</sup>
440. However, the concept of a “game” being “conducted” for the purposes of section 4 of the *Casino Control Act* could also sensibly be construed by reference to section 70 of the same Act, which is entitled “Conduct of gaming”. Section 70(1)(c), (1)(j) and (2)(c) of the *Casino Control Act* provide for the issuing of chips by or on behalf of the casino operator for cash and the redemption of chips for cash with the casino operator’s concurrence. The inclusion of those provisions in section 70, which provides for the conduct of gaming, suggests that the concept of how a “game” is to be “conducted” in accordance with the *Casino Control Act* includes complying with statutory requirements which apply both at the stages of issuing and redeeming chips for cash. The issuing must be done by or on behalf of the casino operator, and the redemption must be done with the casino operator’s concurrence (or at least the particular redemption contemplated in section 70). That is not to deny that chips may pass from patron to patron, or from junket representative to patron, after being issued by The Star.<sup>543</sup> But in the overall context of a “game” being “conducted” for the purposes of section 4, at the time of issue and at the time of redemption those things must be done in accordance with section 70. And here, as The Star Entities submitted, the service desk “was not used for activities of the staff of The Star at all”, and it would be wrong to say that The Star permitted, allowed or concurred with any exchange at the service desk of cash for chips, or chips for cash.<sup>544</sup>
441. The consequences of those facts appear to be:
- (a) first, the “game” of baccarat may not always have been “conducted” (at least not in full) in Salon 95 by The Star in the manner contemplated by section 4 of the *Casino Control Act* – instead, the part of the game comprising the issue and/or redemption of chips was on occasion conducted by Suncity, as acknowledged in Mr Power’s

email, as could be seen in the 8 May 2018 video footage and as accepted by Mr Hawkins and Mr Bekier; and

- (b) secondly, having regard to the history of the service desk in Salon 95, including Mr Stevens' knowingly misleading the regulator, the construction of the room, allowing Suncity branding and allowing cash to be presented to that service desk in accordance with Ms Arnott's controls (even if not intended to be for chips or *vice versa*), The Star may have "assist[ed] in organising or conducting" an unlawful game for the purposes of section 12(1)(a) of the *Unlawful Gambling Act*.

442. By contrast it does not appear from the available evidence that The Star could be said to have "knowingly allow[ed]" unlawful gambling in Salon 95 for the purposes of sections 31 and 32 of the *Unlawful Gambling Act*.

443. A contravention of section 12 of the *Unlawful Gambling Act* is a serious matter. It is a criminal offence potentially punishable by a fine or even imprisonment. Having regard both to the serious consequences of such a finding, and the ambiguity of "playing a game" in section 4 of the *Casino Control Act*, no finding is made that there has been as a contravention of section 12 of the *Unlawful Gambling Act*.

### *13.17.3 Section 124 of the Casino Control Act*

#### **The relevant ICMs**

444. Section 124 of the *Casino Control Act* requires the casino operator to implement and comply with internal controls to conduct its casino operations. ICMs are important features of the casino regulatory framework in NSW. ICMs are required to be approved by the Authority, and a failure by the licensee to conduct its operations in accordance with an ICM constitutes a breach of a condition of the operator's casino licence.

445. Sub-sections 124(1) and (4) of the *Casino Control Act* were relevantly amended with effect from 21 December 2018. Those amendments made it an offence for a casino operator to breach its own internal controls. These amendments to section 124 of the *Casino Control Act* arose due to a concern expressed in the *Casino Modernisation Review* that the previous form of the provision created uncertainty as to whether the Authority could take disciplinary action if the operator breached an ICM.

446. Despite that concern, the pre-amendment form of the provision still required the casino operator to comply with its own ICMs. However, before 21 December 2018 a failure to

comply with an ICM gave rise to a breach of a licence condition, rather than a contravention of the *Casino Control Act*. That distinction is a relevant one for present purposes, given that Salon 95 was relevantly in operation from April 2018 until August 2019.

447. The following ICMs are relevant:

- (a) ICM 5 Casino Cage Operations (effective 13 November 2017) (**ICM 5**);<sup>545</sup> and
- (b) ICM 11 Casino Cage Operations (effective 21 December 2018) (**ICM 11**).<sup>546</sup>

448. An ICM can be breached in one of two ways. First, an ICM may require a SOP to address a particular risk and the operator could breach that ICM by failing to implement a procedure that addresses that risk. Second, the ICM may stipulate a prescriptive rule and the operator could directly breach that rule.

449. Counsel Assisting's submission was that Suncity was, in practice, operating the service desk as a "cashier's cage".<sup>547</sup> The submission is that the service desk's operations were functionally akin to a cashier's cage and therefore should be held to the standards prescribed under the relevant ICMs regulating cage operations. Counsel Assisting provided two schedules, one each in respect of ICM 5 and ICM 11, particularising how The Star breached each ICM.

450. The Star Entities submitted that ICM 5 and ICM 11 did not apply to the service desk's operations.

451. The Star Entities' first submission was that the service desk's operations did not satisfy the definition of a "cage". After noting that the *Casino Control Act* does not define the term "cage", The Star Entities relied upon the definition of a "cage" in ICM 11,<sup>548</sup> which was set out in full in The Star Entities' written submissions and is reproduced below:<sup>549</sup>

A casino 'Cage' is a secure area within the casino where financial and related transactions associated with the casino's gaming operations are conducted. The Cage is designed and constructed to provide maximum security for cash, customer financial transactions and staff activities within the casino.

In addition to physical Cage locations, there may also be standalone Cage desks located in the Private Gaming Areas. These desks are capable of being secured and have surveillance system coverage and duress alarms to enable all Cage functions to be performed at these locations.

The Cage maintains custody of assets and inventories, including currency, patron cheques, gaming chips, gaming plaques, promotional vouchers, forms, documents and records associated with the operation of the Cage. It also facilitates the secure approval, exchange, redemption, substitution and consolidation of cheques received

for the purpose of gaming, as well as the receipt, distribution and redemption of gaming chips and plaques and other functions associated with the operation of the Cage.

Collectively, these transactions contribute to a complex operating environment that requires effective controls, policies and procedures in place to remove opportunity and motivation for theft or fraud, to promote best practice, to identify mistakes and anomalies quickly and to take corrective action to minimise loss.

These controls are designed to provide reasonable assurance that the material risks associated with Cage activities will not occur and adversely affect the integrity of the casino, its obligation to provide accurate revenue, duty and levy calculations and the objective to operate in the public interest.

452. The Star Entities submitted that:<sup>550</sup>

The service desk at Salon 95 does not meet this description. It was not used to store cash, chips or other assets in The Star's possession. It was not used to conduct transactions to which The Star was a party. It was not used for recording such transactions. It was not used for activities of the staff of The Star at all.

453. The Star Entities' second and third submissions were to the effect that The Star did not permit or allow Suncity to exchange cash for chips at the service, and further, Suncity did not comply with The Star's directions "on some occasions in 2018" to cease cash transactions at the service desk.<sup>551</sup>

454. The Star Entities' fourth submission was that merely because chips are exchanged for cash at a location in the casino does not render that location part of the casino cage for the purposes of ICM 5 and ICM 11.<sup>552</sup>

455. The Star Entities' fifth submission was to rely upon the exemption to the "special employee" regime under the *Casino Control Regulation* for junket representatives to submit that, in effect, the exemption permits junket representatives to engage in cage functions.<sup>553</sup>

456. The Star Entities did not otherwise make any submissions addressing the specific alleged breaches of ICM 5 and ICM 11 as particularised in Counsel Assisting's two schedules.

### **The Review's determination of the issue**

457. Under section 124(1) of the *Casino Control Act*, both ICM 5 and ICM 11 were required to be approved by the Authority. It is therefore important to keep in mind the primary objects of the *Casino Control Act* as provided for in section 4A(1). That provision states:

(1) Among the primary objects of this Act are:

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

458. ICM 5 and ICM 11 were prepared with those primary objects in mind. So much is evident from the “Process Objectives” in ICM 5 and the “Compliance Principles” in ICM 11.
459. Contrary to the first submission of The Star Entities, on those occasions in 2018 when cash/chip exchanges were occurring at the service desk, the service desk in Salon 95 was functioning as a cage. Financial transactions associated with the casino’s gaming operations were being conducted there. In particular, cash was counted and stored in the service desk area and Suncity staff facilitated the exchange and redemption for cash of chips which were used for gaming in the salon. This is supported by the CCTV footage showing the exchange of cash for chips. It also appears to be precisely what Mr Brodie called the “explicit concerns” in his evidence.<sup>554</sup>
460. That risk is what eventuated. This is supported by Mr Hawkins’ evidence. Mr Hawkins accepted the characterisation that the concerning transactions from early 2018 showed that the service desk in Salon 95 was being used as a “casino cage”. Mr Hawkins’ evidence was as follows:<sup>555</sup>

Q: And you recall, don’t you, that there were issues in early 2018 about cash transactions taking place at the service desk in salon –

A: Yes. I’m aware of that.

Q: And what were those issues you recall?

A: They included the exchange of cash for chips at the service desk. And I think there was representation of a non-junket participant in the room. And there was also the – a – the identification of a transfer of cash that had occurred in the room as well.

Q: And what was the problem with this?

A: Well, they weren’t expressly permitted to be occurring at that particular service desk.

Q: Because isn’t the issue here that the service desk was being used like a casino cage?

A: Yes. There was transactions identified there that were certainly not appropriate.

Q: Because the correct position, isn't it, that cash should only be exchanged for chips at the cage?

A: That's right.

Q: Of the casino operator?

A: Yes.

Q: And *vice versa*, being chips should only be exchanged for cash at the cage?

A: That's right. Yes.

Q: But you had been made aware, hadn't you, of a number of instances where cash and chips had been exchanged at the Suncity service desk?

A: I had, yes.

461. The subjective understanding of Mr Hawkins is of course not determinative. However, Mr Hawkins has considerable experience in the casino industry, he was the Chief Casino Officer in NSW from April 2020 and Salon 95 was part of The Star Casino when he was its Managing Director.<sup>556</sup> Mr Hawkins did not express any disagreement with the description or characterisation that the unauthorised transactions at the service desk were in effect the operations of a "casino cage".

462. Another example of such evidence of Mr Hawkins was as follows:<sup>557</sup>

Q: Now, it's a big problem for the casino operator, isn't it, if some other organisation is operating a pseudo cage in its casino?

A: Yes.

Q: Because that other organisation is not licensed to operate a casino?

A: That's correct.

Q: All right. So it was very important for you to take steps to ensure that there was no pseudo cage in operation at The Star in Sydney?

A: That's right.

Q: But it's right, isn't it, that even after this letter was sent, we saw – or you saw examples of a pseudo cage in operation?

A: Yes. After the first letter was issued, there was further issues that occurred in the room. That's right.

463. This is frank evidence being given by the Chief Casino Officer who was still employed in such capacity at the time he gave that evidence. Again, Mr Hawkins' opinion of whether the service desk was being used as a "pseudo cage" is not determinative of the question. However, it shows a very experienced and senior casino executive accepting the

characterisation of the unauthorised transactions at the service desk as performing cage-like functions.

464. Mr Bekier gave similar evidence:<sup>558</sup>

A: With Salon 95, we – as I understand it now, we let a number of – we let a behaviour persist that was in contravention of all rules and regulations that we operate under.

Q: And what do you mean by “in contravention of all rules and regulations” you operate under?

A: Well, we – you know, we – we only have one main cage. All financial transactions should have gone through the main cage. Any cash exchange for chips should have been happening at The Star main cage. And, you know, it appears from what I’m – I’ve read since that, you know, there has been a series of contraventions on that.

465. This is a further example of a senior and experienced casino executive explaining how the cash transactions that took place at the service desk should have taken place at The Star’s casino cage. Again, this shows that by the service desk accepting and performing such transaction, it was performing cage functions.

466. Applying the applicable ICM governing cage operations to all areas of the casino which are performing such cage *functions*, or more specifically, which are engaging in cage practices which give rise to the risks identified in the relevant ICM, would appear to be the correct approach having regard to the objects in section 4A(1) of the *Casino Control Act*.

467. In these circumstances ICM 5 or ICM 11 should be interpreted to apply to all cage operations in The Star Casino, including the service desk’s operations. When the service desk was functioning as a cage, its operations should be held to the standard set by those internal controls for cage operations.

468. Any “floodgates” rejoinder contending that this analysis means that ICM 5 or ICM 11 would apply whenever one patron privately exchanged chips for cash with another patron ignores that any such transaction is not an analogue of the service desk and does not in any sense involve “operations in the casino”, to use the language of section 124 of the *Casino Control Act*. The service desk was established at a permanent location in the casino and its operations were governed by an agreement between The Star and Mr Iek.

469. In relation to the second and third submissions of The Star Entities, it is true that, although it originally countenanced such operations occurring, at least by April 2018 The Star did

not approve of the service desk functioning as a cage. It is also true that the operation of the service desk as a cage was contrary to The Star's directions. Nevertheless, The Star knew of the cash transactions taking place. The Star could have elected to shut down the service desk but chose not to. Moreover, The Star always retained operational and management control of Salon 95 under clause 6 of both the 2017 and 2018 Rebate Agreements. That control extended to what was described in both agreements as the "Cage" in the gaming salon.

470. The unauthorised character of the service desk's cage operations does not alter the proper characterisation of those operations: they were cage operations, albeit not sanctioned by the licensee. It is appropriate in these circumstances to apply the ICMs that were approved by the Authority to regulate cage operations on casino premises.
471. The fourth submission of The Star Entities ignores the evidence of the nature and scale of the cash/chip transactions taking place at the service desk, with CCTV footage depicting large sums of cash being counted at the service desk, and clearly identifying the risks occasioned by those transactions. The evidence demonstrates the persistent use of the service desk in an unauthorised manner. The risks identified in ICM 5 (e.g. "Poor accountability, non-reporting, or errors in the conduct and/or recording of Cage transactions") or in ICM 11 (e.g. "Procedures are not in place to maintain the integrity of the Cage") were risks that applied to the service desk's operations. ICM 5 and ICM 11 should be applied to assess whether The Star took appropriate steps to address such risks.
472. In relation to the fifth submission of The Star Entities, it is not accepted that ICM 5 and ICM 11, which were required to be approved by the Authority, only applied to cage operations run by *the casino licensee*. The ICMs are risk-based. If a cage is in operation on casino premises, then the risks are of the same nature, whether that cage is operated by casino staff or by junket representatives.
473. The Star Entities have not put forward any compelling reason why ICM 5 and ICM 11 should not be applied to the service desk's operations. It is also telling that The Star Entities did not attempt to defend the service desk's cage operations when tested against the standards imposed by ICM 5 and ICM 11. Despite that omission, it is necessary to consider the service desk's cage operations as against ICM 5 and ICM 11.
474. ICM 5 was effective between 13 November 2017 until 21 December 2018. At the beginning of the document, ICM 5 provides a "Process Description" which states:

Procedures within a cashier's cage for the receipt, storage and disbursement of chips and cash, redemption and recording of chips and chip inventories and recording of Cage transactions pertaining to gaming operations.

Procedures and forms for the transfer of chips between a cashier's cage and gaming tables and/or gaming areas throughout the casino.

Procedures for the payment and recording of winnings where the winnings are paid by cash, cheque or in a non-monetary form.

Procedures for the issue of chip purchase vouchers and the recording of transactions in connection therewith.

475. ICM 5 then sets out "Regulatory Principles" which mirror the primary objects set out in section 4A(1) of the *Casino Control Act*. The ICM then sets out "Process Objectives" such as:

1. To ensure that all Casino Cage assets/inventories are securely stored and are properly accounted for.
2. To ensure that all Cage transactions are conducted and recorded in an authorised, accurate and structured manner to ensure proper accountability of cash and cash equivalents.
3. To ensure that all Cage transactions involving chips are conducted in an authorised, accurate and structured manner to ensure proper accountability of chip inventories and chip movements.
4. To complement The Star's obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

476. ICM 5 then identifies certain "Risks", which are broadly related to the "Process Objectives". Following the "Risks" section, the ICM then provides 39 paragraphs or internal controls.

477. The following sub-paragraphs in ICM 5(2) are:

2. The Cash Services Manager shall ensure that Standard Operating Procedures, referred to in Cage Operations SOP Tasks 38, 52 and 53, are in place to ensure that all gaming machine redeemable tickets/chips/cash/cash equivalent transactions with patrons or other areas within all Casino Cages, the secure area which houses the Casino Cashiers and serves as the central location in the gaming facility for financial transactions associated with the operation of the casino, are conducted and recorded in a manner that enables any error or nonconformity to be readily identified and rectified and/or investigated for fraudulent activity. Systems and processes are to include, at minimum, the following: (A-G)
  - a) CCTV coverage of all areas within all Casino Cages to allow colour recording of chip fills and credits going into and out of all Chip Banks;
  - b) all transactions are to be performed in designated working areas to ensure full CCTV coverage;

...

- e) Cage personnel conducting transactions for guests involving exchange or issuance shall place chip/cash/cash equivalent/gaming machine redeemable tickets on the surface of the counter, and not pass these value items from hand to hand. All chips are to be cut down or proven in accordance with Standard Operating Procedures referred to in Cage Operations SOP Task 38 Exchanging Chips For Cash;
- f) all cash received from or issued to a patron is to be counted and displayed in the designated working area in such a manner as to be readily verified by Cage personnel, patrons and Surveillance. Surveillance may verify cash issued via a note counter display at the window location if a counting device is being used;
- g) Cage personnel are required to show “clean hands” (open palms upturned) prior to and after picking up chip/cash/cash equivalent/gaming machine redeemable tickets;

478. Counsel Assisting submitted that The Star was required to implement SOPs for the service desk in Salon 95 in accordance with these sub-paragraphs. Counsel Assisting’s submissions particularised the way in which the Service Desk SOP did not comply with the above sub-paragraphs.

479. While the Service Desk SOP had shortcomings, it is clear that the Service Desk SOP was never prepared as an “official” SOP as developed in connection with an ICM, in this case ICM 5. It is therefore not found that the Service Desk SOP breached ICM 5 in the ways particularised by Counsel Assisting.

480. Counsel Assisting also further submitted that the operation of the service desk constituted a direct breach of ICM 5(24), which stated:

- 24. Cage personnel are to undertake approved training and be certified for competency. Training is to include the security features of genuine currency and cash equivalents and the detection of counterfeit currency and cash equivalents. (B, D)

...

- 36. The Cash Services Manager shall ensure that access to Chip Purchase Desks is to be restricted to cage licensed staff, Security Supervisor and above, and Assistant Gaming Manager and above only. (A,C)

481. Counsel Assisting particularised the breaches by The Star of each control as follows (footnotes omitted):

- (a) ICM 5(24): “The Suncity staff in Salon 95 did not hold certificates of competency as they were not licensed employees, and there is no evidence of any training undertaken by Suncity staff”; and
  - (b) ICM 5(36): “It is not clear whether the service desk in Salon 95 was a ‘*Chip Purchase Desk*’. If it was, it was being accessed and operated by unlicensed Suncity employees”.
482. Regarding ICM 5(24), it is the case that the Suncity staff did not hold certificates of competency and were not licensed as “special employees”. Indeed, The Star Entities’ fifth submission was that junket representatives were not required to be licensed as special employees due to the exemption arising under regulation 6(3) of the *Casino Control Regulation*.<sup>559</sup> However, it does not therefore follow that ICM 5(24) should be read as also creating an exception for junket staff who are engaging in clear cage functions as revealed between late April and late May 2018.
483. ICM 5(24) should be interpreted as effectively making it impossible for an unlicensed third-party entity to operate a cage at the casino. The ICM should be interpreted as applying to any part of the casino where there is clear evidence of the performance of cage functions. There was such evidence, and that was also the view of Mr Hawkins and Mr Bekier.
484. ICM 5(24) is interpreted to have the effect that only individuals who were properly trained and licensed could permissibly perform such transactions on casino property.
485. It was a very concerning situation whereby Suncity staff were not trained or licensed to perform the cage functions that the evidence reveals took place in Salon 95 between late April and late May 2018. It is concluded that in those circumstances, there were contraventions of ICM 5(24). The Star had an obligation to implement that control with respect to the service desk and it failed to do so. Indeed, The Star always retained operational control of the salon.
486. Regarding ICM 5(36), the meaning of “Chip Purchase Desk” in ICM 5(36), as distinct from general cage functions, is not sufficiently clear to make a finding that the control was breached. That being said, it seems likely that the service desk was being operated as a chip buy-in desk between late April and late May 2018, and so there is a very real question whether ICM 5(36) means that only licensed staff may access such desks. No finding is made in that regard.

487. Counsel Assisting also raised for consideration ICM 5(25), which states:
25. Standard Operating Procedures, referred to in Cage Operations SOP Task 3, 13, 38, 39, 40, 41, 44, 67, 68, are in place, including regular training, to ensure that all reporting requirements under the Anti Money Laundering and Counter Terrorism Financing (AML/ CTF) Act 2006 relating to threshold transactions, suspicious matters and international funds transfer instructions (IFTI transactions) are complied with. (B, E)
488. Counsel Assisting submitted that this was a prescriptive rule capable of direct breach by The Star. That submission is not accepted given that ICM 5(25) seems to apply to SOPs already in place.
489. ICM 11 was effective from 21 December 2018. Counsel Assisting made further submissions particularising breaches of the service desk's operations under ICM 11. However, there was not sufficiently cogent evidence of the concerns that emerged regarding the service desk's operations during the currency of ICM 11. The evidence that emerged in May and June 2019, while very concerning regarding the existence of cash at the service desk and covert practices being raised by Mr Tomkins in his email of 24 June 2019, there was no CCTV footage or contemporaneous written materials to support findings of the service desk's non-compliant cage operations contrary to ICM 11. In other words, the evidence did not have the high level of cogency and sheer volume as compared to the evidence for the period between the middle of April and late May 2018. No finding is made of breaches under ICM 11.
490. In summary, there is sufficient evidence that from late April to late May 2018, non-compliant cage operations took place at the service desk in Salon 95 contrary to ICM 5(24). That was a breach by The Star given that the non-compliance took place on casino property and in circumstances where The Star retained operational control of Salon 95.
491. The findings of a breach in relation to ICM 5 amount to breaches by The Star of a condition of its casino licence. This is due to the form of section 124(4) of the *Casino Control Act* before 21 December 2018. These were continuing breaches of The Star's casino licence that occurred from late April to late May 2018. A recommendation is made below that the Authority note the Review's findings of breaches and take such further action as it sees fit.

#### ***13.17.4 Section 70 of the Casino Control Act***

492. A further provision to consider is section 70 of the *Casino Control Act*. From 18 May 2010 until 21 December 2018, sub-sections 70(1)(i) and (2)(c) relevantly stated:

**70 Conduct of gaming**

(1) It is a condition of a casino licence that the following provisions are complied with in the casino and the casino operator is to be considered to have contravened that condition if they are not complied with:

...

(i) during the times the casino is open to the public for gaming the requirements of subsection (2) are complied with in relation to the exchange and redemption of chips and chip purchase vouchers issued by the casino operator.

(2) The requirements for the exchange and redemption of chips and chip purchase vouchers are as follows:

...

(c) chips or chip purchase vouchers are to be redeemed for a cheque at the request of the patron (if the patron requests a cheque), or wholly or partly for money (with a cheque for any balance) if the patron so requests and the casino operator concurs,

...

Note—

The requirements in subsection (2) are subject to the operation of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth.

493. Counsel Assisting submitted that those sub-sections when construed together had the effect that:

[I]t was a condition of The Star's casino licence that any chips for cash transaction that took place during the times the casino was open to the public for gaming could only occur upon the patron's request and with The Star's concurrence.

494. Counsel Assisting's core submission was that the evidence showed that chips for cash transactions took place at the service desk without The Star's approval. It therefore followed that such transactions, if taking place without The Star's "concurrence", caused The Star to contravene sub-section 70(2)(c) of the *Casino Control Act* and therefore breach the licence condition stipulated in sub-section 70(1)(i).

495. In response, The Star Entities made three submissions. The first was that sub-section 70(2)(c) needed to be read alongside sub-sections 70(2)(a) and (b). From 18 May 2010 until 21 December 2018, those three sub-sections stated:

(a) chip purchase vouchers are to be exchanged for chips at the request of the patron,

(b) chips are to be exchanged for other chips at the request of the patron,

(c) chips or chip purchase vouchers are to be redeemed for a cheque at the request of the patron (if the patron requests a cheque), or wholly or partly for money (with a cheque for any balance) if the patron so requests and the casino operator concurs,

496. The submission was, in effect, that there are words missing from each of these sub-sections, that is, each sub-section only applies to conduct “by or on behalf of the casino operator”. The Star Entities contended that sub-sections 70(2)(a) and (b) could only be directed to exchanges “by or on behalf of the casino operator”. This is because, were it otherwise, the absurdity would arise that, to use The Star Entities’ example, “the casino operator would breach its licence condition every time one patron refused another patron’s request to exchange chips of equal value”. It follows therefore, as the submission went, that sub-section 70(2)(c) only gave rise to an absolute requirement that The Star redeem chips for money if two conditions are satisfied, namely, that the patron requests a redemption of chips for money and the casino operator concurs. It is not clear whether The Star Entities were submitting that the first condition was that the patron’s request needed to be made to the casino operator.
497. Relatedly, The Star’s Entities second submission was that sub-sections 70(2)(a), (b) and (c) of the *Casino Control Act* only impose positive requirements that ensure certain actions occur if conditions are met. Those sub-sections, it was submitted, are not prohibitive. The submissions of The Star Entities took issue with Counsel Assisting implicitly reading into sub-section 70(2)(c) the word “only”, that is, “chips ... are [only] to be redeemed ... for money ... if the patron so requests and the casino operator concurs”. The Star Entities submitted there was no cause for reading the sub-section in that way.
498. The Star Entities’ third submission was that Counsel Assisting’s construction would lead to absurd results. The Star Entities submitted that it would not be possible for a casino operator to exclude the possibility that one patron provides another patron with a chip for cash inside the casino. The Star Entities submitted that on Counsel Assisting’s interpretation every such occasion would give rise to a breach by the casino operator of a condition of its licence. The Star Entities contended that this was not consistent with “the plain statutory purpose” of sub-sections 70(1)(i) and (2)(a)-(c) of the *Casino Control Act*.
499. These submissions arise in a different context from the question considered earlier in this Chapter about the concept of authorised “conduct” of a “game” for the purposes of section 4 of the *Casino Control Act*, as informed by section 70. Instead, the question here is a specific one as to whether section 70 was contravened.

500. Sub-section 70(2)(c) applies by virtue of sub-section 70(1)(i), which provides that it is a “condition” of The Star’s licence that the requirements of subsection (2) “are complied with and the casino operator is to be considered to have contravened that condition if they are not complied with”.
501. In that regard the requirement in sub-section 70(2)(c) appears to be a mandatory one, in relation to the redemption of chips.
502. According to the *Oxford English Dictionary*, the word “redemption” can mean “[t]he presentation of something in exchange for a promised money value, esp. the exchange of trading stamps, coupons, etc., for cash, goods, or services”.<sup>560</sup> There is evidence that this is what occurred at the service desk in Salon 95: chips were presented in exchange for cash.
503. Reading sub-section 70(2)(c) of the *Casino Control Act* using that meaning of “redemption” would mean that there was a breach of section 70 of the *Casino Control Act* every time that Suncity staff at the service desk exchanged cash for chips, which was done without The Star’s concurrence.
504. However that approach to the interpretation of “redemption” would equate the term with “exchange” whereas sub-section 70(2) of the *Casino Control Act* clearly treats “exchange” and “redemption” as separate concepts. It is the “redemption” of chips for money which must occur with the concurrence of the casino operator.
505. The Oxford English Dictionary also defines “redeem” as “*gain or regain possession of (something) in exchange for payment*”. Using the word in this sense more sensibly connotes the casino operator regaining possession of the chips (i.e. the casino operator’s own gaming equipment which it has been licensed to issue) in exchange for payment. If this is the correct interpretation of sub-section 70(2)(c) then Suncity may have been exchanging chips for cash at the service desk without the redemption of the chips by the casino operator.
506. A breach of section 70 would be a breach of The Star’s licence, not an offence under the *Casino Control Act* and not a criminal offence (cf. the potential contraventions of the *Unlawful Gambling Act* addressed earlier). Nonetheless, the ambiguity in sub-section 70 (2) is such that it would be unsafe to make a finding that the sub-section was breached when chip for cash exchanges were occurring at the service desk in Salon 95. It is noted that the

*Amendment Act* will now make the position much clearer in future. It includes the following new provision:

**[57] Section 70(1AA)–(1AD)**

Insert after section 70(1)—

(1AA) A casino operator must not allow the issue of chips for gaming in the casino other than—

- (a) between a casino employee and a patron, and
- (b) at a gaming table or in a casino cage.

Maximum penalty—1,000 penalty units.

(1AB) A casino employee must not issue chips for gaming in the casino other than at a gaming table or in a casino cage.

Maximum penalty—100 penalty units.

(1AC) Subclauses (1AA) and (1AB) do not apply to chips issued for use—

- (a) in a tournament, or
- (b) for training purposes.

(1AD) The regulations may provide for matters relating to the issue of chips in casino cages.

507. Had section 70(1AA) of the *Casino Control Act* been in force in 2018, it would have been a clear breach of the provision by The Star in connection with the cash for chip exchanges in Salon 95.

### Chapter 13.18 Conclusions and Recommendations

508. The Star Entities ultimately accepted many of the shortcomings exposed by the Review's investigation into the Suncity relationship. Indeed, The Star accepted that "its dealings with Suncity involved significant errors of judgment on the part of its employees and involved significant cultural issues in an important segment of the organisation".<sup>561</sup>
509. While The Star and Star Entertainment were no doubt let down by various employees in relation to Suncity during the Relevant Period, responsibility for the shortcomings and key errors of judgement ultimately rests with the casino operator and its parent company given the obvious cultural problems that provided the context for many, if not all, of those flawed decisions. There was a culture at The Star and Star Entertainment that prioritised perceived business interests over compliance. A by-product of that culture was senior management failing to appreciate the importance of transparency in dealings with the Authority (and its many regulatory manifestations and agents), and that failure even spilled over into senior management's less than candid dealings with the Board of Star Entertainment. The

governance and cultural implications of The Star's dealings with Suncity are considered further in Chapter 26.

510. The knowingly misleading submission of 12 October 2017 by The Star's chief liaison officer to L&GNSW as to the intended purpose of the installation of the window at the service desk is devastating for the confidence that the Authority and the NSW public can have in The Star.<sup>562</sup> The supply of misinformation to the regulator on a subject that was to become so marred with controversy throughout the Relevant Period (i.e. the operation of the service desk in Salon 95) only exacerbates the seriousness of the conduct.
511. All individuals involved in the process which led to the emergence of Suncity's ability to handle cash at the service desk in Salon 95 must bear some responsibility for that occurrence. Indeed, the fact that the salon and the service desk began operating before the risk assessment was completed, in a context of pressure being exerted by the junket and particularly some individuals in the VIP business to have the room open for business by the middle or late April 2018, is not something that the casino operator should have facilitated.
512. The Star and Star Entertainment ultimately bear responsibility for the emergence of what became a cash desk in Salon 95, which gave rise to serious money laundering risks. Both pieces of CCTV footage of 18 April 2018 showed large sums of cash coming into Salon 95, and the CCTV footage of 8 May 2018 showed "one-for-one" chips for cash transaction taking place over the service desk. The contemporaneous emails and written records also showed that non-junket participants may have been using the service desk. By early May 2018, the service desk was clearly engaging in functions that should have been performed within the secure confines of the casino-run cage.
513. The Star's response to that situation whereby many, if not all, of the risks identified in Ms Arnott's risk assessment of 27 April 2018 had been realised, was inappropriate. The service desk should have been shut down once the concerning reports first emerged in late April 2018. It should have been a simple decision for the operator. Instead, on 10 May 2018 a mere warning letter was issued by Mr Hawkins. That decision was a commercially convenient one. It allowed The Star to continue receiving the revenue Salon 95 was helping it secure, while also giving rise to the perception that *some* action was being taken in response to severe and obvious risks. A seriously worded letter was not enough.

514. Mr McGregor's 14 May 2018 email sounded the siren that Suncity was "operating a business model under our noses which is problematic for the SEG with regards to AML/CTF Laws", and on 15 May 2018 Mr Power frankly advised Mr Hawkins of the "unacceptable risks" the casino operator was taking in allowing the operation of the service desk in Salon 95, including potential breaches of the *Casino Control Act*.
515. However The Star instead elected to issue the Service Desk SOP which sought to impose a hybrid service desk model which allowed cash transactions but attempted to prevent the desk from being abused as an unauthorised cage. That hybrid model depended on the compliance of a third-party junket which had already shown poor compliance, to put it very mildly.
516. Sure enough, further concerning transactions emerged from Salon 95 in late May 2018. The necessary course of action for the casino operator was to terminate the service desk privilege. Instead, in what was a weak and disproportionate response, a further warning letter was delivered to the junket on 8 June 2018. A second seriously worded letter was obviously inadequate to deal with the gravity of the situation.
517. Evidence of disturbing activities continued to emerge from Salon 95, as was seen in the troubling balcony blind-spot footage of 15 June 2018. The misguided approach of the casino operator was rounded off when in late June 2018 the rebate agreement with Mr Iek was renewed, with the agreement acknowledging the continuation of the Salon 95 service desk privilege rather than its cessation.
518. Those errors of judgment all occurred in an environment where the Board of Star Entertainment was not told the full story. The May 2018 Board report buried the concerns of Salon 95 in oblique language, and so Salon 95 was allowed to continue for the rest of 2018 and well into 2019. Based on the evidence given by the non-executive directors, all of whom were shown to be genuinely dismayed by the extent of the revelations from Salon 95, it is likely that they would have taken appropriate action and at the very least directed the immediate closure of Salon 95 pending a full-scale investigation into the relationship with Suncity.
519. On 23 May 2019, Mr Stevens completed an "audit" of Suncity's compliance with the Service Desk SOP. Mr Stevens gave Suncity a "Satisfactory" rating and concluded that the concerning events of 2018 were no longer occurring. Mr Stevens' conclusions were almost immediately discredited with further disturbing transactions in Salon 95 uncovered

by Mr Tomkins in late June 2019, which were corroborated by Mr McGregor's investigations into the salon at that time. These further revelations serve to highlight the enormity of the risk the casino operator was taking in continuing to confer to Suncity the service desk privilege and how those risks were still being realised as late as May and June 2019.

520. As it was, Mr Stevens knew of those further instances of non-compliance by the junket, and yet he did not amend the findings of his 23 May 2019 audit. That failure led to other members of the business, such as Mr Buchanan, relying on the report to support the ongoing relationship with Suncity and Mr Chau.
521. It was in June 2019 that certain officers of Star Entertainment came into possession of the HKJC Report. That was timely for in late July and in August 2019, Star Entertainment's main competitor, Crown Resorts, came under close scrutiny from the media for its dealings with Suncity. The media's allegations against Suncity were supported by the information raised in the HKJC Report and also, critically, the decision taken by the Hong Kong Jockey Club based on that information. Instead of senior management of Star Entertainment electing to give appropriate weight to the report and advise against the continuation of the relationship with Suncity, the report was unjustifiably dismissed by certain officers.
522. In August and September 2019, senior management had the opportunity to be frank and candid with the Board and the Authority about the serious issues with the past and ongoing dealings with Suncity and Mr Chau. The 15 August 2019 Board paper did not disclose the possession of the HKJC Report within Star Entertainment. The response to L&GNSW in the 10 September 2019 did not reveal the concerning cash transactions from Salon 95 and was not a transparent communication. These were two instances of less than candid communications with two very important bodies, namely, the Board of Star Entertainment and L&GNSW performing a regulatory function of the Authority.
523. All the while, in September 2019 Suncity moved from Salon 95 into Salon 82 without the casino operator performing any risk assessment to test the appropriateness of maintaining the relationship in the face of the media squarely calling into to question Suncity and Mr Chau's probity. This was a further instance of perceived business interests prevailing over compliance objectives.
524. In late 2020, further controversy emerged with Mr Buchanan's preparation of a due diligence report into Suncity and Mr Chau. Mr Buchanan's original draft of the 1 October

2020 memorandum contained frank and substantiated criticisms that did not appear in the subsequent 24 November 2020 or 7 January 2021 versions. The interventions to delete criticism of Star Entertainment had the effect of depriving the business of Mr Buchanan's frank and unedited assessment of Suncity and Mr Chau. This represented a breakdown in Star Entertainment's due diligence processes and highlighted a cultural problem.

525. In August 2021 Mr Buchanan made a recommendation as part of "Project Congo" that a relationship with Mr Chau could be managed, albeit with stringent risk management processes in place. That recommendation was accepted by Mr Houlihan. The decision to continue a relationship with Mr Chau was at the very least a misapplication of the "good repute" test which The Star should have understood as applicable by that time.
526. A finding has also been made in relation to Salon 95 that what took place at the service desk was a breach of ICM 5(24) and therefore a breach of The Star's casino licence by virtue of section 124 of the *Casino Control Act* at that time. Even if that finding is wrong, The Star courted the risk of that contravention.
527. **Recommendation:** It is recommended that the Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breaches of ICM5(24) in connection with the cage operations in Salon 95 in 2018.
528. **Recommendation:** It is recommended that the Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breaches of its warranties under paragraph 3 of Schedule 3 of the Casino Operations Agreement and paragraphs 1 (b) and 7 (c) of the Amended Compliance Deed in connection with Mr Stevens' misleading submission to L&GNSW in 2017 concerning the proposed services to be provided at the Service Desk in Salon 95.

## Endnotes

- 1 **Exhibit A-509** (STA.3009.0005.0055).
- 2 **Exhibit B-15**, (STA.3009.0005.0061).
- 3 **Exhibit A-378**, para [48], [49(a)], [80] (INQ.002.004.0109 at .0118 - .0120, .0125).
- 4 Ibid para 49-50 at .0120.
- 5 Ibid para [48] at .0118.
- 6 **Exhibit B-435** (STA.5002.0003.1476 at .1491); Hawkins: Day 22, T2538.11-15.
- 7 **Exhibit B-645** (STA.3008.0004.0531 at .0531); **Exhibit C-34** (STA.5002.0004.0874).
- 8 **Exhibit A-378**, para 122 (INQ.002.004.0109 at .0130).
- 9 **Exhibit B-383** (STA.0006.0002.0405).
- 10 **Exhibit B-412** (STA.3008.0004.0697 at .0703).
- 11 Brodie: Day 21, T2391.4-15.
- 12 Brodie: Day 21, T2383.1-9.
- 13 **Exhibit B-383** (STA.0006.0002.0405 at .0415).
- 14 **Exhibit A-378**, para [103] (INQ.002.004.0109 at .0127).
- 15 Stevens: Day 7, T689.9-12; **Exhibit A-378**, para [31] (INQ.002.004.0109 at .0113).
- 16 Stevens: Day 7, T689:11-12.
- 17 Stevens: Day 7, T689:11-12.
- 18 Hawkins: Day 22, T2547.44-2548.13.
- 19 **Exhibit D-5** (STA.3023.0001.0628).
- 20 **Exhibit B-383** (STA.0006.0002.0405 at .0419).
- 21 Stevens: Day 7, T759.18-22.
- 22 Buchannan: Day 5, T481.24-31; Stevens: Day 7, T740.4-8.
- 23 Stevens: Day 7, T712.11-14 (Stevens).
- 24 **Exhibit B-412** (STA.3008.0004.0697).
- 25 Ibid at .0705.
- 26 Ibid.
- 27 Whytcross: Day 10, T1097.10-36.
- 28 **Exhibit B-412** (STA.3008.0004.0697 at .0703).
- 29 Ibid at .0702.
- 30 Whytcross: Day 10, T1098.14-19.
- 31 **Exhibit B-412** (STA.3008.0004.0697 at .0709).
- 32 Whytcross: Day 10, T1096.29-38..
- 33 **Exhibit B-412** (STA.3008.0004.0697 at .0701).
- 34 Ibid.
- 35 Whytcross: Day 10, T1098.34-1099.14.

- 36 Whytcross: Day 10, T1099.4-5.
- 37 **Exhibit A-1322**, para [3(e)] (INQ.002.004.0021 at .0021)
- 38 Stevens: Day 7, T690.16-691.11.
- 39 Stevens: Day 7, T691.31.
- 40 Stevens: Day 7, T686.46-687.1.
- 41 **Exhibit F-65** (STA.3417.0078.6717); **Exhibit F-66** (STA.3417.0078.6718); **Exhibit F-67** (STA.3417.0078.6719); **Exhibit F-68** (STA.3417.0078.6720); **Exhibit F-69** (STA.3417.0078.6721); **Exhibit F-70** (STA.3417.0078.6722); **Exhibit F-71** (STA.3417.0078.6723); **Exhibit F-72** (STA.3417.0078.6724); **Exhibit F-73** (STA.3417.0078.6725); **Exhibit F-74** (STA.3417.0078.6726).
- 42 **Exhibit F-65** (STA.3417.0078.6717).
- 43 **Exhibit F-65** (STA.3417.0078.6717); **Exhibit F-66** (STA.3417.0078.6718); **Exhibit F-67** (STA.3417.0078.6719); **Exhibit F-68** (STA.3417.0078.6720); **Exhibit F-69** (STA.3417.0078.6721); **Exhibit F-70** (STA.3417.0078.6722); **Exhibit F-71** (STA.3417.0078.6723); **Exhibit F-72** (STA.3417.0078.6724); **Exhibit F-73** (STA.3417.0078.6725); **Exhibit F-74** (STA.3417.0078.6726).
- 44 **Exhibit F-68** (STA.3417.0078.6720).
- 45 **Exhibit F-74** (STA.3417.0078.6726).
- 46 Stevens: Day 7, T693.8-10, T696.47-48, T697:1-20
- 47 Stevens: Day 7, T697:44-45, T698:1-25.
- 48 Star Entities' Written Submissions dated 21 June 2022, para [C.26].
- 49 Ibid.
- 50 Ibid para [C.29].
- 51 Pitkin: Day 32, T3561.41-45; Lahey: Day 33, T3650.28-32.
- 52 Stevens: Day 7, T692.20-25.
- 53 **Exhibit F-75** (STA.3418.0014.8070 at .8071).
- 54 Ibid at .8070.
- 55 Ibid.
- 56 Stevens: Day 8, T906.8-48-T907.9.
- 57 Stevens: Day 8, T907.46.
- 58 Stevens: Day 8, T907.13-46.
- 59 ILGA.001.007.2907 at .2973.
- 60 ILGA.001.007.0500, para 1(b), 7(c) at .0547, .0550.
- 61 **Exhibit B-2209** (STA.3412.0053.6455 at .6457).
- 62 **Exhibit R-4** (STA.3410.0046.2621); **Exhibit R-5** (STA.3410.0046.2623).
- 63 **Exhibit R-5** (STA.3410.0046.2623).
- 64 **Exhibit B-2209** (STA.3412.0053.6455 at .6457).
- 65 **Exhibit Q-14**, (STA.3009.0004.0067, at .0068).
- 66 **Exhibit B-2209** (STA.3412.0053.6455 at .6456).
- 67 **Exhibit Q-13**, (STA.3403.0002.1988 at .1988).
- 68 **Exhibit Q-12** (STA.3419.0003.1708 at .1708).

- 69 **Exhibit Q-15** (STA.3410.0018.6375 at .6375).
- 70 **Exhibit B-705** (STA.3412.0019.5757 at .5757- .5758).
- 71 Ibid at .5757.
- 72 White: Day 16, T1749.24-29.
- 73 **Exhibit B-706** (STA.3008.0004.0671 at .0672).
- 74 Ibid at .0671-.0672.
- 75 **Exhibit Q-18** (STA.3410.0018.6023 at .6028-.6029).
- 76 Ibid at .6027-.6028.
- 77 Ibid at .6028-.6029.
- 78 Brodie: Day 21, T2386.15-23.
- 79 **Exhibit Q-18** (STA.3410.0018.6023 at .6026).
- 80 Ibid at .6025-.6026.
- 81 Ibid at .6024-.6025.
- 82 Ibid at .6024.
- 83 Ibid.
- 84 Ibid at .6023-.6024.
- 85 Ibid at .6023.
- 86 Ibid.
- 87 Star Entities' Written Submissions dated 21 June 2022, para [C.33].
- 88 Arnott: Day 13, T1406.5-9
- 89 **Exhibit-1**, para 25 (INQ.002.004.0241 at .0245).
- 90 **Exhibit F-147**, para 6 (INQ.002.004.0272 at .0273).
- 91 **Exhibit B-727** (STA.3415.0002.6723).
- 92 **Exhibit B-732** (STA.3410.0051.8577 at .8578 - .8579).
- 93 Ibid at .8578.
- 94 **Exhibit B-735** (STA.3435.0146.6688 at .6689-.6690).
- 95 **Exhibit B-732** (STA.3410.0051.8577 at .8577 - .8578).
- 96 Arnott: Day 13, T1409.45-1410.3.
- 97 Brodie: Day 21, T2386.46-48.
- 98 Brodie: Day 21, T2387.1-7.
- 99 **Exhibit B-732** (STA.3410.0051.8577 at . 8577).
- 100 Brodie: Day 21, T2387.31-36.
- 101 Arnott: Day 13, T1410:25-27. See also **Exhibit B-735** (STA.3435.0146.6688).
- 102 **Exhibit B-735** (STA.3435.0146.6688 at .6688-.6689).
- 103 Ibid.
- 104 Brodie: Day 21, T2387.5-11.
- 105 Arnott: Day 13, T1411.14-1412.3.

106 **Exhibit Q-19** (STA.3415.0003.2542 at .2542)

107 **Exhibit F-87** (INQ.020.001.0001); Buchanan: Day 5, T484.37 - T487.38.

108 Buchanan: Day 5, T487.34-38.

109 Buchanan: Day 5, T487.47-48, T488.1.

110 Arnott: Day 13, T1412.15 to T1415.40.

111 Arnott: Day 13, T1415.4-5.

112 Arnott: Day 13, T1415.23-26.

113 **Exhibit F-88** (INQ.020.001.0003).

114 Buchanan: Day 5, T490.17-20.

115 Arnott: Day 13, T1418.10-13.

116 **Exhibits B-744** (STA.3419.0003.6801); **Exhibit B-745** (STA.3419.0003.6802).

117 **Exhibit B-745** (STA.3419.0003.6802).

118 Ibid at .6803.

119 Ibid.

120 **Exhibit C-216** (STA.3427.0037.5057 at .5057).

121 **Exhibit B-762** (STA.3428.0061.3767).

122 **Exhibit A-1**, para 28 (INQ.002.004.0241).

123 Arnott: Day 13, T1422.47-1423.2.

124 **Exhibit B-762** (STA.3428.0061.3767).

125 **Exhibit B-764** (STA.3008.0006.4452).

126 Ibid.

127 Arnott: Day 13, T1424.15-1425.10.

128 **Exhibit B-765** (STA.3008.0006.4461).

129 **Exhibit F-98** (INQ.020.001.0002); Arnott: Day 13, T1426.5-8.

130 Arnott: Day 13, T1426.5-31.

131 Arnott: Day 13, T1426.46-1427.17.

132 **Exhibit B-765** (STA.3008.0006.4461).

133 **Exhibit B-769** (STA.3411.0024.7383 at .7387).

134 Ibid at .7386.

135 Ibid at .7385-.7386.

136 Ibid at .7384.

137 Ibid at .7383-.7384.

138 Ibid at .7383.

139 **Exhibit B-774** (STA.3411.0025.5203).

140 **Exhibit B-775** (STA.3411.0025.5205 at .5205).

141 **Exhibit B-773** (STA.3008.0003.0049).

142 Ibid.

- 143 Hawkins: Day 24, T2742.46 to T2743.34.
- 144 Hawkins: Day 24, T2743.43-47, T2744.1.
- 145 Hawkins: Day 24, T2744.3-12.
- 146 **Exhibit B-778**, (STA.3412.0103.4123 at .4125).
- 147 Brodie: Day 21, T2389.18-22.
- 148 Hawkins: Day 24 T2746:11-34.
- 149 **Exhibit B-787** (STA.3412.0004.6632).
- 150 Ibid.
- 151 Power: Day 17, T1847.25-44.
- 152 Power: Day 17, T1848.9-17.
- 153 Power: Day 17, T1848.31-35.
- 154 **Exhibit C-48** (STA.3427.0009.2741 at .2742); **Exhibit C-48** (STA.3427.0009.2741).
- 155 **Exhibit C-49** (STA.3427.0018.3096).
- 156 Star Entities' Written Submissions dated 21 June 2022, para [C.42].
- 157 **Exhibit C-49** (STA.3427.0018.3096, at .3096).
- 158 **Exhibit B-805** (STA.3412.0018.7211 at .7211).
- 159 Ibid.
- 160 Ibid at .7214 - .7216.
- 161 Ibid at .7215-.7216.
- 162 **Exhibits B-783** (STA.3411.0010.3415); **Exhibit B-788** (STA.3411.0025.3743).
- 163 **Exhibit B-790** (STA.3411.0010.3560).
- 164 Ibid.
- 165 Ibid.
- 166 Power: Day 17, T1851.37-42.
- 167 Power: Day 17, T1852.11-12.
- 168 Power: Day 17, T1852.44-1853.8.
- 169 Hawkins: Day 24, T2747.5-14.
- 170 **Exhibit B-790** (STA.3411.0010.3560).
- 171 Ibid.
- 172 Hawkins: Day 24, T2747.45-T2748.23.
- 173 Hawkins: Day 24, T2746.36-41.
- 174 Bekier: Day 27, T3106.30-45.
- 175 **Exhibit C-53** (STA.3427.0018.4222 at .4222).
- 176 **Exhibit Q-24** (STA.3014.0001.0143, at .0143-.0144).
- 177 **Exhibit B-1313** (STA.3415.0033.0872).
- 178 Ibid at .0873.
- 179 Ibid at .0874.

180 Stevens: Day 7, T684.31-35.

181 Stevens: Day 7, T723.9-14.

182 **Exhibit B-1313** (STA.3415.0033.0872 at .0875).

183 Arnott: Day 13, T1426.5-31.

184 **Exhibit B-769** (STA.3411.0024.7383 at .7387).

185 Stevens: Day 7, T723.24-35; T724.14-19.

186 **Exhibit B-824** (STA.3008.0006.4459); **Exhibit C-234** (STA.3427.0037.5125).

187 **Exhibit B-824** (STA.3008.0006.4459).

188 **Exhibit Q-25** (STA.3412.0020.5990 at .5990).

189 Ibid.

190 **Exhibit C-234** (STA.3427.0037.5125 at .5125).

191 **Exhibit B-863** (STA.3008.0004.0199).

192 Ibid.

193 White: Day 16, T1750.34-35; Power: Day 17, T1879.15-18.

194 Hawkins: Day 24, T2750:5-36.

195 Star Entities' Written Submissions dated 21 June 2022, para [C.62].

196 Ibid para [C.63].

197 **Exhibits B-869** (STA.3415.0006.1901); **Exhibit B-870** (STA.3415.0006.1902).

198 **Exhibit F-106** (INQ.020.002.0002).

199 Ibid.

200 Ibid.

201 Ibid; Stevens: Day 7, T733:16 - T740:47.

202 Stevens: Day 7, T740.10-47.

203 **Exhibit B-890** (STA.3412.0001.3771 at .3773).

204 **Exhibit B-903** (STA.0006.0001.0531)

205 Ibid at . 0536 - .0537.

206 Ibid.

207 Star Entities' Written Submissions dated 21 June 2022, para [C.70], see also para [C.71]-[C.76].

208 **Exhibit B-1011** (STA.5002.0004.1047 at .1049).

209 **Exhibit B-753** (STA.5002.0004.1675 at 1695).

210 Ibid at .1696.

211 **Exhibit B-1011** (STA.5002.0004.1047).

212 **Exhibit A-72**, para 32 (INQ.002.004.0066 at .0070)

213 Heap: Day 30, T3367.47-48; T3368.1-7.

214 Bradley: Day 32, T3505.35-36.

215 Bradley: Day 32, T3506.6.

216 Bradley: Day 32, T3506.26-32.

- 217 Bradley: Day 32, T3506.43.
- 218 Pitkin: Day 32, T3569.10-48, T3570.1-13.
- 219 Lahey: Day 33, T3655.30-34.
- 220 Lahey: Day 33, T3656.14-19.
- 221 O'Neil: Day 36, T3897.34-3898.5-11.
- 222 Hawkins: Day 24, T2751.20-39.
- 223 Heap: Day 30, T3367.9; Bradley: Day 32, T3504.20-21; Pitkin: Day 33, T3566.37-41; Lahey: T3654.20.
- 224 Pitkin: Day 32, T3566.37.41.
- 225 Lahey: Day 33, T3654.39-43.
- 226 **Exhibit B-1084** (STA.3412.0057.1655 at .1655).
- 227 Ibid.
- 228 Buchanan: Day 5, T535.29-.36
- 229 **Exhibit B-1124** (STA.3008.0004.0603 at .0603).
- 230 **Exhibit B-1185** (STA.3008.0004.0617).
- 231 Ibid.
- 232 **Exhibit B-1232** (STA.3008.0004.0503 at .0504).
- 233 Ibid at .0503.
- 234 **Exhibit A-1322**, para 13 (INQ.002.004.0021 at.0022).
- 235 Ibid.
- 236 Ibid para [15] at .0023; **Exhibit B-1337** (STA.3009.0004.0135 at .0138).
- 237 **Exhibit A-1322**, para 15 (INQ.002.004.0021 at.0023).
- 238 Ibid para [18] at .0023 - .0024.
- 239 **Exhibit B-1492** (STA.3009.0004.0005).
- 240 Ibid at .0005.
- 241 **Exhibit B-1492** (STA.3009.0004.0005 at .0006).
- 242 Stevens: Day 7, T752.43-47.
- 243 **Exhibit B-1437** (STA.3418.0011.0621).
- 244 Ibid.
- 245 **Exhibit B-1492**, para 37 (STA.3009.0004.0005 at .0006).
- 246 Stevens: Day 7, T760.18-26.
- 247 **Exhibit B-2779** (STA.3412.0054.3083).
- 248 Ibid at .3087; Stevens: Day 7, T766.4-30.
- 249 **Exhibit B-2779** (STA.3412.0054.3083).
- 250 **Exhibit C-84** (STA.3427.0037.3741 at .3741).
- 251 **Exhibit G-673** (STA.3412.0042.8585); **Exhibit G-675** (STA.3427.0018.3538); **Exhibit G-677** (STA.3428.0057.2735).
- 252 **Exhibit G-673** (STA.3412.0042.8585 at .8587); **Exhibit G-675** (STA.3427.0018.3538 at .3540); **Exhibit G-677** (STA.3428.0057.2735 at .2737).

- 523 **Exhibit G-673** (STA.3412.0042.8585 at .8588 - .8589); **Exhibit G-675** (STA.3427.0018.3538 at .3541 - .3542); **Exhibit G-677** (STA.3428.0057.2735 at .2738 - .2739).
- 254 Star Entities' Written Submissions dated 21 June 2022, para [C.92].
- 255 **Exhibit C-79** (STA.3427.0037.3870); **Exhibit C-80** (STA.3427.0037.3882); **Exhibit C-81** (STA.3427.0037.3896); **Exhibit C-82** (STA.3427.0037.3910).
- 256 Buchanan: Day 4, T444.7-445.27.
- 257 **Exhibit C-79** (STA.3427.0037.3870).
- 258 Ibid at .3870.
- 259 Ibid para [1] at .3874.
- 260 Ibid para [2]-[3] at .3874.
- 261 Ibid para [37]-[40] at .3880 - .3881.
- 262 Ibid para [37]-[38], [40] at .3880 - .3881.
- 263 **Exhibit C-80** para [54]-[56] (STA.3427.0037.3882 at .3883).
- 264 Ibid at para [110] at .3894.
- 265 Ibid para [111] at .3894.
- 266 Heap: Day 30, T3376.39; Bradley: Day 32, T3513.19; Pitkin: Day 32, T3573.10; Lahey: Days 33, T3660.41
- 267 Heap: Day 30, T3378.12-16.
- 268 Buchanan: Day 4, T428.5.
- 269 **Exhibit C-78** (STA.3427.0037.3869); **Exhibit C-79** (STA.3427.0037.3870); **Exhibit C-80** (STA.3427.0037.3882); **Exhibit C-81** (STA.3427.0037.3896); **Exhibit C-82** (STA.3427.0037.3910).
- 270 Buchanan: Day 5, T460.36-43.
- 271 Buchanan: Day 5, T463.45-48, T464.1.
- 272 Buchanan: Day 5, T464.3-7.
- 273 Houlihan: Day 10, T1157.30 - T1159.10.
- 274 Houlihan: Day 10, T1159.8-10.
- 275 Houlihan: Day 10, T1162.17-33.
- 276 Houlihan: Day 10, T1165.32-36.
- 277 Houlihan: Day 10, T1165:38-45.
- 278 Arnott: Day 13, T1459.10-14.
- 279 Arnott: Day 13, T1459.40-47.
- 280 Arnott: Day 13, T1470.8-20.
- 281 Arnott: Day 13, T1472.3-22.
- 282 White: Day 16, T1756.40 - T1757.8.
- 283 White: Day 16, T1757.23.
- 284 Power: Day 17, T1885.39 to T18863.
- 285 Power: Day 17, T1887.38-45.
- 286 Power: Day 17, T1886.46-T1887.36, T1887:40-T1888.11, T1895:38-41, T1896.1-29, T1896.37-1897.12, T1901.27-35, T1901.43-T1902.15, T1935.46-T1936.1; Power: Day 18, T1966.35-42.

- 287 Power: Day 17, T1896.14-22; Power: Day 18, T1968.29-38.
- 288 Power: Day 17, T1909.26-1910.21.
- 289 Power: Day 17, T1933.42-45.
- 290 Martin: Day 20, T2237.20-24.
- 291 Martin: Day 20, T2237.26-T2338.48, T2241.23-T2242.33, T2243.26-33.
- 292 Martin: Day 20, T2238.9-16.
- 293 Martin: Day 20, T2241.36; T2242.8-10
- 294 Martin: Day 20, T2242.1-6.
- 295 Martin: Day 20, T2248.12-28.
- 296 Martin: Day 20, T2249.13-31.
- 297 Martin: Day 20, T2244.37-45, T2251.35-38.
- 298 Martin: Day 20, T2251.40-42.
- 299 Martin: Day 20, T2251.44 - T2252.9.
- 300 Star Entities' Written Submissions dated 21 June 2022, para [C.97].
- 301 Bekier: Day 27, T3115.26-43.
- 302 Bekier: Day 27, T3118.9-18
- 303 Heap: Day 30, T3376.47-T3377.1.
- 304 Heap: Day 30, T3377.13-24.
- 305 Heap: Day 30, T3378.1-16.
- 306 Bradley: Day 32, T3513.27 - T3514.7, T3514.30-34; Pitkin: Day 32, T3573.22-37; Lahey: Day 33, T3661.27-42; Sheppard: Day 34, T3708.1-27; O'Neill: Day 36, T3903.37 - T3904.25.
- 307 Bekier: Day 27, T3114.26-28.
- 308 Bekier: Day 27, T3115.5-13.
- 309 Bekier: Day 27, T3115.15-18.
- 310 Bekier: Day 27, T3115.20-24.
- 311 **Exhibit C-78** (STA.3427.0037.3869).
- 312 Bekier: Day 27, T3113.43-T3114.19.
- 313 **Exhibit G-689** (STA.3427.0017.3604); Martin: Day 20, T2256.13-20.
- 314 Martin: Day 20, T2236.44-48, T2239.36-T2240.2, T2256.26-32.
- 315 Martin: Day 20, T2256.30-36.
- 316 **Exhibit G-688** (STA.3428.0034.2978).
- 317 **Exhibit G-689** (STA.3427.0017.3604); Martin: Day 20, T2254.47-T2255.4.
- 318 **Exhibit G-689** (STA.3427.0017.3604).
- 319 **Exhibit G-689** (STA.3427.0017.3604 at .3606).
- 320 Ibid at .3607.
- 321 Martin: Day 20, T2255.30-34.
- 322 **Exhibit B-1466** (INQ.016.001.0552).

- 323 **Exhibit B-1466** (INQ.016.001.0552 at .0563).
- 324 Ibid.
- 325 **Exhibit B-1470** (INQ.016.001.1339); **Exhibit B-1471** (INQ.016.001.1340); **Exhibit B-1472** (INQ.016.001.1341); **Exhibit B-1473** (INQ.016.001.1342); **Exhibit B-1474** (INQ.016.001.1343); **Exhibit B-1475** (INQ.016.001.0590).
- 326 Ibid.
- 327 Ibid.
- 328 Ibid.
- 329 **Exhibit B-1545** (INQ.014.001.0162).
- 330 Ibid at .0162.
- 331 Ibid at .0163.
- 332 Ibid at .0164.
- 333 **Exhibit B-1556** (STA.0015.0001.0294).
- 334 Bekier: Day 27, T3112.12-23.
- 335 Bekier: Day 27, T3112.25-29.
- 336 Bekier: Day 27, T3113.5.
- 337 Bekier: Day 27, T3113.15-20..
- 338 **Exhibit B 1538** (STA.5002.0005.2241 at .2242).
- 339 **Exhibit B-1476** (STA.3415.0001.0139).
- 340 **Exhibit B-1478** (STA.3417.0005.8904); **Exhibit B-1479** (STA.3417.0005.8905).
- 341 **Exhibit B-1479** (STA.3417.0005.8905 at .8906).
- 342 Ibid at .8906 - .8907.
- 343 **Exhibit B-1501** (STA.3402.0003.5166 at .5167).
- 344 Ibid.
- 345 Sheppard: Day 29, T3330.15-19.
- 346 **Exhibit B-1514** (STA.3402.0007.8388 at .8388 - .8389).
- 347 Ibid at .8388.
- 348 **Exhibit B-1528** (STA.3402.0007.8355).
- 349 **Exhibit B-1542** (STA.5002.0005.1428 at .1430 - .1431).
- 350 **Exhibit B-1538** (STA.5002.0005.2241).
- 351 Ibid at .2244.
- 352 Ibid at .2245.
- 353 Ibid at .2245 - .2246.
- 354 **Exhibit B-2193** (STA.3009.0003.0025 at .0029, .0030, .0034); **Exhibit G-675** (STA.3427.0018.3538 at .3538, .3540); **Exhibit G-689** (STA.3427.0017.3604).
- 355 Martin: Day 21, T2329.42-2340.3.
- 356 **Exhibit B-1542** (STA.5002.0005.1428 at .1432 - .1431)
- 357 Sheppard: Day 34, T3714.11-14.

- 358 Heap: Day 30, T3383.6-13.
- 359 Sheppard: Day 34, T3714.34-37.
- 360 Sheppard: Day 34, T3714.39-T3715.1.
- 361 Star Entities' Written Submissions dated 21 June 2022, para [C108].
- 362 Martin: Day 20, T2276.43-T2277.13.
- 363 Martin: Day 20, T2291.23-30.
- 364 Arnott: Day 14, T1584.24-31.
- 365 Arnott: Day 14, T1584.7-10.
- 366 Star Entities' Written Submissions dated 21 June 2022, para [C105].
- 367 **Exhibit B-2803** (STA.3412.0004.5443 at .5688 to .5689); Pitkin: Day 32, T3578.15-22.
- 368 Pitkin: Day 32, T3576.37-39.
- 369 Pitkin: Day 32, T3576.45 -T3577.10.
- 370 Pitkin: Day 32, T3577.23-30.
- 371 Lahey: Day 33, T3642.35-3643.16.
- 372 Lahey: Day 33, T3643.36-39.
- 373 **Exhibit B-1714** (STA.5003.0004.1529); **Exhibit B-1716** (STA.5003.0004.0784).
- 374 **Exhibit B-1714** (STA.5003.0004.1529 at .1530).
- 375 Arnott: Day 14 T1600.40-43.
- 376 Arnott: Day 14 T1601.1-6.
- 377 Arnott: Day 14 T1601.29-47.
- 378 Arnott: Day 14 T1602.26-31.
- 379 **Exhibit B-1538** (STA.5002.0005.2241 at . 2244, .2250).
- 380 Ibid at .2250.
- 381 **Exhibit B-1672** (STA.3008.0004.0667 at .0668).
- 382 Ibid.
- 383 **Exhibit B-1538** (STA.5002.0005.2241 at .2251 - .2252).
- 384 STA.3427.0038.1948 at .1948.
- 385 STA.3412.0138.2696.
- 386 Power, Day T1917.43-45, T1918.4-11.
- 387 **Exhibit B-1669** (STA.3002.0009.0298 at .0300).
- 388 **Exhibit B-2193** (STA.3009.0003.0025 at .0029, .0030 and .0034); **Exhibit G-675** (STA.3427.0018.3538 at .3540); **Exhibit G-689** (STA.3427.0017.3604).
- 389 Star Entities' Written Submissions dated 21 June 2022, para [C113].
- 390 *Australian Competition and Consumer Commission v TPG Internet Pty Ltd* (2013) 250 CLR 640 at 651 [39] per French CJ, Crennan, Bell and Keane JJ.
- 391 Power: Day 17, T1920.17-30.
- 392 **Exhibit B-790** (STA.3411.0010.3560).
- 393 Power: Day 17, T1915.33-36, T1917.29-31.

394 **Exhibit B-1531** (STA.3402.0003.4879).

395 **Exhibit B-1546** (STA.3402.0003.5807).

396 **Exhibit B-1547** (STA.3402.0003.5808).

397 **Exhibit B-1557** (STA.3402.0003.4935).

398 **Exhibit B-1564** (STA.3402.0003.5093); **Exhibit B-1566** (STA.3402.0003.5099).

399 **Exhibit B-1564** (STA.3402.0003.5093).

400 **Exhibit B-1586** (STA.3402.0003.5139).

401 **Exhibit B-1590** (STA.3402.0003.8726 at .8726).

402 **Exhibit B-1655** (STA.3412.0055.7773); **Exhibit B-1662** (STA.3412.0055.7862).

403 STA.3412.0138.7346.

404 Ibid.

405 Martin: Day 20, T2292.32-T2293.22.

406 STA.3412.0138.2716.

407 Ibid.

408 Star Entities' Written Submissions dated 10 August 2022, page 2.

409 Matthias Bekier Written Submissions dated 10 August 2022, para 10.

410 Paula Martin Written Submissions dated 10 August 2022, para 2-3.

411 Ibid, para 10.

412 **Exhibit A-1196**, STA.3402.0003.6606.

413 Ibid at .6606-.6607.

414 Martin: Day 20, T2264.4-33.

415 Star Entities' Written Submissions dated 21 June 2022, para [C.102].

416 Martin: Day 21, T2329.42-2340.3.

417 **Exhibit A-378**, para [104] (INQ.002.004.0109 at .0128)

418 **Exhibit B-1642** (STA.0015.0001.0124); **Exhibit B-1664** (ILGA.005.001.0259); **Exhibit B-1525** (STA.0015.0001.0271); Buchanan: Day 5, T520.6-37

419 **Exhibit A-378**, para [107] (INQ.002.004.0109 at .0128).

420 Ibid para 118 at .0129.

421 **Exhibits B-1525** (STA.0015.0001.0271).

422 **Exhibit B-1642** (STA.0015.0001.0124 at .0126).

423 Ibid.

424 Arnott: Day 13, T1456.28-47.

425 Bekier: Day 27, T3113.15-20.

426 **Exhibit L-1** (ILGA.001.001.0001); **Exhibit K-2** (ILGA.001.001.0246).

427 **Exhibit H-380** (ILGA.001.001.0133).

428 Ibid at .0150-.0151.

429 Hawkins: Day 25, T2807.14 - T2808.42.

- 430 Hawkins: Day 25, T2808.40-42.
- 431 Hawkins: Day 25, T2808.40-42.
- 432 Hawkins: Day 25, T2808.44-48.
- 433 Hawkins: Day 25, T2808.48-T2029.5.
- 434 Hawkins: Day 25, T2809.6.
- 435 Hawkins: Day 25, T2809.8-35.
- 436 **Exhibit H-380** (ILGA.001.001.0133).
- 437 Ibid.
- 438 **Exhibit B-733** (STA.3008.0003.0049); **Exhibit B-863** (STA.3008.0004.0199).
- 439 **Exhibit B-863** (STA.3008.0004.0199).
- 440 **Exhibit B-790** (STA.3411.0010.3560).
- 441 Ibid.
- 442 Hawkins: Day 25, T2809.37 - T2810.29.
- 443 Counsel Assisting's Oral Submissions: Day 37, T3984.17-.22
- 444 Greg Hawkins Written Submissions dated 21 June 2022, para [31].
- 445 Ibid para [32]-[35].
- 446 **H-380** at T901.5-27 (ILGA.001.001.0133 at .0202).
- 447 Star Entities' Written Submissions dated 21 June 2022, para [C.166].
- 448 **Exhibit L-1** at T825.33-45, T826.16-29 (ILGA.001.001.0001 at .0126 - .0127).
- 449 **Exhibit K-2** at T1038.23-1040.4 (ILGA.001.001.0246 at .0259 - .0261).
- 450 Ibid T1041.37-1042.30 at .0262 - .0263.
- 451 Power: Day 17, T1939.4-8 ; Power: Day 18, T1956.1-4, T1968.11- 27; Martin: Day 20, T2213.9-21, T2252.14-15.
- 452 Star Entities' Written Submissions dated 21 June 2022, para [C.156].
- 453 **Exhibit A-83**, para 27 (INQ.002.004.0001 at .0005).
- 454 **Exhibit A-85**, STA.3002.0005.0015.
- 455 **Exhibit A-83**, para 36, 61 (INQ.002.004.0001 at .0006 and .0010).
- 456 Ibid para 37 (INQ.002.004.0001 at .0006).
- 457 Buchannan: Day 5, T525.43-48.
- 458 **Exhibit B-2603** (STA.3002.0005.0001).
- 459 Buchannan: Day 5, T525.22-38.
- 460 **Exhibit B-2603** (STA.3002.0005.0001 at .0001).
- 461 Ibid.
- 462 **Exhibit B-2603** (STA.3002.0005.0001 at .0001 - .0002).
- 463 Ibid, para [10] at .0002.
- 464 Ibid, para [34] at .0005.
- 465 Ibid, para [85]-[86], at .0013.

466 **B-2603** (STA.3002.0005.0001); **Exhibit B-2604** (STA.3002.0005.0015); **Exhibit B-2605**  
(STA.3002.0005.0026).

467 Buchanan: Day 5, T536.6-9.

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469 Buchanan: Day 5, T536.16-35.

470 **Exhibit A-1186** (INQ.002.004.0090 at . 0090) See also Written Submissions of Kevin Houlihan dated 21  
June 2022 at para [46].

471 Buchanan: Day 4, T427.47-428.48.

472 Written Submissions of Angus Buchanan dated 21 June 2022, para [14].

473 **Exhibit B-2624** (STA.3427.0006.7124).

474 **Exhibit A-83**, para 40 (INQ.002.004.0001 at .0006); Houlihan: Day 11, T1245.29-36. Power: Day 18,  
T1964.21-25.

475 Buchanan: Day 5, T537.9 - T538.10.

476 Houlihan: Day 11, T1245.40 - T1246.15.

477 Power: Day 18, T1965.11-12.

478 Power: Day 18, T1965.23-31.

479 **Exhibit B-2704** (STA.3009.0003.0492); **Exhibit B-2705** (STA.3009.0003.0493); **Exhibit B-2706**  
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480 **Exhibit B-2705** (STA.3009.0003.0493).

481 **Exhibit A-83** (INQ.002.004.0001); Buchanan: Day 5, T552.48 - T553.3.

482 Buchanan: Day 5, T553.5-18; **Exhibit B-2701** (STA.3009.0003.0482).

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484 **Exhibit B-2778** (STA.3412.0054.3082); **B-2779** (STA.3412.0054.3083); **B-2780** (STA.3412.0054.3093);  
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485 **Exhibit B 2781** (STA.3412.0054.3139).

486 **Exhibit B-2778** (STA.3412.0054.3082).

487 **Exhibit B-2603** (STA.3002.0005.0001).

488 **Exhibit B-2705** (STA.3009.0003.0493).

489 **Exhibit B-2779** (STA.3412.0054.3083).

490 Buchanan: Day 5, T543.39-43, T545.9-15, T546.44-47, T547.35-43, T551.28-31

491 **Exhibit B-2603**, para 7 (STA.3002.0005.0001 at .0002).

492 Ibid para 10 at .0002.

493 Buchanan: Day 5, T551.40-44.

494 Power: Day 18, T1982.9-13.

495 **Exhibit B-2701** (STA.3009.0003.0482).

496 Buchanan: Day 5, T557.38-41.

497 **Exhibit B-2701** (STA.3009.0003.0482 at .0483).

498 Ibid.

499 Ibid at .0486.

500 Ibid at . 0487 - .0488.

501 Power: Day 18, T1970.27 - T1971.5.

502 Andrew Power Written Submissions dated 21 June 2022, para [55]; Andrew Power Oral Submissions: Day 44, T4421.25-40.

503 **Exhibit A-83**, para 6 (INQ.002.004.0001 at .0001 and . 0002)

504 Buchanan: Day 4, T444.7-445.27.

505 Star Entities' Written submissions dated 21 June 2022, para [C.117]

506 Ibid para [C.13]-[C.14].

507 **Exhibit B-2791**, para [123]-[126] (INQ.017.001.0061 at .0641).

508 Ibid, para [123].

509 Ibid.

510 Ibid, para [124]-[126].

511 **Exhibit C-255** (STA.3428.0005.1400).

512 Ibid.

513 **C 257** (STA.3428.0005.1407); **Exhibit C-255** (STA.3428.0005.1400).

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515 Ibid.

516 Power: Day 18, T1980.45-1981.10.

517 **Exhibit C-256** (STA.3428.0005.1401 at .1404).

518 Buchannan: Day 5, T560.31-561.17.

519 Star Entities' Written submissions dated 21 June 2022, para [C.134].

520 **Exhibit A-552**, p 2 (STA.5002.0007.1447 at.1448).

521 Star Entities' Written submissions dated 21 June 2022, para [C.133].

522 **Exhibit G-0932**, p9 (STA.3023.0003.0050 at .0058).

523 Ibid.

524 Ibid p 10 .0059.

525 Ibid.

526 Ibid p16 at .0065.

527 Ibid.

528 Ibid p 17 at .0066.

529 **Exhibit A-83**, para 77 (INQ.002.004.0001 at .0013); **Exhibit B-3504** (STA.3009.0003.0468).

530 **Exhibit A-83**, para 75 (INQ.002.004.0001 at .0012).

531 Star Entities written submissions, 21 June 2022, para [C.142].

532 **Exhibit C-330** (INQ.018.001.0001); **Exhibit C-331** (INQ.018.001.0180).

533 **Exhibit B-1479** (STA.3417.0005.8905 at .8912).

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535 **Exhibit B-2209** (STA.3412.0053.6455 at .6456).

- 536 **Exhibit B-745** (STA.3419.0003.6802 at .6802).
- 537 **Exhibit B-790** (STA.3411.0010.3560).
- 538 Brodie: Day 21, T2383.1-9.
- 539 **Exhibit D-30** (INQ.012.001.0009).
- 540 Hawkins: Day 24, T2741.41-44.
- 541 Bekier: Day 26, T2994.2-5.
- 542 Star Entities' Written Submissions dated 30 June 2022, paras [O.26-O.29], [O.31-O.32].
- 543 Ibid para [O.29].
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- 545 **Exhibit B-842** (STA.3412.0019.7695)
- 546 **Exhibit S-202** (STA.3001.0001.1277)
- 547 Counsel Assisting's Written Submissions dated 27 June 2022, para [1].
- 548 **Exhibit S-202**, STA.3001.0001.1277.
- 549 Star Entities' Written Submissions, 30 June 2022, para O.40.
- 550 Ibid para [O.41].
- 551 Ibid para [O.42], [O.43].
- 552 Ibid para [O.44].
- 553 Ibid para [O.45].
- 554 Brodie: Day 21, T2383.1-9.
- 555 Hawkins: Day 24, T2741.4-44.
- 556 Hawkins, Day 24, T2742.15-18.
- 557 Hawkins: Day 24, T2743.26-45.
- 558 Bekier: Day 26, T2993.41-2994.5
- 559 Star Entities' Written Submissions, 30 June 2022 para [O.45].
- 560 *Oxford English Dictionary*, accessed via [www.oed.com](http://www.oed.com).
- 561 Star Entities' Written Submissions, 21 June 2022 para [C.2(a)].
- 562 Pitkin: Day 32, T3561.41-45 ; Lahey: Day 33, T3650.28-32.

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**Chapter 14**  
**The end of junkets**

# Chapter 14. The end of junkets

## Chapter 14.1 Introduction

1. In paragraph 5.3 of the Updated Term of Reference, the Authority expressed concerns about The Star's intentions in relation to junkets. Paragraph 5.3 referred first to evidence given to the Bergin Inquiry on 4 August 2020 that The Star was continuing to operate junket programs. The Authority then referred to information received from The Star on 6 May 2021 indicating that there were dealings with junket operators until October 2020 (at least). The Authority then stated that The Star's dealings with Suncity and other junket operators in these circumstances raised concerns for the Authority as to The Star's ongoing willingness and capability to comply with its obligations under the *Casino Control Act*.

## Chapter 14.2 Evidence to the Bergin Inquiry

2. The media attention received by Crown Resorts from late July 2019 shone a spotlight on junkets, painting a picture that was unfavourable. Junkets received considerable attention during the Bergin Inquiry. Evidence emerged that a number of junket operators or junket funders with whom Crown Resorts and Star Entertainment had dealings had links to organised crime.
3. Mr Greg Hawkins, at that time the Chief Casino Officer for Star Entertainment, gave evidence at the public hearings of the Bergin Inquiry on 4 August 2020. Specific aspects of his evidence are considered in detail in Chapter 13. For present purposes, Mr Hawkins gave evidence that following the media allegations against Crown Resorts in July 2019, Star Entertainment responded to certain questions from the NSW regulator about persons adversely named in the media reports. He said Star Entertainment then conducted an ongoing review from an AML/CTF perspective of the junkets so named and that:<sup>1</sup>

we took specific action on the individuals that were named and some of the associations we had there. That included the finishing up of the relationship with Suncity, so it was so it was a review of the operations that were occurring with regards to that particular junket.

4. Mr Hawkins later clarified in his evidence to the Bergin Inquiry that Suncity had ceased the fixed room arrangement shortly after the media allegations but that a relationship continued with a junket operator associated with Suncity, Mr Iek.<sup>2</sup> He also confirmed that Star Entertainment continued to have a relationship with Mr Alvin Chau as he held the CCF for the junket operator Mr Iek.<sup>3</sup> He confirmed that Star Entertainment was still dealing

with Mr Chau<sup>4</sup> and that Mr Iek's junket had moved to a VIP gaming salon at The Star's hotel.<sup>5</sup>

### Chapter 14.3. Star Entertainment's announcement in September 2020

5. In September 2020, Star Entertainment announced that it was suspending its dealing with junkets. Mr Bekier said he made this decision in consultation with Mr John O'Neill.<sup>6</sup> Mr Bekier said that in making the decision he was motivated by the fact that from mid-2020 AUSTRAC had increasing concerns about the AML risks posed by junkets and that by September 2020, evidence before the Bergin Inquiry had raised significant questions about the suitability of junkets.<sup>7</sup> Similarly, Mr Hawkins and Ms Martin said that Mr Bekier's decision was influenced by matters emerging from the Bergin Inquiry.<sup>8</sup>
6. Mr Bekier considered that junkets posed a level of risk that could not be satisfactorily mitigated.<sup>9</sup> He told the Review that he considered his decision to be a permanent one,<sup>10</sup> and that he would not advocate for a reopening of junket business.<sup>11</sup>
7. Mr Hawkins stated in his written statement to the Review that telephone contact was made with various junket operators in around early October 2020 informing them of Mr Bekier's decision, and at least in some cases, written confirmation was provided in early November 2020.<sup>12</sup> A number of the cover emails sent in early November 2020 stated that the junket program was "temporarily suspended" and that the junket operator would be contacted "once the program is resumed".<sup>13</sup>

### Chapter 14.4 Mr Bekier's 6 May 2021 email to the Authority

8. On 1 February 2021, Commissioner Bergin SC provided her report to the Authority. One of Commissioner Bergin SC's recommendations was to amend the *Casino Control Act* to prohibit casino operators in NSW from dealing with junket operators.<sup>14</sup>
9. Following the Bergin Report, the Authority wished to understand Star Entertainment's position with respect to dealing with junkets. For this reason, on 6 May 2021, Mr Bekier sent an email to the Authority identifying public announcements made by Star Entertainment with respect to dealing with junkets. The email stated:<sup>15</sup>

September 2020 – Bergin Inquiry – public hearings increasingly focussed on junket operators / international VIP business and AML risks

17 Sept 2020 – The Star Board meeting – Board receive [sic] regular update from management on Bergin Inquiry monitoring, including monitoring for new information on certain junkets

25 Sept 2020 – CWN ASX announcement made – suspending all activity with junket operators until 30 June 2021

By end September 2020 - assessment made to halt group rebate programs to enable review of new information coming from Bergin Inquiry; consider Inquiry findings and recommendations and engage with regulatory authorities regarding regulatory framework and potential changes.

2 October 2020 – calls made to junket promoters and representatives to advise that The Star was not providing entry into new group rebate programs until further notice and any remaining group rebate programs closed

By late October 2020 – written confirmation of above verbal advice issued (including translations) sent to individual operators confirming verbal advice 9 February 2021 – Bergin Report release containing a recommendation that junkets be prohibited

May 2021 – no formal regulatory direction as yet in relation to international group rebate business. We have written to L&G and we understand that you are close to announcing a decision. As we said in the meeting, should your decision be to ban this type of business, we will be supportive in our internal and external messaging.

10. Mr Bekier also stated in the email:

So our Junket group business is closed since October 2020 and we have no intention of reopening until we have heard from ILGA. This covers our operations in NSW as well as in Queensland. We have also made statements to that effect to the media since the AGM in October 2020.

11. Mr Bekier also included a table illustrating junket turnover for that financial year. It demonstrated that only small volumes were played in the first four months and that all activity had ceased since the October decision.

12. Meanwhile, it had been reported in a 14 February 2021 newspaper article that Mr O’Neill said he would “wait and see” what the NSW regulator did with the Bergin Report before ruling out future partnerships with Suncity or other junket operators.<sup>16</sup> On the other hand, according to a media article on 18 February 2021, Mr Bekier said that “the junket business is dead” and “[i]t is not going to come back”.<sup>17</sup>

13. It is clear from this material that, whatever may have been Mr Bekier’s private view, Star Entertainment decided to suspend dealing with junkets whilst it awaited an indication from the Authority for its views about junkets. At no time in this period did Star Entertainment conclusively rule out dealing with junket operators in the future.

### Chapter 14.5 The intentions of senior management

14. During early 2021 the senior echelons of management at Star Entertainment continued to contemplate that in the future casino operators may engage with junkets, or entities that

performed similar functions to junkets. Mr Hawkins prepared an International Strategy Update dated 27 May 2021,<sup>18</sup> which was presented to the Board that same day.<sup>19</sup> His paper stated:<sup>20</sup>

Following the release of the Bergin report and ceasing engagement with junkets, management's long-term recommendation is to then:

- Continue to grow International Premium Direct (Tables) and Premium Mass (Tables and Slots) international segments
- Activate third party referral arrangements
- Reduce prevalence of high value, high risk, high turnover, low margin customers
- Reduce credit exposure and minimise volatility
- Further cost reduction initiatives.

15. Third party referral arrangements were explained in more detail as follows:<sup>21</sup>

1. **Third Party Referrer** –Existing customers or individuals previously employed by junkets or other casinos, introduces a potential customer to the sales team. Referrer is required to undergo relevant know your customer ('KYC') checks prior to progressing.
2. **Referred Customer**–The third party referrer and sales team engage the customer jointly (i.e. through an introductory dinner).
3. **Trip Requirements**–Consistent with previous processes, funds flow / credit, trip driver / deal structure and regulatory requirements to be negotiated by The Star and outlined prior to gaming commencing.
4. **Travel** –Third party referrer may either accompany the customer to The Star property (i.e. in a group setting) or communicate remotely.
5. **Customer / Referral Payment** –Customer receives payment as per previous processes with the third party referrer receiving an incentive after outstanding credit has been settled based on two scenarios:
  - *Fixed Fee*–regardless of customer play activity, amount to be based on either qualitative or quantitative information (i.e. loyalty cards held at other competitor properties or front money)
  - *Variable*–Based on a percentage of gaming activity throughout the trip duration.

16. At least on this foreshadowed model, third party referral arrangements have commonalities with junkets. However, witnesses were not examined on this document and it is not known what, if any, further consideration was given to this proposal at the time. Clearly, any prohibition on junkets must eradicate them in substance as well as in form.

17. Further useful insights on senior management’s intentions in this period come from a file note that Mr Power emailed to his colleagues following a meeting on 23 April 2021 to discuss Project Zurich. The file note recorded Ms Martin telling the meeting:<sup>22</sup>

Response from Star was ‘junkets are dead’ but this was reflective of the pressure and intensity at the time and the borders were closed so it was a convenient answer. There is some concern around them in NSW but relate to particular practices in a particular organisation. Starting point from Bergin is that “all junkets are evil” and that has not been the position in Australia for decades. In QLD, the regulator may be very comfortable with the business model, and level of probity undertaken. I think it is correct to say that

“junkets will be different, and heavily scrutinised”. But not sure that they are dead. We haven’t seen the deck from the business. But need to be mindful whether regulatory framework/requirements/controls make it practically unfeasible.

Business will want to do international inbound business. We will want players brought to us, We will want to deal with them in a way to minimise our credit risk. What is viable that doesn’t kill them in terms of. Some approaches would make junkets subject to the Australian tax regime.

18. According to Mr Power’s file note, Ms Martin saw the new TrackVia system as way of demonstrating to regulators that Star Entertainment’s decision-making in relation to junkets was comprehensive. In this regard, Ms Martin was recorded as saying:<sup>23</sup>

and then Howard’s [Steiner’s] piece comes into play. We have a new case management tool and all relevant information in one place and so we can be comprehensive in our decision making, and here is the transparency and how our decision making can be critiqued. That is part of the next bit of our evolution.

19. Ms Martin was also recorded as saying “junkets may need to be parked just for now”.<sup>24</sup>
20. In oral evidence, Ms Martin said she was waiting for a business strategy to be presented on how Star Entertainment would conduct its international business.<sup>25</sup>
21. Mr Bekier said in evidence that he could not understand why ECDD was conducted on junket funders Mr Chau and Mr Sixin Qin at this time given that Star Entertainment had made a public commitment not to deal with junkets.<sup>26</sup> That members of the senior management team at Star Entertainment were in fact hedging their bets explains why Star Entertainment continued to progress ECDD reviews of various junket operators and funders into late 2021.<sup>27</sup>

### Chapter 14.6 The intentions of the Board

22. Mr Heap said in evidence that Star Entertainment had no interest in entering the junket business “at this time, and so we’ve parked that”.<sup>28</sup> Similarly, Mr Sheppard said that “the

position today is that we are not dealing with junkets” and that junkets should be “permanently suspended”.<sup>29</sup>

23. These statements by the directors appear to amount to something less than a decision by Star Entertainment to cease dealing with junkets permanently.
24. During the course of the public hearings of the Review, Star Entertainment announced to the ASX that it intended to suspend all rebate play from 9 May 2022.<sup>30</sup> Mr Heap said that the IRB represented a level of risk which was not commensurate with the level of return that this business can generate.<sup>31</sup> However, he said that the rebate business could make sense and the Board would consider opening that again.<sup>32</sup> Mr Sheppard said that a body of work had to be done to address the issues arising from the Review and in the meantime the Board wanted to eliminate entirely one source of risk.<sup>33</sup>
25. This announcement and the evidence in relation to it also appeared to leave open the possibility of Star Entertainment re-engaging with junkets in the future.

### **Chapter 14.7 Conclusions and recommendations**

26. The evidence considered by this Review, not least in relation to Suncity and Salon 95, has emphatically demonstrated the wisdom of Commissioner Bergin SC’s recommendation that casino operators in NSW be prohibited from dealing with junkets.
27. What is clear from the evidence presented to the Review is that certain junkets with which The Star has dealt are likely to be linked to organised crime. They pose an unacceptable threat to the public interest. What is also clear is that commercial pressures mean that casino operators will continue to contemplate engaging with junkets unless there is a comprehensive prohibition on them doing so, in both substance and form.
28. On 22 June 2022, the NSW Government announced that legislation would be introduced into the NSW Parliament to support all 19 recommendations of the Bergin Inquiry, including a ban on casinos dealing with junket operators. The *Amendment Act* comes into effect on 5 September 2022. New sub-section 76B(1) will make it a condition of a licence that the casino operator not promote or conduct junkets or pay a commission or other financial or non-financial benefit to a person not playing at the casino by reference to another person’s turnover or other gambling metric. Section 76B(2) defines junket to mean:

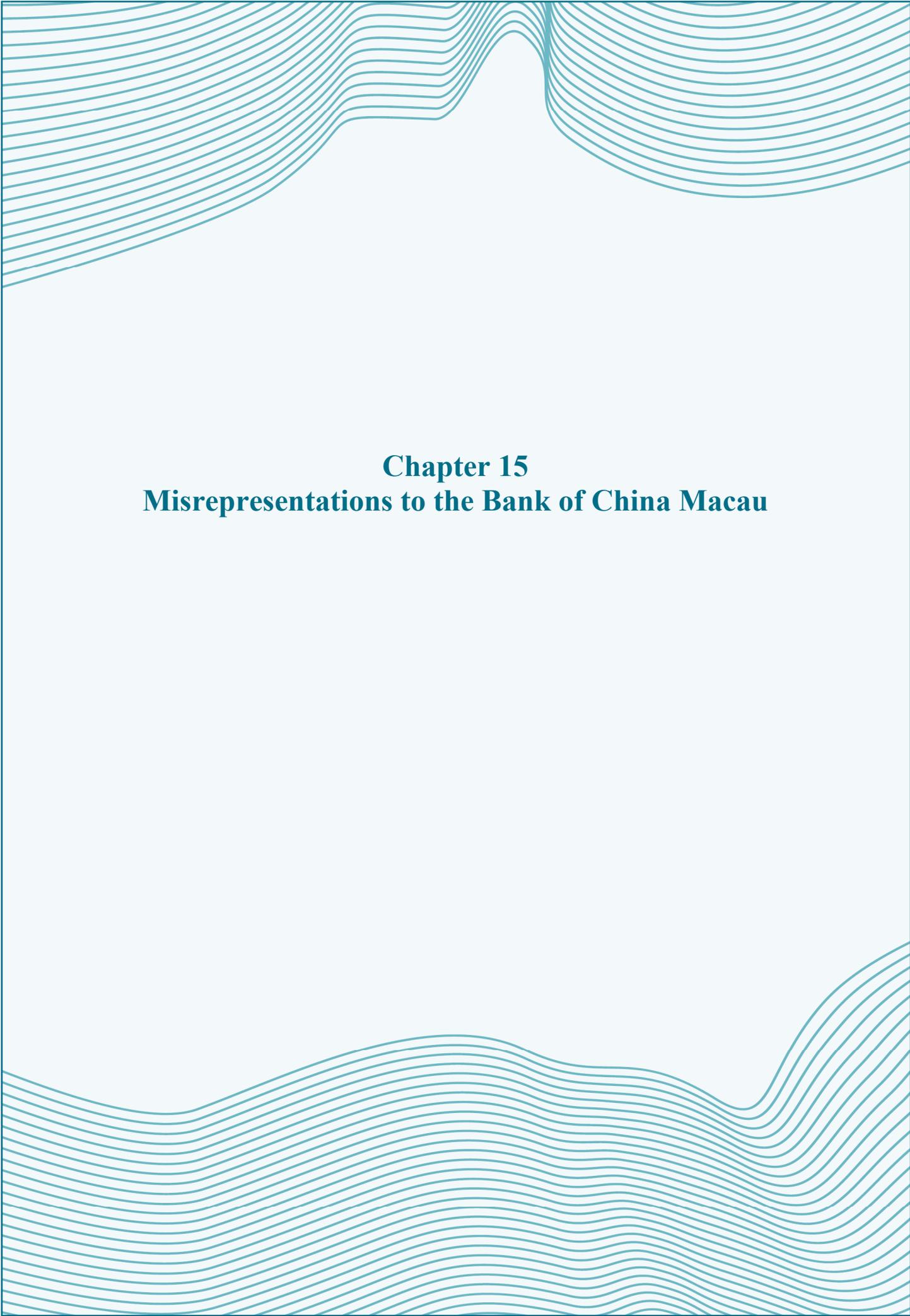
an arrangement involving a person, or a group of persons, introduced to a casino operator by a promoter who receives a commission—

- (a) based on the turnover of play in the casino attributable to the person or group of persons introduced by the promoter, or
- (b) otherwise calculated by reference to play in the casino.

29. This approach, which focuses on remuneration structure rather than the form of the junket, is clearly intended to be broad enough to prohibit junkets in substance as well as in form.

## Endnotes

- 1 **Exhibit H-380** at T881.23-25 (ILGA.001.001.0133 at .0182).
- 2 **Exhibit H-380** at T885.4-22 (ILGA.001.001.0133 at .0186).
- 3 **Exhibit H-380** at T887.17-24 (ILGA.001.001.0133 at .0188).
- 4 **Exhibit H-380** at T888.41-43 (ILGA.001.001.0133 at .0189).
- 5 **Exhibit H-380** at T892.37-45 (ILGA.001.001.0133 at .0193).
- 6 **Exhibit A-72**, para [33] (INQ.002.004.0066 at .0070).
- 7 *Ibid.*
- 8 **Exhibit A-378**, para [74] (INQ.002.004.0109 at .0124); Martin: Day 20 T2307.32-38.
- 9 **Exhibit A-72**, para [33] (INQ.002.004.0066 at .0070).
- 10 Bekier: Day 28 T3145.24-28.
- 11 Bekier: Day 28 T3147.12-13.
- 12 **Exhibit A-378**, para [7]7-[78] (INQ.002.004.0109 at .0124 - .0125).
- 13 *Ibid*; see **Exhibit B-2652** (STA.3408.0001.0159).
- 14 **Exhibit B-2803** (STA.3412.0004.5443 at .5451).
- 15 **Exhibit B-2847** (STA.3433.0023.0480).
- 16 **Exhibit G-807** (INQ.014.001.0202 at .0203).
- 17 **G-953** (INQ.014.001.0191 at .0191).
- 18 **Exhibit B-2903** (STA.5002.0007.2621).
- 19 *Ibid* at .2438.
- 20 *Ibid* at .2625.
- 21 *Ibid* at .2651.
- 22 **Exhibit B-2837** (STA.3412.0003.5112 at .5113).
- 23 *Ibid* at .5114.
- 24 *Ibid.*
- 25 Martin: Day 20, T2309.31-32.
- 26 Bekier: Day 28 T3148.23-45, T3149.30-31.
- 27 **Exhibit A-905**, para [78] (INQ.002.004.0201 at .0214).
- 28 Heap: Day 30, T3390.47-T3391.3.
- 29 Sheppard: Day 34 T3733.44 - 3734.23.
- 30 **Exhibit J-157** (INQ.003.007.0001).
- 31 Heap: Day 30, T3390.26-36.
- 32 Heap: Day 30, T3391.5-11.
- 33 Sheppard: Day 34, T3734.41-45.



**Chapter 15**  
**Misrepresentations to the Bank of China Macau**

# Chapter 15. Misrepresentation to the Bank of China Macau

## Chapter 15. 1 Introduction

1. This Chapter addresses serious misconduct by Star Entertainment, in its Macau office, involving false letters given to the BOC Macau. The conduct, described further below, occurred between 2013 and 2017, and ceased upon the closure of The Star’s accounts with that bank.
2. The conduct was disclosed to this Review in a response to a written information request. The request sought that The Star state all facts, matters or circumstances which it considered “may affect the suitability of The Star or any Close Associate in the period from 28 November 2016 to date (Relevant Period) which have not previously been disclosed in writing to the Authority”.<sup>1</sup>
3. The Star made the following disclosure on 8 November 2021:<sup>2</sup>

Until 31 December 2017, The Star maintained an account with the BOC Macau branch (“BOC Macau”), which was capable of accepting cash deposits on behalf of The Star for the payment of CCFs or for Front Money in advance of play. In late 2021, The Star identified that patron deposits may have been facilitated by documentation provided by The Star’s Credit and Collections team in Macau, whereby a member of that team would issue a letter to BOC Macau to the effect that a cash deposit represented funds previously deposited by the patron with The Star’s Cage team in Macau. This was false, as The Star has never operated a Cage in Macau, and the patron’s cash deposit had not been accepted by The Star before deposit into the BOC Macau account. The Star believes that this documentation was to help satisfy the BOC Macau’s internal requirements regarding the source of funds. This documentation did not correctly represent the source of the patron’s money. The BOC account was closed in 2017. This matter has only recently been identified and is still the subject of investigation. There is no suggestion at this stage that anyone outside of the Credit and Collections team or Macau office staff in the International Marketing team were involved in, or aware of, this practice.
4. At that time, The Star stated that disclosure of the matter (among others) “should not be understood as an acceptance by The Star that the identified matters, in fact mean that The Star or any of its close associates is not a suitable person to be concerned in or associated with the management and operation of a casino”.<sup>3</sup>
5. The Star now accepts that the practice was “completely unacceptable and should never have occurred”.<sup>4</sup>

## Chapter 15.2 The Relevant Conduct

6. On 22 November 2013, The Star opened two foreign currency (HKD and multi-currency) accounts with BOC Macau.<sup>5</sup> Two further accounts were opened on 27 February 2015, and a final account was opened on 23 June 2016.<sup>6</sup> All five BOC Macau accounts held by The Star were closed on 25 January 2018.<sup>7</sup>
7. During the period 2013 to the end of 2017, The Star’s BOC Macau accounts were utilised heavily for deposits by patrons in Macau, for both the deposit of front money and CCF redemption.<sup>8</sup> BOC would accept large cash deposits in Hong Kong dollars.<sup>9</sup> BOC Macau ostensibly had “strict” verification requirements in relation to cash deposits.<sup>10</sup> Such controls appear to have not been strongly enforced by BOC Macau, or were actively circumvented by The Star (by deceptive means), or both.
8. Use of the BOC Macau accounts for The Star was overseen and facilitated by Macau and Hong Kong staff of The Star, including Mr Jacker Chou, Vice President of VIP Credit and Collections, Hong Kong Branch and, from 2015, Ms Gabriela Soares, the assistant Vice President of VIP Credit and Collections in Macau. Ms Soares reported to Mr Chou. At least by 2017, Mr Chou held a position of equivalent seniority to Mr David Procter, the VIP Credit and Collections Manager in Sydney, and both reported to Mr Adrian Hornsby who held the position of General Manager of VIP Credit and Collections.<sup>11</sup>
9. In the period 2013 to 2017, staff in the Macau office adopted a process whereby deposits of cash by patrons were accompanied by a letter from The Star providing “proof” on the “source of funds to deposit” stating that the funds had been taken from “Macau branch office safe-keeping”, some of which would be used to “partially deposit” into the BOC Macau account and the balance would be returned “to our Macau Cage Safekeep” (**False SOF Letters**).<sup>12</sup>
10. As The Star disclosed to the Review on 8 November 2021, the funds had not been accepted by Star Entertainment or The Star before the deposit with BOC Macau and The Star did not operate a cage in Macau.<sup>13</sup>
11. It was later explained by Ms Soares, that BOC Macau considered that the funds were deposited by staff of The Star instead of customers themselves.<sup>14</sup> The False SOF letters were to confirm to BOC Macau that the cash being deposited had not come directly from a patron but from The Star, and were required by BOC Macau to satisfy the bank’s verification requirements.<sup>15</sup>

12. It was submitted by The Star Entities, and it is accepted, that two other types of template letters produced by Star Entertainment contributed to the false source of funds information, and therefore should also be regarded as false.<sup>16</sup> They were:

(c) a “Letter to CCF holder”, which was a template letter purporting to notify a junket operator of the due dates of their junket program payment and providing alternative methods for payment, including “Cash deposit to The Star Macau Office and/or The Star Hong Kong Office”.<sup>17</sup> Ms Soares confirmed that this cash option was included to explain the False SOF Letters, and that, despite the terms of the letter to the junket operator, no cash had been accepted at The Star’s offices in Hong Kong or Macau;<sup>18</sup>

(d) a “Letter of demand” which was a template letter of demand addressed to a patron.<sup>19</sup> Ms Soares observed that this letter could be used as additional proof as to the purpose of a deposit into the BOC Macau account and that BOC Macau had asked that deposits not be accompanied by the same type of documentation each time.<sup>20</sup> This suggests that the BOC Macau staff may have been knowing participants in the obfuscation of the source of funds deposited with BOC Macau.<sup>21</sup> The reference to BOC Macau’s request for different types of documentation suggests that the template letter was not a genuine letter of demand but rather a document prepared to convey a false impression regarding the source of funds being deposited with BOC Macau (according to Ms Soares’ emails, in order to satisfy BOC Macau’s requirements);

(together with the False SOF Letters, the **False SOF Documentation**).

13. No further KYC or source of funds checks were performed by BOC Macau on the basis that this was a “The Star to The Star” transfer of funds.<sup>22</sup> Accordingly, the only requirement was that a member of the Credit and Collections team would be present at all times when the deposit was made with BOC, and that they provide the False SOF Letters for the transactions.<sup>23</sup> The customer did not even need to be present, as long as a representative of the customer was present.<sup>24</sup>

14. Mr Michael Whytcross, the General Manager Finance and Commercial from October 2016 (and based in Hong Kong until April 2019)<sup>25</sup> gave evidence that it did not seem likely that BOC were conducting any source of funds checks.<sup>26</sup>

15. For its own part, The Star’s staff did not request any further information from patrons to ascertain the source of their funds, such as a withdrawal slip from a Macau junket cage or a Macau bank account, or request payee identification.<sup>27</sup>
16. Originals of the False SOF Documentation sent to BOC Macau, were not kept.<sup>28</sup>
17. The Star accepts that the False SOF Documentation provided to BOC Macau falsely described the source of funds to be deposited, and that they were misleading to the knowledge of those involved in providing them (with the possible exception of Ms Soares).<sup>29</sup>
18. In evidence, Mr Whytcross agreed that the False SOF Letters provided to the BOC Macau were “completely false” documents.<sup>30</sup> He agreed that the Review should conclude that The Star Entertainment Group was making serious and deliberate misrepresentations to BOC Macau.<sup>31</sup> Mr Whytcross also agreed in evidence that that the false documentation from The Star suggests that there is a “high risk of money laundering”.<sup>32</sup> Ms Skye Arnott conceded that was a “very significant” concern because “it’s obscuring the source of funds and preventing another bank from doing their due diligence properly”.<sup>33</sup>
19. An internal file note by Mr Oliver White dated 29 November 2021, suggested that all Credit and Collections staff in Macau were involved in the process, with potentially some involvement by IRB and marketing staff.<sup>34</sup> The signatory on the fraudulent False SOF Letter was Mr Chou.<sup>35</sup> According to Ms Soares, Mr Chou had meetings at the BOC Macau branch to discuss how to process transactions, and discussed the relevant arrangements with Mr Hornsby.<sup>36</sup>
20. Mr Houlihan gave evidence that he was informed by both Ms Soares and Mr Chou that Mr Hornsby was aware that these letters were being provided to BOC.<sup>37</sup>
21. Mr White stated in evidence that he had been informed by Ms Soares in 2021 that Mr Chou had been the main contact with BOC but that Mr Chou reported to Mr Hornsby.<sup>38</sup> Mr White also stated that Ms Soares did not directly inform him that Mr Hornsby had authorised the provision of the false documentation to BOC but had indicated that as a “general practice” Mr Hornsby was “across everything that Jacker [Chou] did”.<sup>39</sup> In an interview conducted by Mr Houlihan in February 2022, Mr Chou is recorded as stating that he sought approval from Mr Hornsby to use the False SOF Letters but then “Adrian said he was not comfortable”.<sup>40</sup> Mr Chou is also recorded as denying that he ever produced “a document

- to BOC to say that cash came from Macau Cage”, and denied any knowledge of Ms Soares producing such a letter to BOC.<sup>41</sup>
22. In the period up to December 2017, when the BOC Macau accounts were in use, Mr Hornsby was the General Manager of Credit & Collections and reported to the Star Entertainment CFO (at that time, Mr Chad Barton who left Star Entertainment in April 2019).<sup>42</sup> Mr Hornsby left the employment of Star Entertainment in or around August 2020.<sup>43</sup>
23. The head of Star Entertainment’s International VIP Team from June 2015 to 2017<sup>44</sup> was Mr John Chong, whose employment was terminated in March 2018.<sup>45</sup> His termination is discussed in Chapter 17. Mr Greg Hawkins, who took over responsibility for the International VIP Team in April 2018, denied that he had any knowledge at the time that staff of The Star had provided false documentation to BOC in Macau.<sup>46</sup>
24. None of Mr Chou, Mr Hornsby or Ms Soares are current employees or close associates of The Star. They did not give evidence to the Review. In those circumstances, and given the seriousness of the conduct, it is inappropriate and unnecessary to make findings of knowledge or intention by those individuals in relation to the use of the False SOF Documentation. This is also the case in relation to any suggested knowing involvement by BOC Macau staff.
25. It is sufficient to find that the practice existed, that it involved serious and deliberate misrepresentations by Star Entertainment to one of The Star’s banks, and that there must have been employees of Star Entertainment who were knowingly involved in the practice.
26. The Star Entities accept that, upon discovery by members of senior management of Star Entertainment in late 2021, the issue of False SOF Letters should have immediately been notified to the Board, but was not.<sup>47</sup>

### **Chapter 15.3 Extent of the Conduct**

27. It was submitted by The Star Entities that the Review cannot safely make findings about precisely how many times the False SOF Documentation was used.<sup>48</sup>
28. Ms Soares reported to Mr White that the practice had occurred on a daily basis.<sup>49</sup> Mr Whytcross gave evidence that the misrepresentations were done “repeatedly”.<sup>50</sup>

29. Mr Houlihan gave oral evidence to the Review that it had been reported to him that False SOF Documentation had occurred in only 2% of cases.<sup>51</sup> Mr Houlihan said that this was his recollection of what Ms Soares, and perhaps Mr Chou, had told him in his interviews with them.<sup>52</sup> He said that if notes were taken of these interviews, the figure of 2% would be recorded in those notes. However, none of the interview file notes produced to the Review reflect that figure. One interview note by Mr Houlihan recorded that Ms Soares had stated that cash deposits (which would be accompanied by the False SOF Documentation) occurred daily.<sup>53</sup>
30. Mr Houlihan’s recollection of the 2% figure was unsupported by any other documentary or oral evidence and is not a matter about which Mr Houlihan gave evidence in his written statement.
31. Mr White gave evidence that Ms Soares did not say to him that the false letters were only handed over in 2% of occasions that the deposits were made by or on behalf of patrons.<sup>54</sup> Mr White stated that his understanding, based on his discussions with Ms Soares, was that this had been a systemic problem.<sup>55</sup>
32. The Review cannot make a finding about precisely how many times the False SOF Documentation was used. It should be observed that this is partly because The Star failed to institute and enforce proper document retention systems that might have ensured that the relevant documentation was kept. Mr Houlihan’s recollection of what he was told in interviews as to the frequency is not accepted as a reliable recollection in the absence of any supporting documentation available to the Review. It is inconsistent with the evidence of Mr Whytcross and with Mr White’s evidence of what he was told by Ms Soares.
33. Whatever the exact frequency of occurrence, Star Entertainment made serious and deliberate false statements to BOC repeatedly from 2013 to 2017 and the practice was systemic.
34. It is not known precisely how much cash was deposited through the BOC Macau, or how much cash was deposited using the False SOF Documentation. However, as late as May 2017, BOC Macau was imposing additional fees on The Star owing to the “large sum of cash deposit every month”.<sup>56</sup> It was later reported by the EEIS Steering Committee that between January and November 2017 alone, the BOC accounts in Macau had accepted HKD\$1.2billion (over \$200m AUD) in cash.<sup>57</sup> It was noted that cash redemption was driven by customers seeking to avoid electronic transfers “in principle”, customers being

reluctant to transfer to a bank account in the name of a casino, and customers not operating a bank account in Macau.<sup>58</sup> On any view, the misconduct was extremely serious and the risk that money was laundered was high.

### **Chapter 15.4 The Investigation of the Conduct by Star Entertainment**

35. The evidence indicates that the issue came to light in mid-October 2021. The fact that this misconduct occurred in the first place, and that it first came to light almost four years after the BOC Macau bank accounts had been closed, indicates that the IRB of Star Entertainment was seriously mismanaged during the Relevant Period. This issue is discussed further in Chapter 17.
36. In October 2021, in the course of preparing a regulatory response, Mr Whytcross and Ms Arnott made queries of Ms Soares about ways in which customers could deposit funds overseas.<sup>59</sup> In that context, Ms Soares notified them of the documents used to deposit cash with BOC Macau. This caused Mr White to conduct some inquiries and on 29 November 2021, prepare a file note detailing what was known about the matter.<sup>60</sup>
37. Mr Houlihan gave evidence to the Review that he was instructed by Ms Paula Martin at the end of 2021 to investigate the provision of documents to BOC Macau by carrying out a number of interviews and reviewing relevant documents.<sup>61</sup> Mr Theodore also gave evidence that in November 2021, a working group had been established to address the matter (among others).<sup>62</sup>
38. Mr Houlihan flew to Hong Kong twice, and interviewed both Mr Chou and Ms Soares as part of his investigation.<sup>63</sup>
39. Mr Houlihan gave evidence that HWLE had been engaged to assist with the investigation.<sup>64</sup> Mr Houlihan said that he spoke to Mr Chou on two occasions and a solicitor from HWLE was present on both occasions.<sup>65</sup> Mr Houlihan confirmed that he also spoke to Ms Soares on two occasions and a solicitor from HWLE was present on both occasions.<sup>66</sup> Lawyers for The Star informed the Review that The Star is not in possession of notes from the meetings with Ms Soares and could not produce any documents in response to a call for those documents.<sup>67</sup>
40. At the time of giving evidence in the public hearings of the Review on 1 April 2022, Mr Houlihan had not spoken to Mr Hornsby as part of his investigation, and said that he was still in the process of interviewing Mr Chou and Ms Soares.<sup>68</sup> Mr Whytcross, the person

to whom VIP Credit and Collections reported up until his departure from Star Entertainment, did not know what stage the investigation had reached.<sup>69</sup> Mr Houlihan gave evidence that he had reported back on the investigation to Mr James Johnston, in the Star Entertainment Legal Team, but had not provided any reports to Ms Martin and she in turn had not asked how the investigation was proceeding.<sup>70</sup> However, Ms Martin was not herself asked about this matter.

41. The Star Entities acknowledge that the investigation has taken a considerable amount of time and remains incomplete, but submit that the investigation is the product of circumstances that have made it difficult to obtain relevant and reliable evidence more quickly.<sup>71</sup> Those circumstances include the fact that evidence from Ms Soares and Mr Chou has been conflicting, and that none of the relevant individuals are still employees of Star Entertainment.<sup>72</sup>
42. Mr Heap, the current Chair of Star Entertainment, and the Chair of the Renewal Steering Committee,<sup>73</sup> was first made aware of this serious misconduct by The Star when the matter was raised with him in evidence by Counsel Assisting.<sup>74</sup> He agreed that it was an extremely serious allegation, that the behaviour was unacceptable and warranted urgent investigation.<sup>75</sup> Mr Heap said that it was highly concerning and unsatisfactory that the matter had not been brought to his attention.<sup>76</sup> He did make the point that as the bank accounts in Macau had been closed there was “time to make sure we understand all of the details and get that right”.<sup>77</sup>
43. It may be accepted that Star Entertainment’s investigation into this matter faced challenges, including the departure of staff members, the lack of documentation, and that the relevant bank accounts are now closed. However, Star Entertainment’s investigation of this matter has not been given the prominence internally and has not proceeded with the urgency which the seriousness of the misconduct demands. That is emphasised by the extraordinary fact that the current Chair of Star Entertainment first learnt of the matter when questioned about it by Counsel Assisting during the public hearings.
44. There is no suggestion that further documentation in relation to the misconduct is likely to be uncovered by Star Entertainment. The reliability of witnesses’ memories is likely to further deteriorate over time. In those circumstances, the fact that the investigation has still not reached any kind of finality is unsatisfactory.

### Chapter 15.5 Conclusions

45. From 2013 to 2017, Star Entertainment and its subsidiaries made false statements to the BOC Macau by generating and issuing false documentation about patrons' source of funds. It is found, and The Star Entities now accept (although The Star did not do so at the commencement of this Review), that the practice of using the False SOF Documentation was indicative of:<sup>78</sup>
- (a) a preparedness by the individuals involved to do whatever was necessary to meet the needs of the patron, to the extent of fabricating documents, to create the illusion that a transaction was something other than what it was;
  - (b) a lack of understanding of, and total disregard towards AML/CTF obligations and the purpose of AML/CTF controls by senior casino employees;
  - (c) inadequate control and supervision of the activities of offshore employees; and
  - (d) inadequate training of less senior staff such that they did not recognise or were unwilling or unable to raise concerns in regard to the relevant transactions.
46. Originals or copies of the key documents in question – which would have revealed the extent and precise frequency of the conduct – were not kept.
47. It is accepted – and there can be no doubt – that the practice involved a high-risk of money laundering.<sup>79</sup> The practice deliberately obscured the true source of the funds being deposited with BOC.
48. The practice was long-standing, spanning the four years that the BOC Macau accounts were in operation. There were no internal controls in place that would have, or did, detect the issue. A number of employees were involved. The practice – and the problems it has revealed – demonstrate that this was a systemic practice, revealing compliance and control failures that were totally inappropriate and completely unacceptable for the management of bank accounts held by a licensed casino operator.

## Endnotes

- 1 **Exhibit B-3331** (CORRO.001.001.0190 at .0218).
- 2 Ibid at .0221.
- 3 Ibid at .0218-.0219.
- 4 Star Entities' Written Submissions dated 21 June 2022, para [I.4].
- 5 **Exhibit D-42** (CORRO.001.001.0574 at .0587).
- 6 Ibid.
- 7 Ibid.
- 8 Star Entities' Written Submissions dated 21 June 2022, para [I.2(a)]; **Exhibit B-3216** (STA.3004.0014.0008).
- 9 **Exhibit B-3216** (STA.3004.0014.0008 at .0011-.0012).
- 10 **Exhibit B-3385** (STA.3402.0003.4461 at .4464).
- 11 **Exhibit B-482** (STA.3423.0002.5001).
- 12 **Exhibit B-249** (STA.3104.0009.5507).
- 13 **Exhibit B-3331** (CORRO.001.001.0190 at .0221).
- 14 **Exhibit B-3383** (STA.3008.0002.2850 at .2854).
- 15 Ibid at .2852.
- 16 Star Entities' Written Submissions dated 21 June 2022, para [I.11].
- 17 **Exhibit B-3400** (STA.3008.0002.2826).
- 18 Ibid at .2831.
- 19 **Exhibit B-3398** (STA.3008.0002.2819).
- 20 **Exhibit B-3402** (STA.3008.0002.2830 at 2831).
- 21 **Exhibit C-330**, para [8.6.4] (INQ.018.001.0001 at .0082).
- 22 **Exhibit B-3216** (STA.3004.0014.0008 at .0011).
- 23 Ibid.
- 24 Ibid at .0010.
- 25 Whytcross: Day 9, T943.40-43, T945.44-946.10.
- 26 Whytcross: Day 10, T1086.4.
- 27 **Exhibit B-3402** (STA.3008.0002.2830 at .2831).
- 28 Ibid at .2832.
- 29 Star Entities' Written Submissions dated 21 June 2022, para [I.4(c)].
- 30 Whytcross: Day 10, T1088.12, T1088.40.
- 31 Whytcross: Day 10, T1089.16-20.
- 32 Whytcross: Day 10, T1093.24.
- 33 Arnott: Day 14, T1565.25-31.
- 34 **Exhibit B-3402** (STA.3008.0002.2830 at .2831); **Exhibit B-3383** (STA.3008.0002.2850).
- 35 **Exhibit B-3399** (STA.3008.0002.2825).

- 36 **Exhibit B-3383** (STA.3008.0002.2850 at .2850).
- 37 Houlihan: Day 12, T1339.43.
- 38 White: Day 16, T1801.42-45.
- 39 White: Day 16, T1802.1-5.
- 40 **Exhibit G-930** (STA.3038.0001.0001 at .0003).
- 41 Ibid at .0009.
- 42 Theodore: Day 25, T2822.6-18.
- 43 Theodore: Day 25, T2822.11-18; Whytcross: T964.43-48.
- 44 **Exhibit J-23** (STA.3402.0007.3866).
- 45 **Exhibit J-28** (STA.3433.0024.5500).
- 46 Hawkins: Day 25, T2800.8.
- 47 Star Entities' Written Submissions dated 21 June 2022, para [I.7]; O'Neill: Day 36, T3919.28-35; Sheppard: Day 34, T3746.29-T3747.48; Pitkin: Day 33, T3611.22.
- 48 Star Entities' Written Submissions dated 21 June 2022, para [I.4(f)].
- 49 White: Day 16, T1801.30-33.
- 50 Whytcross: Day 10, T1089.22-27.
- 51 Houlihan: Day 12, T1337.43-1339.11.
- 52 Houlihan: Day 12, T1338.5-29.
- 53 **Exhibit G-939** (STA.3025.0002.0001 at .0007).
- 54 White: Day 16, T1802.7-17.
- 55 White: Day 16, T1802.19-22.
- 56 **Exhibit B-338** (STA.3302.0001.0274 at .0275).
- 57 **Exhibit C-30** (STA.3402.0001.1078 at .1081).
- 58 Ibid.
- 59 **Exhibit B-3395** (STA.3008.0002.2809).
- 60 **Exhibit B-3402** (STA.3008.0002.2830).
- 61 Houlihan: Day 12, T1328.30 -T1329.5.
- 62 **Exhibit A-1339**, para [56(a)] (INQ.002.004.0145 at .0155).
- 63 Houlihan: Day 12, T1336.33-45, T1329.25-30; **Exhibit G-939** (STA.3025.0002.0001).
- 64 Houlihan: Day 12, T1333.8-19.
- 65 Houlihan: Day 12, T1333.21-24; T1336.1-24; **Exhibit G-930** (STA.3038.0001.0001); **Exhibit G-939** (STA.3025.0002.0001).
- 66 Houlihan: Day 12, T1336.33-45, T1337.8-11.
- 67 **Exhibit G-954** (CORRO.001.001.0625).
- 68 Houlihan: Day 12, T1329.32-T1330.15.
- 69 Whytcross: Day 10, T1091.1-4.
- 70 Houlihan: Day 12, T1331.33 – T1332.9.
- 71 Star Entities' Written Submissions dated 21 June 2022, para [I.15].

<sup>72</sup> Ibid para [I.17].

<sup>73</sup> Heap: Day 30, T3346.45-3347.2

<sup>74</sup> Heap: Day 31, T3426.21-3427.25.

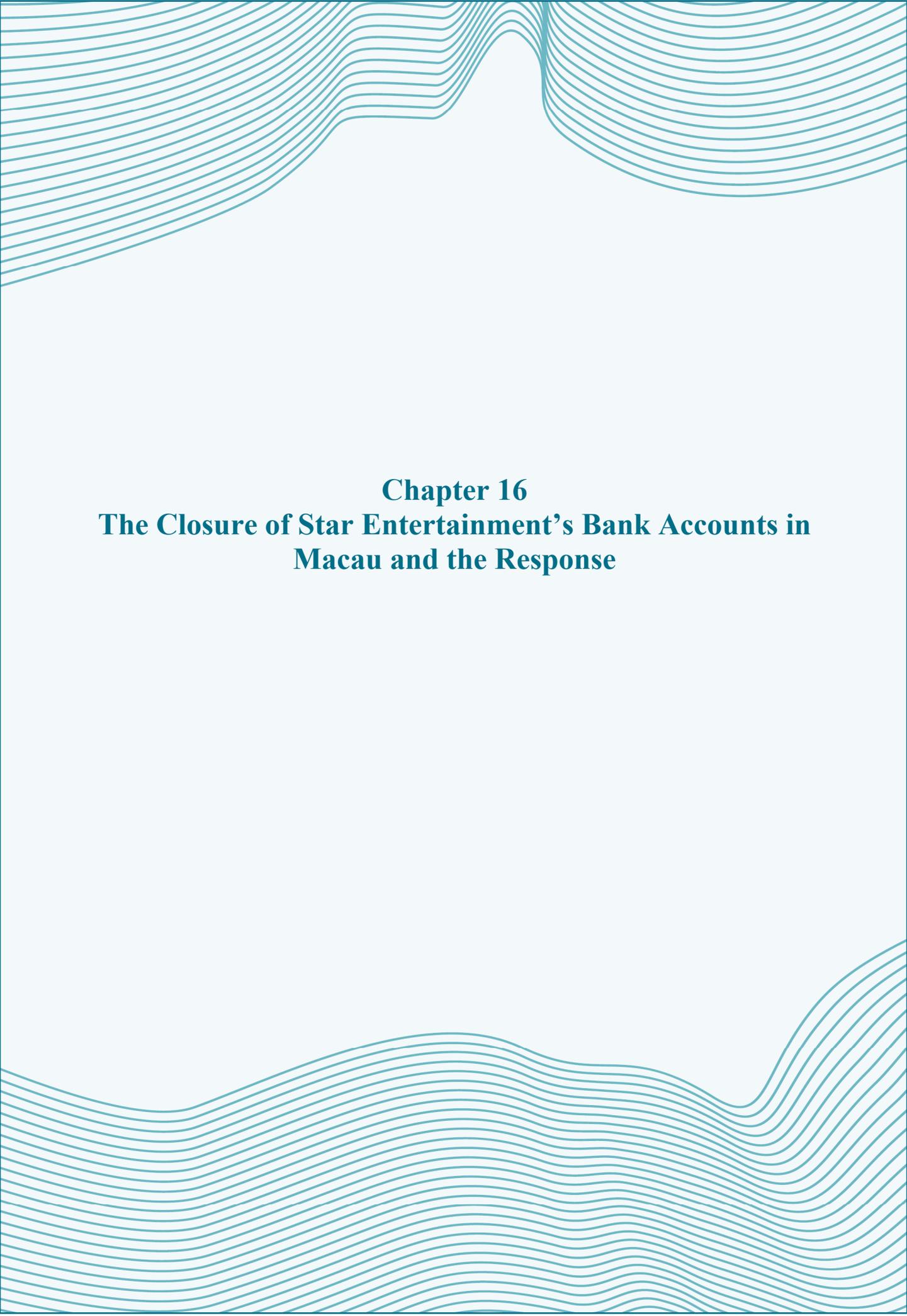
<sup>75</sup> Heap: Day 31, T3427.27-.46.

<sup>76</sup> Heap: Day 31, T3427.39; T3428.31.

<sup>77</sup> Heap: Day 31, T3428.36-41.

<sup>78</sup> Star Entities' Written Submissions dated 21 June 2022, para [I.5].

<sup>79</sup> Ibid para [I.6].



**Chapter 16**  
**The Closure of Star Entertainment's Bank Accounts in  
Macau and the Response**

# Chapter 16. The Closure of Star Entertainment's Bank Accounts in Macau and the Response

## Chapter 16.1 Introduction

1. The ability to receive payment from patrons in North Asia became increasingly important to Star Entertainment as the value of the IRB grew. Chapter 11 addressed challenges to that business as a result of capital flight restrictions and a corruption crackdown in China, which were associated with increased regulatory restrictions introduced into the Macau casino industry from about 2012 onwards. Chapter 15 dealt with misrepresentations made by The Star in false documentation which it provided to the BOC Macau from 2013 to 2017 to disguise cash deposits by patrons as deposits by The Star itself. This Chapter addresses how Star Entertainment responded to the problems created by the closure of The Star's BOC Macau account at about the end of 2017, which meant that patrons in North Asia could no longer deposit cash in Macau directly into a bank account of The Star.
2. It is necessary to say something about references to Star Entertainment and The Star in this Chapter. Ultimately, front money and CCF redemptions were deposited into the bank accounts of the casino operators, being The Star in the case of the Sydney casino and Star Entertainment QLD Limited (Star Queensland) in the case of the two Queensland casinos, as well as EEIS, another subsidiary of Star Entertainment. The casino operators are the reporting entities under the *AML/CTF Act*. However, their obligations under this statute are organised at the group level under the Star Entertainment joint AML/CTF Program. Moreover, usually it was Star Entertainment that made arrangements with third parties on behalf of the casino operators and EEIS during the Relevant Period. This Chapter focuses on the impact of the arrangements made by Star Entertainment on payment channels to The Star, although the arrangements may also have involved payment channels to the Queensland casinos as well.

## Chapter 16.2 Establishment of EEIS

3. On 7 November 2013, Star Entertainment established EEIS. EEIS is a private Hong Kong incorporated company.<sup>1</sup> “EEI” is an acronym for Echo Entertainment International and at the time EEIS was registered, Echo Entertainment Group Ltd was the name of its parent.<sup>2</sup> EEIS has always been wholly owned by Star Entertainment.<sup>3</sup> Star Entertainment has stated that it intends to wind up EEIS and has taken steps to liquidate the company.<sup>4</sup>
4. On 16 February 2015, EEIS opened four bank accounts with a BOC HK.<sup>5</sup> The signatories to those accounts from their opening until the commencement of public hearings, were Mr Bekier and Mr Theodore.<sup>6</sup> The Star Entities have stated that those bank accounts have now been closed.<sup>7</sup>
5. On 26 February 2014, EEIS opened two accounts with BOC Macau. It opened a further three accounts with BOC Macau on 27 February 2015. Account signatories of each of the accounts, from the time of their opening until their closure, included Mr Bekier and Mr Theodore.<sup>8</sup> Each of the BOC Macau accounts held by EEIS were closed on 27 April 2018.<sup>9</sup>
6. On 25 March 2014, EEIS was granted a Money Lender's Ordinance Licence in Hong Kong, permitting it to provide credit facilities to patrons in Hong Kong.<sup>10</sup>
7. In April 2014, The Star sought approval from the Authority for EEIS to be recognised as a “close associate” of The Star, on the basis that it was proposed that EEIS would operate as a corporate junket (and effectively the only junket with which The Star would deal). The arrangement envisioned:<sup>11</sup>
  - (a) EEIS entering into rebate agreements with The Star;
  - (b) EEIS entering into back-to-back rebate agreements with all international premium players and junkets who visited The Star;
  - (c) all existing junket operators and their representatives becoming junket representatives of EEIS;
  - (d) EEIS holding two CCFs with The Star through which it would offer patrons credit facilities; and
  - (e) Star Entertainment providing a solvency guarantee to EEIS to ensure that EEIS had access to funding to clear its CCFs with The Star.

8. The Star asserted to the Authority that these arrangements would not make EEIS an agent of The Star (though it did not specify any reasons in support of that proposition).<sup>12</sup>
9. EEIS was approved by the Authority as a close associate in May 2014.<sup>13</sup> The minutes of the meeting of the Authority in which the application was approved make no reference to the reasons for which EEIS was being designated a close associate.<sup>14</sup>
10. As it turned out, EEIS was not “activated” at that time. An internal document dated January 2018 stated that EEIS was initially established in order to facilitate settlement activities and provide de facto direct credit to junkets, but was not activated as management expected that casino modernisation legislation would permit the provision of direct credit to junkets in NSW.<sup>15</sup> EEIS, as an entity, appears to have remained largely dormant until 2018.
11. In or around late 2014 or early 2015, the EEIS project was briefly reinvigorated, but was again shelved, this time due to what was later described as “direct credit and tax issues”.<sup>16</sup>

### **Chapter 16.3 Use of the EEIS Bank of China Hong Kong Accounts**

12. In 2015, notwithstanding the dormancy of EEIS, a number of “anomalous” transactions were conducted through the entity’s BOC HK accounts.<sup>17</sup> Further transactions into EEIS’s BOC HK accounts occurred again in 2016 and 2017.<sup>18</sup> In total, there were 8 transactions in 2015, 1 transaction in 2016 and 10 transactions in 2017 into EEIS’ BOC HK accounts, totalling around AUD \$30 million worth of deposits.<sup>19</sup>
13. Many of the deposits made into EEIS BOC HK accounts were for the purpose of CCF redemptions.<sup>20</sup> At least one or two deposits were for front money ahead of play, and at least one remittance occurred from that account to a patron’s BOC Macau account.<sup>21</sup>
14. In 2017, the BOC HK accounts were advertised internally as being available for use by the credit and sales teams, but were “permitted only in rare cases” and were restricted to transfers by wire or cheque.<sup>22</sup> It was later disclosed by Ms Soares, Assistant VIP of Credit and Collections in Hong Kong, that the EEIS BOC HK accounts did not accept cash, owing to the documentation required and Hong Kong regulation on cash deposits.<sup>23</sup>
15. The transactions involving the EEIS BOC HK accounts were not “discovered” by Star Entertainment lawyers and senior managers until 2021.<sup>24</sup>
16. The Star Entities accept that the use of the EEIS BOC HK bank accounts in the period 2015 to 2017 was not accompanied by careful transaction monitoring of those accounts.<sup>25</sup>

17. Further, Ms Arnott gave evidence that from 2018 to mid-2019, there was no transaction monitoring for AML/CTF purposes of those bank accounts.<sup>26</sup> This was so, notwithstanding that expert witness analysis of the EEIS BOC HK bank accounts revealed that in the period 31 January 2018 to 31 December 2020, 50 transactions took place through the EEIS BOC HK accounts.<sup>27</sup>

#### Chapter 16.4 Closure of The Star's BOC Macau Accounts

18. In a board paper regarding “International VIP Business” dated 25 May 2017, which was referred to in Chapter 11, Mr Bekier and Mr Chong noted that owing to recent changes in Macau’s AML legislation and increased regulation, banks in Macau had been increasing their compliance activity and that the bank accounts of another casino in Macau had been closed.<sup>28</sup> The paper stated that the two bank accounts in Macau (in the names of The Star and EEIS) were used to remit funds and that if they were closed, it would present a significant issue in collecting outstanding debts. This paper was taken as read at the 25 May 2017 board meeting.<sup>29</sup>
19. An IRB Strategy Update paper presented to the Board of Star Entertainment on 26 September 2017 by Mr Bekier and Mr Chong (also referred to in Chapter 11) identified that the “Chinese government focus on cracking down on gaming appears to be moderating in respect to Macau casinos, but not foreign operators”.<sup>30</sup> It also stated that the “global focus on AML continues to intensify, with direct and indirect implications (indirect includes banks tightening their internal controls and customer risk assessments)”.<sup>31</sup>
20. The 26 September 2017 board paper identified the following key issues which were said to pose both financial and operational risks:<sup>32</sup>
- (a) an inability to market to Chinese customers directly either in China or Macau due to a lack of staff on the ground;
  - (b) an inability to secure working visas for current or potential Chinese sales team members in either Hong Kong or Macau;
  - (c) the risk that bank accounts in Macau (which were used to remit funds) might be closed or subject to enhanced due diligence; and
  - (d) some international staff were predominantly domiciled in different locations due to their work locations or visas.

21. In response to these concerns the paper recommended “activating” EEIS, establishing a Macau Marketing Subsidiary (MMS), and acquiring a licensed Macau travel agency.<sup>33</sup> It appears at this point that management perceived that the risk of bank accounts in Macau being closed or subject to increased scrutiny might be alleviated by having a business presence in Macau.
22. By 6 December 2017, advice had been received from BOC of the impending closure of the relevant Macau bank accounts.<sup>34</sup> This created “considerable concern” at Star Entertainment because without being able to receive cash deposits it made repayments of CCF debts and the remittance of front money from overseas patrons more difficult.<sup>35</sup>
23. Internal correspondence indicates that unsuccessful attempts were made to approach BOC Macau to extend the life of the accounts, and that the closure was driven by BOC’s internal compliance teams and the BOC Macau Branch Manager.<sup>36</sup> At this time, a number of top tier financial institutions were not willing to facilitate transactions on behalf of EEIS in Macau because of “the restrictions on the banking sector to not do business with casinos or related entities”.<sup>37</sup>
24. The BOC Macau closed the accounts held by The Star and EEIS on 25 January 2018 and 27 April 2018 respectively.<sup>38</sup> Star Entertainment was told that the closure was for “compliance reasons”.<sup>39</sup> In an interview by Mr Houlihan with Mr Chou, the Vice President for Credit & Collections in the Macau Office, Mr Chou stated that the Macau Government “didn’t want to allow Macau banks to have relationship with other casinos not in Macau”.<sup>40</sup>

## Chapter 16.5 The Kuan Koi Arrangements

### **The Initial Kuan Koi Arrangement**

#### *The arrangement comes into effect*

25. In the wake of the impending closure of the BOC Macau accounts, Star Entertainment needed an avenue to transmit large amounts of money from patrons in Macau.<sup>41</sup> Mr Bekier in his evidence agreed that “without the introduction of some new payment channels, The Star’s turnover was set to decrease significantly”.<sup>42</sup> A Star Entertainment board paper prepared by Mr Chong for a board meeting on 22 March 2018 stated that the closure of the Macau bank accounts was estimated to have a \$21.5 million annual EBITDA impact unless rectified. This was driven by the assumption that junkets and premium direct players who

- had previously repaid outstanding balances in Macau would not visit Star Entertainment casinos as frequently.<sup>43</sup>
26. Discussions about alternative arrangements commenced in around November 2017.<sup>44</sup> Star Entertainment “looked for alternatives” outside of the traditional banking sector that had been the subject of the increased restrictions from the Macau and Chinese Governments.<sup>45</sup> Around that time, Mr Simon Chan, a Senior Relationship Manager of BOC Macau (who had a “longstanding relationship with the Collections team” of The Star) proposed to Mr Chong (and conveyed to Mr Whytcross) that an independent third party could be used, to whom patrons could transfer funds in Macau and who, in turn, could transfer funds from his front money account with The Star.
27. Mr Chan and Mr Chong met with The Star patron and Junket Operator Mr Kuan Koi to discuss whether he could fulfill that role.<sup>46</sup> It was observed by Mr Chong in an email that Mr Koi was “agreeable” to the concept and that it could substantially reduce the cash settlements that had previously taken place in Macau.<sup>47</sup>
28. It was initially proposed that in this “collateral fund arrangement”, patrons wishing to repay funds in Macau would be referred to Mr Koi and would make payments to Mr Koi, who could in turn conduct a telegraphic transfer into the EEIS BOC HK accounts.<sup>48</sup>
29. In response, Mr Oliver White issued a directive to:<sup>49</sup>
- not use the EEIS bank accounts in Hong Kong in any way until we have EEIS up and running properly.
- Using EEIS’s bank accounts in an interim and un-documented manner introduces significant risk that we will lose these accounts and/or create compliance issues for EEIS going forward.
- Either of these must be avoided, as we are proposing to use EEIS as the long-term solution to the current issues.
30. Mr White further warned that the proposed arrangement would need to undergo an AML/CTF risk assessment, that there were restrictions around taking and holding deposits in Australia and there should be no reference to any third party (such as Mr Koi) operating as The Star’s agent (rather a “service provider to us”) because it would expose The Star to legal and risk implications.<sup>50</sup>
31. On 15 January 2018, Mr Chad Barton executed a “Client Management Agreement” on behalf of Star Entertainment International Pty Ltd with Mr Koi, to “manage payments for

and on behalf of Customers in respect of amounts due and owing to the Star Entertainment Group”.<sup>51</sup> Mr Koi was to be compensated with a monthly service fee of HKD\$1.35M for January 2018 and \$2.7M per month thereafter.<sup>52</sup> Mr Koi was obliged to transfer HKD\$90M into his front money account with The Star, to be used to make payments to The Star on behalf of customers.<sup>53</sup>

32. Mr White was principally responsible for preparing the agreement with Mr Koi.<sup>54</sup> The arrangement was approved by Mr Brodie and Mr McWilliams.<sup>55</sup>
33. Mr White sought external legal advice from HWLE in relation to the January 2018 agreement with Mr Koi, which was limited to advice on the fee payable to Mr Koi, and to seek confirmation (which was obtained) that the arrangement would not make any Star entity a remittance provider or organiser of a remittance network.<sup>56</sup>
34. The agreement required Mr Koi to conduct his activities in accordance with the laws of the jurisdictions in which such activities were being conducted, and provide, upon Star Entertainment's request, all information he collected in relation to customers.<sup>57</sup> Mr Koi was also required to keep “due and proper records” of the payments made by customers to him for the benefit of the Star Entertainment Group, “in form and substance satisfactory to The Star”.<sup>58</sup> However, the agreement did not require Mr Koi to conduct KYC checks for the patrons that he dealt with, or to verify their source of funds.<sup>59</sup>
35. On 17 January 2018, Mr White, copying Ms Arnott, issued another warning to Mr Whytcross, Mr Hornsby, Mr Chou and others, that it was “very important” that payments from patrons to Mr Koi be monitored to avoid disputes as to whether a customer has paid Mr Koi or not, and to ensure that “The Star receives from Kuan Koi (or the VIP C&C team collects in conjunction with a payment to KK) the documentation set out below for AML/CTF reporting requirements”.<sup>60</sup> At that time, he also warned that the arrangement should be used for CCF redemptions only, and not for front money prior to play. Mr Hornsby stated in response that they had “complied with all the below points”.<sup>61</sup>
36. The arrangement with Mr Koi was described in a Star Entertainment paper dated 19 January 2018, distributed by Mr Richard Booth to members of the EEIS “Steering Committee” including Mr Whytcross, Mr White, Mr Hornsby and Mr Chou, as follows:<sup>62</sup>
  - (a) Mr Koi transfers HKD\$90 million to The Star Sydney (approximately AUD\$15 million) which is credited to his existing front money account;

- (b) Mr Koi accepts payments from the group's customers in Macau and then pays the relevant casino on behalf of that customer;
- (c) funds are transferred from Mr Koi's front money account to settle the outstanding amount of the customer at the relevant casino;
- (d) Mr Koi's front money account is topped up to HKD\$90 million at the end of each month;
- (e) Mr Koi would receive a service fee of HKD \$2.7 million per month as consideration,

**(Initial Kuan Koi Arrangement).**

37. As described, the Initial Kuan Koi Arrangement does not identify whether, and if so, how Mr Koi was to transfer the funds he received in Macau to his front money account with The Star. In December 2017, following discussions between Mr Chou and Mr Koi, Mr Chou raised with Mr Chong and Mr Hornsby several operational issues on Mr Koi's behalf, including that:<sup>63</sup>

- (a) personal cheques marked "good for payment" would be provided by Mr Koi to be cleared in Australia to top up his front money account with The Star "to avoid being question [sic] at banks through TT or cashier order"; and
- (b) the cheques would be coming from 3-4 different "persons".

38. Mr Hornsby elevated these matters to Mr Whytcross and Mr White:<sup>64</sup>

We are proposing to hold a number of bank cheques totalling 90m hkd to be deposited during the month when required.

The reason being we don't want KK bank account or his associates flagged and closed like us for using them as Star proxies.

As the bank cheques are held in Star possession and are not accruing any interest or invested by KK, we need to honour the 3%.

Any direct TT to the Star from a bank in Macau is risky whilst we are under compliance blacklist.

This is the safest approach using bank drafts either held or deposited as required.

39. This correspondence appears to demonstrate how Mr Koi proposed to remit funds into his front money account with The Star (i.e. by cheques from Mr Koi and his associates). There is no evidence before the Review to demonstrate whether this was in fact what occurred. During closing submissions, The Star Entities were asked whether there was any evidence

about how this in fact occurred.<sup>65</sup> The Star Entities subsequently submitted that they were unaware of any such evidence.<sup>66</sup>

40. Whether or not it eventuated, however, it can be seen that this proposal: (i) relied on the provision of money from a number of Mr Koi's "associates" whose identity and source of funds were apparently unknown to The Star; and (ii) was designed to avoid detection by banks and authorities in Macau.

*The February 2018 amendment*

41. The Initial Kuan Koi Arrangement was originally intended only to involve payments of money to Mr Koi in Macau for the redemption of CCFs. However, in around February 2018, the arrangement was extended to include payments by patrons for front money deposits prior to play.
42. Mr White sought further external legal advice from HWLE in relation to the modification of the arrangement to include payments for front money deposits. HWLE advised that this would involve the relevant casino providing a remittance designated service but that the casino would not require registration as a remittance provider. HWLE advised that the only implication for the casino was the need to update its AML/CTF Program to assess the risks and to design mitigation measures.<sup>67</sup>
43. On 9 February 2018, a "Client Management Supplementary Agreement" was entered into with Mr Koi, to reflect the extension of the arrangement.<sup>68</sup> The supplementary agreement made provision for Mr Koi to agree with a customer to purchase non-negotiable chips for the patron.
44. Mr White noted in an email to Mr Whytcross and others on 8 February 2018 that, as far as Star Entertainment was aware, Mr Koi was not a licensed remitter in Macau.<sup>69</sup>

*Ms Arnott's risk assessments*

45. In January 2018, Ms Arnott undertook a ML/TF risk assessment in relation to the proposed arrangement with Mr Koi. This risk assessment was performed by Ms Arnott on the basis of the arrangement as originally conceived, only involving the redemption of CCFs. A risk assessment carrying the date of 10 January 2018 was produced to the Review, however, that document is identical to an updated risk assessment dated 8 February 2018 (referred to below).<sup>70</sup> No other risk assessment from January 2018 was produced to the Review, and it

appears that Ms Arnott simply wrote over this initial assessment when she prepared an updated risk assessment in February 2018.

46. On 8 February 2018, when the arrangement was extended to include front money deposits, Ms Arnott issued the updated risk assessment to reflect that inclusion, although she stated at the time that it did “not change much from the previous draft”.<sup>71</sup>
47. In her February 2018 ML/TF risk assessment, Ms Arnott described the proposed arrangement with Mr Koi in the following way:<sup>72</sup>

The proposed structure of the new remittance services includes a service provider (or providers) working on behalf of SGR in Macau to receive cash payments from international patrons. The service provider/s will accept money from SGR patrons for the repayment of CCFs or for prepayment of buy in amounts. The remittance of funds will only occur in one direction- from international jurisdictions to SGR. We will not facilitate the payment of funds in international jurisdictions using this remittance service.

48. Ms Arnott observed in the risk assessment that there were significant money laundering risks associated with utilising third party remitters who accept large deposits with limited KYC or ECDD procedures. Ms Arnott wrote that under previous arrangements, where money was deposited directly into the international bank accounts held by Star Entertainment subsidiaries, the collection of identification had been conducted by the banks with which those accounts were held.<sup>73</sup> Ms Arnott was unaware, at the time she wrote the risk assessment, that in fact that The Star had facilitated patrons making cash deposits – disguised as funds of The Star – by the provision of false documents to BOC Macau.
49. Ms Arnott proposed that the risks of the arrangement could be managed through the following controls:
  - (a) due diligence would be performed on users of the arrangement who would for the most part hold CCFs with The Star, and therefore have had ECDD and KYC checks already performed on them;
  - (b) the use of an “International Depositor Identity Form” identifying the depositor, the beneficial owner and any third parties involved in the transaction;
  - (c) the lodging of IFTIs with AUSTRAC for each of the transactions;
  - (d) the fact that the proposal envisaged only “one point of deposit (Kuan Koi)” so that the ability to obscure funds coming to The Star via multiple sources would be limited;

- (e) additional training would be conducted on what to do if multiple depositors each made contributions to a single front money buy in or CCF clearance; and
  - (f) the international team would be invited to participate in a review of the Transaction Monitoring Program to include transactions conducted under the new arrangement.
50. Ms Arnott gave evidence that Mr Koi “represented a hawala-style” (informal transfer system) remittance service provider, which was the typology she was assessing at the time.<sup>74</sup>
51. Ms Arnott accepted in her evidence that she had been in error by incorrectly assessing the risk of the arrangement as “low”, but that “it was a genuine assessment at the time”.<sup>75</sup>
52. Ms Arnott agreed that the proposed arrangement became riskier once it was extended to collecting front money deposits because the source of wealth due diligence performed on those patrons was more limited than that undertaken for a patron with a CCF.<sup>76</sup> She said this was a matter that she perhaps should have specifically addressed in the risk assessment.<sup>77</sup>
53. Ms Arnott accepted that the only controls that were implemented to manage the increased risk were to ask for a staff member to be present at the time the cash was provided to Mr Koi and to complete an International Depositor Identity Form.<sup>78</sup>

*The Board's knowledge of the Initial Kuan Koi Arrangement*

54. The Board was first informed of the Initial Kuan Koi Arrangement in an 8 February 2018 board paper from Mr Chong and Mr Williams, although Mr Koi was not identified by name.<sup>79</sup> The paper referred to the problem presented by the closure of the BOC Macau accounts and stated that an “interim” arrangement had been adopted to assist overseas patrons sending monies to Star Entertainment casinos.<sup>80</sup> The interim arrangement was expected to only be in place until June 2018, when the “EEIS/MMS Initiative” would become operational.<sup>81</sup>
55. The paper described the Initial Kuan Koi Arrangement:<sup>82</sup>
- The service provider transferred HKD \$90 million (circa AUD \$15 million) to The Star, which was credited to his existing casino account used to hold funds (front money account)
  - The service provider accepts payments in Macau (ensuring appropriate AML/CTF requirements as adhered to)

- Funds are transferred from the service provider's front money account on behalf of the customer to settle the outstanding amount at the relevant property
- The service provider's front money account is topped up to HKD \$90 million at the end of each month

This process was specifically introduced to address repayment of outstanding CCF however a business requirement exists for this to also extend to the transfer of cash funds prior to play.

56. The paper stated that the Chief Risk Officer at the time (Mr McWilliams) had conducted an ML/TF risk assessment of the arrangement, and had assessed the risk as "low".<sup>83</sup> The paper also advised that external legal advice had been sought, following which the assessment had concluded that Star Entertainment did not require further approvals of the arrangement from AUSTRAC.<sup>84</sup>
57. An updated version of the board paper was circulated later on 8 February 2018, with a circulating resolution of the Board.<sup>85</sup> The updated paper stated that the arrangement was with Mr Koi, who was an existing customer and junket operator. It stated that Mr Koi had been subject to the usual credit risk assessments and had deposited \$90 million HKD into his front money account.<sup>86</sup>
58. The two papers requested that the Board, by adopting the circulating resolution, approve a number of changes to the AML/CTF Program Part A of The Star, which were required for the introduction of the arrangement. These included:<sup>87</sup>
- a statement that the Group had assessed the ML/TF risks associated with "international funds transfer arrangements" and determined that they are "low" risk;
  - that identification information regarding customers utilising the Initial Kuan Koi Arrangement would be recorded in IFTIs;
  - sighting of original customer photo identification would be required for verification; and
  - the arrangement would constitute a designated service.
59. The same day, the Board resolved by circular resolution to adopt the new version of the AML/CTF Program as recommended by the board papers of 8 February 2018.<sup>88</sup> The Board met again on 15 February 2018, but the minutes of the meeting made no mention of the 8

February 2018 papers, the circular resolution, or any discussion of the Initial Kuan Koi Arrangement.<sup>89</sup>

60. When questioned about the Initial Kuan Koi Arrangement, members of the Board had scant knowledge or recollection of it. Mr Bradley recalled that it was an interim arrangement but he was not sure whether he knew the name of the party involved in it.<sup>90</sup> Dr Pitkin could also only recall that there had been a temporary facility with an existing junket operator, until EEIS became operational.<sup>91</sup> Ms Lahey had no recollection of any arrangement with Mr Koi.<sup>92</sup> Mr Sheppard recalled the arrangement, and stated that he assumed it had been the subject of full consultation with regulators in NSW and with AUSTRAC, but that was not a matter that was confirmed to him.<sup>93</sup>

*The Initial Kuan Koi Arrangement in practice*

61. While it appears that some attempts were made to track and monitor deposits made by patrons with Mr Koi, the local staff – and Mr Chou in particular – had difficulty with record keeping.<sup>94</sup>
62. Mr Whytcross gave evidence that although there was heightened risk with the arrangement, he drew comfort from the ML/TF risk assessment that the introduction of the International Depositor Identity Forms had mitigated the risks of the arrangement.<sup>95</sup> However, Mr Whytcross did not know who was required to complete the form and “whether it was completed by Mr Koi or the customer, or a member of Star Entertainment’s team in that process”.<sup>96</sup> He was also not sure why the use of the International Depositor Identity Forms gave him comfort or whether it was effective<sup>97</sup> and he could not recall ever seeing one of the forms.<sup>98</sup> Further, Mr Whytcross accepted that the AML/CTF risks presented by the arrangement rang “alarm bells in terms of source of funds”, and he was not sure that use of the International Depositor Identity Forms was an adequate control to mitigate that risk.<sup>99</sup>
63. The International Depositor Identity Forms required the bare minimum of detail about the customer and sought no information about the source of the customer’s wealth, or the source of funds that were being deposited, notwithstanding that Mr Koi was predominantly accepting cash.<sup>100</sup>
64. The Star Entities submitted that there is evidence that the International Depositor Identity Form were completed for the duration of the Kuan Koi arrangements, and that 46 such forms had been produced to the Review.<sup>101</sup> Those forms were produced under summons, after they had been identified by The Star to the Review.<sup>102</sup> In fact, only 29 of those

documents produced to The Review were unique International Depositor Identity Forms.<sup>103</sup> Of those, 17 forms had dates between January and March 2018, and 12 had dates between April 2018 and September 2019.

65. Ms Arnott gave evidence to the Review that she only received the International Depositor Identity Forms up to about March 2018”.<sup>104</sup> Ms Arnott’s evidence was that International Depositor Identity Forms were received “at the beginning” and:<sup>105</sup>

the process was that I would have those forms and forward them to our AML/CTF administrator for the purposes of creating IFTI reports to AUSTRAC. At some point, [Wayne Willett] informed me that he was getting access to the transaction detail [through the cage team] and that I no longer needed to forward him the forms. So I said they didn't need to continue to send them to me. But it was - there was a significant period where I was getting them.

66. In July 2018, Ms Arnott sent an email to Mr Booth and Mr White stating that she had not received any information relation to the “Kuan Koi Agreement” for a while and that:<sup>106</sup>

It is necessary that the paperwork continue to be completed. The paperwork that is relevant to AML is the International Depositor form that we implemented at the beginning of the Kuan Koi arrangement. I would be grateful if you could confirm with Adrian that these forms are still being completed.

67. No substantive response to that email has been identified.

68. The Star Entities submitted that there is no evidence to conclude that staff members were not present at the time that Mr Koi took payment from patrons.<sup>107</sup> There is insufficient evidence to find that they were in fact present in all instances. Ms Arnott did not know whether staff members were always present at the time that Mr Koi took payment from patrons.<sup>108</sup> No finding can be made either way. The forms that Ms Arnott did receive were not ordinarily accompanied by copies of the identification documents that staff had apparently viewed at the time of completing them, so she had no way of verifying whether the staff who completed these forms in fact viewed the identification documents for themselves.<sup>109</sup>

69. Ms Arnott’s ML/TF risk assessment relied on the fact that IFTIs would be submitted for the transactions involving Mr Koi. Ms Arnott said in evidence that the lack of transparency in relation to the transactions involving Mr Koi was “why we reported all these transactions to AUSTRAC as IFTIs”.<sup>110</sup> The Star Entities contend that Ms McKern’s reports make no comment on a lack of IFTI reporting conducted for the Initial Kuan Koi Arrangement.<sup>111</sup> The Star Entities do not identify any other evidence that IFTIs were in fact filed for this arrangement, and the Review has not identified any. There is therefore insufficient

evidence on which to make a finding either way as to whether IFTIs were lodged in relation to the Initial Kuan Koi Arrangement.

70. The arrangement with Mr Koi was intended to be an interim measure, in place until around June 2018,<sup>112</sup> at which time it was hoped that EEIS (and the proposed new MMS would become operational as the longer-term solution to Star Entertainment being able to accept payments from overseas for gaming.<sup>113</sup>
71. In fact, unbeknownst to the Board of Star Entertainment and with very little or no oversight by senior management in the Legal, Risk and AML/CTF Teams at Star Entertainment, an even riskier arrangement involving Mr Koi evolved, which continued until about September 2019.

### **The Modified Kuan Koi Arrangement**

72. In March 2018, the fears expressed by Mr Chou and Mr Hornsby in December 2017 materialised. In an email to Mr Hawkins, Mr White, Mr McWilliams, Mr Theodore and Mr Whytcross (among others), Mr Hornsby stated that BOC Macau had blocked all international wire transfers, issuances of cashier orders and personal accounts from Mr Koi's Macau accounts and those of people related to him. He further advised:<sup>114</sup>
- (a) the EEIS "solution" would not be available until July 1 at the earliest;
  - (b) Star Entertainment had approached other Macau banks, which either could not handle its banking requirements, or "flat out refused our approaches";
  - (c) he had pressured another junket to wire to the casino "under duress", and even they were unwilling or unable to wire the debt owing to the casino directly to its bank account. Instead, a personal cheque was issued that the junket advised would bounce;
  - (d) recently patron Qin Sixin had utilised third party remitter Regal Crown Trading Limited (**Regal Crown**) at his own expense for two payments of \$3.2M AUD and \$4.6M AUD respectively, with "serious ramifications to Qin with his bankers", nevertheless the payments had been received from Regal Crown into one of the NAB bank accounts held by Star Entertainment subsidiaries;
  - (e) casino customers expect that when they pay their debts "their personal cheque is not banked. In the EEIS world this can be solved however under the Casino Control Act we must bank on 30 business days on issuance in the meantime";

- (f) a potential solution was for a disbursement “to temporarily to clear a patron’s marker who have paid Regal Crown, to be reversed pending the clearance of the funds direct to NAB or [United Overseas Bank] at an agreed time of maturity. Front money cash players may have temporary CCF facilities offered to them similar to CUP”, with commissions to Regal Crown negotiated at a rate of 3%.
73. Mr Hornsby warned that his team in North Asia had been unable to find another service that could offer a solution, and they had been under “immense pressure from our Star patrons and junkets to present cash options to them and there [are] no other banks or third parties willing to pick up our volumes without exposing themselves negatively with their bankers similar to Kuan”.<sup>115</sup>
74. Similar internal correspondence reveals a real concern at the time about a loss of patronage due to the inability to accept deposits in Macau.<sup>116</sup>
75. In the period from around April 2018 to September 2019, a modified arrangement with Mr Koi was utilised to transmit funds from overseas patrons to The Star. The arrangement utilised other third party remitters, that would provide remittance services, for which The Star would reimburse service fees to the patrons, through separate payments to Mr Koi (**Modified Kuan Koi Arrangement**).<sup>117</sup>
76. From May 2018 to July 2018, the Modified Kuan Koi Arrangement was conducted via companies called ONEPIP HK and ONEPIP Singapore that were both depositing money into the EEIS NAB accounts pursuant to arrangements with Mr Koi.<sup>118</sup> The arrangement also appears to have been conducted through a remitter called “Currenxi” in June and July 2018.<sup>119</sup> From November 2018 to March 2020, the primary third-party remitter used was Silver Express Investment Limited (**Silver Express**).<sup>120</sup>
77. There is also some evidence that patrons were being introduced by Star Entertainment staff to Regal Crown, a licensed money service operator in Hong Kong.<sup>121</sup>

*ML/TF risks of the Modified Kuan Koi Arrangement*

78. The opacity of these arrangements – and the ML/TF risks they presented – cannot be overstated.
79. First, the Modified Kuan Koi Arrangement appears to have been initially conducted by an “associate of Kuan Koi” via further corporate entities, also unknown to Star Entertainment, in order to avoid remitting as a licensed money lender in Hong Kong, “which they

- specifically clarified” with Star Entertainment before they took over the contract.<sup>122</sup> There is no evidence as to the identity of the associate, only that the identity may have been known to Mr Hornsby.<sup>123</sup> The documentary evidence indicates that while the “associate” was willing to perform the service, they did not want to transfer payments directly to a casino.<sup>124</sup>
80. Secondly, the corporate entities through which payments were ultimately made, were unknown to Star Entertainment from the outset. Remittances were initially accepted by ONEPIP Hong Kong and ONEPIP Singapore, in circumstances where Star Entertainment did not have knowledge of the directors of those entities or the identity of their controlling entities.<sup>125</sup> Remittances coming from those entities were simply treated as payments on behalf of Mr Koi.<sup>126</sup> Throughout the entire period that it was used, the Legal Team had no contact with Silver Express to understand their processes in Macau.<sup>127</sup> Ms Martin could not recall whether the Compliance Team had performed any review of Silver Express’s processes.<sup>128</sup> Currenzie, one of the other third-party money service business that undertook remittances as part of the Modified Kuan Koi Arrangement, appears to also have been unknown to Star Entertainment – other than to Mr Chou – prior to those arrangements being utilised.<sup>129</sup>
81. Thirdly, Star Entertainment had no insight into the companies’ source of funds.<sup>130</sup> As accepted by Ms Arnott, the problem with remitters depositing funds into The Star’s accounts was that they could not be sure of where the money was really coming from, which increased the source of funds risks associated with that usage.<sup>131</sup>
82. Fourthly, it is not clear that Star Entertainment obtained information regarding the payers’ identity or their source of funds for the transactions.<sup>132</sup> As noted in respect of the Initial Kuan Koi Arrangement, the International Depositor Identity Forms required scant detail from the patron, and no information as to the source of the patron’s funds for the transactions. Further, it is far from clear that International Depositor Identity Forms were collected in relation to all of the transactions that took place via the Modified Kuan Koi Arrangement. There were approximately 135 deposits by third party remitters into the EEIS NAB accounts and approximately 60 deposits by third party remitters in the NAB account held by The Star in the period May 2018 to March 2020.<sup>133</sup> By contrast, only 12 forms that were created in that period were produced by The Star.<sup>134</sup> Ms Arnott’s evidence was that she no longer received the forms after March 2018 (when the Initial Kuan Koi Arrangement ceased).<sup>135</sup> In those circumstances, the only available conclusion is that this

control was not effective as a compliance measure, during the period the Modified Kuan Koi Arrangement was on foot.

83. Further, in an email to NAB, when queried about the transactions, Ms Arnott stated that while The Star conducted due diligence on customers ultimately responsible for repayments of debts (or into whose front money accounts payments would be made), it relied on the third party remitters to conduct due diligence on the payer.<sup>136</sup> In her evidence, Ms Arnott did not accept that this was outsourcing The Star's due diligence obligations, because of the due diligence The Star was performing on patrons. However there is no evidence that such due diligence was performed on payers involved in the transaction.<sup>137</sup> Mr Brodie accepted that there were problems with The Star outsourcing its KYC processes because in order to do that, it "must understand the nature of the [remitting] entity" (which in this instance, it did not).<sup>138</sup> He stated:<sup>139</sup>

If you don't have clarity about who you're dealing with and where they come from and their processes and all of those sorts of things, then you wouldn't - then you wouldn't have incorporated them into the program and we hadn't done any of that work so we wouldn't have been - in my view, we weren't using and our AML program said we wouldn't use a third-party KYC agent.

84. When Silver Express was utilised, no source of funds information would be sought from the payer, and Star Entertainment did not have direct contact with customers utilising the arrangement.<sup>140</sup> Ms Arnott confirmed that the use of third party remitters made the arrangement even more risky from a money-laundering perspective, "particularly if our staff didn't continue to attend to make sure that it was our customers who were providing the funds for transfer".<sup>141</sup>
85. Fifthly, the evidence suggests that there was minimal (or no) oversight into the arrangements from a compliance or ML/TF perspective, particularly as it related to any transactions with Regal Crown. Mr Whytcross gave evidence that he was not aware that any third-party remitters played a role in the arrangements with Mr Koi, and the process was being managed by Credit and Collections.<sup>142</sup> Ms Arnott did not have specific personal knowledge of how the arrangements evolved, and stated that the process was being managed by her manager (i.e. Mr Brodie).<sup>143</sup> She did not have a "firm understanding" of what the approved process was at the time, despite the fact that she was the person who conducted the risk assessment on the initial arrangement.<sup>144</sup>

86. In relation to Regal Crown, Ms Arnott gave evidence that Star Entertainment was “comfortable” with utilising it to an extent, “although I do believe we had some concerns about some of the aspects of Regal Crown’s transactions”.<sup>145</sup> Ms Arnott stated that:<sup>146</sup>

my understanding is we had asked for quite a significant amount of information and they – whilst they had assured us that it was lawful, they didn’t want to provide their commercial processes to us.

87. Ms Arnott said that it had given Star Entertainment comfort that Regal Crown was a licensed money services business, even though it had not been able to verify the lawfulness of the processes Regal Crown used in Macau to a “satisfactory degree to enter into a services agreement or contract with them”.<sup>147</sup>

88. In March 2018, Mr Brodie had warned that Regal Crown was “a very long way from meeting our requirements from an AML perspective”.<sup>148</sup> In evidence to the Review, Mr Brodie stated that:<sup>149</sup>

[W]e knew almost nothing about, you know, whether or not they had an AML program, whether or not we would – whether or not we understood enough about their – about their ownership and their company structure. To that point in time, The Star had only ever attempted to deal with people and had never attempted to deal with companies from an AML/CTF perspective, and obviously dealing with companies can be a much more difficult or complicated thing to get right.

And so, you know, without understanding their methodology, without understanding their – their approach to AML, without understanding, you know, who their beneficial owners were and those sorts of things then it – you know, it’s difficult in any circumstance for The Star to have addressed the question of those people being a suitable partner for us.

89. In his file note on the matter, drafted in 2019, Mr White confirmed that Star Entertainment had “not been able to verify the lawfulness of the process used by RC in Macau”.<sup>150</sup> For that reason, it appears Star Entertainment did not deal with Regal Crown directly.<sup>151</sup> Indeed, an email from Mr Hornsby to Mr White stated that Regal Crown had used Silver Express and other remitters to conduct its operations.<sup>152</sup>

90. The Star Entities have submitted that there is no evidence that deposits were made into Star Entertainment bank accounts by Regal Crown.<sup>153</sup> However, as identified above, Regal Crown had already been used by Qin Sixin to remit funds.<sup>154</sup> Further, based on the documentary evidence, it appears that Regal Crown may have used other entities and remitters to make deposits on its behalf, which may have resulted in Regal Crown not appearing in bank statements for The Star or EEIS.

91. Sixthly, Star Entertainment had no knowledge of where payments being made to Mr Koi under the Modified Kuan Koi Arrangement were going, and whether these represented the actual costs being incurred to patrons using Silver Express (or other remittance providers).<sup>155</sup>
92. Seventhly, IFTIs were not lodged for either CCF or front money payments under the Modified Kuan Koi Arrangement.<sup>156</sup> Although no finding is made as to whether IFTIs were required to be lodged under federal legislation, the ML/TF risk assessment performed by Ms Arnott presupposed that that would operate as a compliance control on the arrangements with Kuan Koi. At least in respect of the Modified Kuan Koi Arrangement, there was no such control.
93. Finally, the third-party remittances in conjunction with the Modified Kuan Koi Arrangement, appear to have been largely paid into the NAB bank accounts held by EEIS, which were not being adequately monitored for AML/CTF purposes.
94. Generally, the Modified Kuan Koi Arrangement posed a heightened AML risk because:
- (a) the very nature of remitters is to provide only remittance or currency exchange services which limits knowledge and interaction of their customers;<sup>157</sup>
  - (b) the arrangement lacked clarity about the beneficial owner of the remitters and the source of their funds;<sup>158</sup>
  - (c) the remitters themselves could have been involved in money laundering by unwittingly accepting funds without knowledge of their source, or by direct involvement in criminal organisation;<sup>159</sup>
  - (d) remitters may have been unlicensed, or licensed but not subject to a regulatory regime capable of ensuring the legality of their activities;<sup>160</sup> and
  - (e) it would be difficult for any authority or bank reviewing transactions undertaken by remitters to ascertain the origin of the funds.<sup>161</sup>
95. Star Entertainment not only failed to identify and quantify those risks, but also employed almost no compliance measures to ameliorate them.

*The end of the Modified Kuan Koi Arrangement*

96. On 9 August 2019, it was reported that the Macau gaming regulator had issued a notice to gaming participants in Macau that with effect from 1 August 2019, Macau was not to be

used as a hub for the settlement of gaming debts arising from play outside of the territory.<sup>162</sup>

This no doubt added further pressure to the arrangements with Mr Koi.

97. On 13 August 2019, Mr Koi met with VIP Credit and Collections and gave notice that he wished to end his arrangements with Star Entertainment.<sup>163</sup> Mr Koi was apparently concerned that BOC Macau was raising red flags in relation to his movement of funds.<sup>164</sup>

98. Ultimately, the Modified Kuan Koi Arrangement gave rise to a dispute between Mr Koi and Star Entertainment regarding the payments that were made into Mr Koi's front money accounts for the reimbursement of service fees to patrons (which was disclosed to the Review in a letter from KWM dated 8 November 2021).<sup>165</sup> After an investigation by Mr White and Mr Kevin Houlihan in around late 2019, a settlement was reached with Mr Koi.<sup>166</sup>

99. Mr White stated in a 29 October 2019 email to Mr Houlihan:<sup>167</sup>

given the lack of oversight of the arrangement with KK from May 2018, the relatively small number of key individuals involved (in particular Gabriela Soares in Macau and perhaps Jacker Chou in Hong Kong, together with Credit & Collections team members in Singapore and Sydney), I think there is a possibility that there could be grounds for a complaint.

100. Mr White told the Review that despite his investigation, he was unable to identify what had occurred.<sup>168</sup>

#### *Lack of oversight of the Modified Kuan Koi Arrangement*

101. Despite the very high and obvious risks of money laundering raised by the Modified Kuan Koi Arrangement, in which third party remitters became involved in the transaction chain, it is astonishing that Star Entertainment did not perform any risk assessment of ML/TF risks. Indeed, Ms Arnott's evidence was that she was only "peripherally" aware of the change in the nature of the arrangements with Mr Koi. She did not know whether Mr Koi was accepting cash payments from patrons or whether it was his associate and whether or not that change was approved.<sup>169</sup>

102. There is no evidence that there was any vetting of the third-party remitters, or any vetting that was able to verify the legality of their operations, the beneficial ownership of the corporate entities with whom they dealt, the remitters' source of funds, the remitters' own engagement in patron-identification or the remitters' due diligence regarding the source of the patron's funds.

103. There is no evidence that anyone in Star Entertainment management understood the patrons' source of funds for the transactions, other than it came from remitters.
104. Mr White stated that the Legal and Compliance Teams had never investigated whether Silver Express was licensed in Macau or whether the basis upon which Silver Express operated in Macau was lawful.<sup>170</sup> In contrast, Ms Arnott and Mr Brodie told the Review that some attempts were made to verify the lawfulness of Regal Crown's operations, but they were unsuccessful.
105. There was in fact no due diligence at all by the Star Entertainment Legal Team in relation to the Modified Kuan Koi Arrangement. A memorandum prepared by Mr White to Mr Hawkins and Ms Martin dated 20 August 2019 headed "Overseas Payment Channels" emphasises Mr White's lack of knowledge of the then current arrangements with Mr Koi.<sup>171</sup> Under the heading "Background" Mr White, after referring to the Initial Kuan Koi Arrangement stated:<sup>172</sup>

KK informed The Star that he was encountering difficulties with the arrangement above in [May] 2018, at which stage it was understood this arrangement had come to an end.

106. Mr White's 20 August 2019 memorandum then set out Mr White's understanding at the time concerning the use of remitters, including the Silver Express arrangement with Kuan Koi. Mr White stated:<sup>173</sup>

After [May] 2018, the arrangement with KK appears to have continued in an amended form, with the assistance of licenced Money Service Operators in Hong Kong. This process has not been subject to review by the Legal or Compliance teams

#### *Board Knowledge of the Modified Kuan Koi Arrangement*

107. The evidence indicates that the Board of Star Entertainment was not aware about the Modified Kuan Koi Arrangement or any other arrangements involving third party remitters. There is no indication that senior management notified the Board of the evolution of these arrangements into a high risk payment platform involving the use of remitters. Indeed it seems that senior management had no idea of what was going on either. Mr Bekier said that he did not know about it.<sup>174</sup> He agreed that what had occurred raised "incredibly serious money laundering risks".<sup>175</sup>
108. The non-executive directors focused blame on management for not keeping them informed.<sup>176</sup> Levelling blame at management for this is entirely reasonable. However, having approved of the original arrangements with Kuan Koi, in early 2018, there is no

evidence that the Board of Star Entertainment took any steps to monitor or enquire about those arrangements after the initial approval of them.

## Chapter 16.6 Activities of EEIS in 2018 and 2019

### Unshelving EEIS and Board Updates

109. The arrangements with Kuan Koi were intended to be a temporary solution to the problems caused by the closure of the BOC Macau account, until EEIS and the proposed MMS were operational.<sup>177</sup>
110. In a PowerPoint presentation for a “EEIS Project Kick-Off” meeting dated 24 January 2018, it was noted that the BOC Macau accounts accepted HKD \$1.2 billion in cash (approximately AUD \$200 million) between January and November 2017 because, among other things, patrons were “reluctant to transfer to a bank account which is in the name of a casino”.<sup>178</sup>
111. In February 2018, at the same time as it was being notified of the Initial Kuan Koi Arrangement, the Board was briefed about the emerging risks regarding Macau banking services, which were intended to be addressed by activating EEIS and establishing the MMS (which was proposed to act as EEIS’ agent in entering junket agreements).<sup>179</sup> The EEIS/MMS initiative was foreshadowed to be operational and approved by 30 June 2018.<sup>180</sup>
112. In March 2018, Mr Chong updated the Board on the proposed structure of EEIS.<sup>181</sup> It was suggested that the new structure would respond to issues caused by the closure of the BOC Macau accounts and the difficulty in securing working visas for sales team members in Hong Kong or Macau by:
  - Establishing a new Macau registered company, the MMS, to market to Macau licensed junkets and to collect debts on behalf of the Hong Kong junket company. The MMS will then have full legitimacy to operate in Macau including holding bank accounts and employing both local staff and staff with working visas.
  - Establishing EEI Services as a licensed money lender and licensed remittance agent thus changing the nature of the payments from customers to being repayment of loans in Hong Kong from repayment of gambling debts in Australia.
113. The update noted that L&GNSW would be receiving briefings on the proposal on 21 and 27 March 2018, for which a presentation had been prepared.

114. The presentation to L&GNSW on 27 March 2018, was entitled “Master Junket Structure Regulator Presentation” and stated that the IRB would be restructured to respond to regulatory changes in overseas jurisdictions, the closure of the BOC Macau bank accounts and changes in AML/CTF compliance requirements.<sup>182</sup> The presentation laid out the key components of the structure (including EEIS operating as a money lender and master junket operator, and the proposed operations of MMS).<sup>183</sup> It assured the Authority that “all aspects of the proposed framework fit within the existing Act and Regulations”.<sup>184</sup>
115. On 26 April 2018, EEIS opened five accounts with NAB, and Mr Bekier, Mr Theodore and Ms Martin (among others) as listed signatories.<sup>185</sup>
116. The same day, Mr David Kentworthy announced to other Star Entertainment staff:<sup>186</sup>
- good news. An A\$ bank account has been opened for EEIS and is capable of receiving deposits as of now. Adrian can we please catch up early next week...to discuss proposed cash flows between EEIS and Star in more detail.
117. Mr Hornsby immediately queried whether he could start using the account to accept deposits from Silver Express, which was reluctant to wire money “direct to a casino name”.<sup>187</sup>
118. Mr White cautioned that until EEIS was fully operational, its BOC HK and NAB accounts should not be used.<sup>188</sup> Then a few days later, Mr White advised that EEIS could now accept payments into its NAB accounts in Australia on behalf of The Star without needing to be a licensed remitter for the repayment of debts. As for front money deposits, Mr White said:<sup>189</sup>
- where I understand that the relevant patron is looking to deposit funds into their front money account, EEIS would not be able to accept this payment into its NAB accounts without being a licensed remitter.
119. On 24 May 2018, Board approval was sought to establish an internal CCF for EEIS, with a limit of \$400M to facilitate the provision of loans to IRB patrons.<sup>190</sup> The board paper stated that EEIS “will operate a CCF with both Casino Licence Holders”.<sup>191</sup> In his presentation to the Board, seeking the approval, Mr Chad Barton noted that:<sup>192</sup>
- Introducing the EEIS Money Lender CCF provides customers the opportunity to repay their loan in Hong Kong to a Star group bank account rather than to the casino operations bank account in Australia.
120. The Board resolved to approve the establishment of the internal CCF of \$400 million for EEIS, “to facilitate the provision of loans to IRB customers”.<sup>193</sup>

121. At the meeting, management spoke to the progress of the EEIS project generally, including the compliance framework in which the EEIS structure would operate. It is recorded that Ms Martin stated:<sup>194</sup>

spoke to the legal reviews undertaken and advice obtained both in relation to Money Lender and AML/CTF legislation compliance in Hong Kong and AML/CTF legal compliance in Australia. Ms Martin noted that, to the extent there are differences between Hong Kong and Australian law, the highest standard has been adopted across all AML/CTF Programs for the Group. Ms Martin confirmed that legal sign-off advices had been obtained from the Company's advisors in Hong Kong and Australia in support of the proposed new arrangements under Phase 1 of the project.

122. In May 2018, EEIS released its own AML/CTF Program (**EEIS AML/CTF Program**).<sup>195</sup> This document said that EEIS was subject to both Hong Kong and Australian AML/CTF legislation, but noted that EEIS was not registered as a remittance provider in Australia because it did not provide remittance services through a permanent establishment in Australia.

123. The EEIS AML/CTF Program also said:<sup>196</sup>

The AML/CTF Compliance Officer will play an active role in identifying and reporting suspicious transactions and will act as the main point of contact with regulatory authorities and law enforcement ...

124. The EEIS AML/CTF Program specified that the AML/CTF Compliance Officer would be responsible for overseeing the ongoing operation and effectiveness of the transaction monitoring program. The AML/CTF Compliance Officer was either to review transactional activities personally or delegate them so that suspicious matter reports (**SMRs**) could be lodged, information could be added to a risk register and ML/TF risk could be assessed and recorded.<sup>197</sup>

125. The AML/CTF Compliance Officer position for EEIS was jointly held by Ms Arnott (from April 2019 to May 2020 and 1 December 2021 onwards) and Mr Whytcross (from May 2018 until at least July 2021).<sup>198</sup>

126. On 30 May 2018, NAB issued a request for information about Star Entertainment's AML/CTF Program, and specifically questioned what remittance activities had been undertaken.<sup>199</sup> In response, Star Entertainment advised that EEIS was not operational as a lender or remitter, and did not currently perform international funds transfers.<sup>200</sup>

127. As mentioned earlier in this Chapter, a management committee called the "EEIS/MMS Project Steering Committee" was operating in this period. The "Project Sponsor" was Mr

Whytcross, the “Project Leads” were Mr Whytcross and Mr White and the “Project Manager” was Mr Booth. The members of the committee were Mr Bekier, Mr Barton, Ms Martin, Mr McWilliams, Mr Chong, Mr Whytcross, Mr White, Mr Theodore, Mr Booth and Ms Joanne Moore. The day-to-day progression of the project was managed by Mr Booth with the Steering Committee scheduled to meet each month.<sup>201</sup>

128. After the conclusion of the public hearings of the Review, certain documents provided to the EEIS/MMS Project Steering Committee in June 2018 were identified.

129. On 28 June 2018, Mr Booth sent an email for an EEIS/MMS Project Steering Committee meeting to be held on 29 June 2018 to Mr Barton, Mr Whytcross, Mr McWilliams, Mr White, Ms Moore, Mr Theodore, Mr Hornsby, Mr Kenworthy, Mr Brodie, Mr Marcus Lim, Mr Bekier, Ms Martin and Mr Hawkins. The email included the following “highlights”:<sup>202</sup>

1. \$AUD 24 m has been received into the EEIS NAB bank account since it was made available for repaying CCF to casinos. This illustrates the benefit of holding bank accounts not in the name of the casino.

...

3. Management direction is to only offer an EEIS loan where the customer can clearly not use the existing CCF mechanism with the casino directly.

...

5. Once EEIS has a M O licence (remittance licence) it will be able to receive front money deposits as well as repayment of CCF. This is subject to customs meeting AML//CTF requirements. The licence is now not expected to be granted until September 2018.

6. EEIS has not been able to open additional bank accounts in Hong Kong or Singapore consequently banking EEIS facilities are limited to Hong Kong (BOC) and Australia (NAB).

130. A slide deck was attached to the 28 June 2018 email for the Steering Committee meeting which attached considerably more detail.<sup>203</sup> The Executive Summary noted that funds continued to flow through the “Kuan Koi arrangement with formal agreement ending 30 June 2018”.<sup>204</sup> The Executive Summary stated that twelve banks had been approached for accounts in Hong Kong for EEIS and ten had declined the opportunity.<sup>205</sup> The reasons for this were not stated but presumably related to the regulatory crackdown by the Chinese authorities on foreign casinos. This emphasised the importance to Star Entertainment of the EEIS NAB account in Australia which the Executive Summary noted had been opened, as well as the account with BOC Hong Kong.

131. The Executive Summary stated that EEIS had been presented to an IRB sales conference on the Gold Coast on 19 – 20 June 2018 as “a payment solution”.<sup>206</sup> The slides presented at the IRB sales conference were included as an Appendix.
132. The appendices to the slide deck for the steering committee meeting on 29 June 2018 included two slides presented at the IRB sales conference which described EEIS “Payment Solutions for Customers”. The slides were as follows:<sup>207</sup>

## EEIS PAYMENT SOLUTIONS PAYMENT SOLUTIONS FOR CUSTOMERS

Slides presented at  
IRB Sales Conference

Do your customers?

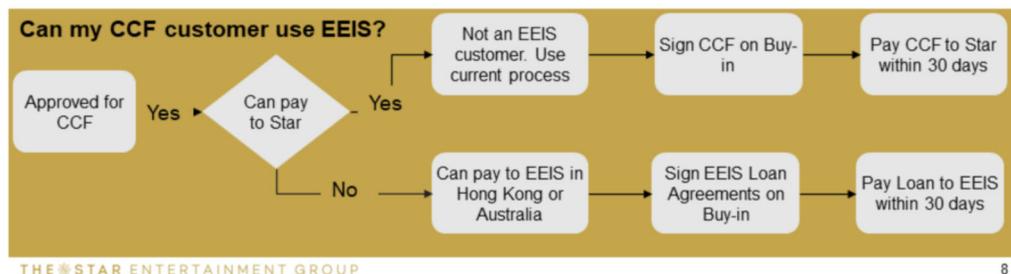
- Have difficulty making payments to The Star ?
- Not like receiving winnings from The Star?

EEIS has been established to respond to these problems. EEIS, is owned by The Star and is a licensed money lender in Hong Kong.

EEIS does not accept cash payments.

EEIS is being delivered in two stages.

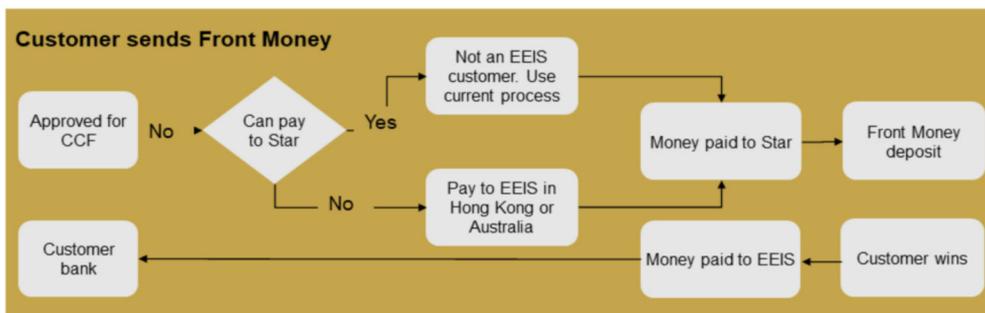
Stage 1 (July 2018): For CCF customers who cannot pay direct to Star



EEIS PAYMENT SOLUTIONS  
PAYMENT SOLUTIONS FOR CUSTOMERS

Slides presented at  
IRB Sales Conference

Stage 2 (August 2018): Front Money payments and winnings using EEIS



A dedicated compliance member will be joining in Hong Kong to provide support to the Sales team and customers.

Want to know more about how EEIS can help your customers?

**Speak with the credit team.**

THE STAR ENTERTAINMENT GROUP

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133. The Review invited supplementary submissions from The Star Entities in relation to these documents. The Star Entities now accept that “at least one motivation or purpose among the EEIS Project Team in developing the EEIS Project was to facilitate payments to The Star through another entity (EEIS) in a way that obscured their connection with The Star so as to assist customers who could not or did not wish to make payments that appeared connected with a casino”.<sup>208</sup>
134. The Star Entities also submitted that there was no evidence that the June 2018 EEIS/MMS Steering Committee documents had been provided to the non-executive directors and that to the extent that the information in those documents suggests that a purpose of EEIS transactions was to obscure their connection with a casino, this was inconsistent with the purposes of the EEIS project that had been disclosed or suggested to the Board.<sup>209</sup>
135. In fact, the March 2018 board presentation has stated that establishing EEIS meant “changing the nature of the payments from customers to being repayment of loans in Hong Kong from repayment of gambling debts in Australia”. The 24 May 2018 Board presentation had identified that the EEIS moneylender arrangements “provides customers the opportunity to repay their loan in Hong Kong to a Star group bank account rather than to the casino operations bank account in Australia”. The meaning of these statements is tolerably clear, especially given the context of the closure of The Star’s bank accounts in Macau. However, as the June 2018 Steering Committee documents were not shown to the

non-executive directors when they gave evidence to the Review it not appropriate to make any finding that they were aware of the position which is very clearly disclosed in those documents.

136. In light of these slides presented to the IRB sales conference in June 2018, and the covering email from Mr Booth, there can be no doubt that a principal purpose of management of “activating” EEIS was to enable customers, particularly customers in North Asia, to make payments to Star Entertainment’s casinos for gambling which could be disguised as payments to an entity which was apparently unrelated to the casinos. Senior management clearly believed that there were “benefits of holding bank accounts not in the name of the casino”.
137. Witnesses gave varying evidence on this matter but generally denied that obscuring the destination or origin of payments (i.e. a casino) was the driving purpose behind the EEIS project.<sup>210</sup> Mr Whytcross said that:<sup>211</sup>

the driver was to create an alternative to allow customers to repay funds in Hong Kong. The ability to repay into EEIS was also a - an added benefit and looked at to create a - an enhanced customer service.

138. Mr Whytcross gave evidence, however, that he understood that customers were having funds stopped by banks when being transferred to The Star’s bank accounts, which is why there was a preference for funds to be transferred to EEIS.<sup>212</sup>
139. On 11 September 2018, EEIS was registered as a foreign company in Australia, with directors of Mr Theodore (from 28 October 2019), Mr Bekier (from 14 November 2013) and Mr Barton (from 12 May 2015 to 18 October 2019).<sup>213</sup> Later in 2018, EEIS became the entity that conducted Star Entertainment’s business in Hong Kong, including holding the office lease and employing staff.<sup>214</sup>
140. On 26 September 2018, the Board of Star Entertainment was provided a further “IRB Strategy Update”, foreshadowing plans to build up the IRB and to grow earnings to \$145 million by FY22<sup>215</sup> and turnover of \$120 billion by FY23.<sup>216</sup> The paper observed that it was expected that the BOC Macau accounts would be reopened upon the establishment of MMS in accordance with the previously proposed structure.<sup>217</sup> However:<sup>218</sup>

Due to continued tightening of Macau’s regulatory environment this did not occur and Management decoupled the project by implementing the EEIS money lender initially. The roll out of the money lender did not require regulatory approvals albeit provided an immediate business benefit and this is now operationally available for junket or premium players who are unable to transfer electronically to The Star

directly. Management continue to streamline processes around the money lender process in order to lower the impact to customers whilst maintaining a robust risk and control environment.

141. The paper noted that a number of “top tier financial institutions were not willing to facilitate transactions on behalf of EEIS in Macau” and that Star Entertainment had applied for a money service operator licence in Hong Kong (for EEIS) which would permit the company to facilitate front money deposits for customers to be made through EEIS.<sup>219</sup>

### **NAB's Discovery of Transactions into EEIS Accounts**

142. In June 2019, Star Entertainment's key banking partner, NAB, requested that a questionnaire be completed in respect of EEIS's AML/CTF framework.<sup>220</sup> The response to the questionnaire was completed by Ms Arnott,<sup>221</sup> in her capacity as joint AML/CTF Compliance Officer for EEIS.

143. The response relevantly asserted that:<sup>222</sup>

- (a) EEIS had not commenced activities as either a remitter or lender;
- (b) EEIS bank accounts were to be used for “transfers to the client's front money account at a casino owned by The Star” and “repayment of debts at a casino owned by The Star;” and
- (c) EEIS's transaction monitoring processes were manual.

144. EEIS declined to provide a copy of its AML/CTF Program to NAB.<sup>223</sup> Ms Arnott told the Review this was because it was “commercial in confidence”. She said that he would have thought that this was usual and that NAB did not argue against the refusal.<sup>224</sup>

145. On 9 August 2019, Ms Tanya Arthur of NAB sought to organise a meeting with Star Entertainment executives to gain a further understanding of EEIS.<sup>225</sup> In the meantime, an internal NAB email exchange dated 16 August 2019 recorded that there were “material discrepancies” between what was stated in the questionnaire and what Star Entertainment had told NAB in prior meetings about how the EEIS NAB accounts would be used.<sup>226</sup> In particular, it was observed that EEIS had permitted money service businesses to utilise the accounts to perform remittances, notwithstanding that the questionnaire noted that EEIS had not commenced remittances.<sup>227</sup> It was further noted that:<sup>228</sup>

It appears the person who completed the questionnaire in June 2019 has a very different understanding to the actual transactions/use of the account to what actually happened and this is highly unusual.

146. On 2 September 2019, a telephone conference took place between representatives of NAB and representatives of The Star including Mr White, Ms Dudek, Ms Scopel and Ms Arnott.<sup>229</sup> According to an NAB file note, NAB was told:<sup>230</sup>
- (a) EEIS was registered with AUSTRAC as a remittance service provider and was registered as a remittance service provider in Hong Kong;
  - (b) EEIS would be “extending its business offering to include the provision of remittance services to individual clients who are also customers of The Star. The clients can use the remittance service of EEIS to send funds from Hong Kong to The Star to fund their playing accounts at the casino or to settle amounts owing to The Star”;
  - (c) EEIS had “not initiated remittance transactions business” but “EEI to review the transactions and confirm!!”
- (emphasis added).
147. Following up on that meeting, on 4 September 2019, Ms Arthur of NAB emailed Ms Scopel a January 2019 bank statement for the EEIS NAB account.<sup>231</sup> Ms Arthur queried a number of transactions and asked whether KYC had been undertaken.<sup>232</sup> Ms Arthur also attached a copy of the questionnaire with comments inserted. The comments included requests for an explanation as to the intended usage of the EEIS NAB accounts, and an explanation as to advice that EEIS was not yet operational was “aligned with the Jan-March 2019 transactions in EEI’s NAB account?”<sup>233</sup>
148. NAB queries prompted a flurry of activities at Star Entertainment. On 4 September 2019, Mr Hornsby sent an email to VIP Credit and Collections, copying a number of individuals including Mr White and Ms Arnott, stating:<sup>234</sup>
- Please do not allow any more [front money] deposits into our NAB EEIS bank accounts until further notice. Only for CCF marker redemptions until further notice.
149. On 5 September 2019, Ms Scopel responded to Ms Arthur’s 4 September 2019 request that their risk team had “immediately reviewed the transactions in the account mentioned and found no concerning transactions. We will respond to the specific transactions queried”.<sup>235</sup> In fact it took a further 17 days for a substantive response to be provided.
150. In the intervening period, at the request of Mr White and Ms Arnott, Mr David Proctor (of Credit and Collections) reviewed the transactions queried by NAB and the historical bank records of the EEIS NAB accounts, which revealed that transfers into the EEIS NAB

accounts had included both CCF redemptions and front money deposits.<sup>236</sup> Ms Arnott accepted in evidence that EEIS was being used for three purposes at the time: to advance loans to Star customers; to collect repayments for CCF; and to advance front money.<sup>237</sup>

151. Ms Arnott stated that she only became aware on around 5 September 2019 that EEIS was collecting front money deposits, and it had been her understanding that “those accounts couldn’t be used for that purpose”.<sup>238</sup> This was, apparently, because “we hadn’t settled whether or not those payments required an IFTI to be submitted to AUSTRAC. And where that IFTI was required, we were in danger of not - of not properly acquitting ourselves of those reporting obligations”.<sup>239</sup>
152. Also on 5 September 2019, Ms Arnott corresponded with Mr White about seeking legal advice from Mr Seyfort of HWLE the following day because “we wanted to seek clarification about the lodgement of IFTIs for front money before play transactions”.<sup>240</sup>
153. On 13 September 2019, Mr Procter, forwarded Mr Hornsby’s email of 4 September 2019 to a number of Star Entertainment staff, including the Credit & Collections Team. On the same day, Ms Arnott stated that she met with Ms Sabrina Yi and requested that Ms Yi lodge IFTIs to AUSTRAC in relation to the identified transactions that she “believed to be IFTIs at the time”.<sup>241</sup>
154. On or around 17 September 2019, NAB held an internal Zoom meeting, attended by Ms Arthur, before which a file note was circulated, noting:<sup>242</sup>

In essence EEI’s AML questionnaire indicate that EEI has not started MSB activities and EEI carry out CDD on its customers (including Junket Operator and their customers who are also Star customers) including carrying out screenings (Sanctions and adverse media). These were verbally confirmed again by EEI/Star AML team in the meeting. ***However, transactions in NAB’s EEI accounts in Jan – March 2019 seem to be MSB activities (inward payments from third party MSB then paid directly to individuals in Australia) rather than payments to Star’s account to allow repayment of debt to Star or providing advance to Star’s customer. EEI/Star AML team did confirm their transaction monitoring control does NOT include review of the relevant bank account transactions.***

Further to the meeting, some transactions were shared to EEI AML team for review and clarifications on who the payers are, who the recipients are, how are these transactions aligned with the EEI activities (or lack of activities as indicated in the AML questionnaire) if they are Star customers what CDD/Screening has been carried out. Response is still pending.

This also creates challenges for a further site visit to review Star’s AML program and controls in that the design and effectiveness of the program and controls may not be in line with NAB’s expectation and risk exposure, ***despite what was advised by the client. It appears NAB’s accounts have been accessed by the Casino’s***

*customers and their business relationships directly for remittance activities, while there is no confirmed assurance that Casino's customers and their business relationships have been appropriated KYCed and screened. The NAB also need to implement more stringent transaction monitoring of Casino customers' NAB accounts to ensure it is aligned with the expected use of accounts agreed by NAB.*

(emphasis added)

155. During this period, Ms Arthur sent a number of emails following up the response to her 4 September 2019 request.<sup>243</sup>
156. On 18 September 2019, Ms Arnott provided a substantive response.<sup>244</sup> In relation to the transaction queries Ms Arnott advised that:<sup>245</sup>
- (a) Patron A [name withheld] was an individual customer, and was the payee and recipient of the transaction, and in this instance, EEIS had accepted the transaction on behalf of The Star (and KYC and CDD had been conducted on Patron A);
  - (b) transactions for Patron B and Patron C [names withheld] were for the clearance of debts and were accepted by EEIS on behalf of The Star (and KYC and CDD had been conducted on Patron B and Patron C); and
  - (c) in relation to the transactions that NAB had highlighted, “we understand that Silver Express and MS Services Centre are both licensed remitters in Hong Kong.”
157. Ms Arnott gave evidence that she was not surprised that remitters had been depositing money into the EEIS bank accounts of NAB in January 2019, “because we were aware that customers were using remitters to send money, given the constraints on the banking system in Hong Kong and Macau.”<sup>246</sup> She accepted there was an increase in the money laundering risks associated with this usage “to some extent”, but “where there were licensed remitters, we were comfortable with the acceptance of those transactions”.<sup>247</sup>
158. On 18 September 2019, Ms Arnott emailed the Cage Team, and advised that, in order to provide “flexibility in relation to the services offered”.<sup>248</sup>

we will report any Front Money related transactions through the EEIS account (including FM matching) as IFTIs.

We have not yet finalised the process for accepting these payments so for the next few weeks EEIS should only be used for CCF redemption payments (which are not reportable).

Moving forward can I ask that you notify the AML team if there are any front money transactions through EEIS as soon as possible so we can organise the reporting in a timely manner.

159. Shortly thereafter, Mr White sought further legal advice from Mr Seyfort of HWLE, this time in relation to whether EEIS had provided a designated service, and/or had an IFTI reporting obligation in relation to the various deposit scenarios arising in relation to the transactions that had been identified by NAB. Mr Seyfort advised that EEIS had not been providing designated services, and the conduct did not trigger IFTI reporting obligations.<sup>249</sup>
160. It is not a function of this Review to consider whether Mr Seyfort's advice was correct. However, in light of the above evidence, it is clear that IFTIs had not been raised for either CCF redemptions or front money deposits into the EEIS NAB bank accounts. As most or all deposits relating to the Modified Kuan Koi Arrangements were made into the EEIS NAB accounts, it appears likely that IFTIs were not lodged in relation to those transactions.
161. On 25 September 2019, there was a further teleconference between NAB (including Ms Arthur) and The Star's "EEI AML" Team. A file note entitled "*Star / EEI Red Flags Call*" was prepared by Ms Arthur and later distributed internally to NAB. The file note stated:<sup>250</sup>
- EEIS & The Star have separate AML programs as they provide different services. Share the same customers in some instances and where they do customers are screened twice.
- EEI is a loans and Remittance business, The Star is a Casino.
  - EEI does not provide a designated service and therefore reporting obligations have not yet commenced (?)
162. The note further reflected that "Red Flags for EEI" included "remittance transactions" where the amounts were large, were not consistent with customer's profile or history or have no economic purpose, or where amounts consisted of cash deposits that are "usually with money that has been wrapped by a casino". The note stated that "channel risks" for EEIS included where "customers do not provide us with requested information" and "where [EEIS] are asked to deal with a third party".<sup>251</sup>
163. In or around September 2019, Mr White initiated a review into how the EEIS accounts had been used after the queries from NAB.<sup>252</sup> A December 2021 memorandum by Mr White also noted that the issue had been reviewed again as part of preparation for responses to both AUSTRAC and this Review.<sup>253</sup>
164. On 26 September 2019, Ms Arnott requested that Ms Dudek and Mr Aloï provide Ms Michelle Chiu (from Hong Kong) and Mr Willet (from the Sydney AML Team) access to the EEIS bank accounts with read-only permissions.<sup>254</sup> Ms Arnott gave evidence that up

to that point, no one from the AML Team could access or monitor the transactions of the EEIS bank accounts.<sup>255</sup> It is clear that no transaction monitoring by the AML Team was occurring up this point.

165. On 30 September 2019, Ms Arthur of NAB emailed Ms Scopel to request a meeting to discuss The Star's approach to financial crimes risk/AML and KYC. Specifically, NAB wished to:<sup>256</sup>

re-visit the recent discussion regarding the AML and transaction monitoring undertaken for EEI Services Limited and receive confirmation that your internal processes now include visibility/monitoring of the NAB transactional accounts.

(emphasis added)

166. Ms Arthur gave evidence that she asked for this confirmation, because Ms Arnott had informed her in one of their meetings that "transaction monitoring was not occurring across those accounts because EEIS had not commenced providing Designated Services".<sup>257</sup>

167. That meeting with NAB occurred on 16 October 2019, and was attended by senior Star Entertainment executives including Ms Martin, Ms Theodore, Ms Arnott, Mr White and Ms Scopel. From NAB, attendees included Mr Steve Blackburn – Chief Financial Crime Risk Officer & Group MLRO, Mr Tom Mazzaferro – General Manager Client Coverage, Ms Arthur – Head of Diversified Industries and Technology, Ms Amanda Wu - Acting Director, AML, Customer Onboarding & Regulatory Due Diligence and Ms Vivianna Cho – Associate Director Financial Crime Advisory.<sup>258</sup>

168. Included on the agenda for discussion was whether there had been any recent enhancements of EEIS' and The Star's transaction monitoring processes and assessments, and how the Star Entertainment managed the risk of clients depositing directly into its NAB accounts.<sup>259</sup>

169. File notes from the meeting reflect that Ms Martin stated:<sup>260</sup>

that EEIS was a new structured offering for the Star Group. It holds a money lender and a money services license in Hong Kong and is a registered MSB with AUSTRAC in Australia.

...

The customers in EEIS are rated medium ML/TF risk to start with. As a medium risk, source of funds and wealth (SoF /SoW) information is collected but is not verified unless there are circumstances presenting that seem incongruous. The same customers will be categorised as high risk should they be a politically exposed persons (PEP), subject to serious adverse news, or attract a red flag from transaction monitoring (TM). The credit team assess the credit risk of customers where SoW

/SoF information is obtained. This credit check includes the use of a “central credit” system where information of customers’ interactions with global casinos is stored.

For approved VIP/Program players, funds are transferred into the EEIS Hong Kong bank account ahead of their visit > the Hong Kong bank transfers the funds to the NAB EEIS bank account > EEIS then transfers the funds into the Star’s player account (notional accounts within the Star environment, not NAB accounts)

170. To this, Mr Blackburn challenged:<sup>261</sup>

whether the information held by the hosts could form tangible and hard evidence presentable to a regulator especially on SoW/SoF.

171. Ms Martin is recorded as saying that:<sup>262</sup>

for Chinese high rollers – most of Star’s VIP customers are coming from Hong Kong, Macau or have business/companies set out in Asia outside of PRC. Reliance is placed on the Star employees/hosts that are internationally based to know the VIP players well through building close professional relationships to understand the player’s tendencies and behaviours, their businesses and even personal lives. AUSTRAC has regular reviews on the Star’s customers and so far are happy with the AML and credit records including SoW / SoF information collected.

172. Ms Arnott could not recall anyone from Star Entertainment telling NAB there was no transaction monitoring occurring of the EEIS bank accounts with NAB.<sup>263</sup> However, she conceded that there were shortcomings in the EEIS transaction monitoring at that point in time because “we weren't looking at the bank accounts in enough detail. And there may not have been as much monitoring of repayments of loans as there should have been”.<sup>264</sup>

173. In two separate emails – from Ms Arthur and Mr Blackburn to The Star – NAB thanked The Star for its “transparency” in the meeting.<sup>265</sup>

174. On 20 November 2019, Ms Arthur followed up with Ms Arnott and requested a copy of the EEIS AML/CTF Program, and other information regarding high-risk customer types and countries.<sup>266</sup> This information – and a copy of the EEIS AML/CTF Program – was provided by Ms Arnott on 21 November 2019.<sup>267</sup>

175. On 11 December 2019, Ms Arthur raised further questions with Ms Arnott, including:<sup>268</sup>

Could EEIS please provide an explanation as to why most funds transfers to its accounts with NAB originate from overseas MSB’s? (e.g. EEIS has no bank accounts in those jurisdictions? and does EEIS rely on the overseas MSBs to conduct the required KYC on the payer of the funds to ensure the SOF information is obtained/screened/reported as required?)

176. Ms Arthur followed up on 19 December 2019, requesting a response.<sup>269</sup> That day, Ms Arnott replied.<sup>270</sup>

The majority of funds that are transferred into the EEIS account relate to the payment of debts for The Star. The payments come from the countries where The Star's customers reside rather than countries where The Star has a formal business presence. These do not represent remittances conducted by EEIS. The Star conducts due diligence on the customer who is responsible for repaying the debt but does rely on the MSB to conduct the required due diligence on the payee. The Star (and EEIS by proxy) request that our customers only deal with licenced remitters so that we are able to rely on the due diligence conducted by the MSB.

177. In around October 2020, NAB issued another questionnaire to Star Entertainment regarding its AML/CTF Program and Transaction Monitoring. In its response, in an email from Ms Dudek to Ms Arthur, Ms Dudek noted that funds received into the accounts of EEIS Services (Hong Kong) Holdings Limited:<sup>271</sup>

are from existing guests to redeem their CCF only i.e. repayment of debt. EEIS is a licenced remittance service provider in Hong Kong and registered as a remittance service provider with AUSTRAC. To date EEIS has not conducted any remittance transactions; the NAB account has only been used to receive funds for the repayment of debts to The Star Entertainment Group entities and accordingly no remittance.

178. As there is no evidence that EEI Services (Hong Kong) Holdings Limited held accounts with NAB,<sup>272</sup> it is assumed that Ms Dudek's response related to EEIS.
179. Ms Dudek's response was incorrect, as the NAB account had also been used for front money deposits. Ms Dudek was not asked about this email. Ms Dudek did say that it was her understanding that the EEIS accounts were only to be used for the repayment of gaming debts, though she did not have any personal knowledge of that.<sup>273</sup>

### **Review of the Group Bank Account Arrangements**

180. In April 2021, Star Entertainment sought a number of reports from HWLE, including as to whether the patron account issues that arose for Crown in the Bergin inquiry would be an issue with respect to Star Entertainment.<sup>274</sup> It was also requested that there be a review of EEIS and consideration of whether it still needed to be part of the business, and what controls should be adopted in respect of it.<sup>275</sup>
181. HWLE delivered a paper entitled "Group Bank Account Arrangements" dated 7 July 2021. The paper observed:<sup>276</sup>
- (a) virtually all of the "Star Group's" bank account arrangements did not involve attributes that concerned the Bergin Inquiry in respect of Crown's arrangements (including that there was insufficient oversight into the accounts by AML staff, and neither the directors of the account-holding entities or the board had an adequate

- understanding of the activities occurring in those accounts) and The Star's bank account arrangements were generally more "direct, logical and transparent";
- (b) "with the exception of the EEIS accounts" depositors should have no reason to not understand that they are transacting with The Star; and
  - (c) Group Finance, AML and Internal Audit staff have unfettered access to bank account records as necessary to perform their functions.
182. The paper recommended that EEIS change its name to at least include the word "Star", that Star Entertainment's Board and committees "should receive comprehensive reporting of EEIS activities as it does for other business units of the group" and a review of EEIS activities should be included in any future Independent Review of the Joint Program.<sup>277</sup>
183. The paper did not refer to the NAB's concerns expressed to Star Entertainment over a lengthy period in connection with the EEIS accounts, other than to say that the banks had no "outstanding concerns" regarding the patron accounts.<sup>278</sup>
184. Dr Pitkin gave evidence that she did not recall having received comprehensive reporting on EEIS' activities, and no concerns about insufficient management oversight were brought to the Board's attention.<sup>279</sup>
185. Ms Lahey also gave evidence that she did not recall comprehensive reporting about EEIS, but that had been because the accounts were dormant, and it had been her belief that the only activities conducted by EEIS had been to collect gambling debts from Chinese patrons outside of China.<sup>280</sup>
186. It was by this report that Mr Bradley stated that he became aware of the existence and operation of the NAB accounts.<sup>281</sup>

#### **AML Risks, Compliance Oversight and Transaction Monitoring of the EEIS Bank Accounts**

187. An analysis of the EEIS NAB account statements by Ms McKern indicates that a total of 1528 transactions took place through those accounts in the period May 2018 to November 2021.<sup>282</sup> A total of \$103,999,290 of deposits from known third party remittance service providers were made into the EEIS accounts.<sup>283</sup> Silver Express was responsible for \$52 million of those deposits.<sup>284</sup>
188. Ms McKern said that third party remittance services, typically comprise an informal value transfer system, in which the remitter does not actually transfer cash, but – on instruction

from a customer who wishes to transfer value to another jurisdiction – arranges for an equivalent amount of funds to be made available within that jurisdiction by their associates. This results in the creation of a debtor/creditor relationship between the remitter and their associate (which is settled by a similar transaction in reverse, a periodical settlement of the net position, or not at all).<sup>285</sup>

189. As Ms McKern observed:<sup>286</sup>

Accepting deposits from remittance service providers is inherently high risk from an AML/CTF perspective because the underlying methodology involves a disconnection between the monies deposited by the payer and the monies received by the beneficiary which is open to exploitation by money launderers.

190. According to Ms McKern, any controls (such as transaction monitoring and customer due diligence) imposed on those transaction chains are inherently less effective because of the “disconnect” between the customer (typically subject to KYC and source of wealth processes by the casino) and the actual funds placed with the casino (from remittance service provider from an unknown source).<sup>287</sup> The underlying depositor and source of funds becomes necessarily obfuscated.<sup>288</sup>

191. Mr Whytcross and Ms Arnott both gave evidence about shortcomings in compliance oversight and transaction monitoring of the EEIS NAB account. Notwithstanding that Mr Whytcross was a joint AML/CTF Compliance Officer of EEIS, he disavowed responsibility for overseeing the operations of EEIS or its transaction monitoring program.<sup>289</sup> This, he said, was the responsibility of Ms Arnott.<sup>290</sup> His evidence was that he did not know what his role of compliance officer was, that he did not know what was involved in EEIS transaction monitoring,<sup>291</sup> that he did not undertake any transaction monitoring<sup>292</sup> and did not know whether Ms Chiu, the international compliance officer based in Hong Kong, personally undertook any transaction monitoring.<sup>293</sup>

192. Ms Arnott accepted that for a significant period of time, she had very little understanding of what transactions were occurring in the EEIS NAB bank accounts because she assumed they were CCF payments relating to The Star entities rather than EEIS-related transactions.<sup>294</sup> When she was compliance officer, she understood her obligation to oversee the transaction monitoring program in relation to EEIS customers and the EEIS transaction monitoring program, but there was a “gap” in relation to the bank accounts as only the Cage was monitoring these in some very limited manner.<sup>295</sup>

193. Mr Aloï gave evidence, and The Star Entities maintain, that the Cage monitored and tracked money when it was deposited into The Star's bank accounts, including the EEIS NAB account, by looking for "unusual amounts" and "anything that looks odd".<sup>296</sup> Although Mr Aloï gave evidence that the Cage Operations SOP contained all material compliance-related tasks required to be performed by cage staff, The Cage Operations SOP made no provision for transaction monitoring of the bank accounts for AML/CTF purposes.<sup>297</sup> Further, the Cage only had limited access to the NAB accounts held by EEIS from late 2018 "at the earliest."<sup>298</sup> There was a separate AML/CTF SOP containing transaction monitoring tasks, however it was unclear from the evidence whether those tasks were performed exclusively by Cage staff or AML administrators sitting within the Cage.<sup>299</sup>
194. Ms Arnott's evidence was that it was the responsibility of the AML administrator – rather than the Cage – to be monitoring for large cash deposits, telegraphic transfers and identifying signs of money laundering, such as structuring.<sup>300</sup> Ms Arnott gave evidence that from 2018 to mid-2019, there was "some", although limited transaction monitoring for AML purposes of the EEIS NAB bank accounts, and that she believed the Cage teams when accessing those accounts may have identified some transactions that were suspicious for AML purposes and reported them.<sup>301</sup>
195. Ms Arnott was not monitoring the bank accounts of NAB held by EEIS during that period, and was not aware that anyone in the AML Team was monitoring those accounts.<sup>302</sup>
196. Mr Theodore also accepted that there were shortcomings in terms of the transaction monitoring of EEIS bank accounts.<sup>303</sup> However, Mr Theodore did not consider that he was responsible for overseeing this transaction monitoring via the AML Team.<sup>304</sup>
197. In short, the evidence indicates that there was no transaction monitoring of the EEIS bank accounts by the AML Team, or anyone trained or with experience in AML. To the extent that there was monitoring occurring, it was unsophisticated monitoring conducted by the Cage.
198. The fact that there were significant numbers of front money deposits not notified to the AML/CTF compliance officer, including by third party remitters who were unknown to Star Entertainment, into those accounts, makes it plain that the limited transaction monitoring performed by the Cage was insufficient for AML/CTF purposes.

199. It is clear that proper monitoring of the EEIS NAB bank accounts, and the bank account statements did not occur until after NAB began to investigate the deficiencies in Star Entertainment's processes. It was unsatisfactory to have no clear allocation and delineation of responsibility for AML/CTF-specific transaction monitoring. It was particularly unsatisfactory to have left the task to a team with no demonstrated expertise or experience in AML/CTF compliance and risks. It was also unsatisfactory that one of the EEIS AML/CTF compliance officers, was appointed purely for commercial purposes, and self-admittedly had limited knowledge or responsibilities in relation to AML/CTF matters.
200. The fact that the transaction monitoring of the EEIS accounts for AML/CTF purposes was minimal (or non-existent), is made much worse by the scale and number of deposits by third party remitters into the EEIS accounts. Even more so when so little was known about the identity of the payers and origin of the funds being deposited. In those circumstances, third party remittances should never have been permitted into the EEIS accounts.
201. The EEIS loan structure also carried with it significant risk from an AML/CTF perspective. Ms McKern concluded that there was no evidence that the EEIS loan arrangements involved actual money laundering, however, the arrangements placed The Star at "grave risk" of failing to mitigate, manage and report the risk of money laundering or terrorism-financing, and/or potentially being complicit in enabling the placement, layering and integration of illicit funds.<sup>305</sup> That opinion was not challenged by The Star Entities.

### **EEIS Operations as a Money Lender**

#### *Mechanics of the Loans*

202. EEIS held a money lenders licence in Hong Kong from 2014 until 2021.<sup>306</sup> In May 2018 the Board of Star Entertainment approved EEIS commencing to operate as a money lender issuing loans to patrons from Hong Kong.
203. In his May 2018 presentation to the Board, seeking approval of the master \$400 million CCF, Mr Barton explained that the loan facility would operate such that:<sup>307</sup>
- (a) EEIS would operate as a Money Lender in Hong Kong, granting loans to patrons, supported by personal cheques (made out to EEIS by the patron);
  - (b) EEIS' loans to patrons could only be drawn at the casino properties to fund gaming; and

- (c) EEIS would simultaneously hold a “master CCF” with The Star (and the Queensland casino licence holder) “from which customers will draw down into their own front money accounts”.

204. In his May 2018 presentation, Mr Barton outlined “the new customer journey...with the implementation of EEIS Money Lender, which reflects minimal impact to customers”:<sup>308</sup>

EEIS / MMS PROJECT

3. Customer Journey (1)

- The following outlines the new customer journey under phase 1 with the implementation of EEIS Money Lender, which reflects minimal impact to customers:

- Customers will continue to provide a personal cheque however they will now enter into a loan agreement with the EEIS Money Lender to replace the existing CCF held with the Casino Licence Holder

- Credit will be granted as per the existing process and CCF Delegated Authority Approval Limit (‘DAAL’).

- Loans from EEIS Money Lender are drawn at the casino properties from the EEIS Money Lender CCF and may only be used for gaming

- EEIS Money Lender will settle the CCF with the Casino Licence Holders within the statutory time limit (under Australian law)

- EEIS Money Lender will recover debts from losing players or junkets from Hong Kong

- Players will have 30 calendar days from program end to settle any outstanding. Under the current CCF requirements, repayment is required 30 business days from buy-in

- EEIS Money Lender will bank the customer cheque if the debt is not settled within the time limit, as per current policy.

- There are no changes to:

- Assessing the creditworthiness of customers seeking loans from EEIS Money Lender

- Terms and conditions of rebate agreements

- Know Your Customer (‘KYC’) requirements before and on arrival

- Conduct of gaming at Australian properties which includes rebate programs and approval/licensing of junkets.

205. At its meeting on 24 May 2018 the Board of Star Entertainment resolved to approve:<sup>309</sup>

a) [the] establishment of an internal CCF for EEI Services ( Hong Kong) Ltd (“EEIS Money Lender”) with a limit of \$400 m to facilitate the provision of loans to IRB customers; [and]

b) the inclusion of EEI Services (Hong Kong) Limited (with its AML/CTF Program) in The Star “Designated Business Group” registered with AUSTRAC for the purposes of Australian AML /CTF law.

206. Each of Mr Heap, Mr Bradley, Dr Pitkin, Ms Lahey and Mr Sheppard stated or accepted in evidence that the structure, in general terms, involved a CCF with EEIS imposed as an intermediary entity to face the relevant patron or junket, rather than the casino licence holder.<sup>310</sup>
207. The process was further set out in the EEIS Loan Facilities SOP initially issued on 30 October 2018, which clarified that the Cage of the relevant casino would produce (through Synkros) a “Counter-Cheque” drawn on EEIS, which would be exchanged for the customer’s buy-in.<sup>311</sup> The requirement for a personal cheque of the patron (and presumably, by extension, the creation of a counter-cheque) could be waived by approval of the Star Entertainment CFO.<sup>312</sup>
208. From June 2019 to July 2020 EEIS issued six loans with a total value of \$213 million.<sup>313</sup> The last draw-down occurred on March 2020.<sup>314</sup> The loans were recorded on the “EEIS Receivable Control Sheet Master” spreadsheet.<sup>315</sup> While the loans were technically only made to five or six customers, the spreadsheet records that those loans were issued to junket operators, or junket funders, who then on-lent the monies to a number of individual patrons of The Star.<sup>316</sup> The loan monies were ultimately distributed to 38 different front money accounts.<sup>317</sup> The spreadsheet did not record any loans being made to persons who were not patrons of The Star (nor has there been any other evidence or suggestion that that was the case).
209. The spreadsheet records draw-downs totalling \$162 million AUD, by patrons buying-in at The Star (and approximately \$109 million AUD worth of loans issued to patrons of the Gold Coast property).<sup>318</sup>
210. EEIS did not charge interest on the loans.<sup>319</sup> The collateral provided to support these loans was a personal cheque of the patron (except if this requirement was waived by the CFO), or a counter-cheque issued by The Star.<sup>320</sup>
211. The documentation for the loans were provided to the Review. They included EEIS “Facility Applications”,<sup>321</sup> EEIS “Facility Offers”<sup>322</sup> and drawdown notices.<sup>323</sup>

212. Mr Theodore told the Review that the services of EEIS were no longer required once the casino operator was able to offer direct credit to patrons under NSW legislation.<sup>324</sup> With effect from 1 July 2020, section 74(5) of the *Casino Control Act* was amended to permit a casino operator to extend credit to persons not ordinarily resident in Australia to enable them to participate in premium player arrangements or junkets.
213. A detailed explanation of the arrangements involving EEIS acting as a lender was provided in an email dated 10 December 2020 from Ms Andrea Long, Group Regulatory Manager Legal Department of Star Entertainment to L&GNSW:<sup>325</sup>

EEIS is the current employer of the Star Entertainment Group's staff in Hong Kong. This consists of 6 team members associated with the international marketing team...

... EEIS has held a Money Lenders Licence under the Money Lenders Ordinance since 2014. EEIS operationalised its moneylending business in 2018, with loans made to customers of the Star Entertainment Group from 2019.

...

...Most of the services noted above as being provided by EEIS to The Star Entertainment Group will include services provided to The Star Pty Limited.

In addition, EEIS holds a CCF with The Star Pty Ltd, which it has used to provide funds to its borrowers for gaming at The Star Sydney. EEIS repays its CCF drawings within the required time limits under the *Casino Control Act* 1992 (NSW) (through the loan facility with The Star Entertainment Finance Ltd referred to below) and recovers the amounts it has lent to borrowers in accordance with its own lending terms and conditions.

...

With regard to EEIS's Money Lenders business, all loans are approved in accordance with The Star Entertainment Group's delegated authority in this area, with the same thresholds and risk reviews as for a CCF with either The Star Pty Ltd or The Star Entertainment QLD Limited. Due diligence on customers of EEIS is carried out in the same manner and by the same team as for the rest of The Star Entertainment Group, with EEIS leveraging on the Star Entertainment Group's existing information and resources in this area. Likewise, the management of amounts owing to EEIS is managed in the same way as for returned cheques under CCF.

Operationally, once a loan is made by EEIS, the borrower accesses their draw-down on that loan by receiving funds into their front money account, transferred from a drawing on EEIS's CCF at the relevant property. EEIS repays the CCF on or before the due date for banking the relevant cheque through (i) either a repayment of the loan on a customer win or (ii) drawing on its loan facility with The Star Entertainment Finance Limited (see below). Once EEIS is repaid the loan by the borrower, it repays The Star Entertainment Finance Limited loan.

The Star Entertainment Group has agreements in place with EEIS with regards to:

- a. Provision of services by EEIS and the payments made by The Star Entertainment Group Limited for the services, based on costs incurred by EEIS plus a margin, in line with transfer pricing guidance;
  - b. Funding, where The Star Entertainment Finance Ltd agrees to fund EEIS, with The Star Entertainment Group Limited, EEIS's parent company, guaranteeing to The Star Entertainment Finance Ltd EEIS's repayment of any loans made. The Star Entertainment Group Ltd accordingly bears the credit risk in any bad debts for EEIS, which commercially is the same as for a returned cheque on a CCF from The Star Pty Limited or The Star Entertainment QLD Limited.
214. The description of the relevant arrangements between EEIS and the entities in the Star Entertainment Group provided in the 10 December 2020 email to L&GNSW appears to be an accurate and precise description of the arrangements from a legal perspective. Star Entertainment produced to the Review the two agreements referred to in the 10 December 2020 email and their provisions accord with the descriptions given to them in that email.
215. The Loan Facility and Guarantee Deed dated 8 August 2019 is between The Star Entertainment Finance Limited as lender, EEIS as borrower and Star Entertainment as guarantor.<sup>326</sup> It makes provision for Star Entertainment Finance Limited to advance funds to EEIS in relation to EEIS providing loans to customers for the purpose of the customers using them at Star Entertainment's properties. In practice, it appears from Ms Long's email, that EEIS would redeem the Master CCF to The Star, using the funds with which the patron had repaid the loan. If the patron had not already repaid the loan within the statutory time frame for banking the cheque (for the purposes of the Master CCF), EEIS could draw down on the loan facility with Star Entertainment Finance Limited, to redeem the Master CCF in time.
216. The Memorandum of Services Agreement dated 19 December 2019 is between Star Entertainment and EEIS, which is described as the "Service Provider".<sup>327</sup> The "Services" are identified in schedule one as including marketing services, credit checks and accounts receivable management services. The "Service Fee" is defined to mean the costs reasonably incurred by EEIS in providing the services plus 7% or such other percentage as may be agreed. Clause 3.2 of the agreement states that in providing the services, EEIS is acting as an independent contractor, and not an agent of Star Entertainment.<sup>328</sup>
217. On analysis, therefore, the relevant legal relationships involved in EEIS providing a loan to a patron for gambling at The Star Casino were more complex than merely the provision of a loan by EEIS to the patron with a back-to-back CCF from The Star to EEIS. The legal relationships did involve those steps, and only those steps, if the patron repaid the loan to

EEIS within the 30-day period permitted under section 75 of the *Casino Control Act* for banking cheques provided by EEIS to The Star under the EEIS master CCF.

218. However, as the 10 December 2020 email to L&GNSW explained, the credit risk on the loan by EEIS was borne by Star Entertainment as the guarantor of the loan by Star Entertainment Finance Ltd to EEIS which was made if the patron did not repay the EEIS loan within the time permitted under the EEIS master CCF with The Star.
219. Furthermore, the cost of the ancillary work involved in making the loan by EEIS to the patron, such as credit checks and receivable management, was also borne by Star Entertainment under the terms of the Memorandum of Services Agreement, albeit, as explained by Ms Long, to the benefit of The Star.

Was EEIS an Agent of The Star?

220. It was submitted by Counsel Assisting that EEIS was operating as an agent of the casino operator (The Star) and therefore in issuing loans to patrons for gambling, was in breach of the prohibitions on lending or provision of credit contained in section 74(1)(b) of the *Casino Control Act*. If that submission is correct, then it would result in The Star breaching its casino licence, by operation of section 74(2), which makes it a condition of the casino licence, that The Star not cause or permit its agent to contravene section 74(1).
221. Counsel Assisting made submissions that:
- (a) agency is a matter to be determined by reference to substance rather than form and the fact that Star Entertainment submitted to the Authority that EEIS would not be an agent of The Star did not determine the matter;<sup>329</sup>
  - (b) in substance, EEIS was a company entirely controlled by Star Entertainment for the benefit of Star to funnel money into the casino to fund gambling. EEIS had no capital of its own, and acted entirely for the benefit of the casino operator. The Star wished to provide credit to its customers and so provided funds to EEIS in the way of a \$400 million CCF to EEIS so that EEIS could make loans to patrons;<sup>330</sup>
  - (c) buy-in for gambling (and drawdown on the CCF that EEIS held with The Star) occurred at the casino Cage, and the collateral for the loan was held by The Star;<sup>331</sup>
  - (d) expert evidence to the Review was that there was no physical transfer of money by EEIS to patrons; loans made by EEIS to patrons resulted in a liability owed by The

Star to patrons by reason of transfer to their front money accounts, and this was reflected in ledger entries rather than any transfer of cash;<sup>332</sup> and

- (e) personnel of The Star were heavily involved in the process, including preparing loan documentation and undertaking credit checks (which were conducted in the same manner as credit checks for an ordinary CCF held with the casino).<sup>333</sup>

222. The Star Entities disputed the proposition that there existed an agency relationship between The Star and EEIS.

223. The Star Entities contended that:

- (a) there was no evidence of any authority conferred on EEIS to act on behalf of The Star in issuing loans affecting The Star's legal relations with patrons. That is, the legal relationship that took effect was one between the patron and EEIS and this is evidenced by the loan documents that made no reference to The Star;<sup>334</sup>
- (b) ordinarily, the core concept of agency is that an agent has the power to legally bind its principal, which EEIS could not do here. The Star Entities contended that there is a category of agency that sits at the fringe of common law principles, and reflects the role of an agent who "makes no contracts and disposes of no property, but is simply hired, whether as an employee or independent contractor, to introduce parties desirous of contracting and leaves them to contract between themselves."<sup>335</sup> However, it was submitted, there is no evidence of that kind of agency at the "fringe" of common law principles here; it was not the role of EEIS to introduce the patron to The Star and leave them to contract between themselves;<sup>336</sup>
- (c) there is no evidence of consent by The Star to appoint EEIS as its agent, or manifestation of any intention by The Star that EEIS would act for it;<sup>337</sup>
- (d) there was insufficient evidence to establish control of EEIS by The Star;<sup>338</sup>
- (e) the fact that EEIS may have acted solely for the benefit of The Star in issuing loans is insufficient to establish agency and there was a good commercial purpose in having EEIS performing the function of providing credit to patrons of The Star (i.e. in a way that did not contravene the *Casino Control Act*);<sup>339</sup> and
- (f) the lack of any physical movement of funds between EEIS and the patron has no bearing on the question of agency.<sup>340</sup>

224. In *International Harvester Co of Australia Pty Ltd v Carrigan's Hazeldine Pastoral Co (International Harvester)*,<sup>341</sup> the High Court stated:<sup>342</sup>

“Agency is a word used in the law to connote an authority or capacity in one person to create legal relations between a person occupying the position of principal and third parties.”

225. This statement, which emphasises the authority of the agent to bind the principal to contractual relations with a third party, was described by the NSW Court of Appeal in *Tonto Home Loans Australia Pty Ltd v Tavares (Tonto Home Loans)*<sup>343</sup> as “the core conception of agency as a legal concept”.<sup>344</sup> In *International Harvester*, the issue was whether a manufacturer of goods was liable under a contract for sale of equipment sold through a distributor. This turned on whether the distributor was the agent of the manufacturer in entering the contract.
226. The Court in *Tonto Home Loans* pointed out, however, that is always essential to consider the purpose for which the issue of agency is being determined:<sup>345</sup>

One needs to consider the purpose for which one is asking the question whether A is P's agent: *Kirkpatrick v Kotis*, per Campbell J (as his Honour then was). The question that must be addressed here by the factual and legal analysis is whether Tonto HL appointed S Loans to undertake tasks for it, short of creating a binding loan agreement, such that knowledge gained, or conduct engaged in, by S Loans in the performance of such tasks was knowledge to be imputed to Tonto HL, or conduct for which Tonto HL was to be held legally responsible by some form of vicarious attribution.

The appellants' first submission was that this could not be so because the expression of the matter in *International Harvester* was the limit of any relevant concept of agency known to the common law. If S Loans had no capacity to create legal relations between the third party and the principal by binding the lender to a loan, it could not, in law, be an agent. This is too narrow a conception of agency. The High Court in *International Harvester* was concerned with the question of the creation of legal rights. Other cases contemplate a possibly broader role for agents...

227. Whereas in *International Harvester* the question was whether the alleged agent had bound the alleged principal to a contract with a third party, in *Tonto Home Loans* the question was whether the alleged agent's knowledge or conduct in dealing with the third party should be attributed to the alleged principal.
228. In that context, in *Tonto Home Loans*, the Court focussed on the elements of consent, control and the typically (if not essential) fiduciary character of the relationship. The Court stated (references omitted):<sup>346</sup>

Not every independent contractor performing a task for, or for the benefit of, a party will be an agent, and so identified as it, or as representing it, and its interests. Agency

is a consensual relationship, generally (if not always) bearing a fiduciary character, in which by its terms A acts on behalf of (and in the interest of) P and with a necessary degree of control requisite for the purpose of the role. Central is the conception of identity or representation of the principal.

229. In this instance, the purpose for which the issue of agency is being determined is whether EEIS and The Star breached section 74 of the *Casino Control Act*. It is necessary to pay close attention to the language of the section. Section 74(1) relevantly provides that “[a] casino operator must not, and an agent of the operator or a casino employee must not, in connection with any gaming in the casino... lend money”. Section 74(2) relevantly provides that “[it] is a condition of the casino licence that the casino operator must not contravene subsection (1) and must not cause, permit, suffer or allow an agent of the operator or a casino employee to contravene that subsection”.
230. The first question is whether, by virtue of section 74(1) of the *Casino Control Act*, in making loans to patrons for gaming at The Star, EEIS was an agent of The Star. The second and consequential question is, if so, whether The Star caused, permitted, suffered or allowed EEIS to do so.
231. It is apparent that the wording of section 74(1) means that the application of the *International Harvester* test will not determine if EEIS was an agent of The Star for the relevant statutory purpose. If the question was whether EEIS’ conduct resulted in The Star, as principal, lending money to patrons, the answer would be in the negative. The EEIS loans did not result in The Star lending money to patrons. Indeed, the outcome of the EEIS arrangement was that the EEIS loans resulted in patrons lending money to The Star or repaying loans to The Star. The loans by EEIS were required to be deposited by patrons with The Star, either as a front money deposit or to repay an existing CCF.
232. However, if this was the correct basis to determine whether EEIS was an agent of The Star, then an arrangement by which EEIS caused The Star to itself lend money to patrons would have made The Star liable for breach of that provision in any event.
233. It follows that Parliament must have intentionally cast a wider net, by specifically prohibiting agents (and employees) of the casino operator from making loans in connection with gaming. Those words would have no work to do if the only question was whether, in making the loans, the agent (or employee) caused the casino operator to enter into a loan to the patron.

234. Parliament must be taken to have been concerned to ensure that not only the casino operator was prohibited from lending to patrons in connection with gaming but also to extend the prohibition to persons operating as agents and employees of the casino operator. By the operation of section 74(2), Parliament ensured that the casino operator would nevertheless be legally responsible for the conduct, even if it had not engaged in it directly. In this way, Parliament made clear that it was not only lending by the casino operator that was prohibited, but that the casino operator would be held accountable, by way of a breach of its licence, for conduct of its agents (or employees) which it caused, permitted, suffered or allowed.
235. The question is therefore whether the relationship between The Star and EEIS was in fact one of principal and agent at the time that EEIS made the loans to patrons, not whether the loans by EEIS caused The Star to enter into legal relations with the patron as lender to them.
236. This makes critical the analysis in *Tonto Home Loans*, focused on the elements of consent and control.
237. The Star and EEIS are, and were at all times in the Relevant Period, related companies in a corporate group. They are sister companies, both ultimately wholly owned by Star Entertainment. Indeed, at the time that EEIS' loan operations commenced, Mr Bekier and Mr Barton served as the only directors of both EEIS and The Star.<sup>347</sup> Mr Barton was succeeded by Mr Theodore as Star Entertainment CFO, and from October 2019, also took on the directorships (with Mr Bekier) in EEIS and The Star.<sup>348</sup>
238. In "Law of Agency"<sup>349</sup>, G. E. Dal Pont makes the following observations about agency and corporate groups:

That one company controls another may throw some light on the issue of agency but is not decisive; a close analysis of all the facts must be made to identify the true relationship. The person alleging the agency in such a case must prove it by reference either to an express agreement to that effect (which may not in and of itself prove conclusive), or to facts from which the proper inference can be made that one company "is carrying on the business of the other and on behalf of the other"...

As companies, even those within a group, are separate legal entities, and given that a purpose of creating a new corporate entity is usually to separate or distance it from the existing entity, only weighty evidence can substantiate an intention to create an agency relationship between the entities.

239. The author subsequently refers to "the curial reticence to find an agency relationship within a corporate group" and notes that "control by shareholders and complete unity of

shareholders and management are insufficient to both lift the corporate veil and establish an agency relationship".<sup>350</sup>

240. It is true that there was a back-to-back arrangement between The Star and EEIS, by virtue of which EEIS drew down a CCF which it had with The Star and EEIS then used those funds to provide loans to patrons of The Star. Those patrons could then only use the proceeds of the EEIS loans for gambling at The Star. Further it is now accepted by The Star Entities that a purpose of the overall arrangement was to permit patrons in North Asia to disguise their dealings with a casino in NSW. These factors point to a contrived arrangement. However, no submission was made by Counsel Assisting that the arrangements involving EEIS were a sham and it has already been pointed out in the context of the Temporary CCF for the use of CUP cards at The Star that a suitability review, such as this, is not an appropriate forum to determine whether arrangements were shams.
241. Against these considerations is the fact that Star Entertainment was well aware of the agency problem in section 74 of the *Casino Control Act* and structured arrangements involving EEIS quite deliberately with the intention that EEIS would not be the agent of The Star. Moreover the carefully constructed contractual relationships involved a separate company, Star Entertainment Finance Limited, providing the finance to EEIS if the EEIS loan was not repaid within the 30 day period permitted by the CCF between EEIS and The Star and the holding company, Star Entertainment, taking on the financing risk of the arrangement by making itself the guarantor of EEIS.
242. The Memorandum of Services Agreement expressly provided that EEIS was not the agent of Star Entertainment. Whilst that is not determinative, it emphasises that even if in substance there was an agency relationship, it was more likely to be between EEIS and its parent, Star Entertainment, rather than with its sister company, The Star. It was Star Entertainment which controlled EEIS.
243. Taking all these matters into account, it is concluded, based on the submissions and evidence presented to the Review, that EEIS was not an agent of The Star and in making loans to patrons for gambling it did not breach section 74(1) of the *Casino Control Act*. It follows that The Star was also not in breach of section 74(2) of the *Casino Control Act* in relation to the loans made by EEIS to patrons of The Star for gambling.
244. Irrespective of whether EEIS was The Star's agent for the purposes of section 74(1), however, this is another context in which The Star Entities courted the risk of breaching

the *Casino Control Act* by the actions which were taken in 2018 and 2019. The Star Entities failed to take external legal advice to determine that the arrangements with EEIS as lender did not breach the provisions of the legislation.

245. The Star Entities rely on the fact that they sought and obtained external legal advice from Senior Counsel in 2012 regarding the enforceability of loans to gamble at The Star. This reliance is misplaced. Senior Counsel was not briefed to advise on the question of whether EEIS (or any other member of The Star Entertainment Group) would be considered an agent in the arrangement.<sup>351</sup> Indeed, contrary to that submission, the agency question is expressly excluded in the advice. Senior Counsel observed:<sup>352</sup>

In light of the analysis set out above the answers to the two specific questions may be shortly stated. Section 74 of the *Casino Control Act* precludes the Star (as the casino operator), its agents and employees from extending any form of credit in connection with gaming in the casino. The *Casino Control Act* does not prohibit the provision of credit by other persons in connection with gaming in the casino. It follows that it would not be contrary to the *Casino Control Act* for a member of the Echo Group (*other than The Star or any entity which could be construed as an agent or employee of The Star*) to advance credit to patrons or junket promoters on the condition that the funds be used to gamble at The Star Casino.

(emphasis added)

246. A reasonable reader of this advice would appreciate that a further question must arise in a contractual relationship involving EEIS as lender to whether it would be “construed as an agent ... of The Star”. There is no suggestion that any further external legal advice was sought to answer that question at the time that EEIS was “activated” as a lender.

### Chapter 16.7 Conclusions

247. The Star Entities accepted in their closing submissions, that the Initial Kuan Koi Arrangement was undesirable from an ML/TF perspective. It lacked transparency because it appeared as though money being transferred to The Star came from Mr Koi rather than patrons.<sup>353</sup>
248. The Star Entities also accepted in closing submissions that the arrangements with Mr Koi were imprudent.<sup>354</sup> Nevertheless, The Star Entities maintained that Star Entertainment made reasonable genuine efforts to control the risks associated with this payment channel.<sup>355</sup>

249. The external legal advice in relation to the Initial Kuan Koi Arrangement was limited and emphasised the importance of careful ML/TF risk assessment. The ML/TF risk assessment undertaken by Ms Arnott incorrectly characterised the risk as “low”.
250. Furthermore, the risk management steps were flawed, both in concept and execution.
251. First, there is no evidence to indicate that Star Entertainment undertook any vetting of Mr Koi, other than to assess his credit risk.<sup>356</sup> Mr Koi made it known to Star Entertainment employees that he wished to obscure the nature of the transactions, including by using cheques from his “associates” to deposit funds with The Star to avoid detection by banks or regulators in Macau.<sup>357</sup> This was a red flag that should have put Star Entertainment on notice of the compliance risks associated with the proposed initial arrangement with Mr Koi.
252. Secondly, the risk assessment relied on the fact that “in most part, the customers who are transferring money through this system also hold [CCFs] with [Star Entertainment] casinos”.<sup>358</sup> However, once the arrangements were extended to include front money deposits the risk calculous changed because Star Entertainment did not conduct the same level of due diligence on patrons who did not hold CCFs. The increase in risk was not appropriately factored into the ML/TF risk assessment.<sup>359</sup>
253. Thirdly, while it was contemplated in the ML/TF risk assessment that International Depositor Identity Forms would be provided in respect of each patron utilising the Kuan Koi channel:
- (a) the forms themselves required the bare minimum of detail about the customer, and said nothing about the source of the customer’s wealth, or the source of funds that were being deposited, notwithstanding that Mr Koi was predominantly accepting cash;<sup>360</sup>
  - (b) it is not clear that forms were in fact received for all deposits utilising the Kuan Koi channel;
  - (c) Ms Arnott accepted that the only control she implemented to manage the increased risk of the arrangement (when it extended to include the acceptance of front money deposits) was to ask for a staff member to be present at the time the cash was provided to Mr Koi and to complete an International Depositor Identity Form.<sup>361</sup> She accepted that she had no way of knowing whether the control was being

implemented.<sup>362</sup> There is evidence that on at least one occasion, staff of the Macau office may not have been physically present when the transaction was performed.<sup>363</sup>

254. It is worth pausing to reflect on the nature of the Initial Kuan Koi Arrangement which the Board of Star Entertainment approved. The Board approved a business arrangement with a junket operator to receive money from patrons in Macau. Then, with no visibility of the intervening steps, the junket operator was to deposit funds into his front money account with The Star. These funds were then transferred to the front money account of the patrons in Macau. The arrangement obviously obscured the true source of the funds being deposited to the casino.
255. It is a measure of the desperate position in which Star Entertainment found itself after the closure of the BOC Macau account and the resulting inability of patrons in North Asia to make cash deposits into that account, that Star Entertainment considered it appropriate to enter into an arrangement such as the Initial Kuan Koi Arrangement at all.
256. It is true that the Board was told that the arrangement was an interim one. It is true that the Board was told that a risk assessment had been conducted which assessed the risks as low. The Board did not know that this risk assessment was wrong. The Board had also been told that external legal advice had been obtained. The Board did not know that the matters on which legal advice had been sought were limited. Notwithstanding these matters, an arrangement of this nature with a junket operator is somewhat startling. Having approved the Initial Kuan Koi Arrangement, it required ongoing monitoring of its implementation and operation, including communication between management and the Board.
257. The long-term solution to deal with the closure of the BOC Macau accounts was EEIS. EEIS was an attractive solution, in part because it was not a casino operator, and therefore could accept payments from patrons who were not willing to have a casino appear on their bank statements. Additionally, it was attractive because it was anticipated that EEIS could offer direct credit to patrons in a way that casino operators (and their employees and agents) were prohibited from doing under the *Casino Control Act*.
258. In May 2018, the Board of Star Entertainment approved the commencement of EEIS operating as a lender in Hong Kong. No external legal advice was sought to ensure that the process then envisaged complied with the *Casino Control Act*. The EEIS loan structure was attendant with risk. Interposing EEIS as an intermediary between the casino operator

and the patron obscured from view the fact that patrons were in effect remitting funds to Star Entertainment's casinos.

259. EEIS ultimately made six loans to patrons or junket operators for a total amount of \$213 million.<sup>364</sup>
260. However, unbeknownst to the Board of Star Entertainment and senior management in the Legal, Risk and AML/CTF Teams, the two payment channels via Kuan Koi and EEIS merged by at least the middle of 2018 to create something far riskier: the Modified Kuan Koi Arrangement.
261. The Modified Kuan Koi Arrangement quite plainly was extremely high risk from a ML/TF perspective and should never have been countenanced. There was no legal due diligence of the arrangement, nor any risk assessment by the AML Team. The fact that the Board of Star Entertainment, including the Managing Director, was unaware of this change in the arrangements, and that it continued until at least December 2019 reflects a business organisation with inadequate management controls and reporting lines. It took The Star's banker, NAB, to identify to Star Entertainment that high risk payments involving huge sums of money were being made by remitters for front money deposits.
262. In the period January 2018 to August 2019, at least AUD \$150 million moved through the Initial Kuan Koi Arrangement and Modified Kuan Koi Arrangement channels.<sup>365</sup> Most of the monies flowing through third party remitters (including those used in conjunction with Mr Koi) were deposited into the EEIS NAB accounts while some deposits were made directly into the casino operators' bank accounts.<sup>366</sup>
263. The Board as well as management must accept some responsibility for this risky payment channel evolving. Having approved the Initial Kuan Koi Arrangement and the role of EEIS as a lender, there needed to be ongoing communication between management and the Board to monitor these arrangements.
264. Mr O'Neill gave the following evidence:<sup>367</sup>

Q: And it's right, isn't it, that the board was told that there was a problem moving money into the Australian casinos because the Macau bank accounts, where large volumes of cash were being accepted, were being shut down?

A: Yes.

Q: And the board was also told, wasn't it, that there were challenges because, internationally, money laundering regulations were being tightened?

A: Yes.

Q: Wasn't it the responsibility of the board to interrogate senior management to ensure that the proposals being brought to the board by senior management were not inconsistent with money laundering obligations on the part of the three casinos?

A: Look, with the benefit of hindsight, Ms Sharp, that is a proposition that's difficult not to accept. In terms of the best of my recollection around the setting up of EEIS (Hong Kong), there was interrogation about the - the manner in which it was being set up, the purpose for which it was being used, what attendant regulatory protections were put in – put in place. But – but, you know, I now realise, sitting here today, that there - there were attendant risks attached to the EEIS (Hong Kong) account around its vulnerability to be used not for the purpose for which it was intended.

265. The Star Entities conceded in closing submissions that the Modified Kuan Koi Arrangement should never have proceeded without a proper risk assessment and legal due diligence and Board approval.<sup>368</sup>

## Endnotes

- <sup>1</sup> **Exhibit B-1400** (STA.3002.0005.0158).
- <sup>2</sup> Bekier: Day 28, T3150.17-24.
- <sup>3</sup> Bekier, T3150.13-16; **Exhibit B-1400** (STA.3002.0005.0158).
- <sup>4</sup> Star Entities' Written Submissions dated 21 June 2022, para [A.8].
- <sup>5</sup> **Exhibit D-42** (CORRO.001.001.0574 at .0586).
- <sup>6</sup> Ibid.
- <sup>7</sup> Star Entities' Written Submissions dated 21 June 2022, para [A.8].
- <sup>8</sup> **Exhibit D-42** (CORRO.001.001.0574 at .0587).
- <sup>9</sup> Ibid.
- <sup>10</sup> **Exhibit C-15** (STA.3023.0001.0142 at .0144).
- <sup>11</sup> Ibid.
- <sup>12</sup> Ibid at .0143.
- <sup>13</sup> **Exhibit B-540** (STA.3423.0001.5513 at .5515); see also **Exhibit B-3419** (STA.3412.0087.1909).
- <sup>14</sup> INQ.028.001.3151 at .3154.
- <sup>15</sup> **Exhibit B-540** (STA.3423.0001.5513 at .5515); Star Entities' Written Submissions dated 21 June 2022, para [J.24].
- <sup>16</sup> **Exhibit B-540** (STA.3423.0001.5513 at .5515); **Exhibit B-3419** (STA.3412.0087.1909).
- <sup>17</sup> **Exhibit B-3146** (STA.3401.0004.5823 at .5825-.5828); **Exhibit B-3419** (STA.3412.0087.1909).
- <sup>18</sup> **Exhibit B-3419** (STA.3412.0087.1909).
- <sup>19</sup> Star Entities' Written Submissions dated 21 June 2022, para [J.207]; **Exhibit B-3419** (STA.3412.0087.1909 at .1910).
- <sup>20</sup> **Exhibit B-3419** (STA.3412.0087.1909 at .1910).
- <sup>21</sup> **Exhibit G-911** (STA.3023.0001.0839).
- <sup>22</sup> **Exhibit B-204** (STA.3410.0020.4135 at .4145).
- <sup>23</sup> **Exhibit B-3216** (STA.3004.0014.0008 at .0012).
- <sup>24</sup> **Exhibit B-3331** (CORRO.001.001.0190 at .0220-.0221).
- <sup>25</sup> Star Entities' Written Submissions dated 21 June 2022, para [J.207].
- <sup>26</sup> Arnott: Day 13, T1513:40-1514.4.
- <sup>27</sup> **Exhibit H-634** (INQ.018.002.0001 at .0052).
- <sup>28</sup> **Exhibit B-367** (STA.5002.0003.3846 at .3858).
- <sup>29</sup> **Exhibit G-63** (STA.5002.0003.2520 at .2524).
- <sup>30</sup> **Exhibit B-435** (STA.5002.0003.1476 at .1502).
- <sup>31</sup> Ibid.
- <sup>32</sup> Ibid. at .1512.
- <sup>33</sup> Ibid. at .1512.
- <sup>34</sup> **Exhibit B-497** (STA.5002.0003.4009 at .4014).

35 Arnott: Day 13, T1490.10-30; White: Day 16, , T1770.2-17.  
36 **Exhibit B-506** (STA.3423.0002.7712 at .7712 -.7713.).  
37 Arnott: Day 13, T1491.1-9.  
38 **Exhibit D-42** (CORRO.001.001.0574 at .0587); **Exhibit A-905**, para 83 (INQ.002.004.0201 at .0215).  
39 Whytcross: Day 9, T979.47-48.  
40 **Exhibit G-939**, (STA.3025.0002.0001 at .0002).  
41 Whytcross: Day 9, T979.1-23; Theodore: Day 26, T2961.19-48.  
42 Bekier: Day 28, T3153.1-5.  
43 **Exhibit B-699** (STA.5002.0004.0764).  
44 **Exhibit B-506** (STA.3423.0002.7712 at .7718).  
45 Arnott: Day 13, T1491.15; Whytcross: Day 9, T981.30-33 and T983.9-10; Martin: Day 21, T2344.26-38.  
46 **Exhibit B-506** (STA.3423.0002.7712 at .7717-.7718).  
47 Ibid.  
48 Whytcross: Day 9, T989.40-44; Ibid.  
49 **Exhibit B-506** (STA.3423.0002.7712 at .7715).  
50 Ibid at .7716.  
51 **Exhibit B-523** (STA.0012.0001.0001 at .0002).  
52 Ibid at .0002 - .0003.  
53 **Exhibit B-523** (STA.0012.0001.0001 at .0004).  
54 White: Day 16, T1772.46-1773.3.  
55 Arnott: Day 13, T1493.15-16.  
56 **Exhibit G-329** (STA.3435.0088.2183 at .2185-.2187).  
57 **Exhibit B-523** (STA.0012.0001.0001 at .0005).  
58 Ibid at .0003.  
59 Whytcross: Day 9, T1015.28-36.  
60 **Exhibit B-531** (STA.3423.0003.1396).  
61 Ibid.  
62 **Exhibit B-540** (STA.3423.0001.5513 at.5517).  
63 **Exhibit B-514** (STA.3410.0018.8878 at .8879 - .8880).  
64 Ibid at .8878 - .8879.  
65 Star Entities' Oral Submissions: Day 42, T4289.28-29.  
66 Star Entities' Written Submissions dated 21 June 2022, para [J.45].  
67 **Exhibit G-32** (STA.3435.0088.2183 at .2183-.2185).  
68 **Exhibit B-624** (STA.3414.0006.2807).  
69 **Exhibit B-623** (STA.3414.0006.2805); **Exhibit B-626** (STA.3415.0002.6738).  
70 **Exhibit B-516** (STA.3008.0023.7908).  
71 **Exhibit B-625** (STA.3415.0002.6737).

- 72 **Exhibit B-626** (STA.3415.0002.6738).
- 73 Ibid at .6739.
- 74 Arnott: Day 13, T1502.36-37.
- 75 Arnott: Day 14, T1551.16-21.
- 76 Arnott: Day 13, T1503.22-26.
- 77 Arnott: Day 13, T1503.28-31; Day 14, T1551.31-37.
- 78 Arnott: Day 14, T1551.39-44.
- 79 **Exhibit M-13** (STA.3403.0002.7306); **Exhibit M-14** (STA.3403.0002.7307).
- 80 **Exhibit M-14** (STA.3403.0002.7307).
- 81 Ibid.
- 82 Ibid.
- 83 Ibid at .7308.
- 84 Star Entities' Written Submissions dated 21 June 2022, para [J.60]; Ibid.
- 85 **Exhibit M-16** (STA.3403.0002.7256).
- 86 Ibid at .7257.
- 87 Ibid at .7266, .7277, .7281, .7305.
- 88 **Exhibit Q-11** (STA.3008.0019.0362).
- 89 **Exhibit B-653** (STA.5002.0004.1012).
- 90 Bradley: Day 31, T3484.1-12.
- 91 Pitkin: Day 33, T3621.1-32.
- 92 Lahey: Day 33, T3683.1-3.
- 93 Sheppard: Day 34, T3763.25-43.
- 94 **Exhibit B-638** (STA.3417.0008.6605).
- 95 Whytcross: Day 9, T1015.38-45.
- 96 Whytcross: Day 9, T1016.6-10, T1022.38-46.
- 97 Whytcross: Day 9, T1017.18-28.
- 98 Whytcross: Day 9, T1017.30-32.
- 99 Whytcross: Day 9, T1016.29-35, T1017.4-28.
- 100 Arnott: Day 13, T1500.1-4; See for example **Exhibit G-492** (STA.3037.0001.0025).
- 101 Star Entities' Written Submissions dated 21 June 2022, para [J.161].
- 102 **Exhibit L-47** (INQ.026.001.0103).
- 103 **Exhibit G-492** (STA.3037.0001.0025); **Exhibit G-481** (STA.3037.0001.0028); **Exhibit G-454** (STA.3037.0001.0040); **Exhibit G-357** (STA.3037.0001.0017); **Exhibit G-413** (STA.3037.0001.0018); **Exhibit G-416** (STA.3435.0150.4557); **Exhibit G-344** (STA.3435.0150.2625); **Exhibit G-338** (STA.3435.0150.2180); **Exhibit G-452** (STA.3037.0001.0038); **Exhibit G-432** (STA.3037.0001.0044); **Exhibit G-453** (STA.3037.0001.0039); **Exhibit G-471** (STA.3037.0001.0047); **Exhibit G-316** (STA.3037.0001.0026); **Exhibit G-458** (STA.3037.0001.0004); **Exhibit G-467** (STA.3037.0001.0023); **Exhibit G-317** (STA.3037.0001.0037); **Exhibit G-320** (STA.3415.0008.8489); **Exhibit G-396** (STA.3435.0150.1021); **Exhibit G-356** (STA.3037.0001.0016); **Exhibit G-466** (STA.3037.0001.0022); **Exhibit G-483** (STA.3037.0001.0019); **Exhibit G-455** (STA.3037.0001.0049); **Exhibit G-423** (STA.3435.0150.5725); **Exhibit G-332** (STA.3012.0001.0890); **Exhibit G-394** (STA.3037.0001.0008);

- Exhibit G-391** (STA.3435.0150.1307); **Exhibit G-347** (STA.3435.0150.2685); **Exhibit G-469** (STA.3037.0001.0033); **Exhibit G-426** (STA.3435.0150.5747).
- 104 Arnott: Day 13, T1496.7-10.
- 105 Arnott: Day 13, T1494.29-42.
- 106 **Exhibit B-951** (STA.3009.0012.0500).
- 107 Star Entities' Written Submissions dated 21 June 2022, para [J.162].
- 108 Arnott: Day 13, T1494.15-24.
- 109 Arnott: Day 14, T1552.17-39.
- 110 Arnott: Day 13, T 1507.30-.38.
- 111 Star Entities' Written Submissions dated 21 June 2022, para [J.164].
- 112 **Exhibit B-676** (STA.3403.0001.4781 at .4872).
- 113 **Exhibit B-540** (STA.3423.0001.5513); Whytcross: Day 9, T992.4-7.
- 114 **Exhibit B-707** (STA.3410.0043.7608 at .7608-.7610).
- 115 Ibid at .7610.
- 116 **Exhibit B-712** (STA.3411.0010.5148); **Exhibit B-709** (STA.3411.0021.0255).
- 117 **Exhibit B-1579** (STA.3004.0008.0001). See **Exhibit B-1023** (STA.3401.0005.4468); Whytcross: Day 10, T1039.25-36.
- 118 Arnott: Day 14, T1555.36-45; **Exhibit B-826** (STA.3009.0012.0002); **Exhibit B-1579** (STA.3004.0008.0001); **Exhibit H-634** (INQ.018.002.0001 at .0069-.0070).
- 119 **Exhibit B-873** (STA.3415.0006.2825); **Exhibit H-634** (INQ.018.002.0001 at .0069-.0070).
- 120 **Exhibit B-1579** (STA.3004.0008.0001); **Exhibit B-1023** (STA.3401.0005.4468); **Exhibit H-634** (INQ.018.002.0001 at .0069-.0070).
- 121 **Exhibit B-1579** (STA.3004.0008.0001 at .0002); **Exhibit G-698** (STA.3417.0063.7915).
- 122 **Exhibit B-825** (STA.3014.0002.0084).
- 123 **Exhibit B-825** (STA.3014.0002.0084); **Exhibit B-752** (STA.3104.0007.0641 at .0643).
- 124 **Exhibit B-752** (STA.3104.0007.0641 at .0643).
- 125 **Exhibit B-826** (STA.3009.0012.0002).
- 126 Ibid at .0003.
- 127 **Exhibit B-1579** (STA.3004.0008.0001 at .0002).
- 128 Martin: Day 21, T2358.33-38.
- 129 Exhibit B-873 (STA.3415.0006.2825).
- 130 Exhibit B-825 (STA.3014.0002.0084).
- 131 Arnott: Day 13, T1524.39-43.
- 132 Arnott: Day 14, T1557.43-48; **Exhibit C-330** (INQ.018.001.0001 at .0079); **Exhibit B-1579** (STA.3004.0008.0001 at .0002).
- 133 **Exhibit H-634** (INQ.018.002.0001 at .0069-.0070).
- 134 **Exhibit G-492** (STA.3037.0001.0025); **Exhibit G-481** (STA.3037.0001.0028); **Exhibit G-454** (STA.3037.0001.0040); **Exhibit G-452** (STA.3037.0001.0038); **Exhibit G-453** (STA.3037.0001.0039); **Exhibit G-471** (STA.3037.0001.0047); **Exhibit G-458** (STA.3037.0001.0004); **Exhibit G-467** (STA.3037.0001.0023); **Exhibit G-466** (STA.3037.0001.0022); **Exhibit G-483** (STA.3037.0001.0019); **Exhibit G-455** (STA.3037.0001.0049).

- 135 Arnott: Day 13, T1496.7-10.
- 136 **Exhibit B-2077** (STA.3105.0012.2775).
- 137 Arnott: Day 14, T1538.44-1540.7.
- 138 Brodie: Day 21, T2421.30-38.
- 139 Brodie: Day 21, T2421.40-44.
- 140 **Exhibit C-115** (STA.3427.0038.4632 at .4633).
- 141 Arnott: Day 13, T1505.10-15.
- 142 Whytcross: Day 10, T1034.23-44.
- 143 Arnott: Day 13, T1510.12-16.
- 144 Arnott: Day 14, T1553.23-31.
- 145 Arnott: Day 13, T1524.27-32.
- 146 Arnott: Day 14, T1590.9-11.
- 147 Arnott: Day 14, T1590.16-19.
- 148 **Exhibit B-708** (STA.3421.0029.0564).
- 149 Brodie: Day 21, T2417.42-2418.6.
- 150 **Exhibit B-1579** (STA.3004.0008.0001 at .0002).
- 151 Ibid.
- 152 **Exhibit G-698** (STA.3417.0063.7915).
- 153 Star Entities' Written Submissions dated 21 June 2022, para [J.121].
- 154 **Exhibit B-707** (STA.3410.0043.7608 at .7609).
- 155 **Exhibit B-1579** (STA.3004.0008.0001 at .0002).
- 156 Aloï: Day 8, T894.41-895.1.
- 157 Arnott: Day 13, T1386.1-32.
- 158 Brodie: Day 21, T2418.14-48.
- 159 Arnott: Day 13, T1386.1-32.
- 160 Arnott: Day 13, T1386.45-47.
- 161 Whytcross: Day 9, T1018.11-23; Arnott: Day 13, T1508:1-9.
- 162 **Exhibit B-1579** (STA.3004.0008.0001 at .0003).
- 163 Ibid.
- 164 **Exhibit B-1729** (STA.3014.0002.1123 at .1124); **Exhibit B-1713** (STA.3417.0006.3576 at .3578).
- 165 **Exhibit B-3331** (CORRO.001.001.0190 at .0221).
- 166 **Exhibit A-1339**, para 60 (INQ.002004.0145 at .0157); **Exhibit B-2149** (STA.3410.0046.6171).
- 167 **Exhibit B-1783** (STA.3014.0002.0557).
- 168 White: Day 16, T1790.1-45.
- 169 Arnott: Day 13, T1506.23-43.
- 170 White: Day 16, T1796.16-24.
- 171 **Exhibit B-1570** (STA.3415.0001.9442).

- 172 Ibid.
- 173 **Exhibit B-1570** (STA.3415.0001.9442 at .9443).
- 174 Bekier: Day 28, T3163.19-48.
- 175 Bekier: Day 28, T3164.29-38.
- 176 Bradley: T3490:10-22 and T3492:4-7; Pitkin T3625.9-11 and T3627.1-5; Lahey T3685.13-15 and T3686.43-48
- 177 Star Entities' Written Submissions dated 21 June 2022, para [J.32].
- 178 **Exhibit C-30** (STA.3402.0001.1078 at .1081).
- 179 **Exhibit B-672** (KPMG.001.001.2552); **Exhibit B-653** (STA.5002.0004.1012).
- 180 **Exhibit B-672** (KPMG.001.001.2552).
- 181 **Exhibit B-699** (STA. 5002.0004.0764).
- 182 **Exhibit M-19** (STA.3415.0002.6077 at .6079).
- 183 Ibid at .6081 - .0682.
- 184 Ibid at .6090.
- 185 **Exhibit D-42** (CORRO.001.001.0574 at .0587-.0588).
- 186 **Exhibit B-752** (STA.3104.0007.0641 at .0643).
- 187 Ibid.
- 188 Ibid at .0642.
- 189 Ibid.
- 190 **Exhibit B-821** (STA.5002.0004.1233).
- 191 Ibid at .1237.
- 192 Ibid at .1243.
- 193 **Exhibit B-822** (STA.5002.0004.1038 at .1042).
- 194 Ibid at .1043.
- 195 **Exhibit B-1924** (STA.3006.0003.0162).
- 196 Ibid at .0167.
- 197 Ibid at .0181 - .0182.
- 198 Whytcross: Day 9, T953.35-38; Arnott Day 13, T1512.45-1513.37; **Exhibit A-1**, para 7 (INQ.002.004.0241); **Exhibit B-2972** (STA.3402.0007.1612 at .1613-.1614); **Exhibit B-2972** (STA.3402.0007.1612 at .1615-.1616).
- 199 **Exhibit B-859** (NAB.001.001.1047 at .1048).
- 200 Ibid.
- 201 **Exhibit B-540** (STA .3423.0001.5513 at .5521); Bekier: Day 28, T3150.26-.29; Whytcross: Day 10, T1052.26-.38; White: Day 16, T1771.7-.15; Theodore: Day 26, T2964.7-.21.
- 202 **Exhibit T-1** (STA.3403.0003.2985).
- 203 **Exhibit T-2** (STA.3403.0003.2987).
- 204 Ibid at .2988.
- 205 Ibid.

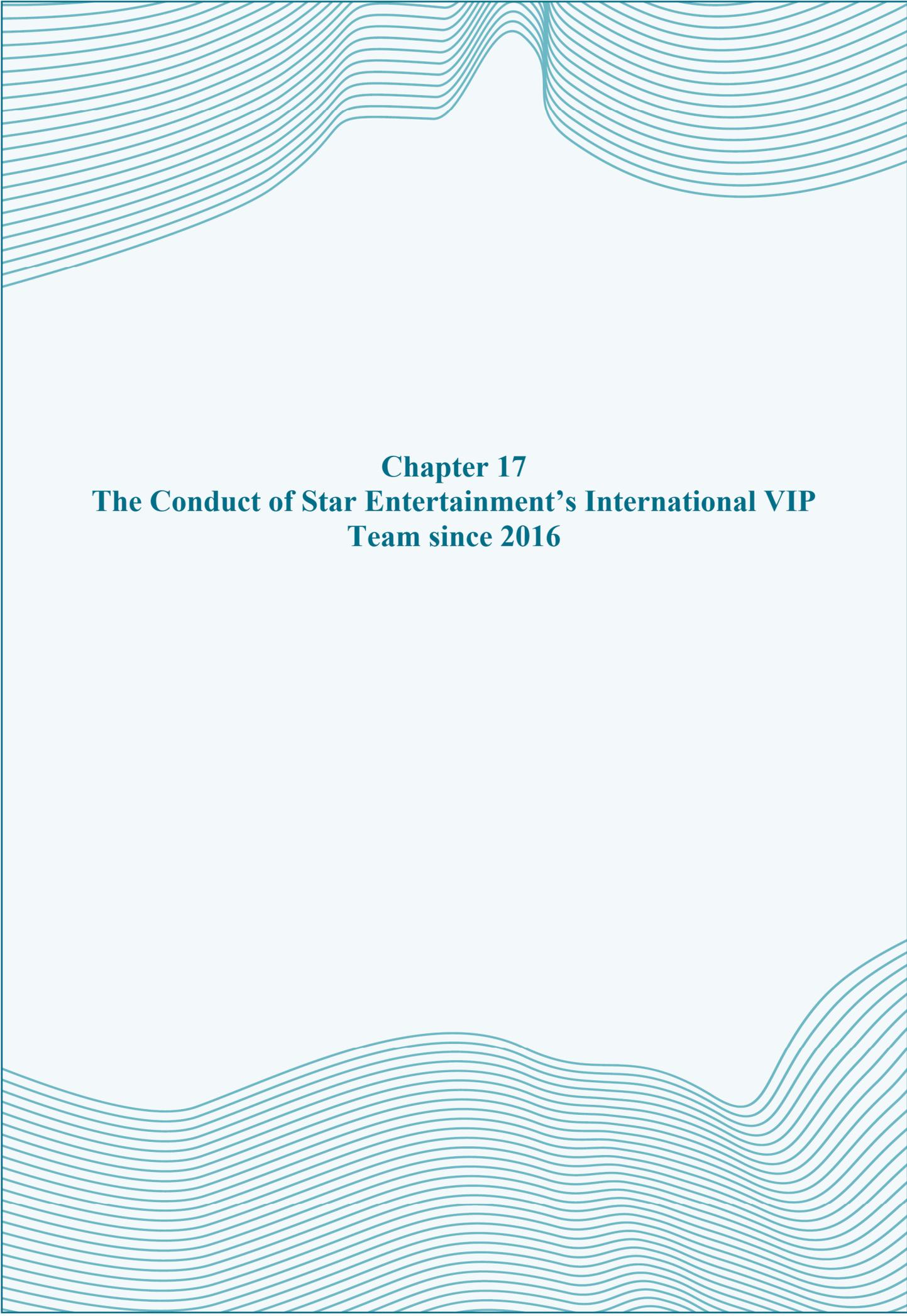
- 206 Ibid.
- 207 Ibid at .2994 - .2995.
- 208 Star Entities' Written Submissions dated 12 August 2022, para [R.16].
- 209 Ibid para [R.17].
- 210 Bekier: Day 28, T3156:40-45 and T3158.42 -3159.22; Theodore: Day 26, T2969:20-47; T2972:38-46; T2981:15-33; Arnott: Day 14, T1563.43 – 1564.5.
- 211 Whytcross: Day 10, T1054.45-47.
- 212 Whytcross: Day 10, T1054.17-20.
- 213 **Exhibit B-3118** (INQ.002.002.0045).
- 214 **Exhibit B-204** (STA.3410.0020.4135).
- 215 **Exhibit B-1093** (STA.5002.0004.2733 at .2734).
- 216 Ibid at .2771.
- 217 Ibid at .2753.
- 218 Ibid.
- 219 Ibid.
- 220 **Exhibit B-1399** (STA.3002.0005.0156).
- 221 Arnott: Day 13, T1515.22-25.
- 222 **Exhibit B-1400** (STA.3002.0005.0158 at .0159, 0161).
- 223 Ibid at .0159.
- 224 Arnott: Day 13, T1516.21-47.
- 225 **Exhibit B-1508** (STA.3105.0012.2953).
- 226 **Exhibit C-118** (NAB.010.001.8508 at .8509).
- 227 Ibid.
- 228 Ibid.
- 229 **Exhibit C-95** (NAB.010.001.7369).
- 230 Ibid.
- 231 **Exhibit B-1649** (STA.3105.0002.2283).
- 232 Ibid.
- 233 **Exhibit B-1653** (STA.3105.0002.2293).
- 234 **Exhibit B-1654** (STA.3410.0014.5120).
- 235 **Exhibit B-1702** (STA.3105.0006.0364 at .0365).
- 236 **Exhibit B-1681** (STA.3421.0004.6180); **Exhibit B-1680** (STA.3421.0004.6175); **Exhibit B-1679** (STA.3421.0004.6171); **Exhibit B-1689** (STA.3421.0007.6447).
- 237 Arnott: Day 13, T1521.19-24.
- 238 Arnott: Day 13, T1521.26-42.
- 239 Arnott: Day 13, T1522.1-3.
- 240 **Exhibit C-96** (STA.3009.0012.0180); Arnott: Day 13, T1521.9-11.
- 241 **Exhibit A-1**, para 68 (INQ.002.004.0241 at .0257).

- 242 **Exhibit C-108** (NAB.010.001.8397); **Exhibit C-109** (NAB.010.001.8399).
- 243 **Exhibit B-1701** (STA.3002.0001.3366 at .3367).
- 244 *Ibid.*
- 245 **Exhibit B-1701** (STA.3002.0001.3366).
- 246 Arnott: Day 13, T1523.21-30.
- 247 Arnott: Day 13, T1524.14-19.
- 248 **Exhibit B-1700** (STA.3435.0193.0084).
- 249 **Exhibit B-1712** (STA.3009.0010.0067).
- 250 **Exhibit C-121** (NAB.010.003.5412). See also **Exhibit C-120** (NAB.010.003.2501).
- 251 **Exhibit C-121** (NAB.010.003.5412).
- 252 White: Day 16, T1791.6-17.
- 253 **Exhibit B-3421** (STA.3412.0087.3461).
- 254 **Exhibit A-1**, para 73 (INQ.002.004.0241 at .0257); **Exhibit B-1720** (STA.3422.0060.8379).
- 255 Arnott: Day 13, T1525.6-19.
- 256 **Exhibit B-1722** (STA.3105.0012.2555).
- 257 Arthur: Day 2, T190.3-19.
- 258 **Exhibit B-1738** (STA.3105.0012.2971); Arnott: Day 13, T1526:34-38.
- 259 **Exhibit B-1738** (STA.3105.0012.2971).
- 260 **Exhibit C-319** (NAB.001.001.1800).
- 261 *Ibid* at .1801.
- 262 **Exhibit C-319** (NAB.001.001.1800 at .1801).
- 263 Arnott: Day 13, T1527:10-14.
- 264 Arnott: Day 13, T1527:16-25.
- 265 **Exhibit B-1741** (STA.3002.0009.0098).
- 266 **Exhibit B-1922** (STA.3002.0009.0206).
- 267 **Exhibit B-1923** (STA.3006.0003.0160); **Exhibit B-1924** (STA.3006.0003.0162).
- 268 **Exhibit B-2076** (NAB.002.003.6042).
- 269 *Ibid.*
- 270 **Exhibit B-2078** (STA.3002.0009.0181).
- 271 **Exhibit B-2638** (NAB.002.004.7872).
- 272 **Exhibit D-42** (CORRO.001.001.0574).
- 273 Dudek: Day 1, T85.4-.20.
- 274 **Exhibit B-2837** (STA.3412.0003.5112 at .5114); Sheppard: Day 29, T3259.35-41.
- 275 **Exhibit B-2837** (STA.3412.0003.5112 at .5114).
- 276 **Exhibit B-3377** (STA.3412.0008.7300 at .7301-.7302).
- 277 **Exhibit B-3377** (STA.3412.0008.7300).
- 278 *Ibid* at .7302.

- 279 Pitkin: Day 33, T3628.46-3629.11.
- 280 Lahey: Day 33, T3687.41-3688.21.
- 281 Bradley: Day 32, T3497.29-41.
- 282 **Exhibit H-634**, appendix A..1 (INQ.018.002.0001 at .0052).
- 283 Ibid para [4.3.3] at .0019.
- 284 Ibid para [4.4.2].
- 285 Ibid para [4.1.1] – [4.1.3] at .0017.
- 286 Ibid para [2.2.1] at .0009.
- 287 Ibid para [2.2.3].
- 288 Ibid para [4.1.4] at .0017.
- 289 Whytcross: Day 10, T1069.17-30.
- 290 Ibid.
- 291 Whytcross: Day 10, T1070.18-21.
- 292 Whytcross: Day 10, T1070.38-41.
- 293 Whytcross: Day 10, T1071.1-5.
- 294 Arnott: Day 14, T1562.9-14.
- 295 Arnott: Day 14, T1562.31-38.
- 296 Star Entities' Written Submissions dated 21 June 2022, para [J.201]; Aloï: Day 8, T895.10-38.
- 297 Aloï: Day 7, T782.48-784.14; Day 8, T898.22-48.
- 298 Aloï: Day 8, T889.32-40.
- 299 Aloï: Day 8 Private Transcript: T3.13-254; T8.30-38; **Exhibit B-832** (STA.3008.0021.0177).
- 300 Arnott: Day 14, T1609.41-1610.46.
- 301 Arnott: Day 13, T1514.13-16.
- 302 Arnott: Day 13, T1514.23-31.
- 303 Theodore: Day 26, T2987.7-30.
- 304 Theodore: Day 26, T2987.7-30.
- 305 **Exhibit H-634** para [2.5.2] (INQ.018.002.0001 at .0012).
- 306 **Exhibit B-3419** (STA.3412.0087.1909); **Exhibit G-835** (ANZ.2000.0001.0910). See also **Exhibit B-3331** (CORRO.001.001.0190 at .0300).
- 307 **Exhibit B-821** (STA.5002.0004.1233 at .1236).
- 308 Ibid at .1238.
- 309 **Exhibit B-822** (STA.5002.0004.1038 at .1042).
- 310 Heap: Day 31, T3436.1-8; Bradley: Day 32, T3485.45-3486.1; Pitkin: Day 33, T3619:32-46; T3620.12-17; Lahey: Day 33, T3682.11-16; Sheppard: Day 34, T3754.1-13.
- 311 **Exhibit B-1096** (STA.3009.0007.0506).
- 312 Ibid at .0508.
- 313 **Exhibit H-634** para [2.5.2] (INQ.018.002.0001 at .0011).

- 314 Star Entities' Written Submissions dated 21 June 2022, para [J.120]; **Exhibit B-3331**  
(CORRO.001.001.0190 at .0300).
- 315 **Exhibit B-3414** (STA.3008.0002.0616).
- 316 *Ibid.*
- 317 **Exhibit H-634** para [2.4.1] (INQ.018.002.0001 at .0010).
- 318 **Exhibit B-3414** (STA.3008.0002.0616).
- 319 Bekier: Day 28, T3155.42-45.
- 320 Arnott: Day 14, T1563.33-36; Bekier: Day 28, T3155.47 –3156.1; **Exhibit H-634** para [6.8.1(a)]  
(INQ.018.002.0001 at .0051).
- 321 **Exhibit G-727** (STA.3023.0001.0515).
- 322 **Exhibit G-728** (STA.3023.0001.0545).
- 323 See for example, **Exhibit G-733** (STA.3023.0001.0434).
- 324 INQ .002.001.0194 at .0200.
- 325 ILGA.013.001.0098.
- 326 **Exhibit G-813** (STA.3435.0005.0054).
- 327 **Exhibit G-812** (STA.3435.0055.0038).
- 328 *Ibid* at .0042.
- 329 Counsel Assisting Oral Submissions: Day 39, T4106.12-14; Day 39, T4120.45-4121.2.
- 330 Counsel Assisting Oral Submissions: Day 39, T4121.6-29; T4122.6-40; T4124.6-17; Day 46, T4519.43-  
4520.27.
- 331 Counsel Assisting Oral Submissions: Day 39, T4123.31-43.
- 332 Counsel Assisting Oral Submissions: Day 46, T4519.15-41; **Exhibit H-634** para [6.8.1(a)]  
(INQ.018.002.0001 at .0051).
- 333 Counsel Assisting Oral Submissions: Day 46, T4519.35-41.
- 334 Star Entities' Written Submissions dated 21 June 2022, para [J.254]-[J.255].
- 335 Star Entities' Written Submissions dated 21 June 2022, para [J.237]; *Bowstead and Reynolds on Agency*  
(19th ed) at 9-10 [1-019]; quoted in *Tonto* at [178].
- 336 Star Entities' Written Submissions dated 21 June 2022, para [J.255].
- 337 *Ibid* para [J.256].
- 338 *Ibid* para [J.259(a) to (d)];
- 339 *Ibid* para [J.259(e) to (g)].
- 340 *Ibid* para [J.261].
- 341 *International Harvester* (1958) 100 CLR 644.
- 342 *Ibid* at 652.
- 343 *Tonto Home Loans* (2011) 15 BPR 29, 699; [2011] NSWCA 389.
- 344 *Ibid* at [171].
- 345 *Ibid* at [173]-[174]; *Kirkpatrick v Kotis* (2004) 62 NSWLR 567 at 581 [86].
- 346 *Tonto Home Loans* at [177].
- 347 **Exhibit I-396** (INQ.002.002.0316 at .0320); **Exhibit B-3118** (INQ.002.002.0045 at .0047).

- 348 Ibid.
- 349 “Law of Agency” G.E. Dal Pont, LexisNexis 4th ed 2020 at [2.26].
- 350 Ibid. at [2.27].
- 351 **Exhibit F-1** (STA.3435.0088.1779).
- 352 Ibid at .1784.
- 353 Star Entities’ Written Submissions dated 21 June 2022, para [J.11(c)].
- 354 Ibid para [J.11(f)].
- 355 Ibid para [J.11(f)].
- 356 Ibid para [J.61]; **Exhibit M-16** (STA.3403.0002.7256 at 7257).
- 357 **Exhibit B-514** (STA.3410.0018.8878 at .0879).
- 358 **Exhibit B-516** (STA.3008.0023.7908 at .7909).
- 359 **Exhibit B-625** (STA.3415.0002.6737).
- 360 Arnott: Day 13, T1500.1-4; See for example, **Exhibit G-492** (STA.3037.0001.0025).
- 361 Arnott: Day 14, T1551.39-44.
- 362 Arnott: Day 14, T1552.12-21.
- 363 **Exhibit S-370** (STA.3421.0018.0964).
- 364 **Exhibit H-634** (INQ.018.002.0001 at .0011).
- 365 Whytercross: Day 10, T1045.34-45.
- 366 **Exhibit H-634** para [4.3.3] (INQ.018.002.0001 at .0019).
- 367 O’Neill: Day 36, T3914.3-33.
- 368 Star Entities’ Written Submissions dated 21 June 2022, para [J.11(g)].



**Chapter 17**  
**The Conduct of Star Entertainment's International VIP**  
**Team since 2016**

# Chapter 17. The Conduct of Star Entertainment's International VIP Team since 2016

## Chapter 17.1 Introduction

1. Until early 2020, when the impacts of COVID-19 began to be felt in Australia, Star Entertainment's IRB was a significant component of revenue.<sup>1</sup>
2. The importance of Star Entertainment's IRB in the Relevant Period was emphasised by Mr Matt Bekier in his CEO's Message in the 2018 Annual Report of Star Entertainment:<sup>2</sup>

We achieved increased share in key gaming segments including the International VIP Rebate business where turnover was up 54% at more than \$61 billion. Normalised International VIP Rebate gross revenue increased 52% to \$827 million. Statutory International VIP Rebate revenue was up 11% despite a low actual win rate of 1.16% compared to the high win rate of 1.59% in FY 2017. Complementing this volume growth was the outstanding performance of the credit risk management and approval team.

3. Star Entertainment's 2019 Annual Report recorded revenue from the IRB of \$255.9 million (comprising net gaming win, less player and gaming promoter rebates and promotional allowances). This amounted to approximately 11.9% of Star Entertainment's statutory net revenue.<sup>3</sup>
4. The financial performance of the IRB underpinned significant projects including the renovation of the Sovereign Room at The Star.<sup>4</sup> Yet in Mr Bekier's evidence to the Review, he described the IRB as a "dark art".<sup>5</sup>

Q. And what do you mean "the dark art"?

A. The dark art of acquiring customers, you know, to convince them to fly long-range to gamble in our casinos, and then finding a way to entertain them and collect, you know – and then, you know, settle and collect the money. That's very different from the rest of our business.

5. This report has already discussed in Chapter 15 serious misconduct by members of the International VIP Team through a systemic and repeated practice of making deliberate misrepresentations to the BOC in Macau as to the source of various cash deposits. Chapter 16 examined the lack of supervision of high-risk overseas payment channels which followed the closure of the BOC Macau accounts.

6. This Chapter focuses on serious concerns in relation to the conduct of senior personnel in Star Entertainment's International VIP Team in the Relevant Period and the lack of adequate supervision of the International VIP Team.

### **Chapter 17.2 The organisational structure of the International VIP Team in the Relevant Period**

7. In the Relevant Period, the International VIP Team included three units, being VIP International Operations, International VIP Sales and Commercial Finance International Marketing.<sup>6</sup>
8. From the beginning of the Relevant Period until March 2018, the International VIP Team reported to Mr John Chong, President International Marketing.<sup>7</sup> Those directly reporting to Mr Chong in this period included Mr Saro Mugnaini, the General Manager VIP International, and Mr Michael Whytcross, the General Manager, Commercial Finance, International Marketing.<sup>8</sup> In this period, Mr Chong reported directly to Mr Bekier.<sup>9</sup> Mr Chong's employment was terminated in March 2018, and the International VIP Team was then restructured.<sup>10</sup>
9. From 1 April 2018, Mr Marcus Lim, President International VIP Sales,<sup>11</sup> led the International VIP Sales Team, and reported directly to Mr Hawkins.<sup>12</sup> Mr Mugnaini and Mr Whytcross also reported directly to Mr Hawkins.<sup>13</sup>

### **Chapter 17.3. Mr John Chong**

10. Mr Chong was based in Hong Kong.<sup>14</sup> Mr Chong's employment was terminated in 2018 and he was granted six months' leave ceasing on 21 September 2018. This was stipulated in a Deed of Release between Mr Chong and The Star Entertainment Macau Limited dated 28 March 2018. The Deed was executed by Mr Bekier and Ms Paula Martin on behalf of The Star Entertainment Macau Limited.<sup>15</sup>
11. Evidence of management concerns about the leadership of Mr Chong emerged for the first time during Mr Bekier's oral evidence in the public hearings:<sup>16</sup>

A. ... When I became aware of concerns around the leadership of John Chong, concerns that were raised, you know, through – internally, we moved very quickly to address those concerns. And so I have – I felt that we were doing the right things and that we respond to every indication of any wrongdoing in that space.

Q. And what were the concerns in relation to John Chong?

A. The concerns in relation to John Chong were that it was not clear where he was for extended periods of time, that his team could not find him and that he was not providing the appropriate leadership over his people.

Q. And what conclusion was reached in relation to those concerns?

A. We terminated employment.

### **“Summary of Events” Document**

12. Following this evidence by Mr Bekier, Counsel Assisting made a call for production of documents relevant to Mr Chong's cessation of employment.<sup>17</sup> This call led to the production of an email from Ms Kim Lee, Chief People and Performance Officer at Star Entertainment, to Ms Martin dated 11 March 2018, which attached a document called “Summary of Events – IRB” (**Summary of Events**).<sup>18</sup> Ms Lee's role at Star Entertainment included providing support to Mr John O'Neill, and by extension, the Board.<sup>19</sup> Ms Lee was described by Mr Ben Heap as possessing “a strong understanding of the people issues across the business”. He said she had “oversight of the transformation program of work and the renewal steering committee”.<sup>20</sup>
13. The concerns noted by Ms Lee in the Summary of Events regarding Mr Chong included the following:<sup>21</sup>
- (a) “JC driving poor behaviour that further alienates Sales from Service/Operations - could lead to toxic culture”;
  - (b) “Ignorance of Company policy”;
  - (c) “Poor Leadership and understanding of process”;
  - (d) “JC has a fundamental lack of understanding of what the CFO was asking of him”;
  - (e) “Commercial capability gap, misaligned to interests of Leadership team”;
  - (f) “... intimidating behaviour from a senior leader towards a junior member of HR-ignorance of Company policy”; and
  - (g) “... does not value Leadership engagement and support of his service team in Australia. No Leadership follow up of issues relating to service. Bias towards the sales team”.
14. Mr Chong was not called to give evidence and had no opportunity to address these matters. No findings are made against him. However what is relevant is that the matters noted by Ms Lee (individually and when read together with their context) demonstrate serious

concerns held by Star Entertainment about Mr Chong and his patterns of behaviour and leadership.

15. The Summary of Events also noted a very high turnover of staff within the International VIP Team as follows:<sup>22</sup>

There have been a number of terminations (36 in the last 12 months) in the IRB team – 37% turnover. These range from resignations, summary dismissals, performance terminations, redundancy, termination within probation and resignation as a result of company assisted termination. This number is excessive given the size of the team. 97 employees in total in team.

16. As The Star Entities accepted, the unusually high turnover gave further cause for concern regarding Mr Chong's management of the International VIP Team.<sup>23</sup>
17. The circumstances of Mr Chong's termination indicate that there were concerns of serious deficiencies with the leadership and management of the VIP International Team in the period up to April 2018. It was in this period that staff of Star Entertainment were engaging in very serious misleading communications to the BOC in Macau which disguised the true source of cash deposits.
18. The non-executive directors agreed that the issues raised by Summary of Events were of very serious concern.<sup>24</sup>
19. Given the time at which the Summary of Events document was produced to the Review, witnesses who were not directors of Star Entertainment were not examined about the contents of the Summary of Events or their response to the concerns noted by Ms Lee.

#### **Notification to the Board of termination of Mr Chong's employment**

20. On 21 March 2018, Mr Bekier sent an email to Mr O'Neill entitled "Topics for the catch up – 21 March 2018". The email attached a document entitled "President International Marketing" which set out, among other things, details of the "proposed terms of separation".<sup>25</sup> The document also contained diagrams entitled "IRB Organisation Model Changes".<sup>26</sup> These diagrams identified that Mr Lim would become President International VIP Marketing and that he and the other persons who previously reported to Mr Chong would report to the Managing Director of The Star Sydney (i.e. Mr Hawkins at that time).
21. Mr O'Neill was made aware by Mr Bekier that he had decided to terminate Mr Chong's employment at around the time that Mr Chong's employment concluded.<sup>27</sup> Mr O'Neill told the Review that he could not recall the exact words Mr Bekier used to inform him why Mr

Chong was being terminated, but he was told by Mr Bekier “that it was time to move him on”.<sup>28</sup> Mr O’Neill did not enquire further as to the reasons for Mr Chong’s departure. Mr O’Neill gave evidence that he did not inform the other Board members about what he had been told about Mr Chong’s departure as he believed that this was Mr Bekier’s responsibility.<sup>29</sup>

22. Mr Bekier informed the Board of Mr Chong’s “redundancy” at page 22 of his March 2018 Managing Director and CEO report, under the heading “Human Resources”, stating only in small print, amongst a number of other noted personnel changes “John Chong, President International Marketing, redundancy 23/3”.<sup>30</sup> This paper was taken as read at the board meeting on 24 May 2018 and the minutes do not disclose that any discussion concerning Mr Chong’s termination took place at the meeting.<sup>31</sup>
23. Mr Bekier was not examined on the nature and content of this communication to the Board of Star Entertainment in relation to the circumstances of Mr Chong’s departure. That was because the Summary of Events document had not been produced to the Review until after Mr Bekier had given evidence. Although it was possible for witnesses to be recalled after they had given evidence at the public hearings, the time pressures under which this Review was conducted meant that this was a step which could only be taken in compelling circumstances.
24. As Mr Bekier was not examined on this report, he has not had an opportunity to explain it. There is no evidence about why Mr Bekier referred to Mr Chong’s departure as a “redundancy” in circumstances where that was clearly not the case. Nor is there any evidence about why Mr Bekier did not provide an explanation about the reasons for Mr Chong’s abrupt termination.
25. Mr Chong was the leader of the VIP International Team. He reported directly to Mr Bekier. As Mr Bekier was not asked why his report to the Board took the form that it did, no personal criticism of Mr Bekier can fairly be made. However, in the circumstances, the Board needed to be fully briefed on the fact of Mr Chong’s termination, the reasons for it and the excessive turnover of staff in the VIP International Team.
26. The non-executive directors of Star Entertainment gave evidence that they had not been made aware of the concerns in relation to Mr Chong prior to preparing to give evidence to the Review.<sup>32</sup> Dr Pitkin told the Review that she would have expected concerns regarding an excessive number of terminations in the International VIP Team and the potential for

Mr Chong's conduct to lead to "toxic culture" to have been raised with the Board.<sup>33</sup> Ms Lahey gave similar evidence and said that the information that was provided to the Board was too vague.<sup>34</sup>

27. Five of the non-executive directors were not aware of the concerns raised by Ms Lee.<sup>35</sup> The evidence of a number of the non-executive directors was that no other details about the circumstances of Mr Chong's departure from Star Entertainment, nor issues of any cultural problems, were raised with them at this time.<sup>36</sup> However, Ms Lahey recalled being made aware that Star Entertainment was "doing some reviews of our international offices; that John Chong hadn't proved to be a strong enough manager; and as part of the process of the review, he would be made redundant".<sup>37</sup>
28. The Star Entities accepted that the information in the Managing Director & CEO Report for March 2018 should have been given greater prominence and the Board should have been informed of the reasons for Mr Chong's termination.<sup>38</sup> The Star Entities also accepted that concerns documented by Ms Lee should have been communicated to the Board at the time it was notified of Mr Chong's termination, if not prior to that time.<sup>39</sup>

#### Chapter 17.4 Mr Marcus Lim

29. In March 2016, Mr Lim commenced employment at Star Entertainment in the role of Senior Vice President International Marketing, reporting to Mr Chong.<sup>40</sup> From October 2017, Mr Lim was the General Manager Marketing Asia Pacific.<sup>41</sup> Between April 2018 and January 2021, Mr Lim was the President of International VIP Sales.<sup>42</sup> He reported to Mr Hawkins from April 2018.<sup>43</sup> Mr Lim was made redundant in July 2020 and his termination became effective in January 2021.
30. The seniority of Mr Lim's role is emphasised by the fact that he attended meetings of the Board of Star Entertainment in Hong Kong on 26 September 2017<sup>44</sup> and 26 September 2018.<sup>45</sup> The minutes of the 26 September 2018 meeting record that Mr Lim spoke on the agenda item relating to IRB strategy, focusing on the strategy of the sales team.<sup>46</sup>
31. Mr Hawkins gave evidence that in July 2020 he decided to make Mr Lim's position redundant. He said that this was because the IRB had been significantly impacted by COVID-19 and he was considering increasing the productivity of the sales units (Local, Domestic and International) by merging them. He also stated that the future of the IRB was uncertain at that time and he decided to implement a staged redundancy for all overseas team members, including Mr Lim.<sup>47</sup>

32. On 21 July 2020, Mr Lim was provided a notice of termination due to redundancy of the role.<sup>48</sup> Mr Lim executed a Deed of Release with his employing entity, EEI C&C Services Pte Ltd, on 27 July 2020.<sup>49</sup> Mr Lim's employment subsequently terminated on 24 January 2021.<sup>50</sup>

### **Investigations conducted in relation to Mr Lim**

33. Evidence was given to The Review of three separate investigations into Mr Lim between 2017 and 2019 by the Investigations Team, led by Mr Kevin Houlihan, the Group Investigations Manager of Star Entertainment in that period.<sup>51</sup>

#### 2017 investigation

34. In or around 2017, Mr Houlihan was given information indicating that Mr Lim had been gambling at a casino in Macau.<sup>52</sup> Mr Houlihan subsequently informed Mr Hawkins that he had looked into the incident and could not find anything to suggest wrongdoing on Mr Lim's part.<sup>53</sup> Mr Hawkins took no action in light of the information from Mr Houlihan.<sup>54</sup>

#### 2018 investigation

35. In early 2018, an allegation was made that Mr Lim was misusing credit card expenses.<sup>55</sup> Mr Houlihan's evidence was that he subsequently conducted an audit of spending within the International VIP Team.<sup>56</sup>
36. On 12 March 2018, Mr Houlihan reported to Ms Martin that he had not identified any major issues with approvals for Mr Lim's expenses and that he had not identified any illegal or undesirable activity or gross misconduct requiring escalation after reviewing a sample from Mr Lim's email account.<sup>57</sup>
37. Mr Hawkins was told by Mr Houlihan that the allegations were unsubstantiated and Mr Hawkins did not take any further action.<sup>58</sup> Mr Bekier could not recall being made aware of the 2018 allegations against Mr Lim.<sup>59</sup>

#### 2019 investigation

38. In 2019, Mr Houlihan and the Investigations Team undertook a further investigation into Mr Lim's conduct.<sup>60</sup> This investigation was known as Operation Great Wall. In or around May 2019, an employee of Star Entertainment made a number of allegations about Mr Lim to Mr Houlihan under Star Entertainment's Whistleblower Policy (the **Whistleblower**).<sup>61</sup> The Whistleblower alleged that Mr Lim was trying to move into the credit and collections

area and that he was getting a commission from the junket operators for recovering money.<sup>62</sup> Two other employees of Star Entertainment also made allegations against Mr Lim at around this time to Mr Houlihan.<sup>63</sup>

39. An information note from Mr Houlihan to Ms Martin dated 19 July 2019 called “Operation Great Wall” indicates that the 2019 investigation by Mr Houlihan considered a number of “Areas of Potential Misconduct” by Mr Lim, including:<sup>64</sup>
- (a) Conflicts/personal advantage;
  - (b) Corrupt payments;
  - (c) Financial mismanagement;
  - (d) Abuse of patron complimentary balances;
  - (e) Association/affiliation with illegal and undesirable elements;
  - (f) Data security/breach of confidentiality;
  - (g) Breach of company policies and procedures;
  - (h) Interaction with Competitors.
40. There is further elaboration of the alleged facts relating to these “areas of potential misconduct” in the information note.<sup>65</sup> The allegations were of an extremely serious nature and demanded urgent and systematic investigation. Mr Houlihan interviewed the Whistleblower in July 2019.<sup>66</sup> Mr Houlihan’s evidence was that he then spent several months reviewing and assessing the information.<sup>67</sup>
41. About five months later, on 9 December 2019 an independent investigator was engaged to conduct a full profile on Mr Lim.<sup>68</sup> On 16 December 2019, the independent investigator’s interim report concluded that a relative of Mr Lim controlled a company in Singapore that provided junket support services to Star Entertainment.<sup>69</sup> That association appeared to give rise to a serious conflict of interest and Mr Houlihan accepted this in evidence to the Review.<sup>70</sup>
42. After receiving the report, Mr Houlihan had a conversation with Ms Martin about the concerns identified in the independent investigator’s interim report.<sup>71</sup> Ms Martin and Mr Houlihan decided that Mr Houlihan should interview the Whistleblower and that discussion took place on 20 December 2019.<sup>72</sup> In that meeting, the Whistleblower outlined a lengthy series of allegations about Mr Lim and provided documents which were said to support his

- allegations.<sup>73</sup> Mr Houlihan reviewed those documents and gave evidence that he did not find any support in them for the allegations made.<sup>74</sup>
43. Mr Houlihan communicated his findings in a subsequent conversation with Ms Martin, although it is unclear when this occurred. He and Ms Martin agreed that when the opportunity arose, he would conduct a formal face-to-face interview with Mr Lim to put all of the allegations to him and seek a formal response.<sup>75</sup>
44. Mr Houlihan did not in fact ever conduct a face-to-face interview with Mr Lim before Mr Lim was ultimately made redundant as a result of the COVID-19 pandemic.<sup>76</sup> Mr Houlihan stated that this was because he was “not ready” to interview Mr Lim in December 2019 or January 2020 and thereafter was concerned regarding travel restrictions due to the emergence of COVID-19.<sup>77</sup> Mr Houlihan gave evidence that he did not interview Mr Lim virtually as he preferred to do so “on [his] turf ... in Australia”.<sup>78</sup>
45. It needs to be emphasised that Mr Lim was not called to give evidence to the Review and has had no opportunity to address the allegations made against him. No finding is made of any misconduct by Mr Lim. The relevance of these matters is that very serious allegations had been made against Mr Lim, at that time the President of International VIP Sales, and those allegations were being investigated by Star Entertainment.
46. The investigation of the allegations against Mr Lim was inadequate. It proceeded far too slowly both in light of his seniority within the company and the gravity of the allegations made against him. Serious allegations had been made against Mr Lim more than a year before he was made redundant. There is no satisfactory reason why the investigation should not have been concluded prior to Mr Lim’s redundancy.

#### **Knowledge of various members of senior management regarding the 2019 investigation**

47. Mr Houlihan gave evidence that he did not inform Mr Hawkins of the 2019 allegations.<sup>79</sup> Mr Hawkins said that he did not know about the 2019 allegations.<sup>80</sup> That evidence is accepted.<sup>81</sup>
48. Mr Houlihan reported to Ms Martin. Ms Martin said she was “generally aware” of Operation Great Wall and the scope of the allegations against Mr Lim.<sup>82</sup> The information note dated 19 July 2019 was sent to her by Mr Houlihan.<sup>83</sup> Ms Martin could not recall whether she reported the allegations to the Board or any of its committees.<sup>84</sup> She agreed that if she had, her report would “most likely” be reflected in the minutes of the Board or a

- committee.<sup>85</sup> Given there are no such references in the minutes produced to the Review, it follows that the allegations were not reported to the Board or its committees. The Star Entities accepted that this conclusion was open to the Review.<sup>86</sup>
49. This conclusion is also consistent with the evidence of Mr Bekier, Dr Pitkin, Ms Lahey, Mr Richard Sheppard and Mr O'Neill, each of whom said that they were not made aware of these of the allegations at the time.<sup>87</sup> Mr Bradley was not asked about the matter.
50. Mr Bekier said that he was generally aware of the 2019 investigation, but not of the details of the allegations, other than that there were allegations of "kick-backs".<sup>88</sup> Mr Houlihan gave evidence that he did not inform Mr Bekier of the allegations.<sup>89</sup> Mr Bekier said he was not made aware of the findings of the due diligence report on Mr Lim.<sup>90</sup>
51. Mr Bekier's evidence was that, in November 2019, he asked about the status of the investigation into the allegations against Mr Lim<sup>91</sup> and was told by Ms Martin that the investigation had been concluded on the basis that there was no evidence supporting the allegations.<sup>92</sup> If this was stated, then it was incorrect. The investigations into Mr Lim continued in 2020 and no conclusion was reached prior to Mr Lim's redundancy became effective in January 2021.<sup>93</sup> However, Ms Martin was not asked about this matter in her oral evidence.
52. The serious allegations of misconduct against Mr Lim in 2019 and the investigation into those allegations should have been notified to the Board of Star Entertainment. This is another example of inappropriate isolation or "siloing" of information within a division of Star Entertainment and the failure by management to inform the Board of matters of which it needed to know in order to properly perform its functions.

### **Disclosure of allegations to the Authority**

53. Mr Bekier accepted in his evidence that the Authority should have been notified of the allegations against Mr Lim even if there was no statutory requirement to do so.<sup>94</sup> The Star Entities submitted that such a finding should not be made given the procedural fairness implications to Mr Lim and the potential impact on an employee's reputation of reporting untested allegations to a regulator.<sup>95</sup>
54. Mr Lim held a Special Employee Licence issued by the Authority.<sup>96</sup> The allegations against Mr Lim were "untested" more than a year after they were made only because the investigation into them by The Star Entities was inadequate and dilatory. If the Authority

had been notified of the allegations made in 2019, it would have enabled the Authority to consider and make its own inquiries into whether it had grounds for disciplinary action under the *Casino Control Act* in light of Mr Lim's status as a licensed employee. If after making any such inquiries, the Authority proposed to take disciplinary action, section 59 of the *Casino Control Act* sets out the procedure that must be followed, which would have included allowing Mr Lim to make submissions prior to any action being taken. It follows that there was a statutory mechanism which would have ensured that Mr Lim was afforded procedural fairness.

### Chapter 17.5 Mr Simon Kim

55. Mr Hwa Ryong (Simon) Kim commenced working at Star Entertainment on or around 15 November 2017.<sup>97</sup> Mr Kim was the Senior Vice President of International Marketing at Star Entertainment until 13 June 2020.<sup>98</sup> Mr Kim was the principal relationship manager for the Iek junket (i.e. Suncity) when he commenced his position.<sup>99</sup> From 18 September 2017 to 2019, Mr Kim was the International Marketing Manager.<sup>100</sup> During this period, Mr Kim reported to Mr Chong and thereafter to Mr Lim.<sup>101</sup> Mr Kim was based in Macau from 15 November 2017.<sup>102</sup> Mr Kim held a special employee licence issued by the Authority.<sup>103</sup>
56. In March 2020, Mr Kim disappeared.<sup>104</sup> Following Mr Kim's disappearance, Star Entertainment initiated a process to find him and reported his disappearance to the Macau police.<sup>105</sup> Mr White was involved in dealing with external legal firms trying to determine what had occurred.<sup>106</sup>
57. Mr Kim was sent a termination letter by Star Entertainment on 13 July 2020 which stated that he had abandoned his employment and had not contacted Star Entertainment after 23 March 2020.<sup>107</sup>
58. Following Mr Kim's disappearance, a number of extremely serious allegations were raised in relation to him.<sup>108</sup> Issues raised in relation to Mr Kim included that he:
  - (a) misappropriated funds while working at Star Entertainment;<sup>109</sup>
  - (b) defrauded Mr Guoyi Su of winnings when Mr Su played with the Suncity junket;<sup>110</sup>
  - (c) issued a \$13.3 million false transfer instruction to Suncity. Suncity believed it was transferring money to The Star, but instead it transferred the funds into an account controlled by Mr Kim;<sup>111</sup> and

(d) was involved in a fraud on Suncity relating to \$4 million.<sup>112</sup>

59. Mr Houlihan was told by Mr Hawkins on or about 19 March 2020 of an allegation that Mr Kim had stolen money from the Suncity junket. Mr Houlihan immediately informed Ms Martin.<sup>113</sup> On 20 March 2020, Mr Houlihan was informed of other serious allegations in relation to Mr Kim.<sup>114</sup> Mr Houlihan said that he asked Mr White to request documents or evidence supporting the allegations to allow him to conduct his own investigation but no such documents or evidence were provided.<sup>115</sup> Mr Houlihan said that no investigation was conducted by Star Entertainment in relation to the allegations because no evidence was supplied to Star Entertainment.<sup>116</sup> There is no evidence that any steps were taken to raise the matter directly with Suncity.

### **Knowledge of the allegations against Mr Kim**

60. Mr Houlihan, Mr Hawkins and Mr Bekier all gave evidence that they were not aware of any allegations against Mr Kim until after his disappearance in March 2020.<sup>117</sup>
61. Mr Bekier did not know whether these serious allegations were notified to the Board's Risk and Compliance Committee.<sup>118</sup> The minutes of that committee do not refer to this matter, or that he had disappeared. Further, Dr Pitkin, Ms Lahey and Mr Sheppard all said that they were only made aware of the allegations against Mr Kim in preparing for the Review.<sup>119</sup>
62. Despite Ms Martin, Mr Hawkins and Mr Bekier all being aware of Mr Kim's disappearance and the extremely serious allegations against Mr Kim, it is clear that the Risk and Compliance Committee was not informed of these matters and therefore had no opportunity to consider the ramifications. These allegations clearly should have been raised with the Board.

### **Failure to notify the Authority**

63. As Mr Kim held a special employee licence issued by the Authority, sub-section 62(1)(c) of the *Casino Control Act* required The Star to notify the Authority within 14 days of Mr Kim ceasing to have functions that were in, or were in relation to, The Star Casino. Section 62 provides that compliance with sub-section 62(1)(c) is a condition of a casino license.

64. Despite Mr Kim disappearing in March 2020 and being terminated in July 2020, L&GNSW was first notified of Mr Kim's termination more than two months later on 23 September 2020 when it was informed by The Star that Mr Kim had abandoned his employment.
65. This was a breach by The Star of its casino licence. This is accepted by The Star Entities.<sup>120</sup> The notification that was made to L&GNSW did not contain any reference to the allegations that had been made against Mr Kim or that he had "disappeared". The notification stated that Mr Kim had "abandoned his employment".

### Chapter 17.6 The closure of Star Entertainment's overseas offices

66. During the Relevant Period, Star Entertainment operated offices in Macau, Hong Kong and Singapore. The offices were staffed by various personnel. Star Entertainment had 99 employees based overseas during the Relevant Period.<sup>121</sup> In addition to Macau, Hong Kong and Singapore, several staff were also based in New Zealand and one staff member was based in Taiwan.
67. At various times during the Relevant Period, a total of 19 staff members were based in Macau alone.<sup>122</sup>
68. The office in Macau was closed on 29 June 2021.<sup>123</sup> The offices in Hong Kong and Singapore were closed in January 2022.<sup>124</sup>

### Chapter 17.7 Inadequate Supervision and Management of the International VIP Team

69. The IRB presented the greatest risks to The Star Entities in terms of money laundering and terrorism financing.<sup>125</sup> It was therefore an area of the business which required the most diligent management and close supervision. However, the matters identified in Chapter 15, Chapter 16 and this Chapter demonstrate that management and supervision of the International VIP Team in the Relevant Period was completely inadequate to manage the risks.
70. Mr Bekier gave the following evidence:<sup>126</sup>

Q: It's right, isn't it, that the VIP area of the business presented the greatest risks to the business in terms of money laundering and terrorism financing?

A: Yes, Ms Sharp.

Q: And it's right, isn't it, that just at the point where the AML and CTF risks were most acute is where the business most fundamentally dropped the ball?

A: I am afraid that's right, Ms Sharp.

71. Mr Bekier accepted that there were shortcomings in the structures, policies and controls in place, but would not take personal responsibility for any individual shortcomings in the management of the team:<sup>127</sup>

Q: Well, the VIP team reported directly to you until April 2018, didn't it?

A: Through John Chong, yes.

Q: Well, surely you must take some responsibility for failings occurring prior to that date?

A: Well, Ms Sharp, you know, when - when I became aware of concerns around the leadership of John Chong, concerns that were raised, you know, through - internally, we moved very quickly to address those concerns. And so I've - I felt that we were doing the right things and that we responded to every indication of any wrongdoing in that space.

72. Mr Hawkins accepted that there were shortcomings in his supervision of the "VIP Team".<sup>128</sup> Mr Hawkins accepted that this was undeniable in view of the allegations and misconduct that have come to light in relation to various members of this team.<sup>129</sup>
73. Mr Hawkins said that there were systemic issues which hindered his role. One systemic issue identified by Mr Hawkins was that he did not have responsibility for the entire International VIP Team but only the International VIP Sales Team. Mr Hawkins stated that this siloing hindered his ability to effectively oversee these operations as he did not have direct oversight of credit and collection personnel or overseas compliance personnel.<sup>130</sup> The siloing of areas of the International VIP Team may have hindered Mr Hawkins' ability to effectively oversee these operations.
74. There were clear failings in the management and oversight of the International VIP Team. The Star Entities accepted that it was open to the Review to find that there were failures of oversight in relation to the International VIP Team.<sup>131</sup> Mr Bekier must bear some responsibility for these failures, both before and after Mr Chong's departure. However these were not merely individual failings. These were systemic governance, risk management and cultural failings of The Star and Star Entertainment.
75. Further, none of these concerns, allegations or issues were reported by The Star to the Authority during the Relevant Period.
76. On 9 May 2022, Star Entertainment released an ASX Announcement stating that it was suspending its international and domestic rebate play programs.<sup>132</sup>

77. **Recommendation:** It is recommended that the Authority take steps to require the operator of The Star Casino to notify the Authority within 14 days of the casino operator becoming aware of any allegation concerning the holder of a special employee licence employed or working in the casino (**Licensee**) which, if established, would be grounds for disciplinary action against the Licensee.
78. **Recommendation:** It is recommended that the Authority note and take such action as it sees fit in relation to the Review's finding of The Star's breach of section 62(1)(c) of the *Casino Control Act* in failing to notify the Authority within 14 days of Mr Simon Kim ceasing to have functions in or in relation to The Star Casino.

## Endnotes

- <sup>1</sup> Heap: Day 30, T3388.10-19; Sheppard: Day 29, T3268.21-22.
- <sup>2</sup> **Exhibit M-20** (INQ.001.001.0321 at .0330).
- <sup>3</sup> **Exhibit J-54** (INQ.001.001.0469 at .0555).
- <sup>4</sup> Sheppard: Day 29, T3268.11-22.
- <sup>5</sup> Bekier: Day 26, T2999.1-15.
- <sup>6</sup> **Exhibit A-378**, para [41]-[43](INQ.002.004.0109).
- <sup>7</sup> Ibid; Star Entities' Written Submissions dated 21 June 2022, para [K.6].
- <sup>8</sup> **Exhibit A-378**, para [41]-[43] (INQ.002.004.0109).
- <sup>9</sup> **Exhibit A-597**, para [7] (INQ.002.004.0264); Star Entities' Written Submissions dated 21 June 2022, para [K.6].
- <sup>10</sup> **Exhibit A-378**, para [41]-[43] (INQ.002.004.0109); Bekier: Day 26, T2990.31-48; Star Entities' Written Submissions dated 21 June 2022, para [K.6].
- <sup>11</sup> **Exhibit A-378**, para [177] (INQ.002.004.0109).
- <sup>12</sup> **Exhibit G-963**, para [11]-[13] (INQ.002.004.0282).
- <sup>13</sup> Ibid; **Exhibit A-597**, para [7]-[8] (INQ.002.004.0264).
- <sup>14</sup> Whytcross: Day 9, T947.11-13.
- <sup>15</sup> **Exhibit J-29** (STA.3433.0042.0001).
- <sup>16</sup> Bekier: Day 28, T3144.15-29.
- <sup>17</sup> Bekier: Day 28, T3145.1-2.
- <sup>18</sup> **Exhibit J-20** (STA.3402.0007.3857); **Exhibit J-21** (STA.3402.0007.3858).
- <sup>19</sup> Heap: Day 30, T3370.18-22.
- <sup>20</sup> Heap: Day 30, T3370.18-22.
- <sup>21</sup> **Exhibit J-20** (STA.3402.0007.3857); **Exhibit J-21** (STA.3402.0007.3858 at .3858-.3860).
- <sup>22</sup> **Exhibit J-21** (STA.3402.0007.3858 at .3863-.3864).
- <sup>23</sup> Star Entities' Written Submissions dated 21 June 2022, para [K.14].
- <sup>24</sup> Heap: Day 30, T3372.24-44; Bradley: Day 32, T3509.40-49; Lahey: Day 33, T3659.1-7; Sheppard: Day 34, T3737.4-8.
- <sup>25</sup> **Exhibit J-28** (STA.3433.0024.5500 at .5500).
- <sup>26</sup> Ibid at .5501.
- <sup>27</sup> **Exhibit J-27** (STA.3433.0024.5498); O'Neill: Day 36, T3908.39-41.
- <sup>28</sup> O'Neill: Day 36, T3909.33-34, 44-45.
- <sup>29</sup> O'Neill: Day 36, T3908.46-48.
- <sup>30</sup> **Exhibit H-72** (STA.5002.0004.1244 at .1265).
- <sup>31</sup> **Exhibit B-822** (STA.5002.0004.1038 at .1043).
- <sup>32</sup> Heap: Day 30, T3372.27; Bradley: Day 32, T3509.41; Pitkin: Day 32, T3583.43; Lahey: Day 33, T3659.35-42; Sheppard: Day 34, T3736.40-46.

- 33 Pitkin: Day 32, T3584.39-T3585.4.
- 34 Lahey: Day 33, T3660.1-12.
- 35 Heap: Day 30, T3375.12; Bradley: Day 32, T3509.41; Pitkin: Day 32, T3584.36-37; Sheppard: Day 34, T3736.40; O'Neill: Day 36, T3910.27.
- 36 Heap: Day 30, T3375.9-22; Bradley: Day 32, T3512.17-27; Pitkin: Day 32, T3584.36-37; Sheppard: Day 34, T3735.41-T3736.2; Sheppard: Day 34, T3736.36-46; O'Neill: Day 36; T3909.30-34; O'Neill: Day 36; T3910.27.
- 37 Lahey: Day 33, T3659.35-37.
- 38 Star Entities' Written Submissions dated 21 June 2022, para [K.22].
- 39 Ibid para [K.24].
- 40 **Exhibit A-378**, para [177] (INQ.002.004.0109); Bekier: Day 28, T3130.47-T3131.1.
- 41 **Exhibit A-378**, para [177] (INQ.002.004.0109).
- 42 Ibid; Bekier: Day 28, T3131.7.
- 43 **Exhibit A-378**, para [178] (INQ.002.004.0109); **Exhibit G-963**, para 13 (INQ.002.004.0282).
- 44 **Exhibit G-65** (STA.5002.0003.2255).
- 45 **Exhibit D-21** (STA.5002.0004.1056).
- 46 Ibid at .1056 - .1058.
- 47 **Exhibit A-378**, para [188]-[189] (INQ.002.004.0109).
- 48 **Exhibit B-2491** (STA.3008.0006.4575); **Exhibit A-378**, para [190] (INQ.002.004.0109).
- 49 Ibid.
- 50 **Exhibit A-378**, para [189] (INQ.002.004.0109); **Exhibit A-627**, para [181] (INQ.002.004.0174).
- 51 **Exhibit A-627**, para [3] and [184]-[193] (INQ.002.004.0174).
- 52 **Exhibit A-378**, para [182] (INQ.002.004.0109).
- 53 **Exhibit A-378**, para [183]-[184] (INQ.002.004.0109); Hawkins: Day 24, T2786.24-45.
- 54 **Exhibit A-378**, para [184] (INQ.002.004.0109); Hawkins: Day 24, T2786.24-45.
- 55 Bekier: Day 27, T3127.7-22; Bekier: Day 28, T3135.5-7; **Exhibit A-627**, para [185]-[188] (INQ.002.004.0174).
- 56 **Exhibit A-627**, para [187]-[188] (INQ.002.004.0174).
- 57 **Exhibit A-627**, para [186] (INQ.002.004.0174); **Exhibit B-693** (STA.3402.0007.3906).
- 58 **Exhibit A-378**, para [184] (INQ.002.004.0109); Hawkins: Day 24, T2786.37-43.
- 59 Bekier: Day 28, T3135.5-9.
- 60 **Exhibit G-690** (STA.3004.0006.0003).
- 61 Confidential Transcript: Day 12, T23.10-T24.22; **Exhibit G-669** (STA.3428.0023.2682 at .2687).
- 62 Confidential Transcript: Day 12, T24.14-22; **Exhibit G-669** (STA.3428.0023.2682 at .2683-.2684).
- 63 Confidential Transcript: Day 12, T22.21-32.
- 64 Bekier: Day 28, T3132.39-T3133.6; **Exhibit G-690** (STA.3004.0006.0003 at .0004).
- 65 **Exhibit G-690** (STA.3004.0006.0003 at .0004).
- 66 Confidential Transcript: Day 12, T27.38-39.

- 67 Confidential Transcript: Day 12, T30.35-39.
- 68 Confidential Transcript: Day 12, T30.26-30; **Exhibit A-627**, para [189] (INQ.002.004.0174).
- 69 Bekier: Day 28, T3135.38-46; **Exhibit B-2063** (STA.3402.0003.8648); **Exhibit B-2064** (STA.3402.0003.8652); **Exhibit A-627**, para [190] (INQ.002.004.0174).
- 70 Star Entities' Written Submissions dated 21 June 2022, para [K.30]; Confidential Transcript: Day 12, T32.12-24.
- 71 Confidential Transcript: Day 12, T34.27-30; **Exhibit A-627**, para [191] (INQ.002.004.0174).
- 72 **Exhibit A-627**, para [191] (INQ.002.004.0174); Confidential Transcript: Day 12, T29.7-8 and T32.39-47.
- 73 **Exhibit A-627**, para [192] (INQ.002.004.0174).
- 74 Ibid.
- 75 Ibid para [193].
- 76 Ibid.
- 77 Confidential Transcript: Day 12, T33.1-21.
- 78 Confidential Transcript: Day 12, T33.11-12.
- 79 Confidential Transcript: Day 12, T21.1-4.
- 80 Hawkins: Day 24, T2783.26-30.
- 81 Star Entities' Written Submissions dated 21 June 2022, para [K.33].
- 82 Martin: Day 20, T2270.33-34.
- 83 Martin: Day 20, T2265.15-18; **Exhibit G- 690** (STA.3004.0006.0003).
- 84 Martin: Day 20, T2272.44.
- 85 Martin: Day 20, T2272.46-T2273.1.
- 86 Star Entities' Written Submissions dated 21 June 2022, para K.37.
- 87 Bekier: Day 28, T3137.24; Bekier: Day 28, T3133.8; Pitkin: Day 33, T3616.35; Lahey: Day 33, T3681.13; Sheppard: Day 34, T3740.31; O'Neill: Day 36, T3911.33.
- 88 Bekier: Day 28, T3132.32; Bekier: Day 28, T3135.5-9.
- 89 Confidential Transcript: Day 12, T21.21-23.
- 90 Bekier: Day 28, T3135.46; **Exhibit B-2063** (STA.3402.0003.8648).
- 91 Bekier: Day 28, T3134.34-40.
- 92 Bekier: Day 28, T3134.38-48.
- 93 Bekier: Day 28, T3136.5-10.
- 94 Bekier: Day 28, T3138.13-16.
- 95 Star Entities' Written Submissions dated 21 June 2022, para K.40.
- 96 **Exhibit H-409** (STA.3444.0001.2019 at .2033); STA.3008.0006.4545 at .4546.
- 97 **Exhibit B-3445** (STA.3009.0005.0082); **Exhibit A-378**, para [99] and [192] (INQ.002.004.0109).
- 98 Hawkins, Day 24, T2789.33-36.
- 99 **Exhibit A-378**, para [99] (INQ.002.004.0109).
- 100 Hawkins: Day 24, T2790.1-4.
- 101 Hawkins: Day 24, T2790.6-9.

- <sup>102</sup> Bekier: Day 28, T3138.30-37; Hawkins: Day 24, T2790.11-13; **Exhibit A-378**, para [23] (INQ.002.004.0109).
- <sup>103</sup> STA.3008.0002.3032.
- <sup>104</sup> **Exhibit B-3331** (CORRO.001.001.0190 at .0223); Hawkins: Day 24, T2790.42-T2791.1.
- <sup>105</sup> Hawkins: Day 24, T2791.7-10.
- <sup>106</sup> Hawkins: Day 24, T2791.11-13.
- <sup>107</sup> Hawkins: Day 24, T2790.47-T2791.1.
- <sup>108</sup> Hawkins: Day 24, T2790.15-40.
- <sup>109</sup> Bekier: Day 28, T3138.39-43; Hawkins: Day 24, T2790.15-18; **Exhibit B-3331** (CORRO.001.001.0190 at .0223).
- <sup>110</sup> Bekier: Day 28, T3138.45-48; Hawkins: Day 24, T2790.20-23.
- <sup>111</sup> Bekier: Day 28, T3139.1-6; Hawkins: Day 24, T2790.25-28.
- <sup>112</sup> Hawkins: Day 24, T2790.36-40.
- <sup>113</sup> **Exhibit A-627**, para [195] (INQ.002.004.0174).
- <sup>114</sup> Ibid para [196].
- <sup>115</sup> Ibid para [198].
- <sup>116</sup> Ibid para [200].
- <sup>117</sup> Ibid para [200]; **Exhibit A378**, at [195]-[196] (INQ.002.004.0109); Bekier: Day 28, T3139.10.
- <sup>118</sup> Bekier: Day 28, T3139.29-33.
- <sup>119</sup> Pitkin: Day 33, T3617.34-35; Lahey: Day 33, T3681.31-36; Sheppard: Day 34, T3745.27-37.
- <sup>120</sup> Letter from King & Wood Mallesons to Maddocks dated 5 August 2022.
- <sup>121</sup> **Exhibit B-3445** (STA.3009.0005.0082).
- <sup>122</sup> **Exhibit A-378**, para [23] (INQ.002.004.0109).
- <sup>123</sup> Ibid para [22].
- <sup>124</sup> Ibid para [19].
- <sup>125</sup> Bekier: Day 26, T3000.21-25; Sheppard: Day 29, T3238.45; Sheppard: Day 34, T3744.20-21; O'Neill: Day 34, T3790.32.
- <sup>126</sup> Bekier: Day 26, T3000.21-3.
- <sup>127</sup> Bekier: Day 28, T3144.1-5; Bekier: Day 28, T3144.7-19.
- <sup>128</sup> Gregory Hawkins Written Submissions dated 21 June 2022, para 42.
- <sup>129</sup> Ibid.
- <sup>130</sup> Ibid.
- <sup>131</sup> Star Entities' Written Submissions dated 21 June 2022, para [K.47].
- <sup>132</sup> **Exhibit J-157** (INQ.003.007.0001).

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**Chapter 18**  
**The KPMG Reports**

# Chapter 18. The KPMG Reports

## Chapter 18.1 Commissioning of the reports

1. Star Entertainment has two reporting entities within its designated business group for the purposes of the *AML/CTF Act*: the first reporting entity is for Star Entertainment's Sydney property, which is The Star; and the second is for Star Entertainment's Queensland properties.<sup>1</sup> It is a requirement of the *AML/CTF Act* that reporting entities prepare an AML/CTF program.<sup>2</sup> To give effect to this obligation Star Entertainment maintains a joint AML/CTF program (**AML/CTF Program**).
2. In general terms, the nature of Part A of the AML/CTF Program is for reporting entities to identify, manage and mitigate money laundering risks; and the nature of Part B of the AML/CTF Program is for reporting entities to identify and verify customers to whom they provide designated services.<sup>3</sup>
3. Under Part 9.6 of the *AML/CTF Rules*, Part A of the AML/CTF Program must be the subject of regular independent reviews and the frequency of those reviews should be determined taking into account the nature, size and complexity of the reporting entity's business and the type and level of money-laundering and terrorism financing risks that it might face.<sup>4</sup>
4. From January 2017, Star Entertainment's Chief Risk Officer, Mr Paul McWilliams, assumed responsibility for managing risks associated with anti-money laundering and counter-terrorism financing at Star Entertainment.<sup>5</sup>
5. At that time, the most recent review of Star Entertainment's AML/CTF Program had been undertaken by Mr William Brown.<sup>6</sup> Mr Brown had prepared a report of his review dated 21 August 2015.<sup>7</sup>
6. Mr McWilliams' recollection of Mr Brown's report was that Mr Brown had concluded Star Entertainment's AML/CTF Program was compliant but his conclusions "were very much predicated on the assumption that his recommendations on remediation were implemented".<sup>8</sup> Mr McWilliams said: "My read of that report was that he actually found it was a non-compliant program and we needed to put in place the remedial actions."<sup>9</sup> Mr McWilliams was also concerned in 2017 that "[t]he Brown review was limited in its scope, that it was Part A only, and didn't really delve that much into the operationalisation of the program", so Mr McWilliams considered "that it would be appropriate to have another review in the not too distant future".<sup>10</sup>

7. The Star Entities submitted that Mr Brown’s report was a “positive” one which had concluded, among other things, that the Part A of the AML/CTF Program “was effective”, “complied with the AML/CTF rules”, had been “effectively implemented”, and complied with by the casinos within the Star Entertainment group.<sup>11</sup>
8. Consistent with that submission, Mr Bekier’s evidence was that the KPMG reports came as a “big surprise” to him and were “very different from previous reports”.<sup>12</sup>
9. Irrespective of how Mr Bekier or others might have understood Mr Brown’s report, on its face it appears to support Mr McWilliams’ recollection of it. In particular, on page 1 of Mr Brown’s report, Mr Brown expressed his overall opinion of compliance as being “subject to implementation of the key recommended actions and to the qualifications and assumptions set out below”.<sup>13</sup> That is, in substance, an opinion of *non*-compliance because it is conditional on implementation of the key recommended actions. Further, consistently with Mr McWilliams’ evidence, Mr Brown’s report made no mention of Part B of Star Entertainment’s AML/CTF Program.
10. It was in this context that Star Entertainment’s then General Manager, Internal Audit and Assurance, Ms Tarnya O’Neil, engaged KPMG on 27 November 2017.<sup>14</sup> Ms O’Neil reported to Mr McWilliams and to Star Entertainment’s Audit Committee.<sup>15</sup>
11. KPMG’s engagement letter provided that the purpose of KPMG’s engagement was to do three things:<sup>16</sup>
  - (e) first, to assist Star Entertainment meet the requirements of an independent review as required by Part 9.6 of the Rules (i.e. review Part A of Star Entertainment’s AML/CTF Program);
  - (f) secondly, to consider the design and operating effectiveness of Part B of Star Entertainment’s AML/CTF Program; and
  - (g) thirdly, to consider a number of specific issues identified in the engagement letter.
12. The two KPMG senior personnel who would undertake the reviews were Mr Alexander Graham, then a director and subsequently a partner of KPMG, and Mr Jeff O’Sullivan, a partner of KPMG.
13. Dr Pitkin gave evidence to explain why an internal audit at Star Entertainment involved an external third party, KPMG, conducting the review. She said:<sup>17</sup>

So internal audit are members of management, but they have a direct reporting line to the audit committee and to the board. And their responsibility is to carry out unbiased investigations of certain matters within the company and to provide reports on those. At times, the matter to be reviewed might be highly technical and might require some external expertise that's not within the internal audit team and so an external person might be engaged to do that. ...

In relation to this particular review, it was part of the internal audit program, but it required an external independent party to carry out the review because that's what's required under the AML/CTF regime.

14. KPMG proceeded to undertake its review from late 2017. This included interviewing 37 employees across Star Entertainment's three casinos in Sydney, Brisbane and the Gold Coast, and reviewing over 400 documents and files that were provided by Star Entertainment.<sup>18</sup>
15. On 3 May 2018, KPMG provided drafts of its reports to Mr McWilliams, to Star Entertainment's General Manager of Compliance, Mr Micheil Brodie, and to Star Entertainment's Compliance Manager, Ms Skye Arnott, to confirm for factual accuracy.<sup>19</sup>
16. On 14 May 2018, KPMG met with Mr McWilliams, Mr Brodie and Ms Arnott. The findings in what were then KPMG's draft reports "were validated for factual accuracy and agreed".<sup>20</sup> KPMG's reports were then finalised and issued two days later on 16 May 2018.

### Chapter 18.2 KPMG's reports dated 16 May 2018

17. On 16 May 2018, KPMG provided two reports to Star Entertainment. The reports comprised KPMG's review of Star Entertainment's AML/CTF Program.<sup>21</sup> The first report was a review of Part A of Star Entertainment's AML/CTF Program and was (as has been noted) required under the *AML/CTF Rules*.<sup>22</sup> The second report was a review of Part B of Star Entertainment's AML/CTF Program.
18. KPMG's reports were in final form. Neither report was marked "draft". Drafts of the reports had been provided to Star Entertainment beforehand and confirmed for factual accuracy. Mr McWilliams said he was "happy with the reports" in their final form on 16 May 2018.<sup>23</sup> There had also been interactions involving Ms O'Neil, who said she recalled engaging with KPMG as to findings that KPMG were likely to make before the reports were finalised and that they were checked for factual accuracy.<sup>24</sup>
19. In its reports, KPMG made a series of findings about serious shortcomings in Star Entertainment's AML/CTF Program. These included:

- (a) that people could walk into Star Entertainment’s casinos with hundreds of thousands of dollars in cash but would not be assessed as higher risk for that reason alone;<sup>25</sup>
  - (b) that Star Entertainment’s AML/CTF Program did not consider counter-terrorism financing at all (i.e. it was missing the “CTF” part of “AML/CTF”);<sup>26</sup> and
  - (c) that there was no documented money laundering or terrorism financing risk assessment or risk assessment methodology in relation to junkets (i.e. the part of Star Entertainment’s business which Mr Bekier said represented about 12% of Star Entertainment’s earnings at the time).<sup>27</sup>
20. It was also noted that there were inadequate AML/CTF resources. While resource levels were comparable to other Australian casinos, KPMG found that there were “significantly less” resources than some US casinos.<sup>28</sup>
21. In addition, KPMG found that Star Entertainment had a manual transaction monitoring process which was inconsistently applied across the casino properties.<sup>29</sup> Mr Graham told the Review that he did not recall there being any automated transaction monitoring of bank accounts at Star Entertainment<sup>30</sup> and that it was a “concern” to him that Star Entertainment did not have transaction monitoring “across many things”, including patron accounts.<sup>31</sup>
22. Mr Graham said that he would not describe Star Entertainment’s AML/CTF Program as “mature” when he started reviewing it.<sup>32</sup> This was because, he said, “[i]t wasn’t clear that management knew what documents really constituted ... key components of the AML program and ... had a good understanding of what those documents were”.<sup>33</sup>
23. Mr O’Sullivan gave similar evidence. He said he would not regard Star Entertainment’s AML/CTF Program as “mature”<sup>34</sup> because, he said:<sup>35</sup>

I would have expected a mature AML program to have in place a comprehensive AML and counter-terrorism financing risk assessment methodology and risk assessment. Our engagement found that not to be the case. Moreover, a more substantive transaction monitoring process ... and risk assessment activities over junkets, in addition to several other matters which are set out in the final reports.

24. Mr Graham also said this:<sup>36</sup>

I think a mature AML program would have ... an adequate risk assessment which would have identified, using international and local sources, typologies and ways that accounts could be used for money laundering and terrorism financing. That would be the first part. The second part, then, would be around implementing transaction monitoring over those accounts, preferably ... in an automated manner,

but recognising sometimes that transaction monitoring programs have got technical kind of limitations and, therefore, using human intelligence for people to look over those to identify things that maybe the system can't.

25. In their evidence to the Review, Mr Bekier, Mr McWilliams, Ms O'Neil and Mr Graham accepted that KPMG had identified a number of "significant deficiencies", "fundamental deficiencies" and "fundamental problems" in Star Entertainment's AML/CTF Program.<sup>37</sup>
26. The timing of KPMG's reports was apposite. The reports came just:
- (a) two days after Mr McGregor had written to Mr Power, Mr Houlihan and Ms Judd on 14 May 2018 to say that he would "call it out early" that Suncity was "operating a business model under our noses which is problematic";<sup>38</sup>
  - (b) one day after Mr Power had emailed Mr Hawkins on 15 May 2018 with his concerns that Suncity's conduct constituted a breach of applicable laws and "otherwise amounts to casino operations";<sup>39</sup> and
  - (c) on the same day, 16 May 2018, that Mr Hawkins forwarded Mr Power's concerns about unlicensed casino operations to Mr Bekier.<sup>40</sup>

### Chapter 18.3 Audit Committee meeting of 23 May 2018 and reaction to KPMG's reports

27. Star Entertainment's Audit Committee met on 23 May 2018. It appears that Audit Committee members were provided with an executive summary of the KPMG reports<sup>41</sup> and otherwise had access to download the full reports via the "board portal".<sup>42</sup> The precise timing of when that took place, however, is unclear.
28. On 22 May 2018, being the day before the Audit Committee's meeting, the then Chair of the Audit Committee, Mr Zlatko Todorcevski emailed Mr McWilliams and Ms O'Neil noting that he had "now had a chance to review the papers for the audit committee".<sup>43</sup> Mr Todorcevski wrote:<sup>44</sup>

I have to say that I'm concerned about the two AML/CTF reports from KPMG. I know these reports were published after our call last week but, considering the nature of the matters raised and the high rated findings, it would have been good to regroup so you could step me through the findings in detail and the agreed actions. I did not see anything in the KPMG report confirming management's agreement with the findings and the commitment to remediation.

As we sit today, I don't believe we will have time to have a call before tomorrow so we will need to spend time in the Audit Committee going through both reports in some detail. I will leave to you to think about how best to do that in an efficient

manner but the committee will need to walk away from the conversation knowing that these are being actioned and with a sense of urgency.

29. Later that day, on 22 May 2018, Mr Bekier wrote to Mr McWilliams: “I haven’t seen the KPMG report ... Can you call me to talk me through the key points pls?”.<sup>45</sup>
30. Mr Todorcevksi (as Chair), Mr Gerard Bradley, Mr Richard Sheppard, Dr Sally Pitkin and Mr John O’Neill (as an *ex officio* member) attended the Audit Committee meeting as members of that committee on 23 May 2018.<sup>46</sup> The minutes record that the item of business for the KPMG reports “was discussed with Mr Bekier; Mr McWilliams; Ms O’Neil; Ms Martin and Mr Barton of the management team present”.<sup>47</sup> The minutes record that Mr McWilliams “spoke to the executive summaries in the papers”.<sup>48</sup>
31. The minutes do not record that the KPMG senior personnel, Mr Graham and Mr O’Sullivan, were sitting outside the Audit Committee meeting and stood ready to explain their reports, but were never called in.<sup>49</sup>
32. In this regard, there appear to have been two general reactions to KPMG’s reports within Star Entertainment.
33. The first was the reaction at the Board level (excluding Mr Bekier), and in particular from those directors who were members of the Board’s Audit Committee. The Audit Committee was told by Star Entertainment’s management present (including Mr Bekier), as recorded in the minutes,<sup>50</sup> that “the detailed [KPMG] reports have only just been received by management and are undergoing review”. Although from the email quoted above Mr Bekier appears not to have received the KPMG reports before 22 May 2018, other members of Star Entertainment’s management had done so. In particular, the minutes of the Audit Committee’s meeting on 23 May 2018 did not record that KPMG’s reports had been received by members of Star Entertainment’s management in draft on 3 May 2018 and discussed at a meeting involving Mr McWilliams, Mr Brodie and Ms Arnott on 14 May 2018 where the reports were confirmed as factually accurate.<sup>51</sup>
34. The Audit Committee was told, again as recorded in the minutes, that “for the [Audit] Committee to adequately assess the review outcomes, it is necessary for the Committee to be presented with complete review outcomes, including management actions in response and assurances in relation to implementation”, and that “some language in the summaries in the report is concerning in the limited context presented”.<sup>52</sup>

35. The directors accepted that KPMG’s findings and recommendations needed to be considered and addressed.<sup>53</sup> Mr Sheppard said that he recalled the “general thrust” of the views of the members of the Audit Committee was that KPMG had raised “legitimate issues ... and we need to get on with it”.<sup>54</sup> No director gave evidence seeking to gainsay that approach. And that, in due course (at least after 6 August 2018), is what occurred.<sup>55</sup>
36. Mr McWilliams said that he recalled Mr O’Neill objecting to the “tone” of KPMG’s reports and that Mr Sheppard had asked if it was too late for the KPMG reports to be changed.<sup>56</sup> Mr Sheppard denied asking if KPMG’s reports could be modified but said it was “entirely possible” he had asked a question to this effect: “Can I just clarify: is this a final report, or is it still subject to discussions with management?”.<sup>57</sup> There was nothing inappropriate about such a question in the circumstances.
37. But the second reaction to KPMG’s reports was that of Star Entertainment’s senior management, in particular Mr Bekier. Mr McWilliams told the Review that he recalled Mr Bekier “making a show of throwing on to the table what I assumed to be the report – or the extract – the executive summary of this report and saying, “I haven’t seen this”, and “then the discussion was along the lines of, as best I can recall, that it was unacceptable for the report to be prepared in this way, that it was wrong in some respects – material respects, but without getting into a lot of detail as to what was wrong”.<sup>58</sup>
38. Mr McWilliams said that “[w]hen it was put to us – so to Tarnya O’Neil and myself – that this was wrong, without specifics and without having KPMG in the room, it was really hard to counter that”, and “it is natural, when it comes from the CEO, to think that if he says it’s wrong, well, you wonder if you have missed something”.<sup>59</sup>
39. Mr McWilliams was asked, to the best of his recollection, to identify the substance of what Mr Bekier said. Mr McWilliams said:<sup>60</sup>

Just that it contained multiple errors, that KPMG didn’t know what they were doing and – and that was the broad theme. I can’t remember the specifics, but that was the highlight of – highlights of what he said.

40. Mr McWilliams was asked to recall the mood of the meeting. He said it was:<sup>61</sup>

Very tense. It certainly felt like I was under a lot of pressure and that I could sense that Ms O’Neil – Tarnya O’Neil also felt we were being put under quite a lot of pressure for putting up a report that the directors took such exception to.

41. Ms O’Neil told the Review that she recalled that “Mr Bekier commented that it was the first time that he had seen the report and had some concerns about the factual accuracy of

some elements of it”.<sup>62</sup> Ms O’Neil said “that was reinforced, to the best of my recollection, by Ms Martin as well”, and “[t]he conversation then proceeded along the lines of taking those concerns offline, which I took to mean that the chief risk officer, myself and Ms Martin would regroup outside of the meeting”.<sup>63</sup>

42. Mr Bradley told the Review was that “there was some tension at the meeting” on 23 May 2018 and that Mr Bekier “had concerns about the report”, but Mr Bradley did not recall what those particular concerns were.<sup>64</sup>
43. Ms Martin’s evidence was that she did not recall anything that was discussed at the meeting and she did not recall the tone of the meeting.<sup>65</sup> She said later that she “would describe Mr Bekier’s view of the report, based on my interactions with him, as one of concern”.<sup>66</sup>
44. In his written statement, Mr Bekier said he did not have a specific recollection of what was said by who, but having reviewed the minutes of the meeting he said his general recollection was that “part of the discussion was about the importance of embracing the recommendations made in executive summaries of Part and Part B of the KPMG Reports and ensuring that the recommendations were implemented promptly and efficiently”.<sup>67</sup>
45. In his oral evidence Mr Bekier said that there were “a lot of things in the process here that weren’t normal practice”.<sup>68</sup> He said:<sup>69</sup>

As I understand it, the – the internal audit team received a draft version of the report in late April. And then normal practice will be to take that report to management to – management that would have to deal with the implementation of the rectification actions so we can start – when the report gets presented to the board, we have a management response to the findings of the auditor. This report, unfortunately, was not syndicated by our own team as it should have been. And that’s why I think there was a bit of surprise when only the executive summary was presented. And senior management, including me, hadn’t really had time to provide the board a perspective on what we were going to do about it.

46. Perhaps Mr Bekier’s reaction to the KPMG reports at the Audit Committee meeting was influenced by what he considered to be those departures from normal practice. However the evidence relating to the initial reaction to the KPMG reports at the Audit Committee meeting was one of a number of occasions during the public hearings where a concerning cultural issue at Star Entertainment was exposed. Even allowing for the circumstances in which the KPMG reports had been received, the communications at the meeting on this issue, particularly by Mr Bekier, sent a message to the management team that bad news was unwelcome.

47. A number of directors of Star Entertainment identified as a cultural failure that management failed to provide information to the Board which it needed to know.<sup>70</sup> Episodes such as the initial reaction to the KPMG reports at the Audit Committee meeting on 23 May 2018 assist in giving context to that cultural failure.

### Chapter 18.4 Subsequent meetings with KPMG

48. After the Audit Committee's meeting on 23 May 2018, the KPMG senior personnel were invited to meet with Mr Bekier, Ms Martin, Mr McWilliams and Ms O'Neil. This appears to have been soon after the Audit Committee meeting in late May or early June, as the first of three meetings involving Mr Bekier, the two later meetings being on or about 12 July 2018 and 25 July 2018 respectively.<sup>71</sup>
49. Mr Graham told the Review that at the first meeting Mr Bekier was "hostile"<sup>72</sup> towards him and his KPMG colleague Mr O'Sullivan. Mr Graham said:<sup>73</sup>

Well, when me and Jeff walked into the room, I recall we weren't greeted. There was no eye contact. You know, we weren't – we just sat down. Mr Bekier was sat down, turning the pages of the report, essentially berating us for the whole entire time of that meeting.

50. Mr Graham also said this:<sup>74</sup>

I recall the CEO turning over pages, pointing to things, saying, "This is wrong," turning the page, "That is wrong", you know, doing that for a sustained period of time. And we tried to understand what the specific points of where the CEO believed was wrong, and we just weren't getting the details. I do recall there was two, maybe three, specific areas that the CEO did stop on and – and talked us through. The first one was in connection with disagreeing with the ratings of the report, particularly for the high rated findings.

The second was in connection with disagreeing with statements that we had made around customers bringing large sums of money should be considered to be higher risk. And I believe the third point was in connection with not feeling that the – sorry, not – something around the resource profile – the comment that we had in the report around the resource profile of Star not being adequate.

51. Mr O'Sullivan gave similar evidence. He said that "Mr Bekier had physical copies of the final reports in front of him, and he undertook a page turn of those reports in front of Mr Graham, my colleague, and myself, providing feedback and observations on the reports as he turned the pages".<sup>75</sup> Mr O'Sullivan said that "Mr Bekier made several references to not agreeing with elements of the reports".<sup>76</sup>
52. Mr McWilliams said he found it "quite a tense meeting" and "Mr Bekier wasn't at his best" because Mr Bekier "was in what I would describe as a sulk" with "an unprofessional

demeanour”.<sup>77</sup> Mr McWilliams said that in his view, Mr Bekier “didn’t actually engage that well in articulating what his list ... of issues were”, and it was agreed that Mr McWilliams and Ms O’Neil “would report back to KPMG with specifics of what we thought his concerns were and then follow up separately with KPMG”.<sup>78</sup>

53. Mr McWilliams said he felt from Mr Bekier “a sense that he didn’t think KPMG knew what they were talking about” and “the overall demeanour was just one that caused a degree of tension in the room”.<sup>79</sup>
54. None of Mr McWilliams’ evidence was challenged in the public hearings.
55. Mr Bekier agreed that the meeting with the KPMG partners was “very uncomfortable” but he denied being rude or aggressive or refusing to make eye contact with them.<sup>80</sup> He said he “was probably getting a bit frustrated with what I perceived to be poor client service from KPMG ... I didn’t get very many answers other than, ‘I’m the expert and that’s my opinion’, and I expected to hear more”.<sup>81</sup>
56. Ms Martin described this meeting as “somewhat tense”.<sup>82</sup> She disagreed that Mr Bekier had been “rude” or “aggressive”.<sup>83</sup> She said that she did not recall Mr Bekier throwing a report on the table or refusing to make eye contact with the KPMG partners.<sup>84</sup>
57. Mr Graham and Mr O’Sullivan asked for particulars of Star Entertainment’s concerns.<sup>85</sup> There were then various meetings involving KPMG between 16 May 2018 and 6 August 2018, including:<sup>86</sup>
  - (a) a meeting with Ms Martin and Mr McWilliams dated 19 June 2018;
  - (b) a meeting with Mr Oliver White on 3 July 2018;
  - (c) a meeting with Mr Bekier, Ms Martin and Mr McWilliams dated 12 July 2018;
  - (d) a meeting with Ms Martin, Mr McWilliams and Mr Darren Henry (Cage Supervisor) dated 18 July 2018;
  - (e) a meeting with Ms Martin and Mr McWilliams dated 24 July 2018;
  - (f) a meeting with Mr Bekier, Ms Martin and Mr McWilliams dated 25 July 2018; and
  - (g) a meeting with Mr Zlatko Todorovski (the then Chair of the Audit Committee) dated 25 July 2018.

58. Mr Graham said that Mr O’Sullivan and he attended the meeting with Mr Todorcevski on 25 July 2018 but only Mr O’Sullivan attended the meeting beforehand, involving Mr Bekier, that same day.<sup>87</sup>
59. During the period of the above meetings, on 13 July 2018 Ms O’Neil forwarded<sup>88</sup> some notes to the KPMG partners which recorded a list of 20 specific concerns.<sup>89</sup> Ms Martin said that they were her notes recording a compilation of issues identified by Mr Bekier and herself.<sup>90</sup> In due course Star Entertainment’s management raised 22 specific queries with KPMG in relation to the reports.<sup>91</sup>
60. In particular, Star Entertainment’s management raised two “key areas”<sup>92</sup> of concern with KPMG, namely:
- (a) that Star Entertainment’s customers for AML/CTF purposes were junket operators and not junket participants; and
  - (b) that if a person walks into a casino with a very large amount of money, that in and of itself does not raise any special concern regarding money laundering.

### Chapter 18.5 KPMG confirms its findings

61. Having received Star Entertainment’s various concerns and attended the meetings noted above, by letter dated 6 August 2018 KPMG did not accept any of Star Entertainment’s contentions and confirmed its earlier findings in its 16 May 2018 reports.<sup>93</sup>
62. Mr Graham gave evidence that this was covered, first, in the 25 July 2018 meeting involving Mr Todorcevski, Mr O’Sullivan and Mr Graham. Mr Graham told the Review:<sup>94</sup>
- So the meeting with Zlatko ... I recall that Jeff went through, line by line, items that were in the – or that we covered in the letter. And then at the end of the meeting, I recall that Zlatko apologised to both me and Jeff.
- ...
- I recall Zlatko apologising for the way that both me and Jeff had been treated and also acknowledged that it is time to move forward.
63. Secondly, KPMG wrote in its letter dated 6 August 2018 “that the findings and recommendations contained in both Final Reports [dated 16 May 2018] remain valid”.<sup>95</sup>
64. Mr Graham said that up until the time of KPMG’s 16 May 2018 reports, he had found the executives at Star Entertainment with whom he dealt to be “open and willing to identify the level of risk and see where they could make improvements” and he described them as

“cooperative”.<sup>96</sup> But after issuing the reports on 16 May 2018, Mr Graham said he would describe Star Entertainment as a “challenging” client.<sup>97</sup> Mr Graham explained that KPMG had finalised its reports and “there were a number of issues which were raised ... I’ve never been in a situation where we finalised reports and we have had to re-look at issues again”.<sup>98</sup>

65. Mr Graham was examined by Counsel for Star Entertainment. He was taken to the second paragraph of an email which he sent on 25 July 2018 to his KPMG colleagues, where he wrote:<sup>99</sup>

We had several positive meetings with the CEO and the chair of the audit committee. They’ve now accepted that it’s time to look forward and focus on fixing this up.

66. This email also featured in The Star’s written submissions on this issue.<sup>100</sup>
67. Mr Graham explained that this summary was based on his understanding of Mr O’Sullivan’s meeting with Mr Bekier and his own attendance at the meeting involving Mr Todorcevski.<sup>101</sup> Mr Graham accepted that he agreed that from 25 July 2018 both Mr Bekier and Mr Todorcevski “were focused on fixing things up”.<sup>102</sup> However, Mr Graham later clarified two matters:

- (a) first, Mr Graham told the Review:<sup>103</sup>

I didn’t have any positive meetings with the CEO [Mr Bekier]. ... And I think the context is probably important, given the fact we had been through a very challenging situation with a lot of challenge under extreme pressure on the 22 issues which we had worked through.

- (b) secondly, Mr Graham noted the third paragraph of the same email dated 25 July 2018, where he wrote this to his KPMG colleagues:<sup>104</sup>

Really appreciate your assistance with this. Job well done with a challenging client.

68. Mr Graham said that he “was recognising the fact that the KPMG team had worked really hard to work through these issues under such [a] challenging environment with a challenging client”.<sup>105</sup>

## Chapter 18.6 Implementation of KPMG’s recommendations

69. At least from the time of KPMG’s letter of 6 August 2018, when KPMG affirmed its earlier findings, Star Entertainment set about implementing all of KPMG’s recommendations. Ms O’Neil gave evidence that she recalled Mr McWilliams telling her that it was his intention to work on remediation activities from the time of the reports (i.e. from 16 May 2018)

despite the further work “going on in the background”.<sup>106</sup> Mr McWilliams did not give evidence about this but said that so far as he was aware, Star Entertainment ultimately set about adopting and implementing all of KPMG’s recommendations.<sup>107</sup>

70. Nonetheless, the conduct of Mr Bekier reflected poorly on Star Entertainment’s culture and processes. Even if it be fairly assumed that Mr Bekier should have been involved in KPMG’s processes before the finalisation of their reports on 16 May 2018, the fact is he was not. Mr Bekier’s reaction seems to have been to seek to argue with KPMG rather than engage constructively with what were then finalised reports.
71. The Star has said that it “regrets any offence that may have been caused to Mr O’Sullivan and Mr Graham as a result of [Mr Bekier’s] conduct”.<sup>108</sup> Ultimately, KPMG was not swayed by the 22 points of disagreement which Mr Bekier raised with them and the evidence is that Star Entertainment implemented all of KPMG’s recommendations.
72. Further, as Mr Heap accepted,<sup>109</sup> the KPMG reports gave Star Entertainment’s Board and management an opportunity to ask whether, having been told that people were coming into its casinos with large amounts of cash and not being flagged with a higher risk rating, there might have been people with whom Star Entertainment had existing relationships which should be brought to an end. That opportunity was missed, at the same period of time that Mr Bekier was being told of serious concerns about Salon 95 and Suncity’s conduct.<sup>110</sup>
73. Dr Pitkin agreed that such an undertaking “could be very instructive” at that time, but she said the focus and resources as she understood them were on implementing KPMG’s recommendations.<sup>111</sup> Mr Bradley noted that KPMG had not recommended a retrospective review.<sup>112</sup>

### **Chapter 18.7 Claiming legal professional privilege for the KPMG reports**

74. Legal professional privilege attaches to communications made and documents prepared for the dominant purpose of either a lawyer providing a client with legal advice, or the client being provided with legal services relating to an actual or anticipated proceeding.<sup>113</sup> When considering whether the privilege applies, it is necessary to do so on a document-by-document basis by reference to the content of each given document, its context and any relevant evidence relating to it.<sup>114</sup> The law relating to legal professional privilege is considered further in Chapter 19.

75. In the minutes of the Audit Committee’s meeting dated 23 May 2018, the topic of KPMG’s review was marked “Subject to Legal Professional Privilege”.<sup>115</sup> The minutes recorded that the item “was being discussed in a limited forum in light of the legal professional privilege protocols in place in relation to two reviews and to enable specific queries of Committee members raised prior to the meeting to be addressed”.<sup>116</sup> Ms Martin agreed that she prepared the minutes for the Audit Committee’s 23 May 2018 meeting.<sup>117</sup>
76. Mr McWilliams told the Review that he could not recall whether legal professional privilege was discussed at all in the Audit Committee meeting.<sup>118</sup> He said it “certainly wasn’t discussed in any detail” and “there certainly wasn’t a discussion that involved the directors about whether it was privileged or not”.<sup>119</sup>
77. Ms O’Neil said that legal professional privileged was not discussed at the Audit Committee meeting.<sup>120</sup> Ms O’Neil said that because Ms Martin had introduced the KPMG reports, directors might have inferred that there was privilege attaching to KPMG’s work, but Ms O’Neil said that her own view was the KPMG reports were not privileged.<sup>121</sup>
78. Neither Mr McWilliams nor Ms O’Neil was challenged in their evidence on this question.
79. Ms Martin gave evidence, after “having refreshed from the minutes”, to the effect that she recalled “speaking to the fact that legal advice was being provided in relation to the reports or utilising the reports”.<sup>122</sup> Ms Martin later conceded, however, that she did not have an independent recollection of having done that. Instead, Ms Martin accepted that she was referring only to “the contents that are captured within the minutes”.<sup>123</sup>
80. Irrespective of the extent to which legal professional privilege was in fact discussed at the Audit Committee meeting on 23 May 2018, the clear impression from reading the minutes prepared by Ms Martin is that she was concerned to ensure that the minutes reflected that a claim for legal professional privilege was to be made for the KPMG reports. The relevant item in the minutes is marked “Subject to Legal Professional Privilege” and refers in the introductory language to the item “being discussed in a limited forum in light of the legal professional privilege protocols in place”.<sup>124</sup> The minutes purport to record that “KPMG were engaged to conduct the independent review reported in the paper to bring financial services / banking sector expertise to the review and prepare a report for the purposes of legal advice being provided on the Company’s compliance with the Act with respect to implementation of the program”.<sup>125</sup>

81. Ms Martin said:<sup>126</sup>

I had discussions with a range of people, including Mr Bekier, Mr McWilliams and Ms O’Neil, in relation to the paper that had been prepared for the audit committee. And it was in the course of those discussions that I provided my opinion on the nature of the independent review that was being conducted and my understanding of what that review was required to do under the Act, including that there was components of the review that needed to speak to compliance with the Act. And that that was a point in my view as expressed at the time that meant that legal advice would be provided as part of that review. And then from those discussions, I was included in discussions with Paul McWilliams and then the meeting we spoke to earlier on 22 May around engaging with Ms O’Neil on the full reports for the purposes of considering providing that advice.

82. The KPMG reports were clearly not privileged. They were not prepared for the dominant purpose of Star Entertainment or The Star being provided with legal advice or legal services relating to an actual or anticipated proceeding.

83. KPMG’s engagement letter dated 27 November 2017 clearly identified the purposes of the engagement. The dominant purpose of KPMG’s engagement was clearly to perform an independent review of Star Entertainment’s AML/CTF Program. The dominant purpose was not the provision of legal advice by lawyers for Star Entertainment, KPMG, or anyone else. Ms O’Neil and Mr McWilliams told the Review that the purpose of KPMG’s engagement did not involve legal advice being provided to Star Entertainment by KPMG or by anyone else.<sup>127</sup> KPMG’s two partners, Mr Graham and Mr O’Sullivan, gave the same evidence.<sup>128</sup>

84. The KPMG engagement letter expressly disavowed provision of any legal advice.<sup>129</sup> Neither of the KPMG senior personnel who worked on the engagement, Mr Graham and Mr O’Sullivan, is, or was, a lawyer. They were engaged directly by Ms O’Neil,<sup>130</sup> Star Entertainment’s General Manager of Internal Audit and Assurance, who reported to Star Entertainment’s Chief Risk Officer, Mr McWilliams. Neither Ms O’Neil nor Mr McWilliams is, or was, a lawyer.

85. In paragraph 120 of Ms Martin’s written statement of 8 February 2022, Ms Martin said that she had formed a view that the KPMG reports were privileged around the time of the 23 May 2018 Audit Committee meeting because they related to Star Entertainment’s compliance or otherwise with its statutory obligations and the Legal Team might be asked to advise on that but, upon reflection, “I accept that this was an error, and the circumstances in which the KPMG Reports were prepared meant that they were not privileged”.<sup>131</sup>

86. Ms Martin said in her oral evidence that she knew that the reports had been commissioned because there was a statutory obligation on Star Entertainment to obtain an independent report<sup>132</sup> and she accepted that if a copy of a document is provided to a lawyer for the purposes of legal advice, that copy is privileged but all other copies are not.<sup>133</sup> Ms Martin said, however, that she was “not sure I can recall if that was my understanding at all times”.<sup>134</sup>
87. In her oral evidence, Ms Martin stated that although the privilege claim was an error on her part, it was not an inappropriate claim when first made:<sup>135</sup>
- Q: You accept, don't you, that the report itself is not privileged?
- A: No. At this time in May, I did not accept that. And I think this goes to the heart of the error that I made at the time.
- Q: Well, the error you made was to claim privilege when the claim was totally inappropriate, wasn't it?
- A: No. In my view, at the time, it was not totally inappropriate.
88. Written submissions on behalf of Ms Martin contended that Ms Martin had a logical, though erroneous basis for claiming privilege. It was submitted that “Ms Martin had a reasoned basis for her view that the Part A Report was privileged” because, “as part of the review being conducted pursuant to the requirements of the *AML/CTF Rules*, Star Entertainment Group would require legal advice based on the Part A Report as to whether it was complying with the *AML Act*”.<sup>136</sup> That “reasoned basis” pays no attention to the dominant purpose test.
89. The Star Entities stated in their written submissions “that the assertion of privilege by a member of senior management (Ms Martin) over the KPMG Reports was inappropriate and unacceptable”.<sup>137</sup>
90. It is sufficient to find that the claim for legal professional privilege over the KPMG reports was clearly incorrect and that the dominant purpose test was clearly not satisfied. Accepting Ms Martin's evidence that she did not make a claim for privilege over the KPMG reports which she considered to be inappropriate at the time, it follows that Ms Martin, then the Group General Counsel and Company Secretary, and the head of the Legal Department of Star Entertainment, had an unsatisfactory understanding of the law relating to legal professional privilege.

## Chapter 18.8 Failure to disclose KPMG's reports to AUSTRAC

91. Star Entertainment (through its subsidiary The Star) resisted producing the KPMG Part A report to AUSTRAC over a period of some 16 months in spite of at least four separate written requests from AUSTRAC for The Star to do so.
92. On 14 September 2018, AUSTRAC wrote to The Star requiring production of a copy of the KPMG Part A report.<sup>138</sup> On 5 October 2018, The Star replied to AUSTRAC and refused to provide a copy, asserting legal professional privilege.<sup>139</sup>
93. On 12 September 2019, AUSTRAC wrote to The Star seeking a copy of the KPMG Part A report and attaching a formal notice issued to The Star under the *AML/CTF Act*.<sup>140</sup> On 9 October 2019, The Star replied to AUSTRAC and refused to provide a copy of the report on the basis of legal professional privilege.<sup>141</sup>
94. On 5 December 2019, AUSTRAC wrote to The Star and requested the report, disputing that legal professional privilege applied.<sup>142</sup> On 12 December 2019, The Star replied and again refused to provide a copy.<sup>143</sup>
95. On 9 January 2020, AUSTRAC wrote again to The Star requesting a copy of KPMG's report and denying that legal professional privilege applied.<sup>144</sup> Only then, on 20 January 2020 did The Star reply and relent, providing a copy of the report. However, The State noted that "The Star does not intend to waive legal professional privilege in relation to the report".<sup>145</sup>
96. The upshot of this is that AUSTRAC, having lawfully requested a copy of KPMG's review, was not given it until 16 months later.
97. In its written submissions, The Star Entities noted that on 5 October 2018 The Star "disclosed [to AUSTRAC] the existence of the reports, together with their recommendations and management's response to those recommendations".<sup>146</sup> This may be accepted but the response was inadequate. AUSTRAC clearly wanted to know KPMG's full reasoning.
98. Ms Martin's written submissions noted the above facts and sought to make more of them than The Star Entities, regarding the non-disclosure to AUSTRAC. Ms Martin submitted:<sup>147</sup>

The Action Plan provided to AUSTRAC set out, verbatim, all of the recommendations of KPMG, KPMG's risk priority ratings and management's proposed actions in response. Any suggestion that The Star was seeking to hide the

substance of KPMG's findings by a wrongful claim for privilege stands in stark contrast to these facts, particularly the disclosure of the recommendations and risk priority ratings to AUSTRAC.

99. That submission overstates the extent of the disclosure that was made. AUSTRAC was entitled to, and had requested, all of KPMG's analysis. It did not receive it. As The Star Entities submitted: "The Star showed intransigence in relation to the privilege claim in the face of repeated correspondence from AUSTRAC seeking the full KPMG Reports and failed to re-visit and assess the correctness of that privilege claim".<sup>148</sup>
100. In her written statement, Ms Martin confirmed that she was the member of the Legal Team within Star Entertainment who provided advice in 2018 that the KPMG reports were privileged; she was aware in 2018 and 2019 that claims of legal professional privilege had been made in accordance with her advice; and she recalled this was discussed with her and that she supported the claim being made at the time.<sup>149</sup>
101. In her oral evidence, Ms Martin said that in January 2020 she formed the view that, whether or not KPMG's analysis was privileged it should be provided to AUSTRAC. She stated that it was only in preparation for this Review that she reached the conclusion that the report was not privileged.<sup>150</sup>
102. In their written submissions The Star Entities conceded that "AUSTRAC should have been provided with the KPMG Reports immediately".<sup>151</sup>
103. The Star should have provided AUSTRAC with the KPMG reports immediately after receiving AUSTRAC's initial request. The consequence of The Star's clearly incorrect claim for legal professional privilege was that the KPMG reports were wrongly withheld from AUSTRAC over a period of 16 months whilst Star Entertainment took steps to repair the problems identified by KPMG without any proper regulatory scrutiny of the remediation.

### **Chapter 18.9 Failure to disclose KPMG's reports to the Authority**

104. The question whether the KPMG reports ought to have been provided to the Authority does not appear to have been raised within Star Entertainment at the time of those reports.
105. Ms Martin told the Review in her written statement that she did not turn her mind to this question, nor did she recall anyone else raising it with her.<sup>152</sup> Mr Bekier said in his statement that he was not aware of any decision not to disclose the KPMG reports to the Authority and he did not play any role in any such decision.<sup>153</sup>

106. It may be strictly correct that because KPMG’s reports were prepared for the purposes of the federal AML/CTF legislation, they were “outside the *Casino Control Act*” (to use Ms Martin’s language).<sup>154</sup> Ms Martin said that she was “not aware of any specific request being made by the Authority for a copy of any independent review”,<sup>155</sup> although naturally enough as a practical matter the Authority can only request copies of documents of which it is aware.
107. The Star Entities submitted that “[w]hile there does not appear to have been any positive obligation to disclose the KPMG Reports to the Authority ... it is accepted that, in the interests of transparency, it was appropriate to provide them to the Authority”.<sup>156</sup>
108. In the circumstances here, where the KPMG reports identified fundamental problems and deficiencies in Star Entertainment’s AML/CTF Program, a transparent casino operator first would have turned its mind to whether the reports should have been disclosed to the Authority, and secondly would have proceeded to do so.

### Chapter 18.10 Failure to disclose KPMG’s reports to the market

109. As a listed company Star Entertainment has an obligation of continuous disclosure under s 674 of the *Corporations Act 2001* (Cth) and ASX Listing Rule 3.1. In general terms, once Star Entertainment becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of its securities, Star Entertainment must immediately tell ASX Ltd (ASX) that information.
110. There are some exceptions to this rule under Listing Rule 3.1A (e.g. incomplete proposals or negotiations; matters of supposition; information generated for internal management purposes), provided that the information remains confidential and a reasonable person would not expect it to be disclosed.
111. Mr Bekier said that the KPMG reports “highlighted some significant deficiencies”; that he did not think they had to be disclosed to the market; but he “would have relied on our company secretary and our legal team to advise on that”.<sup>157</sup> Mr Bekier also told the Review that at the end of every board meeting there is an agenda item or point of discussion about whether anything had to be disclosed so, “by the nature of the fact that we didn’t disclose [the KPMG reports], I can only presume that it either wasn’t discussed or we decided that it didn’t have to be disclosed”.<sup>158</sup> Ms Martin gave evidence that she did turn her mind to continuous disclosure obligations.<sup>159</sup> Mr O’Neill gave evidence that he was not concerned

that the KPMG reports warranted disclosure to the market because he did not consider they contained price-sensitive information.<sup>160</sup>

112. In due course, following adverse media allegations in October 2021<sup>161</sup> and a material decline in Star Entertainment's share price, Star Entertainment published two ASX releases on 11 and 12 October 2021.<sup>162</sup> Those ASX releases focused exclusively – out of all of the media allegations – on the KPMG reports and Star Entertainment's response to them. Those ASX releases are considered in Chapter 26.
113. Mr Heap gave evidence that the ASX releases focused on the KPMG reports because, as he recalled, “there had been communication to The Star from shareholders who had a concern to understand, particularly in relation to the AML/CTF Program ... it was that particular allegation that had caused particular concern with investors” and “[i]nvestors were seeking clarity on the current status of The Star's program”.<sup>163</sup> Similarly, Mr Heap said: “[t]he feedback we had been receiving from investors, particularly larger institutional investors, was particularly focused on the questions around AML/CTF”, and “they wanted to understand the status of the AML/CTF program ... at this date”.<sup>164</sup> Dr Pitkin gave evidence to the same effect.<sup>165</sup>
114. There is no satisfactory evidence before the Review that the KPMG reports contained any information that a reasonable person would expect to have a material effect on the price or value of Star Entertainment's securities. Even if such evidence was available, consistently with the approach to fact finding by the Review identified in Chapter 4, it would be unnecessary and inappropriate to make any finding as to whether there was any breach by Star Entertainment of the continuous disclosure obligations imposed by the *Corporations Act*.
115. **Recommendation:** It is recommended that the Authority take steps to require the operator of The Star Casino to provide the report of any independent review of the operator's AML/CTF Program to the Authority within 14 days of the issue of the report.

# Endnotes

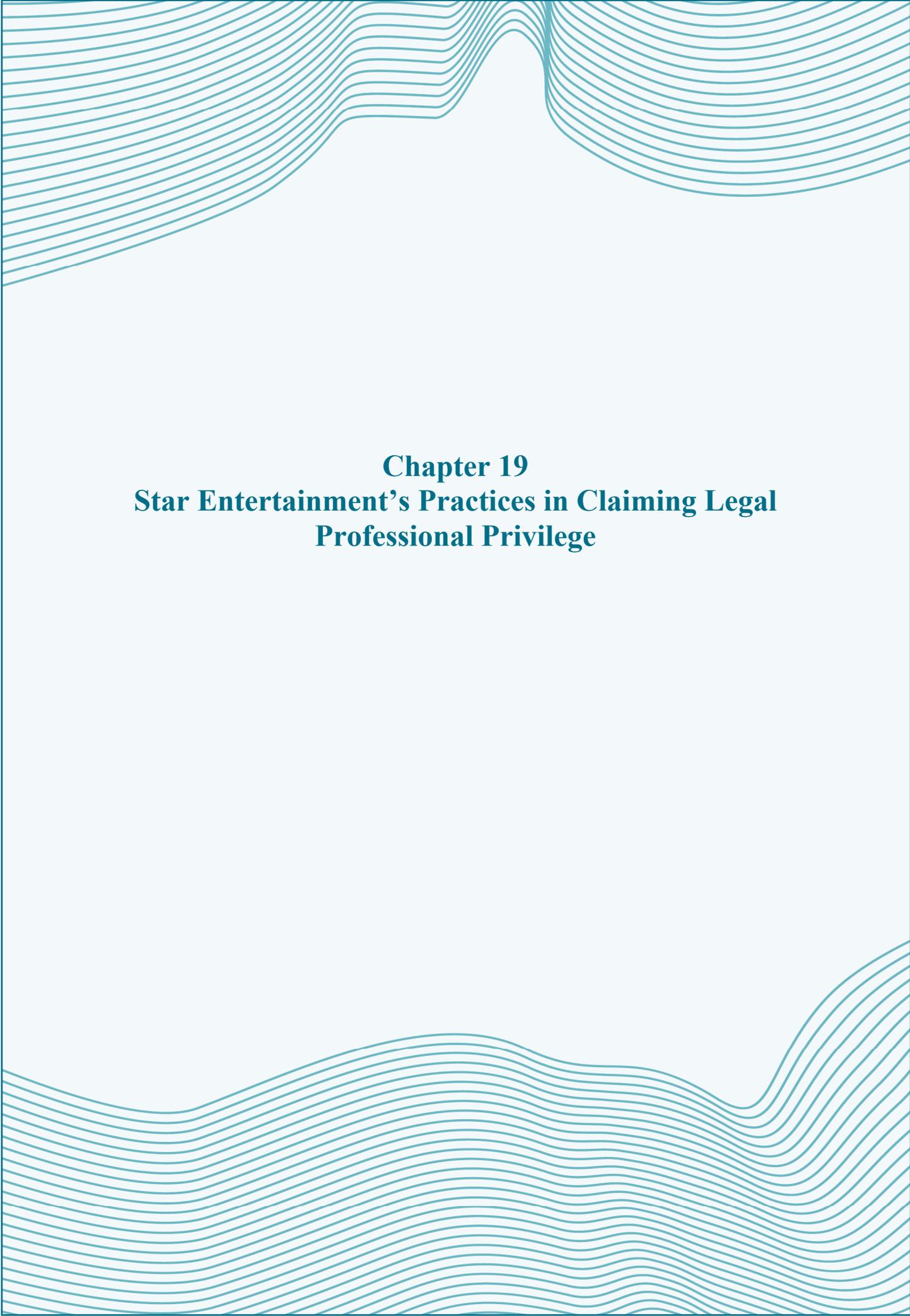
- <sup>1</sup> **Exhibit B-794** (STA.3001.0001.2750 at .2755) 1, [1].
- <sup>2</sup> Sections 80-81 of the Act.
- <sup>3</sup> Graham: Day 4, T385.32-38.
- <sup>4</sup> *AML/CTF Rules*, ss 9.6.1 and 9.6.2.
- <sup>5</sup> McWilliams: Day 3, T325.24 and T326.36.
- <sup>6</sup> McWilliams: Day 3, T325.38.
- <sup>7</sup> **Exhibit Q-9** (STA.3008.0019.0037).
- <sup>8</sup> McWilliams: Day 3, T325.46-T326.2.
- <sup>9</sup> McWilliams: Day 3, T326.7-8.
- <sup>10</sup> McWilliams: Day 3, T326.47-T327.3.
- <sup>11</sup> Star Entities' Written Submissions dated 21 June 2022, para E.24-25.
- <sup>12</sup> Bekier: Day 26, T3006.37-38 and T3005.26.
- <sup>13</sup> **Exhibit Q-9** (STA.3008.0019.0037 at .0037).
- <sup>14</sup> **Exhibit B-488** (KPMG.001.001.1047).
- <sup>15</sup> O'Neil: Day 4, T359.22-23.
- <sup>16</sup> **Exhibit B-488** (KPMG.001.001.1047 at .1047-.1048).
- <sup>17</sup> Pitkin: Day 33: T3601.39-3602.3.
- <sup>18</sup> **Exhibit B-1027** (KPMG.001.001.1779 at .1779).
- <sup>19</sup> *Ibid* at .1780; McWilliams: Day 3, T330.19.
- <sup>20</sup> **Exhibit B-1027** (KPMG.001.001.1779 at .1780); McWilliams: Day 3, T330.41-42.
- <sup>21</sup> **Exhibit B-794** (STA.3001.0001.2750); **Exhibit B-791** (STA.3001.0001.2802).
- <sup>22</sup> **Exhibit B-794** (STA.3001.0001.2750 at .2751).
- <sup>23</sup> McWilliams: Day 3, T330.41-42.
- <sup>24</sup> O'Neil: Day 4, T363.15-46.
- <sup>25</sup> **Exhibit B-794**, para [2] (STA.3001.0001.2750 at .2757-.2758); McWilliams: Day 4, T333.30.44.
- <sup>26</sup> **Exhibit B-794**, (STA.3001.0001.2750 at .2757-.2758); McWilliams: Day 4, T335.23-27.
- <sup>27</sup> **Exhibit B-791** (STA.3001.0001.2802 at .2809); McWilliams: Day 4, T336.48-337.6; T338.3-12; see Bekier: Day 26, T2998.9-11).
- <sup>28</sup> **Exhibit B-794** (STA.3001.0001.2750 at . 2756).
- <sup>29</sup> *Ibid* at .2759.
- <sup>30</sup> Graham: Day 4, T395.16.
- <sup>31</sup> Graham: Day 4, T395.27-28.
- <sup>32</sup> Graham: Day 4, T388.8.
- <sup>33</sup> Graham: Day 4, T388.12-14.
- <sup>34</sup> O'Sullivan: Day 4, T416.27.
- <sup>35</sup> O'Sullivan: Day 4, T416.31-36.

- 36 Graham: Day 4, T395.33-41.
- 37 Bekier: Day 26, T3007.14; McWilliams: Day 4, T335.8, T335.33, T338.22, T340.17; O’Neil: Day 4, T366.44, T367.25, T368.39; and Graham: Day 4, T391.29, T396.31.
- 38 **Exhibit C-49** (STA.3427.0018.3096 at .3097).
- 39 **Exhibit B-790** (STA.3411.0010.3560).
- 40 Ibid.
- 41 Bekier: Day 26, T3010.2-3.
- 42 McWilliams: Day 4, T338.29-31.
- 43 **Exhibit B-808** (STA.3403.0001.4116).
- 44 Ibid.
- 45 Ibid.
- 46 **Exhibit B-811** (STA.5001.0003.0818 at .0818).
- 47 Ibid at .0819.
- 48 Ibid.
- 49 See McWilliams: Day 4, T339.16-26; O’Neil: Day 4, T369.25-29; and Graham: Day 4, T397.1-4.
- 50 **Exhibit B-811** (STA.5001.0003.0818 at .0819).
- 51 **Exhibit B-1027** (KPMG.001.001.1779 at .1780.)
- 52 **Exhibit B-811** (STA.5001.0003.0818 at .0819).
- 53 Pitkin: Day 33, T3602.40-3603.3; Lahey: Day 33: T3676.12-42.
- 54 Sheppard: Day 34, T3767.22-24.
- 55 Lahey: Day 33, T3676.42.
- 56 McWilliams: Day 4, T341.26-45.
- 57 Sheppard: Day 34, T3767.40-47.
- 58 McWilliams: Day 4, T340.4-9.
- 59 McWilliams: Day 4, T340.34-37.
- 60 McWilliams: Day 4, T343.14-16.
- 61 McWilliams: Day 4, T343.21-24.
- 62 O’Neil: Day 4, T370.25-26.
- 63 O’Neil: Day 4, T370.27-30.
- 64 Bradley: Day 32, T3528.22-35.
- 65 Martin: Day 19, T2092.46-2093.19.
- 66 Martin: Day 19, T2104.4-5.
- 67 **Exhibit A-72**, para [9]-[11] (INQ.002.004.0066 at .0066- .0067).
- 68 Bekier: Day 26, T3010.13-14.
- 69 Bekier: Day 26, T3010.18-27.
- 70 Sheppard: Day 29, T3324.15-19; Heap: Day 31, T3449.32-48; Bradley: Day 32, T3543.5-8, T3543.30-34; Lahey: Day 33, T3693.26-3694.8.
- 71 **Exhibit B-1027** (KPMG.001.001.1779 at .1780 and .1793).

- 72 Graham: Day 4, T400.44.
- 73 Graham: Day 4, T401.1-4.
- 74 Graham: Day 4, T400.23-36.
- 75 O’Sullivan: Day 4, T418.45-48.
- 76 O’Sullivan: Day 4, T419.6-7.
- 77 McWilliams: Day 4, T352.3-8.
- 78 McWilliams: Day 4, T352.19-22.
- 79 McWilliams: Day 4, T353.4-7.
- 80 Bekier: Day 26, T3011.37-3012.11.
- 81 Bekier: Day 26, T3012.22-30.
- 82 Martin: Day 19, T2112.44.
- 83 Martin: Day 19, T2112.17-23.
- 84 Martin: Day 19, T2112.25-32.
- 85 Graham: Day 4, T401.11-23.
- 86 **Exhibit B-1027** (KPMG.001.001.1779 at .1793).
- 87 Graham: Day 4, T411.35-38.
- 88 **Exhibit B-935** (KPMG.001.001.7857).
- 89 **Exhibit C-61** (KPMG.001.001.7871).
- 90 Martin: Day 19, T2107.1-24.
- 91 **Exhibit B-1027** (KPMG.001.001.1779 at .1780) 2, [1].
- 92 Graham: Day 4, T407.4-21; **Exhibit B-1027**, para [1]-[2] (KPMG.001.001.1779 at .1780-.1781).
- 93 **Exhibit B-1027** (KPMG.001.001.1779).
- 94 Graham: Day 4, T406.24-32.
- 95 **Exhibit B-1027** (KPMG.001.001.1779 at .1780).
- 96 Graham: Day 4, T407.36-38.
- 97 Graham: Day 4, T407.46.
- 98 Graham: Day 4, T408.3-6.
- 99 **Exhibit B-1008** (KPMG.001.001.2246).
- 100 Star Entities’ Written Submissions dated 21 June 2022, para [E.26].
- 101 Graham: Day 4, T411.35-38.
- 102 Graham: Day 4, T412.28.
- 103 Graham: Day 4, T413.6-10.
- 104 **Exhibit B-1008** (KPMG.001.001.2246).
- 105 Graham: Day 4, T413.22-24.
- 106 O’Neil: Day 4, T381.23-29.
- 107 McWilliams: Day 4, T353.25.
- 108 Star Entities’ Written Submissions dated 21 June 2022, para [E.35].

- <sup>109</sup> Heap: Day 30, T3408.36-37, T3411.1.
- <sup>110</sup> **Exhibit B-790** (STA.3411.0010.3560).
- <sup>111</sup> Pitkin: Day 33, T3609.47-T3610.2.
- <sup>112</sup> Bradley: Day 32, T3531.37-T3532.10.
- <sup>113</sup> *Evidence Act 1995* (NSW), ss 118-119; *The Daniels Corporation International Pty Ltd v ACCC* (2002) 213 CLR 543 at 552 [9].
- <sup>114</sup> *Federal Commissioner of Taxation v PricewaterhouseCoopers* [2022] FCA 278 at [21].
- <sup>115</sup> **Exhibit B-811** (STA.5001.0003.0818 at .0818).
- <sup>116</sup> *Ibid.*
- <sup>117</sup> Martin: Day 19, T2092.28.
- <sup>118</sup> McWilliams: Day 4, T342.18.
- <sup>119</sup> McWilliams: Day 4, T342.18-21.
- <sup>120</sup> O’Neil: Day 4, T371.36.
- <sup>121</sup> O’Neil: Day 4, T371.43-T372.3.
- <sup>122</sup> Martin: Day 19, T2093.36-37.
- <sup>123</sup> Martin: Day 19, T2094.27-28.
- <sup>124</sup> **Exhibit B-811** (STA.5001.0003.0818 at . 0818).
- <sup>125</sup> *Ibid* at .0819.
- <sup>126</sup> Martin: Day 19, T2095.41-2096.4.
- <sup>127</sup> McWilliams: Day 3, T329.11; O’Neil: Day 4, T362.39.
- <sup>128</sup> Graham: Day 4, T387.35; O’Sullivan: Day 4, T415.25.
- <sup>129</sup> **Exhibit B-488** (KPMG.001.001.1047 at .1054 -.1058) 8 and 12.
- <sup>130</sup> *Ibid.*
- <sup>131</sup> Martin, Day 19, T2102.23.
- <sup>132</sup> Martin: Day 19, T2102.29.
- <sup>133</sup> Martin: Day 19, T2103.34.
- <sup>134</sup> Martin: Day 19, T2103.38.
- <sup>135</sup> Martin: Day 19, T2096.38-46.
- <sup>136</sup> Paula Martin Written Submission dated 22 June 2022, para [112].
- <sup>137</sup> Star Entities’ Written Submissions dated 21 June 2022, para [E.2].
- <sup>138</sup> **Exhibit B-1087**, para [8]-[12] (STA.3012.0001.1855 at .1858).
- <sup>139</sup> **Exhibit B-1102**, para [9] (STA.3009.0009.0073 at .0076).
- <sup>140</sup> **Exhibit B-1674** (STA.3402.0002.2699); **Exhibit B-1675** (STA.3402.0002.2700).
- <sup>141</sup> **Exhibit B-1736** (STA.3402.0002.1704).
- <sup>142</sup> **Exhibit B-2013** (STA.3402.0002.3488).
- <sup>143</sup> **Exhibit B-2049** (STA.3412.0004.7476).
- <sup>144</sup> **Exhibit B-2095**, para [6] (STA.3402.0002.2198 at .2200).

- 145 **Exhibit B-3204**, para [6] (STA.3412.0009.2522 at .2525).
- 146 Star Entities' Written Submissions dated 21 June 2022, para [E.39(b)].
- 147 Paula Martin Written Submissions dated 22 June 2022, para [89].
- 148 Star Entities' Written Submissions dated 21 June 2022, para [E.43].
- 149 **Exhibit A-905**, para [123]-[124] (INQ.002.004.0201 at .0224).
- 150 Martin: Day 19, T2121.19-23; T2125.10-19.
- 151 Star Entities' Written Submissions dated 21 June 2022, para [E.2].
- 152 **Exhibit A-905**, para [128] (INQ.002.004.0201 at .0224).
- 153 **Exhibit A-72**, para [21] (INQ.002.004.0066 at 0068).
- 154 **Exhibit A-905**, para [128] (INQ.002.004.0201 at .0224) 24, [128].
- 155 Ibid.
- 156 Star Entities' Written Submissions dated 21 June 2022, para [E.2].
- 157 Bekier: Day 26, T3007.6-14.
- 158 Bekier: Day 26, T3007.27-32.
- 159 Martin: Day 19, T2101.18-19.
- 160 O'Neill: Day 35, T3816.17, T3817.13.
- 161 **Exhibit B-3156** (INQ.014.001.0005).
- 162 **Exhibit H-473** (INQ.003.006.0539); **Exhibit B-3176**, (STA.3411.0001.7109).
- 163 Heap: Day 31, T3447.20-24.
- 164 Heap: Day 31, T3448.17-22.
- 165 Pitkin: Day 33, T3633.36-45.



**Chapter 19**  
**Star Entertainment's Practices in Claiming Legal**  
**Professional Privilege**

# Chapter 19. Star Entertainment's Practices in Claiming Legal Professional Privilege

## Chapter 19.1 Introduction

1. The Star's erroneous claims of legal professional privilege in relation to the KPMG reports (as addressed in Chapter 18) were consistent with a wider misunderstanding of the circumstances in which privilege should be claimed by lawyers within the Star Entertainment group.

## Chapter 19.2 Key principles

2. As noted in Chapter 18, legal professional privilege attaches to communications made and documents prepared for the dominant purpose of either a lawyer providing a client with legal advice, or the client being provided with legal services relating to an actual or anticipated proceeding.<sup>1</sup>
3. Legal professional privilege is a rule of substantive law which may allow a person to resist producing documents or other information.<sup>2</sup> It arises from the professional relationship that exists between lawyers and clients. It should only be invoked when there is a reasonable basis to do so, and not as a matter of course or as a means of withholding adverse information from regulators and others without basis.
4. Privileged documents kept by a lawyer will include copies of documents provided to the lawyer which might not themselves be privileged, but which were attached to a communication for legal advice or proceedings.<sup>3</sup> That does not mean, however, that documents become privileged merely because they are sent to a lawyer. The copy of them sent to the lawyer is privileged but not the original. If the original (unprivileged) copy is unavailable, then the privileged copy loses the privilege.<sup>4</sup>

## Chapter 19.3 Practice in relation to legal professional privilege claims

5. Each of Ms Paula Martin, Mr Andrew Power and Mr Oliver White were senior lawyers within the Star Entertainment group at all relevant times for the purposes of the Review.
6. Ms Martin was the:<sup>5</sup>

- (a) Company Secretary and General Counsel, Queensland at Star Entertainment from June 2011 to August 2012;
  - (b) Company Secretary and Group General Counsel at Star Entertainment from August 2012 to August 2019; and
  - (c) Chief Legal and Risk Officer from August 2019 to the time of her resignation on 6 May 2022.
7. Mr Power was the:<sup>6</sup>
  - (a) General Counsel at The Star from 2010 to November 2019; and
  - (b) Group General Counsel at Star Entertainment from November 2019 to the time of his resignation on 13 May 2022.
8. Mr White was the General Counsel, Corporate at Star Entertainment from September 2011 to January 2022.<sup>7</sup>
9. Ms Martin, Mr Power and Mr White gave evidence of their understanding of the key principles for the law of legal professional privilege, which was consistent in each case with the summary of key principles outlined above.<sup>8</sup> Ms Martin, Mr Power and Mr White also accepted that it would be unethical to claim legal professional privilege if the person claiming the privilege knew that there was no basis to do so.<sup>9</sup>
10. Ms Martin denied that she had a practice of marking documents and communications “privileged” without first satisfying herself that she had a proper basis to claim privilege.<sup>10</sup> However, Ms Martin’s conduct in relation to the KPMG reports (considered in Chapter 18) demonstrated that she had an unsatisfactory understanding of legal professional privilege.
11. Despite Star Entertainment’s experience with the KPMG reports of 2018 and its interactions with AUSTRAC over some 16 months culminating in Star Entertainment abandoning its claim that legal professional privilege applied, Mr Anthony Seyfort (a Partner of HWLE) told the Star Entertainment board meeting on 28 July 2021 that the *very next* review of its AML/CTF Program, by BDO, was being “conducted subject to legal professional privilege”.<sup>11</sup> Neither Ms Martin nor anyone else is recorded in the minutes as having demurred.
12. Ms Martin accepted that the dominant purpose of commissioning BDO’s report was not for the provision of legal advice,<sup>12</sup> but she said that her understanding was “as at today” in

April 2022.<sup>13</sup> When Ms Martin was asked by Counsel Assisting why she did not realise this fact in July 2021, Ms Martin answered: "I'm not sure I'd turned my mind to it in July of last year, in connection with this particular matter".<sup>14</sup>

13. The Star Entities submitted that the BDO report "is not a document created by The Star" and that "[t]here is no evidence before the Review as to the origin of those words on their report".<sup>15</sup> An inference could, however, be drawn from the face of BDO's documents, which are marked:<sup>16</sup>

PRIVILEGED & CONFIDENTIAL

Prepared by BDO at the request of HWL Ebsworth Lawyers for the purpose of providing legal advice.

14. It is difficult to conceive that BDO would have marked its documents in this way without input from HWLE on instruction from Star Entertainment's lawyers. In any event, however, it is clear from the evidence that Ms Martin continued to have an unsatisfactory understanding of legal professional privilege in July 2021 in the context of the BDO report.
15. In contrast to Ms Martin's evidence, Mr Power said that he did have a practice of marking documents "privileged" without turning his mind to whether there was a proper basis to do so.<sup>17</sup> Mr Power accepted that he had done this with an email relating to Mr Phillip Lee's use of CUP.<sup>18</sup> Mr Power said that he did not consider his practice to be unethical, nor that it was intended to shield communications from production to regulators.<sup>19</sup>
16. Mr Power said that he did not have the word "privileged" as part of his automatic email signature.<sup>20</sup> Accordingly, each and every time "privileged" appeared in an email from Mr Power, he would have manually typed it (or had it typed for him). Mr Power said "I take your point" to the suggestion that the right practice would have been to write "may be privileged".<sup>21</sup> Further, Mr Power accepted that there was a risk that others, upon seeing a document marked by Mr Power as "privileged", would conclude that the document was privileged without making further inquiries and refrain from producing the document to a regulator.<sup>22</sup>
17. Consistently with Mr Power's evidence, The Star Entities submitted that it would be open for the Review to find that the misunderstanding by certain staff members as to when a communication could be privileged created a risk that a person reviewing a document marked as privileged might refrain from producing that document in response to a request from a regulator. The Star Entities submitted further that it would be desirable for The Star

to have a policy and training on when a communication should be marked as privileged and for the Legal Team's email signature to contain words to the effect that a communication *may* be privileged.<sup>23</sup>

18. Mr White's evidence was that he marked communications with third-party providers as privileged as a matter of course.<sup>24</sup> He said he was not certain if it was unethical to engage in that practice "if you might wish to sort of consider it later", but Mr White went on to say: "I take your point, that if you put it on without thought, that that is not necessarily appropriate conduct".<sup>25</sup> Mr White said that he recalled being told to mark communications as privileged as a matter of course when he started in his role at Star Entertainment "a very long time ago".<sup>26</sup>
19. In March 2018, following concerns about unauthorised cash transactions in the casino amounting to unlicensed casino operations, Mr White sent an email instructing colleagues:<sup>27</sup>

If any team member becomes aware of cash transactions at the service desk, they should inform Oliver White by email, copying in Micheil Brodie and Saro Mugnaini using "Privileged and confidential" in the title and seeking my advice on the relevant circumstances.

20. Mr Angus Buchanan said that he read that instruction at the time.<sup>28</sup> Mr White said of his instruction, in answer to the following questions from Counsel Assisting:<sup>29</sup>

Q: So aren't you inviting these members of staff to mark their communications to you "privileged and confidential" irrespective of whether or not they were actually seeking legal advice from you?

A: No, I think I was saying to them that they – if there were circumstances where this was happening is that there would need to be legal advice provided. I admit it's quite clumsy and it is – I totally accept that actually, you know, I may have been mistaken as to the uses – but I think I was thinking that they would need my legal advice on such matters.

Q: Well, what you're asking them to do is let you know if cash transactions are occurring at the desk?

A: That's right, because I think I just directed that no cash transactions should be taking place, or that was my legal advice, was that that shouldn't happen, and I think that's above maybe.

21. Mr White was asked if he gave the instruction to shield production of any communications from the regulator, which he denied.<sup>30</sup> Again, however, irrespective of Mr White's intention, the natural consequence of such a marking is that a subsequent reviewer will be

more likely to conclude that the document is privileged without making further inquiries and refrain from producing the document to a regulator.

22. Star Entertainment commissioned a risk culture report from PwC which was produced in January 2022. On the first page of that report it says “Privileged and confidential” and “Prepared for the purposes of legal advice”.<sup>31</sup> The Star Entities submitted that the PwC document “is not a document created by The Star” and “[t]here is again no evidence before the Review as to the origin of those words”.<sup>32</sup> But the following explanation from PwC appears on the second page of its report:<sup>33</sup>

You have told us that The Star’s legal team has been requested to provide legal advice to executive management, including the Managing Director and CEO, in relation to The Star’s suitability to hold a casino licence under the Casino Control Act (NSW); and/or in relation to a suitability review and potential consequent disciplinary proceedings conducted pursuant to the Act (Legal Act).

A risk and compliance culture review of The Star’s business, focussed on the gaming operations and service of alcohol, is required for the Legal Advice and to prepare for upcoming regulator proceedings.

23. This is consistent with the evidence of Dr Pitkin (a former practising lawyer). Dr Pitkin said that she thought the language was included by PwC “because the report was commissioned through the lawyers”.<sup>34</sup> Dr Pitkin said “it’s a report that’s a very useful report for the Board”, and “[i]t’s not my understanding that it would have been prepared for the purposes of legal advice”.<sup>35</sup> When asked whether the markings on page 1 of the PwC report (i.e. “Privileged and confidential” and “Prepared for the purposes of legal advice”) accorded with her understanding, Dr Pitkin said: “No”.<sup>36</sup>
24. Similarly, Mr Bekier said of the PwC report: “In August 2021, we engaged PwC to undertake a review of our risk and compliance culture”.<sup>37</sup> And Mr O’Neill said: “In August 2021, The Star Entertainment Group commissioned [PwC] to review its risk culture, with a particular focus on gaming and liquor operations”.<sup>38</sup> Neither Mr Bekier nor Mr O’Neill referred to PwC’s review being undertaken within a wider context of Star Entertainment receiving legal advice. Plainly, the dominant purpose of the PwC risk culture report was not to obtain legal advice.

## Chapter 19.4 Conclusions and recommendations

25. There was an unsatisfactory understanding of the circumstances in which legal professional privilege should be claimed among Star Entertainment’s most senior in-house lawyers over the Relevant Period. Ms Martin, the head of the in-house Legal Team, claimed privilege

over the KPMG reports and did nothing to correct the BDO report which was marked as privileged in circumstances where those reports were clearly not privileged, demonstrating an unsatisfactory understanding of the relevant principles. Mr Power and Mr White admitted that they had a practice of marking email communications, reports and other documents as privileged without properly considering whether there was a basis for claiming privilege.

26. Inappropriate claims for privilege increase the likelihood that documents will not be produced to regulators and others, when in fact they should be disclosed. That is not, contrary to The Star Entities' submission, "to take an unduly pessimistic view of persons – including legal practitioners – who assist The Star in responding to regulators".<sup>39</sup> Instead it is to accept the practical reality, which Mr Power also accepted, of a risk that others, upon seeing a document marked as "privileged", would conclude that the document is privileged without making further inquiries and refrain from producing the document to a regulator.<sup>40</sup>
27. The Star Entities accepted "that it would be desirable for The Star to have a policy and training on when a communication should be marked as privileged and for the Legal Team's email signature to contain words to the effect that a communication *may* be privileged".<sup>41</sup>
28. **Recommendation:** It is recommended that the Authority take steps to require the operator of The Star Casino to ensure and certify to the Authority that its in-house lawyers have received independent and specific training on legal professional privilege and when it can and cannot be claimed, on an annual basis.

## Endnote

- <sup>1</sup> *Evidence Act 1995* (NSW) ss 118-119; *Evidence Act 1995* (Cth), ss 118-119; *The Daniels Corporation International Pty Ltd v ACCC* (2002) 213 CLR 543 at 552, [9].
- <sup>2</sup> *The Daniels Corporation International Pty Ltd v ACCC* (2002) 213 CLR 543 at 552, [9], citing *Attorney-General (NT) v Maurice* (1986) 161 CLR 475 at 490.
- <sup>3</sup> *Commissioner of the AFP v Propend Finance Pty Ltd* (1997) 188 CLR 501 at 508, 544, 555, 572, 590.
- <sup>4</sup> *Ibid* at 512, 570-571.
- <sup>5</sup> Martin: Day 18, T2055.11-46.
- <sup>6</sup> Power: Day 17, T1807.14-T1808.33.
- <sup>7</sup> White: Day 14, T1611.37-T1612.6.
- <sup>8</sup> Martin: Day 18, T2071.14-2072.38; Power: Day 17, T1838.22-1841.12; White: Day 14, T1626.26-1629.15.
- <sup>9</sup> Martin: Day 18, T2073.1-2; Power: Day 17, T1841.8-16; White: Day 14, T1629.26.
- <sup>10</sup> Martin: Day 18, T2073.9-18.
- <sup>11</sup> **Exhibit B-3006** (STA.5002.0007.2441 at .2449).
- <sup>12</sup> Martin: Day 19, T2126.27-36.
- <sup>13</sup> Martin: Day 19, T2126.36.
- <sup>14</sup> Martin: Day 19, T2126.40-41.
- <sup>15</sup> Star Entities' Written Submissions dated 21 June 2022, para [G.19].
- <sup>16</sup> **Exhibit B-3370** (STA.3402.0008.4551 at .4551); **Exhibit B-2841** (STA.3002.0001.1248 at .1248).
- <sup>17</sup> Power: Day 17, T1841.13-T1842.1; Power: Day 17, T1854.30-T1855.6.
- <sup>18</sup> Power: Day 18, T2009.38-48; **Exhibit B-121** (STA.3008.0008.0070).
- <sup>19</sup> Power: Day 17, T1842.5-10.
- <sup>20</sup> Power: Day 17, T1841.27-29.
- <sup>21</sup> Power: Day 17, T1857.37.
- <sup>22</sup> Power: Day 17, T1857.1-37.
- <sup>23</sup> Star Entities' Written Submissions dated 21 June 2022, para [G.3].
- <sup>24</sup> White: Day 16, T1746.33.
- <sup>25</sup> White: Day 16, T1747.1-4.
- <sup>26</sup> White: Day 16, T1747.6-13.
- <sup>27</sup> **Exhibit B-705** (STA.3412.0019.5757 at .5759) p 3.
- <sup>28</sup> Buchanan: Day 5, T484.10-22.
- <sup>29</sup> White: Day 14, T1634.22-37.
- <sup>30</sup> White: Day 14, T1634.43.
- <sup>31</sup> **Exhibit B-3451** (STA.3018.0002.0024 at .0024) p 1.
- <sup>32</sup> Star Entities' Written Submissions dated 21 June 2022, para [G.23].
- <sup>33</sup> **Exhibit B-3451** (STA.3018.0002.0024 at .0025) p 2.

<sup>34</sup> Pitkin: Day 32, T3555.47-48.

<sup>35</sup> Pitkin: Day 32, T3555.48-T3556.2.

<sup>36</sup> Pitkin: Day 32, T3555.42.

<sup>37</sup> **Exhibit A-72**, para [66] (INQ.002.004.0066 at .0076).

<sup>38</sup> **Exhibit A-1055**, para [76] (INQ.002.004.0031 at .0054).

<sup>39</sup> Star Entities' Written Submissions dated 21 June 2022, para [G.13].

<sup>40</sup> Power: Day 17, T1857.1-37.

<sup>41</sup> Star Entities' Written Submissions dated 21 June 2022, para [G.3].

