



**INDEPENDENT LIQUOR AND GAMING AUTHORITY OF NSW**

**INQUIRY UNDER SECTION 143 OF THE CASINO CONTROL ACT 1992 (NSW)**

**THE HONOURABLE PA BERGIN SC  
COMMISSIONER**

**PUBLIC HEARING  
SYDNEY**

**THURSDAY, 27 FEBRUARY 2020  
AT 10.00 AM**

**Continued from 26.2.2020**

**DAY 5**

Any person who publishes any part of this transcript in any way and to any person contrary to an Inquiry direction against publication commits an offence against section 143B of the *Casino Control Act 1992 (NSW)*

**MS N. SHARP SC appears with MR S. ASPINALL as counsel assisting the Inquiry**

**MR N. YOUNG QC appears with MS C. HAMILTON-JEWELL of counsel for Crown Resorts Limited and Crown Sydney Gaming Pty Ltd**

5 **MR T. O'BRIEN of counsel appears for CPH Crown Holdings Pty Ltd**

**MS Z. HILLMAN of counsel appears for Melco Resorts & Entertainment Ltd**

10 COMMISSIONER: Yes, Ms Sharp.

MS SHARP: Good morning, Commissioner. The first and only witness today is Mr Aub Chapman.

15 COMMISSIONER: Yes, thank you.

<WILLIAM AUBREY CHAPMAN, SWORN

[10.00 am]

20 <EXAMINATION BY MS SHARP

COMMISSIONER: Thank you, Mr Chapman. Please take a seat. Yes, Ms Sharp.

25 MS SHARP: Mr Chapman, could you tell the commission your full name, please?

MR CHAPMAN: My full name is William Aubrey Chapman.

MS SHARP: And your address is known to those assisting this inquiry.

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MR CHAPMAN: [REDACTED].

MS SHARP: You have provided a Curriculum Vitae to this inquiry.

35 MR CHAPMAN: I have.

MS SHARP: Could I bring up document INQ.500.001.0001, which is exhibit A249. This is your curriculum vitae that you provided to the inquiry?

40 MR CHAPMAN: That's page 1 of it.

MS SHARP: And I will just have you slowly scroll through so you can identify that that's the entire document.

45 MR CHAPMAN: That's correct.

MS SHARP: Now, Mr Chapman, you are a career banker with over 42 years of professional experience; correct?

MR CHAPMAN: Correct.

5

MS SHARP: You started your working life as a banker with the Bank of New South Wales.

MR CHAPMAN: That's correct.

10

MS SHARP: And later you worked at Westpac.

MR CHAPMAN: Westpac was the entity that was formed out of the entity that was formed out of the merge of Bank of New South Wales and the Commercial Bank of Australia.

15

MS SHARP: You ceased working there on a full-time basis in September 2003.

MR CHAPMAN: That's correct.

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MS SHARP: One of your roles while you were at Westpac full-time was managing the group's compliance with anti-money laundering and counterterrorism financing laws, correct?

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MR CHAPMAN: That's correct. It was formerly known as the Financial Transaction Reports Act and that, of course, was replaced by the Anti-Money Laundering and Counterterrorism Financing Act in 2006.

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MS SHARP: In the period from 2004 until 2015, you have been a – or you were a consultant at Deloitte Australia.

MR CHAPMAN: When I retired from the bank, I was invited by Deloitte to come and consult to them, not being a member of their staff. And I performed those duties in a variety of ways between the start of 2004 up to 2009.

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MS SHARP: And can you say in general terms what your role was or what kind of consulting work you did with you when Deloitte?

MR CHAPMAN: I certainly can. Deloitte included me in a number of investigations or projects that they work on for clients. I became part of their team for that. I also provided guidance to their junior staff and education and training for them. So I was consultant to them and part of their team.

40

MS SHARP: It's right, isn't it, that you have also done some work with the Australian Transactions Reports and Analysis Centre, which is often referred to as AUSTRAC.

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MR CHAPMAN: That's correct and in fact one month after I retired from the bank I was invited by the then director, they were called then, of AUSTRAC to come and consult with them because they lacked – as the director said we lack banking experience. So I did that also up to 2009 on a part-time basis, so I was doing both at once.

MS SHARP: It is correct, isn't it, that you have extensive experience in a range of areas, including auditing major IT projects.

MR CHAPMAN: As part of my role at the bank, that was one of my roles, to audit large projects.

MS SHARP: And also fraud control and anti-money laundering and counterterrorism financing.

MR CHAPMAN: Correct.

MS SHARP: So far as your anti-money laundering experience is concerned, is it right that that goes back to about 1991?

MR CHAPMAN: That would be correct, when I took over that role at the bank.

MS SHARP: Is it also right that you have appeared for several Australian Parliamentary committees, including one that examined the effectiveness of the Australian anti-money laundering regime.

MR CHAPMAN: That's correct. I represented the banking industry at those hearings in Canberra.

MS SHARP: When did those hearings take place?

MR CHAPMAN: Sorry, I have to think of the year. It would have been somewhere in the late 90s. I appeared several times, I'm sorry. I can't give you the dates.

MS SHARP: Now, somehow in the midst of all those other activities we've spoken about, you set up your own consulting service called Aub Chapman Consulting Services Proprietary Limited in about 2003.

MR CHAPMAN: That's correct. And in fact the invitation from the director of AUSTRAC was Aub, will you form a company and come and consult to us, we're not taking you on as an employee. So that was the formation of my company.

MS SHARP: What does your company do?

MR CHAPMAN: My company provides expert advice to clients over a range of industries that have obligations under the AML legislation. I provide training for some clients where they do not have expertise to training their staff, which is part of the

requirements and in others, the word is probably not correct but I sit behind their AML officer because they don't have what they consider enough expertise. And that particularly relates to overseas entities with their Australian operations here where the person who is the compliance officer is also the finance officer or some other role  
5 and they feel they don't have the local expertise.

MS SHARP: Let me get some of the acronyms right at the outset. AML means Anti-Money Laundering.

10 MR CHAPMAN: Correct.

MS SHARP: CTF means Counter-Terrorism Financing.

15 MR CHAPMAN: That's correct.

MS SHARP: Now, in the – your consulting business has a client base that includes Australian and international banks?

20 MR CHAPMAN: That's correct.

MS SHARP: Wealth management firms.

MR CHAPMAN: That's correct.

25 MS SHARP: Money service businesses, payment service providers, online gambling businesses.

MR CHAPMAN: I have done audits - - -

30 MS SHARP: And fintech businesses such as bitcoin.

MR CHAPMAN: Correct.

35 MS SHARP: It's right that during the course of your consulting business you have made numerous presentations and facilitated conferences on controls to prevent money laundering both in Australia and overseas.

MR CHAPMAN: That is correct, and I continue to do that.

40 MS SHARP: Is it correct that you have also been involved in international anti-money laundering consulting assignments for the United Nations?

MR CHAPMAN: That's correct.

45 MS SHARP: For the Asian Development Bank.

MR CHAPMAN: Correct.

MS SHARP: The Eurasian Group on Combating Money Laundering.

MR CHAPMAN: That's correct.

5 MS SHARP: And the Financial Services Volunteer Corporation.

MR CHAPMAN: Well, the finances services volunteer corporation is a US based entity. It's not an NGO as such but it's a volunteer organisation and they offer services to developing countries, being part of projects that they've run.

10

MS SHARP: Have you done any AML or CTF work, specifically in the context of casinos?

MR CHAPMAN: No.

15

MS SHARP: It's sometimes said that casinos operate like mini banks because they provide a range of financial services; would you agree with that?

MR CHAPMAN: They do provide financial services.

20

MS SHARP: For example, you are aware that they provide credit?

MR CHAPMAN: My understanding.

25 MS SHARP: They maintain client money accounts.

MR CHAPMAN: Correct.

MS SHARP: They engage in currency exchange?

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MR CHAPMAN: Yes, and that there depend on which consists and what services they're offering their patrons.

MS SHARP: And they receive funds from patrons via electronic funds transfer sometimes known as wiring.

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MR CHAPMAN: That's correct.

MS SHARP: They also wire money on behalf of patrons.

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MR CHAPMAN: That would be at the request of the patron too.

MS SHARP: And those financial services I've just sketched out are financial services with which you have familiarity?

45

MR CHAPMAN: That's correct.

MS SHARP: Now, you are a Certified Anti-Money Laundering Specialist?

MR CHAPMAN: I am.

5 MS SHARP: Who provides that certification?

MR CHAPMAN: The association of Certified Anti-Money Laundering Specialists, which is an international member based organisation. We currently have just under 80,000 members in 152 countries, and I have been a member since 1998. And I've  
10 sat and passed that credential which is our normal ELSAR certification.

MS SHARP: Is that organisation sometimes called ACAMS?

MR CHAPMAN: That's correct, that's the acronym it goes by.  
15

MS SHARP: Is it right you that also an instructor with ACAMS?

MR CHAPMAN: That's correct, I'm on the teaching faculty for every level of certification that they have and we do that sort of instructing face-to-face, by  
20 conferences and also virtual, did a two-hour webinar last night on sanctions.

COMMISSIONER: On what?

MR CHAPMAN: Sanctions.  
25

COMMISSIONER: I see.

MS SHARP: Can you sketch out briefly what ACAMS does?

MR CHAPMAN: Yes, certainly, ACAMS was formed with the idea of bringing  
30 together professionals to learn from one another, to develop standards of behaviour, what they expect from members in delivering their work for the organisations they work for or consult to. And so we do that in a variety of ways. We do it by providing online training, we do it by providing a range of conferences globally around the  
35 world where we invite a number of speakers to come to so that our members can come and listen to experts. We also provide all of this education and training online, as I mentioned earlier via different webinar techniques and so forth, what we call virtue classroom.

MS SHARP: It's correct that you have audited a number of anti-money laundering compliance plans?

MR CHAPMAN: Yes, that's one of the core points of my business.

MS SHARP: Can you give us any rough indication of how many compliance plans you may have audited over the years?

MR CHAPMAN: Gosh, it would be in the hundreds. I do about 50 a year.

MS SHARP: Is it correct that you have conducted anti-money laundering audits for online gaming companies?

5

MR CHAPMAN: Correct.

MS SHARP: But you haven't done any for what I will call traditional casinos?

10 MR CHAPMAN: No, I have not.

MS SHARP: Now, back to ACAMS, you're also the co-chair of the Australian chapter of ACAMS, aren't you?

15 MR CHAPMAN: That's correct. We formed the chapter here in Australia in late 2006. We were the 15<sup>th</sup> chapter to be formed. There are now just shy of 80 chapters around the world. And yes, I'm still in that role.

MS SHARP: And Mr Chapman, I can't move forward without mentioning that in 2009 you received an AML Professional of the Year award at the 8<sup>th</sup> ACAMS International Anti-Money Laundering and Financial Crime Conference.

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MR CHAPMAN: That's correct, I must say I was very honoured to receive that award.

25

MS SHARP: You have vast experience in the anti-money laundering and counterterrorism field, correct?

MR CHAPMAN: I think that background would suggest that that's a correct statement and I believe that.

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MS SHARP: Are you also an expert in the Australian anti-money laundering and counterterrorism financing regulatory framework?

MR CHAPMAN: Yes, I have a very sound knowledge of that and I operate in that field. I'm not sure that anyone puts themselves out as an expert. That's always a subjective.

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COMMISSIONER: Always dangerous.

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MR CHAPMAN: It is.

MS SHARP: You also have a detailed understanding of the Anti-Money Laundering and Counterterrorism Financing Act of 2006?

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MR CHAPMAN: I certainly do.

MS SHARP: And you have a detailed understanding of the 2007 rules, number 1, that sit underneath them.

MR CHAPMAN: I certainly do.

5

MS SHARP: Now that's a quite mouthful. I will call the Act the AML Act and I will call the rules the AML rules and you will know what I'm talking about.

MR CHAPMAN: I certainly do. Can I just add for the sake of the Commissioner, the legislative framework in Australia for AML is somewhat different from other legislation in that there are three instruments. There's the Act, there's regulations and its rules. Many acts of Parliament only have acts and regulations.

10

MS SHARP: I want to ask you some general questions about money laundering to start with. What is money laundering, Mr Chapman?

15

MR CHAPMAN: Money laundering is the method by which proceeds of illicit activity are cleansed and brought back into use by the criminals that perpetrated the event, or on behalf of those that perpetrated the illicit activity in the first place.

20

There are three stages to that in a generic learning sense. There's placement which is taking the proceeds of the illegal or illicit activity and putting it back into the system. There then is layering, and layering is the art of moving that money around in different forms, different accounts, different institutions in different forms so that you are distancing the proceeds from the original activity. And then obviously the last is integration which is where you bring that money back into the community for your own benefit. That's very different, money laundering versus terrorist financing.

25

MS SHARP: Is money laundering a problem?

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MR CHAPMAN: According to the United Nations, it's a very large problem that, in the last statements that I've seen, accounts for somewhere between two and a half and five per cent of global GDP. Now, that's a very subjective statement. One has to look at the background as to how that estimate was ever made but that clearly indicates it's a global issue, and it has many, many factors as to why that is the case.

35

MS SHARP: But why is money laundering a problem?

MR CHAPMAN: It impacts the economies because it's usually avoiding tax, avoiding – disrupting the normal community in its normal commercial activities and therefore presents real problems.

40

MS SHARP: Does money laundering have a role in facilitating crime?

MR CHAPMAN: I think it does but it's probably the end result of crime. This is the end result. You need to launder the proceeds of that crime, be they in physical cash or other instruments. But yes, it's certainly somewhat circular.

45

MS SHARP: When was it, Mr Chapman, that money laundering started to be recognised as a problem?

5 MR CHAPMAN: The G7 countries back in 1989 met and decided that they needed to take a global approach to addressing this major problem, and they decided to form a Financial Action Task Force, as it's known, which is the inter-government body that brings up and discusses and, therefore, develops standards and recommendations that countries should adopt.

10 MS SHARP: Are you able to say to what extent money laundering is a problem in Australia?

15 MR CHAPMAN: Well, I think like most countries that have advanced economies, it is a major problem, and it's spread not only across one sector, it's spread across all sectors and some clearly are more vulnerable than others.

MS SHARP: When you say it's spread across a number of sectors, are you able to give us some indication of some of the key sectors for money laundering?

20 MR CHAPMAN: We're talking about the mainstream financial services; that includes not only banks, the smaller ones, the credit unions, building societies and so forth. It includes the non-financial businesses such as lawyers, accountants, real estate. It includes bullion dealers. It includes casinos. It include remitters. It includes the digital currencies, and so all of the new fintechs that are now  
25 developing, the new payment mechanisms are all giving opportunities to criminals to see if there's some way that they can exploit that. I must say that some methods of money laundering are more attractive to criminals than the others. You would rather do one transaction of a million dollars than a million transactions of one dollar if you are trying to launder dirty money.

30 MS SHARP: You've indicated that casinos are one area where money can be laundered but there are also other avenues by which money can be laundered. Are you able to say why casinos may be an attractive option for money launderers?

35 MR CHAPMAN: Well, I think any cash-centric business or cash-intensive business is going to be attractive to criminals to be able to place their proceeds of their criminal activity into the network so that they can wash it. I mean that's what it's all about.

40 COMMISSIONER: Yes.

MR CHAPMAN: And so that makes them attractive. They're not the only industry that is cash-intensive, of course, and therefore there are similarities with other industries as well. But casinos, gaming of any sort, be it online booking – sorry, on-  
45 field booking, bookmakers and things like that, they will all be attractive to receiving cash, and therefore you don't know the if proceeds are either legitimate or come from illicit sources.

MS SHARP: Of course, it's also right that money laundering can take place without cash, isn't it?

5 MR CHAPMAN: Absolutely. And we're seeing a trend towards that as new instruments, payment instruments are coming into vogue, and one only has to look at digital currency and what is happening there. It's very easy because some of these things have factors or features in them that circumvent the current structures of the law.

10 COMMISSIONER: Yes.

MR CHAPMAN: So the law is always trying to catch up.

15 MS SHARP: Have you heard of underground banking?

MR CHAPMAN: I certainly have.

MS SHARP: Can you tell us what underground banking is.

20 MR CHAPMAN: Underground banking is financial services that are provided by entities that may not necessarily be regulated under the legislation. And this could be private lending. It could be private investing. It could be a raft of things whereby these things are done. Now, that's different from, and there are different levels of that. Some of that is quite legitimate. You have private loans funded by, say, a real estate agent or more likely an accountant or a lawyer who will be running funds through his trust account, and he might be able to put the owner of the investment in touch with the person who wants to borrow the money and set up a private mortgage.

30 Now, those things are, of course, intended to be caught by the legislation, famously known as tranche 2 of the AML/CTF Act which we understood at the time that the launch of the Act in 2006, coming into effect in 2007, the then Attorney-General said when phase one settled down phase 2 would be needed. We assumed, as the industry, that meant about one or two years, and that still has not occurred. And I might add just for comparison, New Zealand has moved forward before this. So many of the entities that I audit have operations in both countries, and they're therefore – we're looking at lawyers, accountants, and real estate agents in New Zealand already coming in under their legislation. I can't comment why that hasn't moved forward. That's clearly for government to decide.

40 COMMISSIONER: Of course.

MS SHARP: Just coming back to underground banking for a moment; you have said that there are legitimate forms of underground banking but there are also illegitimate forms of underground banking, are there?

45 MR CHAPMAN: Well, because the – because the entities that provide these sorts of services aren't necessarily regulated then clearly they can assist in the movement

of funds both domestically and internationally without it being caught by the legislation and therefore no reporting to AUSTRAC.

5 MS SHARP: Are you aware as to whether underground banking is used as a method for laundering money?

MR CHAPMAN: I would be absolutely astounded if it wasn't.

10 MS SHARP: You've mentioned that cash is one way of laundering money, and there are other ways of laundering money. Can I ask you now about international cash transmitters? Can that be used to launder money?

15 MR CHAPMAN: If you're referring to carriers that move physical currency across borders, the answer is yes but the majority of those, the better known ones, are licensed to do this and they report cash transactions at the border to the customs agents.

COMMISSIONER: Licensed by whom?

20 MR CHAPMAN: Armaguard, Prosegur would be two companies here.

COMMISSIONER: But by whom are they licensed; by the bigger companies, do you say?

25 MR CHAPMAN: They – they are registered cash transmitters, and they report to Customs, as we do in cash transaction reporting, at the border when they're moving 10,000 or more physical currency across the border. But, of course, you know, moving value across the border introduces a whole new range. You can move value by taking a pocketful of diamonds onto the plane and selling those at the other end,  
30 gold, whatever. There are many ways of moving value.

MS SHARP: And that's what we should be focused on rather than simply moving cash.

35 MR CHAPMAN: Well, cash still is a very big business. If – one suggests from the Reserve Bank's figures that cash transactions are progressively a smaller percentage of total transactions. However, those same reports from the Reserve Bank suggest that the actuals cash stock value continues to be increase; they've got to be printing more.

40

MS SHARP: Is there a lot of cash that moves around in the Australian economy? Actually, I put that badly; does cash in the Australian economy move around in very large volumes, say, \$100,000, \$200,000, or are we moving towards a cashless economy, in Australia?

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MR CHAPMAN: I could be bold here and suggest that a cashless society will happen one month after the paperless office, and that's probably not going to happen

either. So I think there will always be a point for cash. And can I just draw a comparison, Commissioner. We have just been through some very, very severe bushfires, and to listen to the people on the South Coast of New South Wales and the unintended problems that they experienced. They were told to leave. Well, the  
5 EFTPOS machines were all down because of the fires. So how do you use anything other than cash? And I suggest that there will be probably a resurgence of people holding a small stock of cash for emergencies when our technologies all fall over.

10 This is reminiscent of World War II in Europe where people went to the banks and the banks had folded, the money had been stolen and they lost. We saw that in the 1950s, 1960s when I was a junior in the banking industry, of European migrants storing cash. Even if they used it at the safe deposit box at the bank, it was their cash and it was in their box. They just didn't trust the system. So I think there's a variety of ways where cash will always be a negotiable instrument for the exchange of goods  
15 and services.

MS SHARP: Can I move now to ask you about the Financial Action Task Force which is often known as FATF. What is FATF?

20 MR CHAPMAN: It's the international inter-government body which meets and looks at things that are related to financial crime. So they start off looking at anti-money laundering and what they should do as global standards, and they came up with a document called the 40 Recommendations.

25 MS SHARP: I will come and ask you about that in a moment.

MR CHAPMAN: Certainly.

30 MS SHARP: Is it right that Australia is a founding member of FATF?

MR CHAPMAN: That is correct.

MS SHARP: Are you able to say how many members there are of FATF?

35 MR CHAPMAN: I think currently there's 37, but I might be corrected.

MS SHARP: Now, you were going to say something about the FATF recommendations, I think; what are they?

40 MR CHAPMAN: Yes. The recommendations are those ideals that the members have agreed to that they're saying the member countries should adopt these and bring them into their own legislative framework, such as you need to set up a framework for the criminalisation of certain activities, for some administrative functions to be put in place, for example, having a financial intelligence unit and a regulator. There  
45 are also components within the 40 recommendations that says this is what financial

institutions should do as their part to prevent or at least mitigate these crimes. And then there are other things in there about international cooperation.

5 MS SHARP: Now, can I just get the history of this right. It's correct that the FATF recommendations were first developed in 1990?

MR CHAPMAN: Correct.

10 MS SHARP: Then they were revised in 1996?

MR CHAPMAN: That's correct.

MS SHARP: At that stage there were 40 of them.

15 MR CHAPMAN: There were.

MS SHARP: In around 2001 a further eight special recommendations were made.

20 MR CHAPMAN: That's correct. And that's as a result of the terrorist bombings in the United States, and so there were eight special recommendations added relating to terrorist financing.

MS SHARP: And there were later extended to nine special recommendations.

25 MR CHAPMAN: That's correct. There was one added for international movement, bulk movement of cash, criminals moving bulk cash to support their own operations in various jurisdictions.

30 MS SHARP: So when we talk about the FATF recommendations it is commonly referred to as the 40 plus nine.

35 MR CHAPMAN: It was. They've now – in the latest version of those recommendations, the nine special recommendations have been melded back in and so we are back to 40 recommendations but covering what was in the 40 plus nine.

MS SHARP: So just coming back to those points of history, the recommendations were revised again in 2003, weren't they?

40 MR CHAPMAN: That's correct.

MS SHARP: Is it right they were most recently revised in February 2012, and that's when the nine were folded back into the 40?

45 MR CHAPMAN: That is absolutely correct.

MS SHARP: Can I just show you a document, Mr Chapman, which I'll pull up. INQ.130.002.1175, which is exhibit A99.

COMMISSIONER: Thank you.

MS SHARP: Just pardon me for a moment; I think I have pulled up the wrong reference, Commissioner.

5

COMMISSIONER: That's all right.

MS SHARP: Yes, I think there has been – we will try that again. It's INQ.130.002.1175. Now, have you seen this document?

10

MR CHAPMAN: I certainly have.

MS SHARP: You will see that it's updated at June 2019. Now, this document, can I just scroll through the first few pages. This document sets out the FATF recommendations that are currently in force, doesn't it?

15

MR CHAPMAN: That's correct. And if you were to go back just a couple of pages, the recommendations are broken into groupings. And they were the groupings I was talking about.

20

MS SHARP: I will go back to that. And we are on the right page at 1179. Is this what you mean they're broken into different groupings?

MR CHAPMAN: That's correct.

25

MS SHARP: If I can take you to pinpoint 1181, what we see – and then 1182, what we then see is an explanation of the purpose of the FATF recommendations and in the report that follows an explanation of each of those recommendations.

30

MR CHAPMAN: That's correct. That document comprises an explanation of the recommendation and I must say the interpretive notes that are attached to each of those recommendations are very instructive.

COMMISSIONER: Thank you.

35

MS SHARP: Australia is a member of FATF. What obligations does it have with respect to the FATF recommendations?

MR CHAPMAN: Being a member of the FATF requires the member country and Australia as you were referring to, to work towards the adoption of and combines with all of those recommendations. It also requires the member to participate actively participate in mutual evaluations of the other members. So it's a group that's self-assesses one another.

40

MS SHARP: And what regularly happens is that FATF does conduct assessments of other countries' anti-money laundering and counterterrorism financing regimes?

45

MR CHAPMAN: FATF has this mutual evaluation process to evaluate its own members by that mutual arrangement. They may join with other parties to look at other countries because whilst it's not part of FATF as such, there are nine regional bodies that are FATF style bodies. And they comply or seek to comply with the standards but they are stand-alone entities such as the Asia-Pacific Group on Money Laundering.

MS SHARP: And in the past we have seen mutual evaluations of Australia.

10 MR CHAPMAN: We certainly have.

MS SHARP: I've also seen an evaluation of Macau. Is Macau a member of FATF?

15 MR CHAPMAN: That was done by APG, the Asia-Pacific Group on Money Laundering which is the biggest regional grouping. Now, FATF sometimes diagnose in those as does the World Bank and the IMF. Some of these mutual evaluations have multiple parties involved in them.

20 MS SHARP: And what these evaluations do is look at the extent to which the recommendations have been adopted and also any weaknesses in the national money laundering counterterrorism and financing regime.

25 MR CHAPMAN: Yes, can I just add to that, we are now in the fourth round of mutual evaluations under the FATF methodology and they move from not only looking at technical compliance, looking at the 40 recommendations, have you got this, have you criminalised certain activities and so forth, they're now looking at the effectiveness of the regime and that's the real new challenge. Maybe able to demonstrate that your country is meeting all or the majority of those recommendations through law and corporate structure and so forth. But is it effective?

30 So they now have very detailed methodology for effecting – sorry, assessing the effectiveness of the regime and that's a real challenge for the mutual evaluation team to actually understand is it effective. What normally happens now is that when the mutual evaluation team is on site, they are not only looking at the authorities of what's in place but they're actually reviewing reporting entities and understanding how they operate. I must say that I've been party to that in my previous role at Westpac.

40 MS SHARP: Now, the last mutual evaluation that FATF did for Australia was in 2015, was it?

MR CHAPMAN: Yes.

45 MS SHARP: Can I just bring up the report that came out of that, it's INQ.130.001.1176. And this is exhibit A69.

COMMISSIONER: Thank you.

MS SHARP: And I take it that you have – what I'm now showing you is the April 2015 Mutual Evaluation Report for Australia. I take it you have reviewed this  
5 previously?

MR CHAPMAN: I certainly have. And I just draw your attention to a notice that FATF and APG undertook this evaluation together.

10 MS SHARP: Thank you. Can I take you to the executive summary? If we could go to pinpoint 1182. If you look at the fourth bullet point, if we can enlarge that. So you will see it's a reference to disseminating good quality financial intelligence and it says that the amount of financial transaction data in the AUSTRAC database and the fact that all relevant competent authorities have access to this database is the strength  
15 of the system but there's a caveat. However, the somewhat limited use of AUSTRAC information by law enforcement as a trigger to commence money laundering or terrorism financing investigations presents a weakness in the Australian system. Are you able to shed any further light on that proposition?

20 MR CHAPMAN: If you look at the role of AUSTRAC as a financial intelligence unit and I must say that, and I believe we might want to talk more about AUSTRAC later on but it has to, it's the regulator as well as the finance intelligence, that's not common around the world they are normally separated but if you look at it, part of the regime is for all reporting entities, that is those entities that provide services that  
25 are covered by the legislation, have to do certain reporting. Those reports relate to cash transactions, suspicious matters, international funds transfer instructions and obviously they also to put in an annual compliance return.

30 The volume of transactions reported in suspicious matters for threshold transactions which are the cash transactions of 2000 or more in physical cash, and the international wires, the involvement of that appearing in the reports of AUSTRAC would signal that this growing exponentially each year and therefore the database of all of this reporting sits there. The question then is how much can law enforcement use and what will they do with that.

35 It is my understanding from working in AUSTRAC that this technology is called push pull technology. That is, AUSTRAC pushes information out to law enforcement and law enforcement can pull information as part of their agencies. They may go to AUSTRAC data based on some investigation they are doing. A  
40 good example would be an underground sting of drug trafficking and they will see that they have got names and so forth of people involved in that network of drug dealing. They want to see if banks and others reported anything on these particular clients before. So they are building the profile from both ends of their investigation. I can't comment on the resources available to law enforcement to do this sort of  
45 work.

MS SHARP: Can I just explore one aspect of that last answer. You said that AUSTRAC performs a role as a regulator and it also performs a role as a financial intelligence analyst and you said that was unusual compared to .....

5 MR CHAPMAN: The majority of countries around the world, it's not totally unique but the majority of countries around the world have separated those two roles. For  
10 example if one was to look at New Zealand our nearest neighbour, financial intelligence is a unit within the police. Whereas the regulator is in that country separated into three sectors. The Reserve Bank of New Zealand is the regulator for the banks and the major financial institutions. The financial markets authority is the regulator for the securities sector and the Department of Internal Affairs does remitters, digital currencies, a whole raft of other type of reporting entities. So they have sector regulation but a central body separate which is the Financing Intelligence Unit. I personally was a party to the discussions with then Attorney-General's  
15 department. We, as the major bank said we did not want another regulator. We would like AUSTRAC to take on both roles because it was a financial intelligence unit under the previous legislation. So, yes, they wear two hats.

MS SHARP: Just looking at some of FATF's other work, it's right that they  
20 released a report on money laundering in casinos in 2009?

MR CHAPMAN: That is correct. They produced, continually produce research papers and risk assessments on mini sectors, yes, that's correct.

25 MS SHARP: Can I bring up document INQ.130.001.2034. This is the report released in 2009 by FATF, it.

MR CHAPMAN: Produced by FATF and APG. So we've got the two bodies, the  
30 regional body as well as finance task force itself, jointly having prepared this document.

MS SHARP: And I take it you have read this document before.

MR CHAPMAN: I certainly have.

35 MS SHARP: What was the purpose of this document?

MR CHAPMAN: The authorities globally, as we are talking here, seek to provide  
40 information to countries and entities within the countries as to where they see the vulnerabilities. These are meant to be instructional. So that as the government of a country develops or improves its framework of legislation, they can add these things in as risks and what companies other entities should do and also they are very instructive to those entities understanding what they should be looking for as the risks in their particular business activities.

45 MS SHARP: When you say they're instructive to the particular entities, do you mean in this case that it's instructive to the casino operators.

MR CHAPMAN: Absolutely.

MS SHARP: And I don't know if you are able to answer this, but is the intention that this report would be available to the casino operators?

5

MR CHAPMAN: These are publicly available documents.

MS SHARP: Are they widely available?

10 MR CHAPMAN: Well they're on their websites and they're promoted through AUSTRAC and through other things that these documents have been issued. This gets back to, you know, the whole structure of governance and compliance within the particular institutions as to how they seek information when they're doing their work in developing their programs and risk assessments.

15

MS SHARP: Now, a little bit earlier in your evidence, you referred to the fact that the current AML Act was introduced in 2016 and there was some expectation that the second tranche would be introduced soon thereafter. There's a second tranche of that FATF recommendations, isn't there, that relates to that?

20

MR CHAPMAN: .....

MS SHARP: When you say there was a second tranche that was to be implemented - - -

25

COMMISSIONER: That's the real estate agents and the lawyers.

MR CHAPMAN: Yes, that's correct.

30 MS SHARP: That relates to the lawyers, the accountants and real estate, does it?

MR CHAPMAN: That's correct, and that's within the Australian legislative framework of FATF. FATF have always had these things included in their regulations it's just that the Australian Government decided and again I don't wish to pass an opinion but they decided they could introduce the whole thing in one tranche so they chose to stagger that. A good example of where they moved toward is in 2018 they introduced regulations into the digital currency area because bitcoin exchanges and things like that were evolving and those things came about. So they are progressively moving forward. If one looks at the Act and the rules, you get continuous changes.

40

COMMISSIONER: Just pardon me for one moment. When you say the regulations were introduced in '18, that's the regulations to the Act?

45 MR CHAPMAN: Most of the regulations in this particular Act are administrative whereas in others, as you know, the Minister can do the regulation.

COMMISSIONER: But in 2018 when you said the regulations were introduced, that's the regulations to the AML act.

5 MR CHAPMAN: There were changes to the AML Act, correct, and the rules to bring in the obligations that digital or virtual currency exchanges needed to actually comply with.

COMMISSIONER: So they would be, then, reporting entities?

10 MR CHAPMAN: Correct. Absolutely.

COMMISSIONER: Thank you. Yes, I'm sorry to interrupt.

15 MS SHARP: Just to clarify, the recommendations as to say accountants, real estate agents, lawyers, have always been part of the FATF 40 recommendations, it's just that the Australian government has not implemented those recommendations.

MR CHAPMAN: That's correct.

20 MS SHARP: Can I just show you an article, please, Mr Chapman. If I can bring up INQ.100.010.0997. That's exhibit A230. And one of the things that is said in this article is that property – and this is an article I should note is dated 11 November 2019 – it stated that:

25 *Property continues to be the AML weak link in Australia.*

Now, do you agree with that proposition?

30 MR CHAPMAN: Pardon me. Yes, I do. And that opinion – sorry.

MS SHARP: Take your time to have some water, Mr Chapman. Take your time.

MR CHAPMAN: That opinion is supported by a risk assessment produced – I'm sorry.

35 COMMISSIONER: No, just take your time.

MR CHAPMAN: I'm not choking up. I've just got a catch.

40 COMMISSIONER: Yes. All right. We'll get you some more water.

MR CHAPMAN: And there has been a lot of evidence, both public and private evidence, for example, all of the money moving from China into real estate in Australia and New Zealand.

45 MS SHARP: So when you were referring to a risk assessment, was that a risk assessment conducted by AUSTRAC?

MR CHAPMAN: AUSTRAC puts out research papers where they've – and some of them are called sector risk assessments, where they've – and they've produced many of those over the years, saying these are the vulnerabilities we see within a sector. Real estate is one, gambling is another. Remittance dealers are another. They have  
5 produced a number of these documents over the years and, again, in my words, I find these extremely instructive when I'm auditing a client and, say, well did you take this sort of information into account as you developed your risk assessment and therefore your compliance program.

10 MS SHARP: Now, I've been asking you about FATF. I now want to ask you some questions about ACAMS of which you are a co-chair of the Australian chapter. I take it you have some familiarity with the idea of junkets in the casino context?

MR CHAPMAN: Yes, I do.

15 MS SHARP: I want to show you a document that has been published by ACAMS. If I can bring up INQ.130.001.6933. And what you should have in front of you is a publication of ACAMS, authored by Mr Kenneth Pemberton called "Macau Junket Operators Pose Financial Crime Risk to Banks". And Commissioner, that's exhibit  
20 A23.

MR CHAPMAN: That's correct.

25 MS SHARP: Now, it's right that you actually haven't seen this document; is that correct, before this morning?

MR CHAPMAN: No, but I should have. I should have, not because I was looking at that, but given that I'm on the review board for advanced certification white paper, I should have read this one and so I skipped. Can I explain how these documents come  
30 into effect?

MS SHARP: That was just what I was going to ask you, so yes, please do.

35 MR CHAPMAN: So in ACAMS we – as part of our mandate we run educational training and networking events for members, and that's why a chapter is formed locally so that you can do that. We run major conferences, as I mentioned earlier. We run symposia everywhere around the world and in the advancement of the professionalism of our members, we offer a range of education and training, and if  
40 one looks at the local – at the lower level certificate courses, these are four hours of online training delivered by people like myself. And the person sits a small test at the end and they get a certificate for saying that they've done it. And that could be transaction monitoring. It could be ethics. It could be bitcoin and virtual currencies. We have 27 of these at the moment that we offer and they're subject specific.

45 Then we move to the core of our education which is the Certified Anti-Money Laundering Specialist. And that program actually deals with what you should know both about the background to AML, about what the international standards are, about

how you build a program and risk assessment, and how you do an investigation. And having done that course, you sit an exam. It's an online exam, 100 questions in three hours with multiple choice. It has been developed by people – and I'm one of, I think, 27 people that have developed the current version of that. And we use  
5 psychometric analysts to work out how we can determine whether or not the person has the competency to do the job and therefore be awarded that credential. And we've just launched a similar one on sanctions.

10 Then above that, for the profession that really wants to advance their career to a senior level, we offer at the moment – and it soon will be three, but at the moment we offer two advanced certification course. One is called CAMS-Audit, Certified Anti-Money Laundering Specialist-Audit. And the other is CAMS, Certified Anti-Money Laundering Specialist, Financial Crime Investigator. Those particular  
15 courses are an intensive three-day residential course and we, in fact, ran one here at the Shangri-La Hotel last Thursday, Friday and Saturday, at which I was one of the instructors.

Following that three day intensive course, each candidate is required to identify a topic that they will write a white paper on. That white paper is mentored over a  
20 period of three months, and then it is assessed by other people who have not known the candidate at all, never seen any of their background, as to whether or not that document adds value to the body of educational material that we will provide to our members. So the document, whilst it's sitting on the ACAMS website, it actually is the work of that particular individual and someone – some people on the review  
25 board have judged that that's worthy of publication because it will be instructive to our members and help them. And we are getting back to where all this information comes from that would help a person within an institution actually develop their own risk assessment and their program.

30 MS SHARP: And just so I can understand. This report by Mr Pemberton is an ACAMS white paper?

MR CHAPMAN: This is a white paper.

35 MS SHARP: And it's published on the ACAMS website as a white paper.

MR CHAPMAN: Certainly. And I must just add there, there are three levels of assessment: fail, pass and publish. And obviously Mr Pemberton's was deemed to be  
40 of a standard that should be published.

MS SHARP: And anyone can obtain access to the ACAMS website, can they?

MR CHAPMAN: They can obtain access to parts of the website. Other parts are available only to members, and I would suggest to you that white papers are  
45 available to members.

MS SHARP: And is the intention with the white papers that are distributed to all members?

5 MR CHAPMAN: No. They're available to members for them to access if they wish to. And so, to give an example, if I was sitting with a client and trying to help them improve their risk assessment and their program, and I knew that they were a member of ACAMS, I would say let's log on to the website, you've got the ability to go in and look at this library of information published by other practitioners, that may be of assistance, like this paper will be.

10 MS SHARP: If you were advising a casino operator, would you recommend to them that it would be a good idea to look at this white paper by Mr Pemberton?

15 MR CHAPMAN: Amongst many others. There are a raft of documents published from authorities around the world that I would be suggesting to a client in a particular industry you should look at these documents. There are a raft of documents published on the gambling industry, and casinos in particular, from the US, Canada and so forth. So they are all instructive, as would be white papers.

20 MS SHARP: I know you haven't seen this document before but I do want to ask you some questions about it based on your experience with ACAMS, and with the process of reviewing publications and whether they should be published as white papers. Could I take you to pinpoint 6935, please. It's page 3 of this paper, which is part of the Executive Summary. Can I take you to that first paragraph, halfway down, if I can highlight that, you will see there's a sentence:

25  
30 *However, junket operators have, and continue to feature in adverse media associated with Macau triads and organised crime and money laundering. Furthermore, in practice, some individuals and corporate entities that are junket operators might not be licensed; they might operate behind the scenes concealed through layers of shell companies or other entities through majority control.*

35 Now, based on your experience with the process of ACAMS publishing white papers, is this a proposition that we can have confidence in, in that it is based upon a soundly researched foundation?

40 MR CHAPMAN: That particular statement, as I read the author's words there, he is suggesting that this is adverse media that is suggesting that they're linked. I don't think he is pointing to any factual information there. He simply saying that these things have been reported in the press.

MS SHARP: And if I can take you to the next paragraph:

45 *Macau junket operators present challenging financial crime risks to banks that provide services to them.*

Is the point here being that ACAMS is warning the banks about the need to take care with Macau junket operators?

5 MR CHAPMAN: I would suggest that the author is suggesting it because, again, it's his work. We simply put work up because we have deemed it to be of a standard worthy of consideration by other members. So ACAMS does not own this material, as such. It is a member's opinion, that he said. It's an interesting point that he makes in that paper because here we're talking about the junket operator being a client of a bank, as opposed to being involved with a casino.

10

MS SHARP: Yes.

15 MR CHAPMAN: He is actually talking about the junket operator being a client of a bank. Now, that comes back to the whole principles of what the FATF says and what AUSTRAC says in the Act and rules as to you need to assess the risks that certain things will present to your business. And those normally fall into four great categories: what are your customer risks; what are your product risks; what are your delivery channel risks; and what are your jurisdictional risks, and work out how do you put the controls in place to manage that. And this proposition here suggests that  
20 a bank would probably need to consider a junket operator as having or presenting to them as a customer, certain risks.

25 MS SHARP: Well, what it says is that the Macau junket operators present "challenging financial crime risks" to banks. Is that a proposition that would be equally relevant to casinos?

30 MR CHAPMAN: If the junket operator has a relationship with a casino, I would suggest that that would present a challenge to the casino in understanding how they would put in place risk controls, just as they would look at any other particular category of patron that comes to the casino.

MS SHARP: Can I move now to – we can take that document down, thank you.

35 COMMISSIONER: Just clarify one thing. You spoke about the ACAMS audit and the ACAMS financial crime courses. Are there any prerequisites to gain entry into the courses?

MR CHAPMAN: Absolutely. Apart from paying the big fee.

40 COMMISSIONER: Yes, of course.

45 MR CHAPMAN: You have to have passed the ACAMS certification for a start. In other words, you have met our gold standard and you have been assessed as understanding the wide ramifications, and I've mentioned those four things: what is money laundering methodology; what are the international standards; what do you require in your program; and how do you do an investigation. And so you assess them - - -

COMMISSIONER: Is there a prerequisite to the certification course?

MR CHAPMAN: Absolutely.

5 COMMISSIONER: What is that?

MR CHAPMAN: There are a variety of factors that would be taken into account. Industry experience, academic qualification, and published documents and things like that. So it's a mathematical calculation, scored and you achieve a pass. Then  
10 you're entitled to pay the fee and sit the exam.

COMMISSIONER: And do you have any knowledge of whether boards of directors do the course?

15 MR CHAPMAN: There may well be some that have done it in the past but if you were talking - - -

COMMISSIONER: It's not usual.

20 MR CHAPMAN: If you were talking about large corporations, I would suggest that no, they would expect their compliance area - - -

COMMISSIONER: The functionaries to do it.

25 MR CHAPMAN: - - - to be doing this sort of thing. That's what they hire them for.

COMMISSIONER: So it is the compliance officers level that - - -

MR CHAPMAN: Absolutely. If one takes the three lines of defence model when  
30 looking at risk, the business being the first line of defence is clearly responsible for managing risks in those four categories that I mentioned. Compliance is there to oversight the lines of business and see that they do in fact have sensible controls and they monitor that. And then, of course, internal or external audit is your third line of  
35 defence to see that the company has proper controls in place, and that they are in fact effective. And that's the role I perform as an external auditor.

COMMISSIONER: So I suppose one of the aims is to make the structure of the regulation less impenetrable.

40 MR CHAPMAN: Absolutely. Absolutely.

COMMISSIONER: In that regard, ACAMS focuses on compliance officer education as opposed to a broader education of corporate directorships, for instance.

45 MR CHAPMAN: We don't have a specific course that would do that but certainly a lot of our members do that sort of work. I mean, I brief boards - - -

COMMISSIONER: You do.

MR CHAPMAN: - - - at a high level. And here in Australia, of course,  
Commissioner, you would be well aware of the BEAR regime, the Banking  
5 Executive Accountability Regime, and, of course, governance in general because of  
some of the issues that have come. So clearly directors have a duty which is now in  
the spotlight. So this sort of briefing – I mean, if I do an audit, Commissioner, if I  
don't see that AML has been part of the risk reporting then I see that as a deficiency  
to the risk committee or to the board in fact. Board directors need to be educated on  
10 this but what does that entail. Well, they wouldn't be concerned about customer  
identification for example. They would be more interested in what the vulnerabilities  
of our business is to being exposed to money laundering and various financing  
activity. And what control frameworks we have in place. There's a lot more rigour  
around this in the last five years than there have been traditionally.

15

COMMISSIONER: Yes, thank you. I'm sorry to interrupt.

MS SHARP: Can I just pick up on one aspect of your answer to the Commissioner?  
If I heard you correctly, you said something like if I don't see AML reported to the  
20 board, I see that as a deficiency, what do you mean there?

MR CHAPMAN: If one looks at the compliance area and their obligations,  
depending on the institution of course, as to how frequently they would report  
upwards and that would be quite comprehensive or very general again it depends on  
25 the institution. I would expect to see financial crime and therefore anti-money  
laundering being a regular topic. And if I can draw the commission's attention to the  
concerns I have, I have clients that turn around and say "I report upwards when  
there's an issue".

30 And my answer is, well, putting the rigour around this I would expect there to be a  
standing item even if you end up saying there is nothing to report this quarter, at least  
you can demonstrate to the auditor and more importantly to the regulator that you  
have a conscious feeling about these things and are concerned. So, you know, that's  
my way of saying operationalising your risk reporting and what is it that you report.  
35 Some go into great detail how many rendered they have rendered how many  
accounts they have blocked how many accounts they have exited and so forth.  
Others simply say there is nothing to report this quarter. We have done nothing  
that's different from the previous quarter.

40 COMMISSIONER: I suppose in boards and risk committees and the like you have  
people with the appropriate expertise such as accountants or former bankers, and so  
in respect of a board understanding the true risk in respect of anti – I withdraw that,  
in respect of anti-money laundering and counterterrorism financing there should be  
some level and cognition in respect of how it works.

45

MR CHAPMAN: Absolutely and if one turns to the program that each reporting  
entity should have in place required by the AML/CTF rules then there are a number

of components listed within it which are mandatory and one of those is the employee training and governance another one and therefore it is expected that you will have briefed the board on what the obligations are and what the risks are to our business.

5 COMMISSIONER: Yes, I understand. Thank you. Yes.

MS SHARP: Now, Mr Chapman, we have seen a report published by the FATF that says there are vulnerabilities of casinos to money laundering. With that background in mind, do you think, in view of the last answer you gave, it would be prudent to practice for money laundering to be a standing item on the board of directors of a casino operator?

MR CHAPMAN: If it's not to the board, it certainly would be to the risk committee. I would be expecting it to get that far. I mean it depends on the size and complexity of the casino business as to what the board should have ongoing oversight on. I would expect financial crime to be one of those but to the level of detail, that again I would have to judge. A lot of the large ones would have risk committee and they are – the board is expecting them to manage certain risks. I would expect that a detailed report there.

20

MS SHARP: Can I move to a slightly different topic now. I would like to ask you some questions about money laundering techniques and have you explain them to us. Have you heard of a concept called refining?

MR CHAPMAN: Refining, yes, I certainly have. Refining in its general term is where you breaking up transactions to avoid reporting and using various techniques associated with refining to muddy the water, if I could use a common expression, so that people can't think things through. We, in Australia, have reporting, threshold reporting as it's called, where you have to report any transaction that includes 10,000 or more in physical currency or the foreign equivalent of that to AUSTRAC. And so you get what's called structuring, where a transaction might be broken into two areas to avoid that sort of reporting.

Again we get back to how does the entity pick this sort of thing up. They have transaction monitoring programs. They have tellers who are trained to understand the client has come in three times this day and made a deposit when it was clear it was one deposit to start with or it was most likely to be one deposit. Again it gets back to working out, well, what – based on your risk appetite and your understanding as to how far do you take that? Is it cash transactions across one days or three days? Is it – what – that will depend on the risk appetite and the risk management approach that that particular entity would have. It would differ by industry.

COMMISSIONER: And by person reporting.

MR CHAPMAN: Absolutely. That's one of the issues. If it's an automated system for example, let's just take retail banking, transactions coming across the counter, when they're entered into the system by the tellers, they would have a flag on them

that simply says this is physical currency. So you could have rules in your system to say I need these aggregated and reported at the end however, in many industries they don't do that. It's cash straight across the counter. If you take a money exchange business in George Street Sydney, they might have the same person come in and swap money from one currency to another three times in one day.

COMMISSIONER: Yes, I understand.

MS SHARP: Just going back to refining for a moment. Is one way of refining changing smaller denomination notes for larger denomination notes?

MR CHAPMAN: Absolutely, and that's a common practice in the drug dealing area where we have lower level street dealers getting their \$50 notes or \$20 notes or whatever it is they're selling, the hits to the punter at the pub. And they have then got this chick wallet of 20 or 50 dollar notes. And they seek to then, through one form or another, and it could be going to a money exchange bureau and swapping those for larger denominations, simply because it's easier to carry around.

MS SHARP: Could refining happen in casinos?

MR CHAPMAN: It could happen anywhere. I mean, I wouldn't exclude it. It would depend what controls the casino has in place some swapping one denomination for another. That would be something one would look at in auditing, say where are your controls, do you allow denomination swapping. Again, that would be up to individual entities.

MS SHARP: Now, there's a phrase smurfing. Are you able to tell us what that is?

MR CHAPMAN: Commissioner, without any slight to your age, you would remember the BP little guys called smurfs that around – the little blue people.

COMMISSIONER: I'm afraid I do.

MR CHAPMAN: That's where the concept comes from. So it's little people running around doing things to assist the refining. So you have a number of people running to different branches of banks or wherever. It could be the cage at the casino, it could be anything. I don't want to single out casinos there. It could happen anywhere where you use runners, if you like, to do some of the lower level work.

MS SHARP: And that can be part of a money laundering scheme, is to use these - - -

MR CHAPMAN: Very much so, very much so, especially when you are looking to get the funds into a financial institution, in other words basement stage of the process of laundering money. You get individual people. Now that can be muddied by a lot of legitimate things. You can have a customer that uses agents to go around and

empty vending machines. And they say once – because of security, once you get a certain amount of money in your vehicle, you need to stop at the next local branch and bank that money into our account. So you would see in a legitimate sense deposits coming from various branches into one account on behalf of – because the agents are doing that. So these things are not always black and white.

MS SHARP: Can I return to the FATF report on casinos in 2009. Can I bring that up again to – it's INQ.130.001.2034. That's exhibit A56.

10 COMMISSIONER: Thank you.

MS SHARP: And could I have you go to pinpoint reference 0260. Now, could I ask you, Mr Chapman, to address your attention to the second half of that page, money laundering methods and techniques in casinos. You say you have read this report before.

MR CHAPMAN: I have.

MS SHARP: And at paragraph 99, what we see identified by the FATF are broad categories of methods by which money may be laundered in casinos. And you will note, of course, structuring and refining is referred to and you have explained those concepts to us. Can I go over the page, please you will see some more methods. So around eight or nine different methods of laundering money in a casino identified here. It's right, isn't it, that this report goes on to explain each of these methods in a lot more detail?

MR CHAPMAN: That's correct.

MS SHARP: So are these methods that a prudent casino operator should be very vigilant about in the course of casino operations?

MR CHAPMAN: As a generic statement I would say yes. It again depends on the functions of the casino and what services they provide. All of those or only some of those may be applicable to an individual casino but I would expect those that are relevant to their business operations would take these things into account. They would have controls in place. They would either have ..... where they say this is prohibited. We will not do currency exchange, for example, and that's part of their business model. Others might turn around and say this is acceptable and this is what we will do and we will have an arrangement to buy the foreign currency off us. It depends on their business model. But you are quite correct in that each of these is expanded in the document.

MS SHARP: Could we put that document down, please. We've heard evidence that casino patrons can move their money with which they wish to wager into a casino in various ways. And one of those ways involves making deposits into a casino account which is then left aside by ledger transactions for player to utilise to buy chips. Now is it right that if a third party, that is not the player but a third deposits money into

that casino account for the benefit of the player, that may be introduce money laundering risks?

5 MR CHAPMAN: It would put you on alert as to whether or not there is something suspicious about that transaction. One normally expects in an industry like this that the player, the patron, is going to bring money in one way or another. It's either in physical cash or it's a wire transfer or so forth. The casino may or may not offer an account to that particular client. But if they do, then those funds would come in probably in advance of the patron coming there and it may sit there and he trades on that just as you would do a normal bank account. So this is where casinos almost become like a bank in that they're holding deposits on behalf of patrons. Just as banks have the same obligation, casinos should be looking at the source of the money that is coming into the account. Is this coming from a third party? What is the relationship of the third party to in fact our patron? And why would we not have a concern about that. That would depend entirely on the operation of the casino.

20 MS SHARP: Can I just explore that and explore one possible distinction between a casino and a bank in this regard. And I will give you a hypothetical to explore this. Assume that money was deposited into an account for the benefit of the player and the money came from a third party but the player wanted to turn up the very next day to play in the casino. Does this place different kinds of pressures on the casino as opposed to a bank, in a timing sense?

25 MR CHAPMAN: No. And I say that with some qualification. It depends on what the patron in the case of a casino or the customer in the case of a bank wants to do with that particular funds. Churn is the word that we use. Money in, money out very quickly and that always presents some risk. Why do they want to do that? I mean, if you think of the immediate churn in a casino would be someone walking in cash and going straight to the cage and buying chips. Well that's an immediate transaction. That's no different to someone coming to a bank counter and putting cash across the counter and wanting to buy a bank cheque or traveller's cheques and so forth. So it is a concern that you've still got to go back, based on your risk assessment as to do we understand the source of funds and, therefore, are we happy to release those funds as cleared funds straightaway. That's the whole concept, having an account and allowing someone to have access to the assets in that account.

MS SHARP: And do the risks increase the greater the amount of money deposited in by the third party?

40 MR CHAPMAN: That would depend on your risk profile of the particular customer and what you have accepted as normal business for them. I'm sure if I was a patron of a casino and I wanted to put 20,000 in, they risk-profiled me they would say that's a pretty abnormal transaction. But I'm sure that there are other patrons that the casino may have done a risk assessment on and think that that's normal business for them. Again, this is where you get back to the risk assessment, and I think it's so important to understand how does a casino – how does any reporting entity actually risk-profile its customer.

MS SHARP: Does it make any difference from a detecting money laundering perspective if a casino can only accept deposits into a bank account in Australia, and can't accept the deposits into a bank account that it maintains overseas?

5 MR CHAPMAN: Accepting money into an account held overseas or use in a third country or a second country, no matter what institution, that would present an increased risk.

MS SHARP: Is that because the reporting obligations change?

10

MR CHAPMAN: Not only the reporting obligations. It's understanding access to the data to understand the source of the money and, again, who made that deposit. If the money is coming in – for example, it's wired from the Philippines to Australia to go into a bank account of a casino here in Australia, then the bank will have received certain information along with that transaction: originator information and  
15 beneficiary information. That's required under the SWIFT rules. And then that information is – appears on – the casino being the customer of the bank, it appears on their information as to where this deposit came from and what it relates to. And then obviously they would allocate that in their sub-ledger to that particular customer  
20 within the casino operation.

MS SHARP: Just pardon me for one moment.

COMMISSIONER: Yes, of course. Just while Ms Sharp is doing that, you've  
25 spoken about the entity assessing the risk profile or creating a risk profile of a customer and the fact that there is the requirement to report to the regulator or, in this instance in Australia at least, AUSTRAC, in respect of suspicious transactions. If a casino has a concern that, let's say, relevant to what was shown to you before, that a particular person or persons are people that they should keep an eye on – that is, they  
30 have seen them over the period and they have decided they want to have closer scrutiny of them and they, as an example, move them to an area that gives them capacity or visibility of them because of their concern. And then they have a statutory obligation to refer transactions over a particular level and they do that.

35 So they are compliant with the legislation. But the area of concern in which they decided to move the structure of the gaming because it was more visible is then not in any way the subject of a report to the regulator. So the regulator receives a rather neutral report of a transaction that's over 10,000 but not the other information. Now, is that not a problem with the reporting?

40

MR CHAPMAN: Commissioner, if I can go back to the requirements of the legislation, there are two things: one, you profile a customer when you take them on board. Are you satisfied that you know who you are dealing with, and have you done your appropriate due diligence. Having done that, you will assess – you will apply a  
45 risk rating to that customer: a low risk customer, a medium risk customer, or a high risk customer. If you deem it to be a high risk customer but you still wish to enter into the relationship with them, then you would have concern controls in place,

what we call enhanced customer due diligence. Part of that might be closer monitoring and, certainly, in the normal sense it would be a closer scrutiny of the transaction or their activity with you.

5 And so in a casino, your scenario may well be the way that they do that by closer  
scrutiny of their activity, who they are dealing with, who they are meeting, you  
know, are they on their own and so forth. Well, that's simply the same principle we  
would apply in general banking. You know, is the person always there with someone  
else, what do we know about these people to put us on that closer monitoring. Now,  
10 having said that, just because you put someone on an enhanced customer due  
diligence or patron due diligence doesn't mean that you report it. You have got to  
still form a suspicion that it is likely to involve financial crime, be it money  
laundering or terrorist financing. And terrorist financing is probably not a big issue  
for the people in the casinos; it's more likely to be money laundering. So once you  
15 form a suspicion - - -

COMMISSIONER: Well, I suppose you wouldn't know.

MR CHAPMAN: Well, that's true, you don't know. But once you form a suspicion  
20 that's when the reporting obligation clicks in but you have to form a suspicion first.  
We do have a regime globally called defensive reporting. If in doubt report.  
Because that will give you some safe harbour with the FIU that I have reported, but  
I'm not really sure whether it's money laundering or not. That causes problems for  
the issue that we were talking about before about the number of reports coming into  
25 the finance intelligence unit and how do they sort out the needles in a haystack, so to  
speak.

COMMISSIONER: Well, there still is the problem that I identified, that the casino  
has the concern enough to install new cameras, to move the entity, to be concerned  
30 but the only reporting obligation is in respect of the figure. And so what I'm asking  
you, really, is the fact that the concern resides in the entity, stays with the entity  
because the only reporting obligation is in respect of the figure. Put aside the  
suspicious transaction for one moment. So that the concern sits with the casino or  
any other entity, and the regulator receives the transaction in compliance – the  
35 transaction in compliance so the entity is compliant but concerned. The regulator  
does not know about that concern. Isn't that a problem?

MR CHAPMAN: That scenario would be fairly common, I would suggest.

40 COMMISSIONER: But isn't that a problem?

MR CHAPMAN: Well, it could be a problem.

COMMISSIONER: If you are reporting to an entity for the purpose of educating the  
45 regulator of what's going on on the floor of these entities, and you're not saying,  
well, look this chap here is giving me concerns, I can't tell you why, but just the way

he behaves. That's not being communicated – I withdraw that. That is not a requirement to communicate.

5 MR CHAPMAN: It's a requirement to communicate if you have formed a suspicion.

COMMISSIONER: Yes, I understand that.

10 MR CHAPMAN: And that's a very subjective issue.

COMMISSIONER: Just pause there for a moment, Mr Chapman. The example I have given you is relating to the \$10,000 transaction. And as I put to you, I think, it is the case, isn't it, that there is a problem with that non-disclosure of the entity to the regulator of the concern in the entity?

15 MR CHAPMAN: I understand what you are proposing, Commissioner.

COMMISSIONER: I'm not proposing anything, I'm just trying to work out whether there's a problem.

20 MR CHAPMAN: Sorry, yes. There may be. And I use that word 'maybe' wisely because it could be that investigation shows that there is no concern of money laundering which is what you are reporting to AUSTRAC; it could be something else entirely.

25 COMMISSIONER: Yes. So that the flow of information – you have a truly compliant entity because the law only requires X. It doesn't require X plus one. And the plus one maybe pivotal to the regulator's next action of disseminating to a law enforcement agency.

30 MR CHAPMAN: Correct.

COMMISSIONER: All right. Yes, I'm sorry to interrupt with that and burden you. Yes, Ms Sharp.

35 MS SHARP: Commissioner, I will come back to explore suspicious at a later point in this examination. Could I just go back to the questions I was asking you about third parties depositing money into casino accounts for the benefit of players? And I will put this scenario to you. In the early days or the earlier days of the New South  
40 Wales Casino Control Act there was a requirement, I believe in section 75 that the casino had to maintain its bank accounts in New South Wales. That requirement has now been removed and so, of course, the operator can maintain its accounts anywhere. Does that present any kind of concern or new challenge from an anti-money laundering perspective?

45 MR CHAPMAN: Only visibility into the flow of the transaction. What information is available, which party and if we're talking the casino being customer that owns the

bank account, what information are they getting from their financial institution relevant to the particular transaction.

5 MS SHARP: So does that mean that if the bank account was maintained in New South Wales, it would be easier to obtain information about the third party that deposited money into the account than if the bank account was obtained offshore?

10 MR CHAPMAN: That's a difficult question to answer simply. It depends on the relationship the casino as a customer of the bank has with its banker, as to what information will be provided. Given that we've got electronic banking nowadays, many institutions have daily access to looking at the transactions in their accounts wherever they're located. So one would have to look at what information is made available to the beneficiary of the tranches being, of course, the casino base. I would have to look at examples to say that's more risky than another conceptually I understand what you are saying and that probably is correct but, again, it would go back to the contractual arrangement.

20 MS SHARP: This inquiry has heard some evidence regarding methods that are used in a casino to launder money and one of those is to use slot machines to launder money. Another is to make matching bets in a game of baccarat. Now, one thing with those methods is that the person seeking to launder the money might actually lose some money. How can this be money laundering?

25 MR CHAPMAN: The simple principle of money laundering is that if you've got dirty money and you are wishing to wash it clean, it's going to cost you to do that. And anecdotally is the evidence is it costs you 20 per cent. If you want to launder your drug money or any other money, put \$100 down, if you get a clean 80 you've done all right. So again that would be the case, it's no different to track betting or anything else but it really is about getting your betting money back, less a percentage.

30 MS SHARP: Commissioner, I see the time. I'm about to move to a new topic.

35 COMMISSIONER: Yes, Mr Chapman we are going to take a short break, if you would like to step down for about 10 minutes, thank you, Mr Chapman. Yes, I will adjourn until just a little after 20 to.

40 **ADJOURNED** [11.28 am]

**RESUMED** [11.44 am]

45

COMMISSIONER: Yes, thank you, Mr Chapman. If you would come back into the witness box. Yes, you understand you are bound by the oath that you gave a little earlier. Yes, Ms Sharp.

5 MS SHARP: Thank you, Commissioner. I wanted to move now to ask you some questions about the Australian regulatory framework. You spoke about the Financial Transactions Act in, I think it was 1988. And you nod, you need to say yes.

MR CHAPMAN: Yes, sorry, yes.

10

MS SHARP: And, of course, we now have the 2006 AML Act, but, in fact the AML Act deals with anti-money laundering and also counterterrorism financing. Now, counterterrorism financing came later to the party in terms of anti-money laundering, didn't it?

15

MR CHAPMAN: It certainly did.

MS SHARP: And why do we now have a focus on counterterrorism financing?

20

MR CHAPMAN: The FATF at its plenary sessions and so over the years, determined that if we're looking at a financial crime, terrorism needs funding. And they saw that financial institutions played a part from the conduits of moving money to and providing access to funds for criminals, for terrorists and that they, therefore, expanded their brief. They have expanded it even further. We now have weapons of mass destruction and, of course, there's a raft of the new focuses in relation to financial crime generally, bribery and corruption, for example. Human trafficking and modern slavery, a global certificate course on that at the moment because financial institutions reporting entities may be able to identify these sorts of crimes are occurring and, of course, there's money always involved without drawing any conclusions, one knows from public comments that the claims by AUSTRAC involve some things that relate to nefarious activities in the Philippines. So the brief has gotten wider therefore they need to widen the regulatory framework.

25

30

35

MS SHARP: Do casinos need to be aware of the risks and alive to the risks of counterterrorism financing?

MR CHAPMAN: All reporting entities must be alive to the scope that is covered by the legislation. Therefore they need to be alive to that. They will do that in creating their risk assessment as to where that fits in within their particular framework.

40

MS SHARP: Now I want to explore with you now the key features of the Australian framework for anti-money laundering and counterterrorism financing. It's right that the first key feature is to make money laundering a criminal offence?

45

MR CHAPMAN: Absolutely.

MS SHARP: And the next key feature of that system is to create a framework and mechanisms for tracing cash and other forms of value.

MR CHAPMAN: That's correct.

5

MS SHARP: A third key feature of that framework is instituting a legal framework in order to freeze assets and confiscate the proceeds of crime.

MR CHAPMAN: Absolutely.

10

MS SHARP: And a fourth aspect of that framework is that Australia engages in reciprocal arrangements with other countries in relation to counterterrorism and financing.

15 MR CHAPMAN: That's correct.

MS SHARP: It's correct that ,under the Anti-Money Laundering and Counter-Terrorism Financing Act ,that a variety of reporting obligations are imposed upon what are called reporting entities?

20

MR CHAPMAN: That's true.

MS SHARP: And many of those reporting obligations are sketched out in more detail in the 2007 number one rules.

25

MR CHAPMAN: That's correct, there's – the court would be aware, we do have the rules that expand upon the principles that are set out in the Act.

30 MS SHARP: Now, as a general matter and as a starting proposition, it's right that under the, I will call it the AML Act, various obligations are imposed upon what are called reporting agencies which provide designated services.

MR CHAPMAN: Reporting entities.

35 MS SHARP: Reporting entities.

MR CHAPMAN: Yes, that's correct.

MS SHARP: Now, a casino is a reporting entity for the purposes of the AML Act.

40

MR CHAPMAN: That's correct.

MS SHARP: And it provides designated services.

45 MR CHAPMAN: Correct.

MS SHARP: I want to break this definition or these definitions down a little bit now. I will need to show you the Anti-Money Laundering Act which we have put into Ringtail. Could I call that up, please – INQ.070.001.00001? And you will see before you the front page of this piece of legislation. Could I go now to pinpoint 5 0053, and what I am showing you, Mr Chapman, is section 5, which is the Definition Section in the AML Act and you will see there's a definition of "reporting entity". And that is a – if you could just highlight the words "reporting entity". So a reporting entity is a person who provides a designated service, isn't it.

10 MR CHAPMAN: Correct.

MS SHARP: And then there follows a fairly complicated definition of "designated service".

15 MR CHAPMAN: That's correct, it appears in section 6.

MS SHARP: Yes, let's go to section 6. Can I take you to pinpoint 0059? And what you will see in clause 1 is that a designated service is defined by reference to, firstly, a person who – well what a designated service is, and, secondly, the person to whom 20 the designated service is provided.

MR CHAPMAN: Correct.

MS SHARP: And that's done by way of some tables which, in the left-hand 25 column, define the designated service and then in the right-hand column, define the customer of a designated service.

MR CHAPMAN: That's correct.

30 MS SHARP: And with table 1, we have a series of designated services that are financial services.

MR CHAPMAN: That's correct.

35 MS SHARP: If we go to table 3, which is pinpoint 0077, you will see that we get to table 3, which refers specifically to gambling services.

MR CHAPMAN: That's correct and there are eight designated services shown in that section.

40

MS SHARP: So, in order to be a reporting entity, if you are one that provides gambling services, you need to have your service fall within one of these eight items.

MR CHAPMAN: One or more of those services, you would automatically be a 45 reporting entity.

MS SHARP: And just to take one example, if we look at item 8 on that page, that's the exchanging of gaming chips or tokens for money or digital currency.

MR CHAPMAN: Correct.

5

MS SHARP: So even if you bought the chips with bitcoin, for example, you would be providing a designated service.

MR CHAPMAN: That's correct.

10

MS SHARP: But in order to provide a designated service, it's not enough that you provide the service, you also have to provide it to a person who is identified in the right-hand column?

15 MR CHAPMAN: That's correct.

MS SHARP: And that's what we see using item 8 as an example. But that's not all. Not only do you need to provide a service that's in the left-hand side of the column in the table, to a person who is in the right-hand side of the column, you also need to satisfy a geographical link test.

20

MR CHAPMAN: That's correct.

MS SHARP: And we find that geographical link test in section 6, subsection (6), don't we.

25

MR CHAPMAN: Correct.

MS SHARP: I will take you to that now at pinpoint 0081 and what you will see just under table 4 is a heading Geographical Link. And it's right, isn't it, that there are three different ways in respect of which that geographical link test can be satisfied and they are the three pathways in subparagraphs (a), (b) and (c) respectively.

30

MR CHAPMAN: That's correct.

35

MS SHARP: So using subparagraph (a) and that pathway as an example, you can satisfy the geographical link test if the service is provided through a permanent establishment in Australia.

40 MR CHAPMAN: That is correct.

MS SHARP: And I won't take you to it now but a permanent establishment is defined in section 21, isn't it. Now, I want to explore the position of junkets for a moment. They don't satisfy, in the large measure, this geographical link test, do they? I will take that back. I will start again. A junket that provides services to an Australian casino, in the most part, will not satisfy this geographical link test, will it?

45

MR CHAPMAN: It's a question of who is providing the service and if we're talking about this particular 100 people for example in table 3, it's the casino that's providing the service and, therefore, they are providing the service through a permanent establishment in Australia.

5

MS SHARP: So that's why the casino operator gets caught and becomes a reporting entity.

MR CHAPMAN: That's correct and if I could just draw a comparison, Commissioner. This will be no different to a bank providing a service to someone that resides overseas and they've opened the account online. The customer doesn't have to reside in Australia. But the provider of the designated service has to have a permanent establishment in Australia that satisfies 6 subpoint (a).

MS SHARP: So let me go back to table 3 for a moment with – that sets out the gambling services. So if I can go back to, I think it's 0077, and if we go back to the previous page and, in fact, we go back one further page to item 3. Now what I'm showing you, Mr Chapman, is table 3 and then item 3, a service includes introducing a person who wishes to make or place a bet to another person who is willing to receive the bet, where the service is provided in the course of carrying on a business.

20

COMMISSIONER: Carrying on a gambling business.

MS SHARP: A gambling business. Now, are you able to say whether a junket could theoretically fall within that item that – with the service it's providing?

25

MR CHAPMAN: I think you would have to link the last part of that statement in the left-hand column, services provided in the course of carrying on a gambling business is the junket operator providing a gambling business or are they, in fact, a tour operator. Just to draw a distinction.

30

MS SHARP: Yes. So that would be one matter that would need to be clarified to see a junket operator could ever be a reporting entity.

MR CHAPMAN: Absolutely.

35

MS SHARP: And another matter to be clarified is that the geographical link test in item 6 subsection (6) is satisfied.

MR CHAPMAN: That's correct.

40

MS SHARP: And only if those two matters are sufficiently dealt with could a junket which largely operates from an overseas basis be captured by the reporting obligations of the AML Act.

45

MR CHAPMAN: Yes, I agree with that.

MS SHARP: Now, I want to ask you a little bit more about the various reporting obligations that are imposed by the AML Act. The first of those important reporting obligations relates to the reporting of significant cash transactions of \$10,000 or more, doesn't it?

5

MR CHAPMAN: It does, in physical currency.

MS SHARP: Yes and that's often referred to as a transaction threshold report.

10 MR CHAPMAN: Correct.

MS SHARP: The second important reporting obligation relates to international funds transfer instructions.

15 MR CHAPMAN: That's correct.

MS SHARP: And they are instructions to transfer money or property to either Australia from a foreign country or from a foreign country to Australia.

20 MR CHAPMAN: That is correct.

MS SHARP: And the focus is on the instruction that's given, isn't it?

25 MR CHAPMAN: That's exactly correct.

MS SHARP: These are known as IFTIs to people in the anti-money laundering and counterterrorism financing space.

30 MR CHAPMAN: Yes.

MS SHARP: That's, for the transcript, I-F-T-I. I will come back to ask you more about IFTIs. Is there something you want to say?

35 MR CHAPMAN: Just simply that like all industries, we use acronyms.

MS SHARP: There are a lot of them.

MR CHAPMAN: There are a lot of them.

40 MS SHARP: The third reporting obligation relates to suspicious matters.

MR CHAPMAN: That's correct.

45 MS SHARP: And the report that is generated is commonly referred to as a suspicious matter report.

MR CHAPMAN: That's correct.

MS SHARP: And the fourth kind of report that needs to be made relates to anti-money laundering and counterterrorism financing compliance reporting.

MR CHAPMAN: That's correct. That's an annual report.

5

MS SHARP: Now, it's also right that there are very significant secrecy provisions within the AML Act, isn't it?

MR CHAPMAN: If you are meaning the disclosure of information to certain parties, absolutely. There are restrictions on who you can provide information to. For example, a suspicious matter report must be provided, if you've formed a suspicion and you are submitting it, to the CEO of AUSTRAC or delegate of that particular office, and not provide it to anyone else unless it's compelled by law or there is a real need. And an example would be sharing that information across all of the employees of the institution when they have no logical need to know about that.

10  
15

MS SHARP: Are you referring to the tipping off offence there?

MR CHAPMAN: I am.

20

MS SHARP: Is that the offence we find created by section 123 of the AML Act?

MR CHAPMAN: I believe that's the clause.

MS SHARP: And the point is if you are a reporting entity that's made a suspicious transaction report, you can't tell anyone you've done that, can you?

25

MR CHAPMAN: A suspicious matter report in Australia, but it is called a transaction report overseas. Yes. that's correct.

30

MS SHARP: Unless an exception applies.

MR CHAPMAN: Because that clearly would breach the tipping off rule and, of course, that alerts the person about whom the report is being submitted that they're under suspicion.

35

COMMISSIONER: It depends who you tell, I suppose.

MR CHAPMAN: Well, that's the point, Commissioner. You may want to share that within the compliance unit of the department – of your institution but you won't necessarily tell the board directors that these are the people we're reporting on because you have to ask, well, what's their role in this. They simply want to know that we are doing reporting. You certainly wouldn't necessarily tell the frontline staff that you have done a suspicious matter report unless they were personally involved in forming the suspicion and you certainly would not inform people outside the organisation including the person about which that report is being submitted.

40  
45

COMMISSIONER: But the actual reporter is the entity, and so it could share that information with its own people depending upon how it assessed what it should do. But it can't tell anyone else, that is, anyone other than AUSTRAC about it.

5 MR CHAPMAN: That's correct. That is correct. And I might add that – because I've had personal experience in this in my role at Westpac, a suspicious matter report cannot be tabled as evidence in a court of law in a prosecution.

10 MS SHARP: And that flows from section 123 of the AML Act.

MR CHAPMAN: Correct.

15 MS SHARP: I just want to ask you a few more questions about each of these four different reporting categories.

MR CHAPMAN: Can I add that there's a fifth.

MS SHARP: Yes, please.

20 MR CHAPMAN: Because it doesn't always become clear. Section 51F of the Act requires a reporting entity to advise AUSTRAC within 14 days of any change to their organisation. This could be a – introducing a new service or product, it could be a change in the corporate structure. There are a raft of things there that the guidance from AUSTRAC would suggest that you need to report. And AUSTRAC has  
25 prosecuted cases where people have failed to advise new ownership.

MS SHARP: Can I return now to ask you a little bit more about threshold transaction reports.

30 MR CHAPMAN: Certainly.

MS SHARP: Is it right that there are ways of avoiding triggering this reporting obligation?

35 MR CHAPMAN: Yes. This is an objective test because it has got a threshold value stated in the rules which is AU\$10,000 or greater or the foreign equivalent. So that's an objective test. How do you avoid that? By breaking up the transaction and therefore it's called structuring, putting it underneath that threshold, making multiple transactions, etcetera, so that you don't trigger that threshold obligation.

40 MS SHARP: So if a casino patron, for example, made a deposit of \$5000 into – or paid for \$5000 worth of chips in one go and then two hours later did another 5000 worth of chips, and then three hours later did another 5000 – purchased another 5000 worth of chips, that wouldn't trigger a threshold transaction reporting requirement,  
45 would it?

MR CHAPMAN: That is a moot point. We look at the rule of aggregation, and it's not very clear in the legislation, as such, as to what that actually means. Are you aggregating – for example, if we're talking about a casino, are you talking about multiple deposits, or multiple purchase of chips with physical currency over one  
5 gaming period, and what does that mean. Your example would be that they have stayed at the casino, and therefore I would say that's one session. Is it over two days, is it over three days. And the law is not very clear on that. My experience is that most people would look at it in a normal day, aggregation transactions.

10 MS SHARP: In any event, even if it didn't trigger a threshold transaction reporting requirement, it may, depending on the circumstances, trigger a suspicious matter reporting requirement.

MR CHAPMAN: Absolutely. And to your point, counsel, it depends on the patron, the type of patron as to how that would even be identified. If I was to walk in to a  
15 casino here in Australia and I purchased \$2000 worth of chips and I used that over a period of time and then used another 2000, how did I acquire the chips and how did someone know that I was actually aggregating or disaggregating transactions. It will depend on how I purchased those chips. If I was going to the same cage all the time  
20 and buying, one would expect through staff training that the cage operator would say this is the same person coming back and coming back.

Now, because there's thresholds set in the legislation under chapter 10 of the rules about when you do customer identification, that can present another issue as to how  
25 do you know who that person is. That's where staff training really becomes important. Do you observe someone selling chips or purchasing chips outside; they're buying them off another patron. You could argue that that, in the real strength of it, is aggregation but they did as a side issue with another patron to purchase chips, so they're now using 4000. You could ..... that through to the 10,000 threshold. That  
30 would never be picked up unless there was a very observant staff at the casino and they said something is going on here that they're bypassing our normal procedures by doing things with other parties that are in the casino premises. That, I would suggest, would be quite difficult in many casinos to control.

35 MS SHARP: Can I move now to ask you a few more details about suspicious matter reporting. Is it the case that the AML Act doesn't actually define the word "suspicious"?

MR CHAPMAN: That's correct.  
40

MS SHARP: How does one determine what is suspicious for the purpose of this Act?

MR CHAPMAN: Yes. As we talked about the threshold transaction reports and the  
45 difficulties, they're clearly objective tests because there's a threshold set, and it's a straight black and white. But suspicion is in the eye of the beholder. How do they form a suspicion, what do they think is unusual. So we immediately link back to

what is the staff training. How have they been taught what would be unusual or aberrant behaviour for a certain type of patron or customer. Would this activity present a challenge to us. And if I could draw an obscure parallel, because it may fit it with junkets, I don't really know, but if one looks at private banking within the bank and you're saying what is aberrant or unusual behaviour. Many of the clients of private banking do transactions in very unusual ways in a variety of ways, so what is unusual. That's in the eye of the beholder.

If one looks at retail banking for example, a teller, just to take an example, a part-time teller that comes in the morning, works on the counter for a day and goes home to other things, may not form a suspicion whereas a compliance officer who is specifically trained about understanding risk may form a suspicion.

MS SHARP: Do I detect from what are you saying that training is going to be quite important?

MR CHAPMAN: Absolutely critical. Absolutely critical. You can rely on automated tools, on automated processes such as money coming in and out of the bank account or a patron. That's one way, but the face-to-face contact with humans that are representing the employer in the casino, the reporting entity, that is absolutely critical to picking up suspicious activity.

MS SHARP: Now it's section 41 of the AML Act that governs the reporting of suspicious matters, isn't it?

MR CHAPMAN: Correct.

MS SHARP: Now, if a suspicious matter report is made, other than file the report, is there anything that the provider of the designated service needs to do?

MR CHAPMAN: The answer to that is absolutely. You are required to put the client on enhanced customer due diligence. You then would need to make decisions on whether you are going to exit that relationship or simply do the continuous monitoring, and that monitoring may fall back, standard monitoring because nothing else happens over a period of time. If there's a repeat behaviour, and this is where a lot of institutions fall foul of the technical obligation, you have to report every time you form a suspicion. And a silly example would be a frontline teller in a branch saying I know this person is employed but they're getting a pension from the government. So that's fraud against the Commonwealth. And we reported this month and nothing happens. We never hear from anyone so we report it again next time their pension payment comes in, and we report it and we report it and, finally, the teller says I'm not going to report this anymore because no one is taking any notice.

But technically you have to report every time you form a suspicion. Now, that suspicion may be in a single transaction. A suspicion may be formed by a pattern of

transactions. In isolation each transaction may not look that suspicious but it's the pattern of transactions that then triggers your suspicion.

5 MS SHARP: You've mentioned that one of the things that must happen once a suspicious matter report has been made is that the client must be put on enhanced due diligence. I will come back to ask you about what enhanced due diligence is, but can you tell me where does that requirement come from to put the client or customer - - -

10 MR CHAPMAN: Chapter 15 of the rules. Chapter 15 requires you to have a transaction monitoring program. Now, depending on your business that's going manual or it's going to be fully automated or a mix within that. And the second part of chapter 15 requires you to have an enhanced customer due diligence program, which says that those customers that you have raised to high risk will be on closer monitoring.

15 MS SHARP: I'd like to show you some footage, if I can. I was wondering if we could bring up INQ.800.001.0004. This is exhibit A227. It has no sound, I should say. We will just play this. Now, it's correct that what you have just seen there is some footage where a person has unpacked many, many bundles of cash, that it has  
20 been taken out of a blue cooler bag and it has been exchanged for some large circular discs.

MR CHAPMAN: That's what it certainly appeared to show, yes.

25 MS SHARP: And I want you to – well, I should tell you there has been an allegation that this footage was taken at Crown Melbourne. What, if any reporting requirements would that event trigger?

30 MR CHAPMAN: It should have triggered a threshold transaction report for a start because it – the cash there by observation shows that it's well over the 10,000 limit. It may well have – and drawing the normal person's reasonable test, it probably should have triggered a suspicious matter report but without knowing the circumstances behind that transaction it's difficult to assess. I mean, I'm assuming that's a patron that walked in from outside the casino with that bag and wasn't  
35 walking around collecting money from inside the casino from various operators. Having been to casinos in Nevada – and I was doing a study as part of cash, I'm also a person that belongs to the International Currency Association, and we were looking at the Wynn corporation and all of their – all of theirs, and the Sands corporation, and all of their properties. And we were looking how they moved physical currency  
40 and why we could – how we could get improvements, not only in the security, but in the volume of cash that they hold.

45 And so that was rather interesting to see large wads of money moving around. But on the face of it, that looks like a client, a patron that has come in and purchased chips, discs, for currency. That would trigger, in my opinion, a reporting obligation.

MS SHARP: I can't tell you how much cash was in that bag so I will ask you to make an assumption. Could you assume for me that there was \$300,000 in cash.

5 MR CHAPMAN: I don't think there's any doubt, given the footage that we've seen and it's clear what denominations they were, that that would be quite realistic. I have had certain experience because I ran cash and ATM services as part of my portfolio at the bank. And the year Y2K when the reserve bank and everyone was worried that the world was coming to an end, we took custody of one and a half billion dollars' worth of currency into our vault here in Sydney at 341 George Street and I can tell  
10 you it's not a big pallet.

COMMISSIONER: So how much do you think is in the film?

15 MR CHAPMAN: There would be several hundred thousand dollars, I don't think there's any doubt about that, assuming they're all hundreds. I mean, that's what it looks like to me.

MS SHARP: There are actually 50s in there as well, I can tell you that. But for present purposes assume for me that there's \$300,000 in there. Based on your  
20 experience can you tell me this: is it usual for that amount of cash to be floating around in the Australian economy?

MR CHAPMAN: The answer is yes but for different reasons. I mean, if one looks at – let's just take my old bank, Westpac Banking Corporation, and we hold large  
25 stocks of cash sitting in various depots that are then shipped out to go into ATMs or to branches. That would not be an unreasonable amount of money. There are security payment limits as to what Armaguard, Prosegur and those other may carry across a pavement in their bags when they're servicing a branch. So that, in isolation, would not necessarily be. But we're getting back to the context in which the transaction  
30 occurs as to whether that's unusual. It wouldn't be unusual for a bank. It probably is unusual for some other activity.

MS SHARP: Is it unusual for just a person to be walking around with \$300,000 of cash?  
35

MR CHAPMAN: I think if you did the average personal test across Australia there wouldn't be too much people walking around the streets with that sort of money in a bag.

40 MS SHARP: On that basis, is it inherently suspicious when somebody walks into a casino with that much cash?

MR CHAPMAN: Again, I would go back to the staff training and say what is the profile of our clientele, therefore where are the risks, what sort of transactions can we  
45 expect, given that the profile of our patrons. And therefore I would personally say I would think that that would be unusual. But I don't know the profile of an individual casino and their patronage so that – if I was doing the audit I would be looking at all

of that information to say what is unusual and what is not. On the surface I would suggest that is somewhat unusual.

5 MS SHARP: Even if the particular patron was an extremely wealthy individual, in Australia, that being our context, is it unusual for a person to be walking around with \$300,000?

10 MR CHAPMAN: I would think so. I would think so, unless they were deliberately doing something to avoid certain things and this is where we are now got a situation where the government is looking at limiting cash transactions for purchasing certain types of goods, high value goods to try and avoid this washing of dirty money, say, motor car purchases, real estate.

15 MS SHARP: Just on that point, could you tell us a little bit more about what the government is looking - - -

20 MR CHAPMAN: The government has a bill before federal Parliament at the moment to limit physical transactions to under the 10,000 for obvious reasons. Those entities that are currently not reporting entities, such as car dealers, just as one example – Jeep dealers and things like that, because they’re saying – now, that has some opposition in Parliament if I read the public commentary where they’re saying this is an infringement on civil liberties as to how you have an instrument of value that is paid for other value.

25 MS SHARP: Am I right in thinking that this bill before Parliament is not proposed to apply to entities that are already reporting entities under the AML Act?

30 MR CHAPMAN: Well, they wouldn’t have that obligation. Sorry. They have got another obligation so that’s right.

MS SHARP: So it’s not for example, proposed to place limits on the amount of cash that casinos can receive?

35 MR CHAPMAN: No, nor could a bank receive from a client – the weekend’s takings, for example.

40 MS SHARP: Could I ask you a little bit more now about IFTIs, that is international financial – funds transfer instruction reports. Let me show you a document that’s on the AUSTRAC website. If I can call up INQ.220.001.0378 and it’s exhibit A244.

MR CHAPMAN: Yes, I’m aware of that document.

MS SHARP: Have you seen this document before?

45 MR CHAPMAN: I have.

MS SHARP: What this document does, if I can slowly have you shown through the various pages of this document, what it does is identify five scenarios that involve international funds transfers to look at whether they're caught by the reporting obligations.

5

MR CHAPMAN: Yes. This document is intended to build upon as guidance for what the requirement is in the rules.

10 MS SHARP: Are you able to tell me whether there are any gaps in the regime for the reporting of international funds transfer instructions?

MR CHAPMAN: The answer to that is yes there are.

15 MS SHARP: What are those gaps?

MR CHAPMAN: Netting is one that used legally and whereby parties may net transactions at both ends. Very common in the remittance area, very common, in fact it is the way that the underground or the hawala and hundis work. Which are based on trust – no money moves.

20

COMMISSIONER: What was the second word? Hawalas and - - -

25 MR CHAPMAN: Hawala and hundi. There are a number of names given to ethnic informal transfer systems and they are more than 2 or 3,000 years old where a person in one country has a trusted relationship with someone in another area and they net transactions. Remitters do this a lot. We have seen evidence that there are remitters that there net between Australia and mainland China where they have got money at both ends. Importing and exporting is good example, where you have got people importing goods from China. They need to get money to the supplier of those goods in the China. And the reverse supplies, we have someone in China importing some things from Australia. The bank or the institutions at each end may net and it could well be the same institution. A parallel of that would be how Visa and Mastercard work in netting between banks for credit card transactions. Whilst the underlying issuers and merchants have individual transactions at the bank level, they aggregate that and settle on a netting system every night at 9 pm in New York globally. So that is all netting.

30

35

40 COMMISSIONER: So the transactional fees that they take out for their commission or whatever it's called is taken out prior to transmission.

40

MR CHAPMAN: Absolutely, and they net it up to the gross figure. We have had three million transactions, therefore Bank of America owes Westpac nothing, Westpac owes Bank of America nothing depending on what your parties – a particular transaction. So netting is very legal and there's legislation about netting. But we also have it where people can use netting to avoid certain reporting, if in fact that was the intention.

45

COMMISSIONER: To avoid the obligation they would have to net to a particular figure that's unreportable, that's what you are saying?

MR CHAPMAN: No, I'm not, Commissioner.

5

COMMISSIONER: Tell me what you mean.

MR CHAPMAN: They would simply say the money hasn't moved therefore we don't have to report. And that's the point of the legislation. It came in 1991 here in Australia. It's the transfer instruction, not the movement of the money. And this is where many of them fall foul of interpretation, especially in the remittance area where you are dealing with small ethnic groups that are assisting their fellow countrymen move money. They think I didn't move the money so I don't have to report, but in fact it's the instruction that has to be the reporting driver.

15

MS SHARP: So can I just clarify this. If an entity nets, why is it not caught by the requirement to report on the instruction?

MR CHAPMAN: Well, it is and that's the whole point. They have still moving money or moving value, I should say from within country to another, therefore this obligation is triggered and the examples in the advice from AUSTRAC give some instruction on that. But this is where people are misunderstanding netting.

20

MS SHARP: So is your evidence that when you net, you should be filing and IFTI but in practice a lot of people don't.

25

MR CHAPMAN: That's correct. It's more prevalent – the area that I have seen it most in in auditing is the remittance sector.

MS SHARP: Could I just give you some examples based on the casino industry. If an Australian casino operator had a domestic account and also had an account overseas, if a deposit was made into that overseas account in order that funds be made available in Australia, would there be a way of netting that in.

30

MR CHAPMAN: I would think the principle, the accounting principle of netting would come into play there absolutely because moneys or values would be moving both ways between those accounts depending on their business. I would look at the transactions and work out who is owning the money at a point in time. I mean if a casino is moving money on its own account to its own account overseas, the answer is is that reportable. It may well be, I don't know. You need to look at the transaction. One only has to look at what happens with large corporations globally that do netting all the time, moving value to low tax jurisdictions.

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MS SHARP: But, in any event, there's some ambiguity around netting.

45

MR CHAPMAN: I believe so.

MS SHARP: And whether it's caught by the IFTI reporting obligation.

MR CHAPMAN: I believe there needs to be a lot more guidance provided into exactly what is intended and probably – can I say specific to sectors so that the  
5 sectors understand what their obligation is and why.

MS SHARP: Can I move now to ask you record keeping obligations that are imposed upon reporting entities under the Anti-Money Laundering and Counterterrorism Financing Act. Firstly, what are those record keeping obligations?  
10

MR CHAPMAN: They are various and they're spread throughout the Act and the rules. There are certain records that must be retained for seven years after you exit the relationship with the customer. There are records that you must keep that are your own records. For example each version of your anti-money laundering program must  
15 be kept for seven years. There are records that may be kept for ever. And there's some ambiguity here also in that what is the definition of terminating the relationship? How long do you keep that record? I imagine that Westpac has my records when I was a 16 year old and joined the bank because I have still got a relationship with them and one has to ask how valuable those records would be but  
20 that's a side issue.

MS SHARP: Does a reporting entity have to keep records of its transactions with customers?

25 MR CHAPMAN: It certainly does.

MS SHARP: Each and every one?

MR CHAPMAN: They have a record of it and must retain it, depending on the  
30 jurisdiction in Australia it's seven years, others may be five years and certainly FATF has a five year rule in their guidance. So that will depend – there are other records that have to be retained for ever. One only has to look at taxation laws to key what records one has to keep about what.

35 MS SHARP: I will come to ask you in more detail about customer identification, but for now, can you tell me, do reporting entities have to keep records of their customer identification efforts?

MR CHAPMAN: Yes, they certainly do. And depending on how the relationship  
40 was established, that will define not only what documents or what record is kept and in what form. We have moved to a digital age so a lot of paper records are no longer exist or they've been scanned electronically and therefore you can delete the original.

MS SHARP: How long do those records in relation to customer identification need  
45 to be kept for, in Australia?

MR CHAPMAN: Up to seven years after the relationship has ceased to exist. So that could be 20 years.

5 MS SHARP: Let me move to another topic, which is AUSTRAC. What is the role of AUSTRAC in relation to the detection and prevention of money laundering and counterterrorism financing?

10 MR CHAPMAN: AUSTRAC, as we mentioned earlier has two distinct roles. One is a financial intelligence unit. That is role where they gather information from the reporting entities, all those transaction types that we were referring to, and they analyse that and disseminate that to their partner agencies. The partner agencies fall into three broad categories: Social Security type agencies, intelligence agencies and normal law reporting for investigation purposes. So that's what they do as a reporting entity. They need to triage all of the reports that have come in so that they know that they've got what could be fairly good data. Unfortunately, that's garbage in and garbage out sometimes so it presents a problem to them. That's their FIU role, and they're providing guidance in that role to industry. They also have the regulatory role. That role is to supervise the reporting entity – body of entities out there.

20

MS SHARP: Can you give us any indication of around about how many reporting entities there are that report to AUSTRAC at the moment?

25 MR CHAPMAN: My understanding is from the last published report from AUSTRAC there are 14 and a half thousand reporting entities at the moment, and if we go and bring in tranche 2 it will go to 115,000.

30 MS SHARP: The FATF recommendations of which we have spoken, say in recommendation 1 that a risk-based approach should be taken to money laundering and counterterrorism financing. What is a risk-based approach?

35 MR CHAPMAN: There are two ways that you could do this. You can do a prescriptive or risk-based. Prescriptive would simply define exactly what you have to do, and what you can avoid doing. But in a risk-based approach it's up to you understanding the potential or facilitating either consciously or unconsciously money laundering and terrorist financing. You will build that risk and then you'll work out what controls to put in place to manage that risk. So we start off with an inherent risk. Everything has got some risk attached to it, so that's the inherent risk. What are your controls and frameworks that you put in place? Let's call those the mitigants. And you end up with a residual risk. Then the institution, being the casino, has to decide can I manage that residual risk.

45 MS SHARP: I will come back to ask you some more questions about that in a little while. In the meantime, I want to ask you some questions about anti-money laundering and counterterrorism financing compliance plans. Now, is it right that it was in around January 2008 that the requirement on reporting entities to develop these programs first came into place?

MR CHAPMAN: I believe that's the date but I don't have it in front of me so – but it certainly came in with the legislation. That legislation was passed by Parliament in 2006. There was a transition period. 2007, a lot of obligations came in. 2008, other obligations came in. And part of that framework was that reporting entities must  
5 have an AML/CTF program.

MS SHARP: Now, have there been any significant changes to the requirements with respect to these compliance programs since these requirements first came into effect?  
10

MR CHAPMAN: I think the core elements have been there since day one. There have been some nuances as to how you do this, and I give an example. Whilst you have a program, the question is how do you know that the program is working. And we are now leading towards, well, you need the compliance area having a  
15 compliance monitoring program to see that everyone is complying with the program. And there are, as I said earlier, there are mandatory elements to that program that are set out in the rule.

MS SHARP: And you, of course, are often the independent auditor of these compliance programs.  
20

MR CHAPMAN: Absolutely. The law sets out very clearly in chapter 8.6 of the rules that an independent review, whether it's done internally or externally, you have to be able to show independence and competency to do that. So large corporations  
25 may do it internally by their global risk area or so forth, but in many cases it's done by an external party such as myself. And the law requires us to do four tests: have they got a program, and does it comply with the legislation. So let's call that design. And then have they adopted the program, and are they complying with the program. Let's call that execution. And I don't think it would be a surprise to anyone in this  
30 room that it's the execution where problems occur. Usually, they get the design right.

MS SHARP: Are you able to tell us what the key features of an AML/CTF compliance program are?

MR CHAPMAN: Yes, certainly. Your program is risk-based and therefore it's based on a risk assessment so one has to do a rigorous risk assessment, and that will be looking at the four features: customer, product, channel and geography. And I dare say, as I tell my clients, and add in employee is another risk. And you work out all of the features as to where you could have vulnerabilities. That is instructive to  
40 you in developing your program as to where you will put the controls in that program. So the program has to have a section on governance oversight. It says that you have to have an AML/CTF compliance officer who will be responsible. It says that you will have to do employee due diligence, that is, both onboarding a new employee and regularly after that if in fact they've moved into an AML-sensitive  
45 role, that will be driven by the type of business you are in as to how you interpret that.

You have to also do employee risk awareness training. And that says that you must train an employee at the time of bringing that employee onboard, and then have regular refresher training. That sometimes is rather dubious as to what that occurs. I think a key to that training is that it must be in the context of the person's role. So, in other words, you wouldn't train the executive team in the same way as you would train frontline staff.

MS SHARP: You have mentioned that one of the requirements is that a compliance officer be appointed. What exactly is the role of the compliance officer?

MR CHAPMAN: It's actually the central point for ensuring compliance, it's the accountability issue. Someone has to be accountable. Now, one would argue that, of course, the board is always ultimately accountable. But this is an officer of suitable seniority, usually fairly senior management, that has some independence from business and has access to the executive and board for independent reporting and management purposes. So, in other words, you probably have that as a separate unit, and it could be the compliance unit. It could be the risk unit. It doesn't really matter. But are separate from business operations so that they're not influenced or constrained in their monitoring.

MS SHARP: I just wanted to follow that up because you said that the compliance officer, and perhaps the unit under him or her, needs to be independent from the business. How can you be independent from the business if you are employed by the business?

MR CHAPMAN: I think that's no different to any corporate structures where you have the people that perform the function of the client, and the people that check it. Credit would be a good example. Quite often credit proposals that are dealt with by a frontline staff, a relationship manager, but they won't necessarily have authority to approve that credit. It would be looked by someone else. Well, we have the same principles within risk management, and I'm talking risk management generally speaking, where you would have a unit that is oversighting how business is being done. Now, your point about being an employee does raise challenges. What does the corporate structure look like. Do you have independence. If, for example, the compliance officer is reporting directly to the general manager of the line of business, then clearly they're going to be influenced.

If I can draw a comparison from the Hong Kong Monetary Authority; three years ago at our ACAMS conference the deputy head of the HKMA gave a speech and the key note speech was on the tone from the top. And he stood up and said, "I'm pleased to be here" etcetera. And then he said, "I've been asked to speak on tone from the top. I'm not interested in tone from the bottom". And there was dead silence in the room. He said, "Because here in Hong Kong if my boss, the head of the HKMA, says jump, everyone says 'How high, sir'". So I'm interested in the tone from the middle because this is where there are conflicts where general manager levels, senior executive general manager levels are remunerated on some sort of incentive payment system, performance, income versus cost of production.

And that's where the conflicts will come because they may try to do compliance at the absolute minimum every time because that's a cost to their business, therefore that's what they are being managed on. And that's a world-wide problem to us now in that who gets remunerated for doing what, and in what form do they get  
5 remunerated. So that's why all of the guidance suggests that a compliance unit should be separate from the business line, and reporting up through an appropriate structure depending on the institution so that they've got this free, unfettered reporting to the executive and, as we mentioned earlier, because of the focus on governance now, we are in fact seeing that being a very strong or a growing trend.

10 COMMISSIONER: I think counsel assisting's question in relation to the difficulties because the person is employed is a sound one, if I may say, with respect to her. What you are really indicating is that it's not someone that's independent from the employer but the structure within the employer's institution is such that the  
15 compliance officer will not be put upon not to do things?

MR CHAPMAN: That's correct.

COMMISSIONER: So you cocoon them from influences of people that they are  
20 reporting upon, but how do you do that when the actual obligation relates to the entity itself?

MR CHAPMAN: And it is a challenge.

25 COMMISSIONER: I understand it's a challenge but I mean the fact is that they will owe a duty of loyalty to their employer, and in that loyalty they must honour it and, therefore, they can't be independent from the employer, surely?

30 MR CHAPMAN: I think they're independent from the line of business that is providing the services, as opposed to the employer.

COMMISSIONER: So they're just acting separately from the people who are doing the transaction upon whom – I withdraw that – upon which they are reporting to the superior people. Is that - - -

35 MR CHAPMAN: Correct.

COMMISSIONER: I see. Yes, I'm sorry to interrupt, Ms Sharp.

40 MR CHAPMAN: Commissioner, it presents a problem for small institutions.

COMMISSIONER: Of course.

45 MR CHAPMAN: If they've only got 10 people in the whole operation, how do you get independence. And that's why they use people like myself.

COMMISSIONER: I think it's probably a problem with the nomenclature rather than the concept.

MR CHAPMAN: Yes.

5

COMMISSIONER: I think that it's very difficult to have an independent unit within an employer relationship but I understand what you are saying to me. Thank you. Yes. Yes, Ms Sharp.

10 MS SHARP: Mr Chapman, could I show you a document. If we could bring up INQ.130.002.1775. Now, this is an article published by you. It's under the ACAMS banner. I want to take you to an attachment to that document, which we will find at pinpoint 1789. Now, this is an exhibit to your paper. Can you tell us what this is.

15 MR CHAPMAN: Yes, I can. That paper was my white paper when I gave the advanced certification. And what I was trying to demonstrate by having this attachment, which was produced by AUSTRAC, is the framework in which AUSTRAC would expect compliance and risk management to be managed. Getting the separation from the business line and how it all works and what that entity, being  
20 the compliance area, would need to do.

MS SHARP: And in annexing this framework that was originally published by AUSTRAC, do I take it you endorse this framework?

25 MR CHAPMAN: Absolutely.

MS SHARP: And you continue to endorse this framework?

30 MR CHAPMAN: I certainly do. And might I say, I was consulting at AUSTRAC when this was developed so I'm part of developing that particular schematic.

MS SHARP: Could you step us through the key features in this framework?

35 MR CHAPMAN: Well, this comes out of a lot of academic learnings that just simply say this is how you would manage risk, and this is what you would do in developing your policies and your strategy based on what the risks are of you continuing to do any business activities. It gives a framework in understanding what you would do to identify the risks, to analyse them and what they actually mean for you in the context of your business, how you would treat that risk. Are you going to,  
40 for example, decide that you would exit that business and not provide that because you cannot manage the level of risk. If you're going to do it, how you will monitor that. Is it close monitoring, is it general monitoring, and how you are going to be reporting.

45 And that reporting is, of course, both internal and any external reporting that is required. And so that's the framework that we would expect a compliance area, being the second line of defence to be putting in place.

MS SHARP: Why do you call the compliance framework, or the compliance team the second line of defence?

MR CHAPMAN: In the academic writings on how you manage risk, it's, I think,  
5 quite common to say that the people that are providing a service to a client, they own the risk and they have to manage that risk. So that's your first line of defence. Who is looking over the first line of defence? It's the checker, if I could use that word, and that is compliance. Have we got all of the controls in place. and are they working? And then, of course, you bring in the third line of defence which is the objective  
10 independent ..... being the auditor.

MS SHARP: Can I now explore with you some of the concepts that, under the 2011 number 1 rules, feed into the compliance programs that need to be developed. One of those sets of requirements is the Know Your Customer set of requirements. Can  
15 you tell us a little bit about that?

MR CHAPMAN: Yes. It's the extension, if you will, of doing due diligence. Unfortunately, they tend to be used in a mix. But when you onboard a client you will do due diligence on the client, and the law requires, depending on the type of  
20 customer, certain minimums. For example, if it's an individual, what's the full name, the residential address, and date of birth. And then how do you verify that that's – so you know who you are dealing with. Depending on the type of relationship you are entering into, then you need to move to doing more due diligence which we now call KYC, Know Your Customer. What is the purpose, why  
25 are you coming to deal with us? What do we know about you? Where are the source of funds, the source of wealth? What are you actually proposing to do in your relationship with us, and that will depend on the service you are providing.

So if we went back to table 3 you would be mapping that – table 3 in section 6 of the  
30 Act, and you would say I now understand why this customer is there and what due diligence we would do on them. When it comes to the larger area, we've have introduced some new acronyms as well, KYE, Know Your Employee, because they can present risks to you. They may be an agent of the customers. They may be under pressure from agents, and we've seen some very sad cases where that has been  
35 the case. And then Know Your Agent, KYA. Do you actually understand what they're doing? And if I take a banking example, a mortgage broker, an investment broker would be an agent. They're facilitating something on behalf of one of their clients for a service that you will be providing.

40 And so we come in that, and I guess that comes to a point where I don't have sound knowledge on this particular topic. But if we look at the junket operator, the question is what sort of contractual arrangements does the casino have with the junket operator versus the people that are actually going to do the betting, and who is the client. That will be something that would obviously be defined by any contractual  
45 arrangement that they have with the junket operator. Is he the client, or is his party the client. I see that no different to, in the funds management area, where

the client is in fact the fund's manager, but you are not identifying the people that have put money into the fund.

5 MS SHARP: I want you to assume a scenario for me. Assume that a casino deals with a junket and for the play of individuals, and it is the junket that assumes the obligation to the casino to make good a debt. Is the junket in that context the client of the casino operator?

10 MR CHAPMAN: I think if you look at table 3 in the legislation, it could well be interpreted that that is the client, that is the patron, and depending on the contractual arrangement, what is the service you are providing. Are you providing a premises so that they can conduct their own gaming operations with their patrons so that's the customer's customer, if you will, or are they simply an introducer and the group that they have brought to Australia to do the gambling in casino, does the casino deem 15 them to be the players. If you look at the Australian legislation, I'm aware – albeit that I've not audited any of these – I'm aware that some would deem the junket operator to be the customer.

20 Others, depending on who is providing the credit and how the funds are being used may deem that the – it's the end gambler that is the customer, and we want to introduce all of them and therefore the junket operator would be seen as an agent of the customer and we would be identifying them as well. That would depend on what the type of service I think is being provided to the junket group.

25 MS SHARP: Now, another expression we find in the 2007 number 1 rules is “politically exposed person”. What's that?

30 MR CHAPMAN: There's a definition and, unfortunately, it's – whilst the concepts are common, the definition in different countries is different. The Financial Action Task Force has an overall definition of a politically exposed person, and that is a person that is in a position of influence, for example, government Ministers, heads of government departments, heads of military, things like that. Then we get to the issue of, well, what happens when they leave those positions. Is a PEP a PEP forever, for example? And one would have to say, what is their area of influence once they've 35 left office? One would only look at previous Prime Ministers of this country, to ask are they no longer considered a politically exposed person, or are they in a position of power and influence? And so I can tell you at Westpac, my era, once a PEP always a PEP was my rule, which would mean we do closer monitoring. Because they ..... high-risk now. That needs to also be tailored with what are the functions 40 performed. If you have an ex-Prime Minister only conducting a transaction account with you or coming in an occasional gambler, you probably don't see any issue. But if they have got a depth in their relationship with you then that risk will rise. This also relates to foreign PEPs. It did start off as only foreign PEPs. We are only interested in people that were from a foreign jurisdiction. But it now includes 45 domestic politically exposed persons and it includes now politically exposed organisations. And I draw the commission's attention to say a sovereign wealth fund from overseas. That would be deemed to be politically exposed.

MS SHARP: Mr Chapman, why do we care about politically exposed persons in the first place when we're looking at money laundering and counterterrorism financing?

5 MR CHAPMAN: Given their role of influence either domestically or overseas they may be more subject to corruption either themselves or the victim of corruption. They may be quite interested in helping third parties do things for political gain or whatever. So you need to look at who their associates are. And if one looks at the major databases, Dow Jones, Activa, their product, you look at World Check – now Thompson Reuters. I helped develop that project so I'm a bit biased there. The issue  
10 is where do we go in looking at a person who is politically exposed, what are their associates. For example, if you looked at Bill Clinton, the president of the US, well, Hillary was his wife or still is, therefore she would be deemed to be an associate, as would the daughter Chelsea. So you look at the associates. When it comes to - - -

15 COMMISSIONER: But the purpose of the question was, why are we interested in Chelsea and Mrs Clinton? What's the purpose of the legislation in this setting?

MR CHAPMAN: She may be party to transactions because of the influence that her politically exposed relative is involved in and therefore she may be a conduit or may  
20 be able to leverage. It's just a warning that you need to have a closer observation of people. The law does not prohibit dealing with politically exposed persons. It just says you need to be aware of them and what your relationship is. So the amount of due diligence you will do on them will depend on what services you provide to them.

25 COMMISSIONER: But in a gambling sense, I suppose if a former Prime Minister comes into the casino, what are you suggesting the casino should do?

MR CHAPMAN: Well, again, it will depend on what services the casino is providing. Let me give you an example - - -  
30

COMMISSIONER: Let's assume that the Prime Minister or the former diplomat or whatever it is likes to play baccarat. So what's the risk and what should the casino do?

35 MR CHAPMAN: Absolutely. He's an occasional player, does he come in every week, does he come in three times here with friends because they're having a good night out, they put \$4000 on the table. I would say, well, he's a PEP but I don't care, because of that's of no influence to us from a money laundering and a terrorist financing perspective.  
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COMMISSIONER: I see. Yes, you don't care that you have got to be more vigilant about him.

MR CHAPMAN: Correct.  
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COMMISSIONER: Yes, I understand.

MS SHARP: And perhaps I could ask you one more thing before the luncheon adjournment. There's also a concept within the rules known as enhanced due diligence. Can you tell us firstly what that is and what triggers the requirements?

5 MR CHAPMAN: Yes. That's in chapter 15 of the rules. And it says where you have a higher risk customer or there's activity that creates a higher risk such as submitting the SMR, which we talked about before, then that customer needs to be on enhanced due diligence. You will do more inquiry about them. You will have a deeper understanding of their business and what that relationship is with you as to  
10 what you are going to monitor, what you may even allow them to do.

MS SHARP: Is it correct that, if you are a politically exposed person or an associate of a politically exposed person, enhanced due diligence must be done?

15 MR CHAPMAN: That's – that's the core requirement. The level to which you do that will depend on your business relationship with them, the extent of it.

MS SHARP: Commissioner, I'm going to move to a different topic so now might be a convenient time.

20

COMMISSIONER: Yes. Mr Chapman, thank you very much. If you could step down until 2 pm and return then.

MR CHAPMAN: Thank you.

25

**<THE WITNESS WITHDREW**

**[12.54 pm]**

30 COMMISSIONER: Ms Sharp, did you want to tender some documents?

MS SHARP: Yes, I did. Thank you for reminding me, Commissioner. You have before you a list of three documents on a supplementary index dated 27 February 2020. Could I tender each of those documents as part of exhibit E?

35

COMMISSIONER: Yes, thank you. As part of exhibit - - -

MS SHARP: E.

40 COMMISSIONER: E. Yes, thank you. Those documents, those three documents, will become exhibit E1 to 3 respectively.

45 **EXHIBIT #E1 TO E3 DOCUMENTS ON SUPPLEMENTARY INDEX  
DATED 27/02/2020**

COMMISSIONER: And I will adjourn until 2 pm. Thank you.

**ADJOURNED**

**[12.55 pm]**

5

**RESUMED**

**[2.00 pm]**

10 <WILLIAM AUBREY CHAPMAN, RECALLED

<EXAMINATION BY MS SHARP

15

COMMISSIONER: Yes, Mr Chapman, if you would come back into the witness box, please. Thank you. Yes, Ms Sharp.

20

MS SHARP: Mr Chapman, can I just follow up with a few other questions regarding the Know Your Customer requirements. I just want to ask you some questions in the specific context of casino operators. Are you able to assist us in telling us whether, when a casino operator is investigating whether it should deal with a junket operator, it needs to consider whether that junket operator is in fact acting as an agent for any other person?

25

MR CHAPMAN: I would imagine that entering into an arrangement with a junket operator – and I am assuming that this would be either casual or under a formal contract, but that they would do due diligence on that operator and see where they operate, what their modus operandi is, whether they are acting on behalf of others or themselves as principal junket operator.

30

MS SHARP: Now, I want you to assume that in some circumstances the arrangements in Australian casinos are such that the junket operator is the customer of the casino. Can you tell me – I just want to take you to the definition of Know Your Customer information in the 2007 number 1 rules. I will have those rules pulled up INQ.070.001.0403. These are the rules. Can I take you to pinpoint 0414? Can you see there, that – we're in the definitions section of chapter 1. You will see towards the bottom there's a definition of KYC, that is, Know Your Customer information.

40

MR CHAPMAN: I do.

45

MS SHARP: Now, that actually goes over the page and I will have the operator turn over the page. And what you will see on that next page is at (j):

*The customer's source of funds including the origin of the funds.*

When a reporting entity is applying the Know Your Customer requirements, is it the case that the reporting entity needs to take some steps to understand for itself the customer's source of funds?

5 MR CHAPMAN: Absolutely.

MS SHARP: So that would hold true if the customer, under the legislation, was the junket operator?

10 MR CHAPMAN: Yes.

MS SHARP: Can I move now to ask you some questions about the role of the independent auditor in the compliance process?

15 MR CHAPMAN: Certainly.

MS SHARP: I think it's correct that under the AML legislation, compliance programs must be audited by independent auditors?

20 MR CHAPMAN: The rules as they are currently structured require the independent audit to cover part 1 or part A, I should say, of the program.

MS SHARP: And what's part – I know it's very complicated but - - -

25 MR CHAPMAN: Certainly.

MS SHARP: - - - can you simplify for it us, and tell us what part A of the program is.

30 MR CHAPMAN: Australia's legislation, so far as the program is concerned, broke into part A and part B. Part A is all of the administrative things, like you must have the governance, you must have a compliance officer, you must do training, etcetera.

MS SHARP: Could I ask you to slow down a little bit so I can follow?

35

MR CHAPMAN: So part A is that you must have a program and it must have oversight by board; they must approve the program. You must have an AML/CTF compliance officer. You must do employee due diligence. You must do employee risk awareness training. You must do transaction monitoring, and enhanced customer due diligence. Part B is the customer identification. This is the one jurisdiction that I'm aware of that doesn't require you to do an audit of the entire program, only part A.

40

MS SHARP: When an auditor conducts an audit of anti-money laundering counterterrorism finance compliance program in Australia, that auditor is not looking at what the reporting entity is doing in terms of know your customer requirements?

45

MR CHAPMAN: The law requires the audit to cover the part A as we just covered. Most clients ask the auditor to cover part B as well but that's not mandated under the Australian legislation.

5 MS SHARP: So that's an option that the reporting entity elect to do or not do?

MR CHAPMAN: Correct.

10 MS SHARP: How frequently does the – I withdraw that. I just want to understand this: the requirement is for an independent auditor, correct?

MR CHAPMAN: Correct. And it could be internally or externally.

15 MS SHARP: How can it be done internally if it's independent?

MR CHAPMAN: Well, you have to demonstrate competency and independence. It could be done in a large corporation where the auditor is remote from the business and if I took a multinational – for example, it could be the global compliance unit that visits and does the audit of the local subsidiary or whatever. In most smaller or  
20 medium size organisations that's difficult to prove independence, hence they engage an external auditor

MS SHARP: What exactly does the independent auditor have to do with respect to the compliance program?  
25

MR CHAPMAN: Chapter 8.6 of the rules requires the auditor to do – or to check four things, and that is have they got an AML program, and does it comply with the law. Have they adopted that program, and are they complying with that program.

30 MS SHARP: And I think you mentioned those four aspects earlier on and said two of them go to the – the last two go to compliance, is that right?

MR CHAPMAN: I'm suggesting the first two would be design. Have you designed your program that it complies with the law? And the second two would be execution.  
35 Have they adopted it and are they really following it?

MS SHARP: And what do you do with respect – as an independent auditor, what do you do in relation to auditing for the execution of the audit process?

40 MR CHAPMAN: Yes, certainly. Having looked at the design and understood their business activities, I then, like most auditors, map out what I need to test to prove that they are complying with it. So if I take the employee due diligence component, I would be looking at the onboarding of employees and doing a sample to give me a level of confidence at whatever level that needs to be, that they are doing the  
45 employee due diligence correctly. If I looked at the AML/CTF risk awareness training I would be looking at what training materials they have, how they deliver

that training, how they test the competency of the people that they have taught that training to.

5 MS SHARP: How frequently do independent auditors need to examine these compliance programs?

10 MR CHAPMAN: The law is, in the English language, unfortunately not very specific in Australia about that. At the larger end of town, industry best practice is at least every 12 months. And then you get down to very small mum and dad remitters and things like that where you say every two or three years.

MS SHARP: Does AUSTRAC play any role in preapproving the auditors that can be used to perform these independent audits?

15 MR CHAPMAN: No, they do not.

MS SHARP: Do the independent auditor reports need to be provided to AUSTRAC?

20 MR CHAPMAN: If requested.

MS SHARP: So only if AUSTRAC request it.

25 MR CHAPMAN: Only if – best practice by AUSTRAC, as I understand it today, is that when they choose to do their onsite compliance assessment or their desktop review of a group of clients, they may call for – and often they do call for the independent audit report, the idea being that they want to see if recommendations made by the external auditor – sorry, the independent auditor, were in fact accepted and adopted.

30 MS SHARP: Can I show you a document, please? Can I call up INQ.130.002.1775? This is exhibit A11.

35 COMMISSIONER: Thank you.

MS SHARP: Now, we've been to this document a little earlier. It's one written by you. You've indicated that – I withdraw that. Do you adhere to the views that you expressed in this report?

40 MR CHAPMAN: I certainly do.

MS SHARP: And this was your white paper.

45 MR CHAPMAN: This was my white paper some years back, yes.

MS SHARP: For ACAMS. Now, one of the things you do in this article is identify deficiencies in money laundering and counterterrorism financing risk assessments as a continuing major issue.

5 MR CHAPMAN: I certainly do, and I subscribe to that today.

MS SHARP: Can you just explain to us what your views are in that regard?

10 MR CHAPMAN: Yes, because the reporting population is spread from large multinationals down to very small reporting entities, the understanding of what financial crime risk is will be very varied. And my paper talks about where you could get information from to assist you in creating a risk assessment that would cover the risks that are presented by your clients, or your customers, by the products that you are providing, by the delivery channels by which you will deliver those to customers, 15 and the jurisdictions. At the big end of town, one assumes as a starting point that there are sufficiently trained and number of compliance professionals that guide the business unit within the organisation to create a robust risk assessment.

20 One assumes that they are also skilled enough to be able to access all of the publicly available writings from the Financial Action Task Force right down to private papers that are written by consulting firms and so forth on how you would go about a risk assessment, and the factors that would influence your risk ratings for the various components. Then we go to the middle order where they may only have one or two compliance people, and they tend to engage an external source, such as one of the big 25 accounting firms or someone smaller like myself, to come in and help them build their risk assessment. And then down to the very small businesses that may in fact have one provider. And I give an example of Western Union agents. They're usually convenience stores, post offices or whatever and Western Union would provide a template program to them.

30 MS SHARP: One of the things you say in this paper is that the risk assessment framework should be relevant and proportionate. What do you mean by that?

35 MR CHAPMAN: It depends on the size and complexity of the business as to how detailed you need to go in identifying and putting values against the risks that the business may face through the service that it provides. If you took a conglomerate like Commonwealth Bank that provides a range of services to different types of clients through different technologies then clearly that would be robust. But if you were looking at a wealth management fund manager that may only be providing 40 wholesale services to managed investments on behalf of a superannuation fund, their risk model would be very much simpler.

MS SHARP: And one of the things you say in the article is that:

45 *Reporting entities need to apply appropriate resources and expertise in developing the risk assessment framework.*

Could you explain that in a bit more detail, please?

MR CHAPMAN: Certainly. Because the law requires you to build a money  
laundrying terrorist financing risk framework which will then be instructive into  
5 where you put the controls as part of your program, then you need to ensure that  
you've got skilled people to do that, and that there are sufficient of them to  
contribute. One normally expects business to be part of this albeit that they're not  
risk experts. You would expect risk professionals to be involved such as the  
compliance unit in developing that so that it does truly reflect the risks that the client  
10 area may face. And there are two areas to the risk assessment. One is the business  
risk that they may intentionally or unintentionally be facilitating money laundering.  
And the other is the regulatory obligations because, obviously, that's a risk too if you  
don't meet all of your regulatory obligations.

15 MS SHARP: Is it true to say as a general rule that it is the marketing arm of the  
reporting entity that could be expected to know the most about the customers?

MR CHAPMAN: I would hope not. I would hope business knows more about the  
customers than the marketing area. I've not seen the marketing people ever drive  
20 this.

MS SHARP: What do you mean by the "business people"?

MR CHAPMAN: That is the people that are providing the services. Now, it's the  
25 front office staff, the lending staff, the people that are operating the various  
components of a casino operation that deals with the customers and provides the  
table games, the slot machines, the cash, etcetera.

MS SHARP: One problem you identify at page 4, and I don't need to take you to it,  
30 is that the appointed compliance officer might not be sufficiently qualified. What do  
you mean by that and why is that an issue?

MR CHAPMAN: Unfortunately, people are promoted into roles where they are not  
properly skilled and trained to do. And this has come out in many, many of the  
35 enforcement actions and administrative orders in the United States and the UK, in  
particular, where many of the finding are that the AML/CTF compliance officer was  
too junior and did not have the background to actually understand where the risks  
were and what the control structure should be. That has been an ongoing criticism. It  
still is today.

40 MS SHARP: So is your proposition that the compliance officer has to know where  
the risks are?

MR CHAPMAN: Certainly understand where they can be found. They would need  
45 to understand how the product works, what its features are, who its clientele is likely  
to be and therefore able to identify the risks, the money laundering and terrorist  
financing risks.

MS SHARP: Those factors you mentioned – are they the kind of factors that would form your assessment as to whether the compliance officer was suitably qualified to have that role?

5 MR CHAPMAN: We certainly in ACAMS would look at how have you been trained as the AML/CTF compliance officer, what knowledge do you bring to the table that would enable you to be a proper risk professional. So that's why we run our training and education.

10 MS SHARP: And would you expect their compliance officer to have completed specialised training on anti-money laundering and counterterrorism financing?

MR CHAPMAN: I think in Australia there is a growing expectation from the regulator, being AUSTRAC, that the person has done training and continues to be  
15 trained. If we go to the US, for example, if you were applying for one of these roles in one of the large institutions, they actually say in the ACAMS required. In other words we are not even going to give you an interview for the job unless you have demonstrated that externally you have in fact received an accreditation by a professional organisation. ACAMS is not the only body that does that, so does ICA  
20 and others around the world that provide professional training.

MS SHARP: But certainly your view is that best practice within a large organisation where there are known money laundering risks would be for the compliance officer to have specialised training in money laundering and  
25 counterterrorism financing?

MR CHAPMAN: Absolutely. Just as the law requires employees to be trained, we would expect the AML/CTF compliance officer as they are known overseas, or STFW, as they're known here – all these acronyms – we would expect them to be  
30 doing ongoing training attending seminars, conferences, gaining a continuous knowledge of trends and so forth that they're equipped to do their job properly.

MS SHARP: Now can I take you to another article? If I can call up INQ.500.001.3850. This is exhibit 214. This is a picture of you, Mr Chapman. This  
35 is, it's on the banner Arctic Intelligence; what's that?

MR CHAPMAN: That's correct.

MS SHARP: What is Arctic Intelligence, can you tell us?  
40

MR CHAPMAN: That's a technology company that has developed products, technology products that will guide an institution into doing their risk assessment and in developing their program. They have a product auld AML accelerate which takes you through in a very structured way building your program.  
45

MS SHARP: Now, you were interviewed by Arctic Intelligence in June 2019.

MR CHAPMAN: That's correct.

MS SHARP: And what you said in that interview, I take it, remains true?

5 MR CHAPMAN: I believe so, yes.

MS SHARP: Can I just show you, if I can highlight paragraph 1 underneath the bold text, you say that when you are doing independent audits, you find that clients have deficiencies or misunderstandings in two fundamental areas. Now, the first area  
10 you identify is do they really understand the risks of their industry? Now, what do you mean? That they've got to specifically look at their specific industry to identify where the risks are?

MR CHAPMAN: Yes, that's correct. You don't know what you don't know, I  
15 guess is the common thing and unfortunately some of these clients that I audit, particularly the middle order where they might have 50 or 100 people in the total organisation, they don't have the background to understand where the risks are in their sector. Now, that comes about by two things. One, a lack of training and seniority and experience, or that they've not done the research properly, which –  
20 there's a mountain of information available publicly that would tell you where the risks are. An example would be the risk assessments that AUSTRAC and other authorities do, or sectors, setting out where risks are likely to be in a particular sector. And we find that they don't even do that research; therefore their risk assessment is deficient.

25 MS SHARP: So it's reasonable to expect that research will be done into your particular industry in an attempt to identify the risks .....

MR CHAPMAN: Absolutely. And when I do an audit I would ask the client as I go  
30 through those four major areas of risk, where did you get the information from to draw a conclusion that this was a high risk, a medium risk or low risk depending on your products or services and I would be looking for evidence that they truly understand where that risk is. And they might cite public documents, they might cite risk assessments for a sector, they might cite the national risk assessment and so  
35 forth.

MS SHARP: Now, tell me if I've got this right: if you don't do your research on risks in your industry properly, the problem you may face is you don't tailor a risk management program that adequately manages that risk?

40

MR CHAPMAN: That's absolutely correct.

MS SHARP: Now, you say in this article, or when you were interviewed I should say, that the second major area where you find problems is that the entity has done a  
45 risk assessment but hasn't actually mapped that into their anti-money laundering program. What do you mean by that, Mr Chapman?

MR CHAPMAN: Unfortunately, we see people that have either engaged external parties or they've done it and having done the research that they build what I would call a reasonably robust risk assessment. Now that's meant to inform where you put your controls in and what you will focus on in your program. An example would be  
5 they have rated different customers at different levels of risk. For example, an individual might be rated low risk, trust would be rated as higher risk because you don't necessarily know the parties that are in the trust and what they can do and so forth. Yet when we go and look at the program, all customer due diligence is done at the same level.

10

MS SHARP: I want to ask you some questions now about the implementation of anti-money laundering counterterrorism financing compliance programs. What are the key things to get right when you implement those programs?

15 MR CHAPMAN: You mean what most organisations get correct?

MS SHARP: No, what should they do to properly implement their program?

MR CHAPMAN: Certainly. Well first of all, they have to socialise that program  
20 with the appropriate people within the organisation so that they understand a framework that you are now implementing. And understand the importance of it. And so there's an education program that should be done then bringing business up to speed with where the risks really are and having their agreement to that, acknowledging that the controls would seem appropriate and that they're in the right  
25 part of the chain of the process. Often you can build an effective control but if it's not in the right place within the process, then it proves to be ineffective. There's some evidence of a major issue here for a bank in Australia where it was quite clear that the control was not in the right place.

30 MS SHARP: When you are implementing a compliance program, how important is the training of staff in that program?

MR CHAPMAN: Training staff is absolutely fundamental for the whole regime of  
35 managing your financial prime risks. If your staff do not know what they're doing and understand the concepts behind that, then they will be deficient in applying it.

MS SHARP: Do different categories of staff within an organisation need different types of training?

40 MR CHAPMAN: My word. Absolutely. Customer facing staff need to really understand everything about customer due diligence and so forth. Processing staff would need to understand how transactions are monitored and how reports are generated. So it has to be tailored to the person's area. If one looks at private banking  
45 relationship managers, they get very close to their client and, therefore, there is a chance that they end up becoming the client advocate or the customer advocate as opposed to worrying about what the institution requires and you see that a lot in complex arrangements, private banking would be a very good example.

MS SHARP: Do the reporting entities have any role in determining whether the message has got through to their staff?

5 MR CHAPMAN: Most training programs should have some sort of test at the end of it, a series of questions that would test, was the awareness really understood. Then, of course, if one thinks of the principles of staff training in anything, training is about reinforcing good behaviour or changing bad behaviour to what we require. So the way you can attest the effectiveness of a risk awareness training program would be that they've answered a series of questions at the end, prove that they've  
10 understood the material and then obviously monitoring the actual activities to see how often they get things wrong.

MS SHARP: And is it a good idea to monitor in an ongoing way whether the staff you've trained in AML and CTF have understood their obligations?

15 MR CHAPMAN: Well I believe that comes out in their behaviour in carrying out the functions do they always get it right, do they follow our policies. So you have this issue of the compliance not only having the AML/CTF program, expecting the second line of defence being compliance, continuously testing that on a sample basis  
20 to see that it works and my example would be if we looked at customer due diligence, if staff have been trained how to on board a client properly then I would expect the compliance unit to be testing on a sample basis so many of those records each month to see if they're carried out properly. And to give an example of a deficiency, in on boarding the customer might not have been able to provide all of  
25 the documents up-front and I unfortunately see instances where the file says to be provided later and later never actually occurs.

MS SHARP: I want to come and ask you some questions now about world check. You said you had some experience in setting up a world check, did you?

30 MR CHAPMAN: That's correct, world check was built. It's one of a number of these big databases that will help people understand what they know about their customers. So in other words part of the due diligence, running the check. A world check and like the other, their competitors' products draw on publicly available  
35 information. Every record that you can find in World-Check will point you back to a public record somewhere, which gives its veracity, this is not some person's individual views. We built a country check which is the risk assessment for countries along the same lines.

40 MS SHARP: So just for those of us who haven't heard of World-Check before, could I just give an introduction to what exactly World-Check allows you to search?

MR CHAPMAN: It allows you to search on an entity and that could be a legal  
45 entity or it could be an actual person and you are looking to see if there's any information on the database about that person. Now, it's not bad actor records but clearly that's a focus. There may be no record on the person. I suspect that if we did a World-Check inquiry on your good self, you probably don't appear on the database.

MS SHARP: I hope not. With World-Check, is it relying on the reporting frameworks of the particular countries? For example, if somebody was convicted of a crime in Australia, is World-Check reliant on the records in that country, in Australia as to the person committing a crime?

5

MR CHAPMAN: That would be a natural source but there would be others because much of this is a cross-border. And you find the records, you're making an inquiry on something that happened in Australia but it might refer you to the fact that this person was a convicted fraudster 10 years ago in Germany.

10

MS SHARP: Now, in relation to Macau I understand that a person may be convicted of an offence in Macau but after a certain period of time, the record of that offence is expunged. Once it's expunged, can it be picked up on World-Check?

15 MR CHAPMAN: I can't answer that, I'm sorry.

MS SHARP: There are a number of databases that are similar to World-Check?

MR CHAPMAN: There are.

20

MS SHARP: Can you name some of those?

MR CHAPMAN: Dow Jones have a product. I think it's still called Factiva, which is a very good product as well. There's RDC, an American company that produces a similar database. So this is a commercial offerings that are available in the world.

25

MS SHARP: One issue arises where the names of people may be recorded in a script which is different to the English script and it may be necessary to transliterate names. Is there capacity for world check or similar databases to miss things because of transliteration issues?

30

MR CHAPMAN: I think that would always be the case but if one looks at the algorithms and what is built into the systems one hopes that it picks up most of them. Naming conventions are very, very difficult – Asian naming conventions, Middle-Eastern naming conventions and so forth all present on occasions – I mean, if we were to take an example of Osama bin Laden, the names are even spelt differently. The word Mohammed is spelt many, many different ways so how do we know that it's the Mohammed we're looking for? And so this is where the databases have a whole lot of other elements in them that will help you decide whether or not the actor you are looking for is the one that, in fact, appears on that list. The sad thing is that not all of these databases have all of the elements in them. There are estimates of when a person was born in the Middle East, for example. If we take our own Indigenous population, there are many records don't show when the child was born so, what was the date of birth? It was assumed elders will vouch for the person. You have to take all these things into account.

45

The Anglicisation of names also presents a problem. If we take our nearest neighbours, the words – they adopt an anglicised sized name but do you find that as the record? So this is where we come into aliases or also known as. And that's what these bases try to do, they try and give the names. For example, if we look at the  
5 Osama bin Laden record I think there are 37 aliases that he went under for different reasons. So we do have those concerns. Transliteration and translation are, of course, two totally different things but they aim to help you understand the construct of the name or the entity in a way that will help you decide whether or not you are doing like comparison with like comparison or you're not.

10 MS SHARP: If you're tasked with doing some due diligence into a customer, is it acceptable only to look in World-Check and - - -

15 MR CHAPMAN: No. Well, it could be. Depending on the risk that you see, looking at one database might be sufficient. But if you actually look at what the law says in Australia, you need to verify the customer's name by two independent sources. Now, that has been tailored somewhat through the Australian Government's processes being able to find data that's brought together within the government, and you can do certain things there using one database because it – within it, it has  
20 various sources.

MS SHARP: Is this proposition correct: the greater the apparent risk the customer presents, the more you have to do by way of due diligence?

25 MR CHAPMAN: I would think that that's a standard proposition. Absolutely. I would like to add, if I may, for clarification, that these systems actually deal with fuzzy logic. The concept of fuzzy logic is that we look at degrees of separation. For example, John Smith with an H in the word John, versus Jon with J-o-n Smith. And it will give you a level of reliability. We think this is a 95 per cent possibility of a  
30 match or an 80 per cent possibility of a match. Now, depending on what parameters you put into your system, you will determine what comes out as an alert and what is washed away. That's something we're always looking at.

35 Why as an auditor – why did you choose these parameters within your system? The sad thing is we often see this tailored to meet ..... capability. They tighten it up because there's too much alerts coming out and they don't have the resources to do it or, conversely, they have a lot of junior staff and they're prepared to look at more hits.

40 MS SHARP: In your capacity as an auditor of these compliance programs, is it a good idea when somebody is doing a background check just to do a Google search on the - - -

45 MR CHAPMAN: Social media and Google search is absolutely imperative these days. Because there's a lot of information available to you that may not be on a public record. Can I give an end of rainbow example? There are many organisations in Australia now when they are doing employee due diligence will actually do social

media searches. They'll do Facebook searches, Twitter searches and so forth to see what they can pick up about that prospective employee, and I've seen examples provided to me by clients where they say this is what John Smith wrote on his Facebook page. We won't even give him an interview. He's not the type of person  
5 we would like to employ, or this is something that has come up. And obviously along with that you would do the searches of bankruptcy, disbarred directors, and things like that.

10 MS SHARP: Well, that's a cautionary tale so far as social media is concerned, Mr Chapman. What about just doing a Google search?

MR CHAPMAN: Google searches are really good, and they can provide you with a whole raft of information about the client because they may appear in normal searches where the person's name comes up or something about them comes up in  
15 the press. Google Maps is a very good one, too, where people tell you where they live. And then you do a Google Maps search and you discover it's a – a vacant block. There was no building there, no house there. So it's amazing what people will do.

20 MS SHARP: Can I go so far as to suggest that it would be remiss of somebody not to do a Google search if they were doing a background – a Know Your Customer check on somebody?

MR CHAPMAN: I think the way the world is now going with technology and social media, certainly the very large majority of my clients do Google searches or  
25 the equivalent of Google.

MS SHARP: Can I show you a document please, Mr Chapman? This one is INQ.130.001.5174. Is this a document you've seen before? It is the American Gaming Association, Best Practices for Anti-Money Laundering Compliance 2019 to  
30 2020.

MR CHAPMAN: Yes, I have read that document.

35 MS SHARP: How did you become aware of that?

MR CHAPMAN: By my own involvement through ACAMS, and all of the media and all of the education that we provide. People are feeding it in through the various interest groups that we have and this popped up. I obviously do searches. I have  
40 standing Google searches that come up every day that give me something – give me anything that talks about casinos, give me anything that talks about FATF, give me anything that talks about AUSTRAC. Some of those things I wash away, obviously. But I think when you're a consultant, as I am, you need to be aware of what is being published, what is out there. This is a very good document, I might add.

MS SHARP: Well, I was just going to say the title might be a giveaway, but is this guide aiming to show people what the best practices are in the gaming industry for anti-money laundering compliance?

5 MR CHAPMAN: Yes. And what I do like about this particular document is it has been produced by the industry association. So it's not a regulator's expectation albeit that there's some of that in there. It's the association saying this is what we expect as an industry.

10 MS SHARP: Could I take you to pinpoint 5213 within this document? And what you will see is an anti-money laundering program questionnaire. Could I direct your attention to B, Risk Assessment? Now, we've had a dialogue about risk assessment but have you had the opportunity to consider the factors specified in paragraph 12 about what a risk-based assessment may consider?

15 MR CHAPMAN: Yes.

MS SHARP: And do you agree with each of the propositions there?

20 MR CHAPMAN: I do agree that they're a good starter set. Again, it gets back to what are the particular business activities that a particular casino may be providing to its clients. So there might be one or two there that you would say are of lesser importance to a particular casino but I would expect that sort of thing to be covered. The gaming industry in the States, it's rather complex because we do have those that  
25 are on Indian reservations and they have their own rules about how they go about things.

MS SHARP: Now, I want to ask you about the criminal offence of money laundering, if I can. That's a criminal offence here in Australia both at a  
30 Commonwealth level and a State level. Let me show you the provision for the State of New South Wales. I will bring up section 193B of the Crimes Act which is INQ.070.002.0166. It's exhibit A105, Commissioner.

35 COMMISSIONER: Thank you.

MS SHARP: Here we have the front page of the Crimes Act 1900. Let me take you to pinpoint 0309. You will see midway down that page a heading 193B Money Laundering.

40 MR CHAPMAN: I do.

MS SHARP: I take it you have some familiarity with this offence?

45 MR CHAPMAN: I do, although the majority of my clients are caught by the Commonwealth legislation, as opposed to State legislation but clearly the facts are fairly similar.

MS SHARP: There's in fact a considerable degree of overlap between the offences, isn't there?

MR CHAPMAN: Yes, indeed.

5

MS SHARP: One of the key features you see in the state legislation and the Commonwealth legislation is there is a different offence depending on the state of knowledge of the perpetrator; is that right?

10 MR CHAPMAN: That's correct.

MS SHARP: So one threshold is knowledge, and the other threshold is recklessness.

15 MR CHAPMAN: Yes. This is where the concept of wilful blindness comes in and we spend a lot of time in our training on that; have people understanding you can't turn a blind eye to things.

MS SHARP: Well, I'm glad you have spent a lot of time on this training  
20 requirement because I would like to ask you about this concept of wilful blindness. What can you tell us?

MR CHAPMAN: The concept is, I think, in the broader sense, a reasonable person ought to have known. Now, that gets back to, well, have we trained them, who ought  
25 to know what the risks are. A frontline new junior staff member will be very different from, say, an experienced compliance person like myself, what does ought to have known. I think we hear the term, you know, the pub test. Do people – should they have known? So that's wilful blindness, just turning a blind eye. Don't tell me, I don't want to know.

30

MS SHARP: And based on your expertise, wilful blindness is a problem, is it?

MR CHAPMAN: It can be a problem, my word. And that comes down to  
35 relationships and training and understanding what the person's role is. If I could draw on a historic example. In the very first case in Australia of bank witnesses being called to a case where a person was being charged with money laundering offences – and this is before suspicious matter reports, or "sussters" as they were called in the old days, were prohibited from being produced in the court. The defence counsel got up and waived a suspicious matter report in front of one of my  
40 own staff. I was there with them as guidance, and he challenged her ability to actually even assess that this was a suspicious matter.

At the end of her testimony, she was in tears. And she said to me outside the court,  
45 "Aub, I will never form a suspicion again". Now, how do I train a person when this is a subjective assessment? It's not an objective test. So how do I do it? So I could envisage wilful blindness in that lady going forward.

MS SHARP: Just returning to this offence for a moment, one of the integers of this offence or elements, I should say, is that the money or the property is the proceeds of crime. Now, that might require knowledge – well, it does require either knowledge or recklessness that the currency or property or whatever being dealt with, is the  
5 proceeds of crime. Is it necessary to know the particular crime that has been committed?

MR CHAPMAN: No, because staff in reporting entities aren't law enforcement officers. They're not intelligence officers, and therefore they have the common view  
10 of what is a crime. And it's strange behaviour but we do see the community changing its stance on what is acceptable and what is not. I guess at the very low level, ripping off the tax man by rigging your tax return is probably seen as a fair game in Australia in some areas, whereas in fact it's still a crime. So what is acceptable and what is not? Strangely enough, Social Security fraud seems to be something that really does  
15 gee up frontline staff. They say, "I'm paying my taxes and this person is ripping the community off and I'm going to report that".

So the concept of understanding whether the funds are the proceeds of crime is in the training. This is why we go back to customer due diligence, and whether you need to  
20 do that because of the risk factor in doing the additional KYC, understanding the source of funds and the source of wealth. Why would that person turn up with that amount of currency?

COMMISSIONER: I'm sorry, apart from the racetrack, I presume that a casino  
25 would be very high up on the list of the number of cash transactions per diem – per day.

MR CHAPMAN: I believe that to be correct, it's a cash intensive business.

30 COMMISSIONER: So I can think of no other entity where the numbers of transactions in cash are the same except for the racetrack. Would that be right in your view?

MR CHAPMAN: I believe that to be correct. There are other cash intensive  
35 businesses – bureau de change, for example – everything is in cash albeit it's at a lower level of values.

COMMISSIONER: You have thousands of people coming into a casino.

40 MR CHAPMAN: Correct.

COMMISSIONER: If you think of that on a 24/7 basis. And if you take the main floor where the poker machines or the slot machines as they are referred to are, you wouldn't be able to count the transactions, let alone the cash that goes in unless you  
45 have some form of automated record of the transaction or real-time capacity to know what the trends are and know what the real position is on the floor, I presume.

MR CHAPMAN: I think that's a very true statement, Commissioner.

5 COMMISSIONER: So when you are looking to find suspicious conduct, unless you have visibility across your floor, and indeed in respect of each gaming action, poker machines, baccarat, craps, whatever you are playing, it would be almost impossible without that, without automation to know it.

10 MR CHAPMAN: This is where we go back to the risk assessment and we're looking at the patrons, putting them into categories, individuals that come in occasionally, versus regular players versus high rollers etcetera. So we are going to look at those as different characteristics and we look at the products we are offering. Is the slot machine just for mass market. Is that a lower risk because we have got thresholds on how much you can put through a machine, how much you can buy to put on the credit compared with a high roller. So again it would be up to the entity, 15 the casino, to rank those things and, therefore, look at what they're going to monitor.

20 COMMISSIONER: I've been told, I think, or I'm aware of some information that says that for a million dollars you can probably launder it in a few days if you've got a number of people through poker machines. So it doesn't really, I mean it's more time consuming to do it that way than handing over the bag that we saw a little earlier. But each of those areas for monitoring purposes, for the purpose of monitoring your transaction program, it is very difficult to understand, from my point of view, how an entity can do a transaction monitoring program in such an entity unless it has automation.

25 MR CHAPMAN: And for the normal mass market they don't even know who that client is because you are allowed to come in unidentified and play certain games. Do you know it's a group of people playing tog, as your suggestion a moment ago about a group coming in and laundering a million dollars.

30 COMMISSIONER: In Singapore they have facial monitoring, they have facial identification. What do you say about that?

35 MR CHAPMAN: Yes, they do. If they had facial monitoring, facial identification, the question is what would they do with that, are they going to monitor – this image comes up every afternoon, that could be quite onerous.

40 COMMISSIONER: I think it's all onerous from the sound of things, if you don't mind me saying.

MR CHAPMAN: That's true.

45 COMMISSIONER: I'm wondering if you have such a huge volume of cash going through your business every day, 24 hours a day to comply with what might be seen as a counsel of perfection, I'm not sure but just trying to work out how an entity can really know the client, because you wouldn't know if somebody comes in with

\$100,000 once in their lifetime, they have a licence at the front door, they show who they are with an address and that's about it, isn't it.

5 MR CHAPMAN: That's about it, normally, absolutely. And again this gets back to the risk assessment. Would we have a dollar threshold for certain mass market players?

COMMISSIONER: Yes.

10 MR CHAPMAN: That's up to the casino on its risk-based approach, the clubs, you have only got to look at major clubs here in Sydney and the amount of money that goes through poker machines there. And the liquor and gaming authority has published information on that in my local government areas how much money goes through poker machines here in Sydney in various local government areas. It's quite  
15 astounding. And for me as a compliance professional, I look at some of those figures and I think the demographic of that local government area doesn't seem to bit with those sorts of volumes and values.

COMMISSIONER: Perhaps they're visitors, yes.

20 MR CHAPMAN: AUSTRAC, if I may, Commissioner, AUSTRAC has done some very good work on macroeconomics on this, looking at cash values and values through communities versus the whole pattern of that particular entity. And I did a study when I was consulting at AUSTRAC where we looked at a country town and  
25 we looked at the volume of groceries and alcohol and everything else that was shipped in and then we looked at the amount of money that was passing through the banks in that town and we figured out that how many industries were in that local area to draw wages and pay. And we were getting mismatches which was indicating that something was different, either we had deficient data that we were analysing or  
30 money was being washed through that community that really had no economic value for that community. So there's very good intelligence done by the authorities on this.

COMMISSIONER: Speaking of very good work, are there many criminal prosecutions for money laundering?

35 MR CHAPMAN: Not too many in Australia. Now - - -

COMMISSIONER: Why is that so? If it's such a huge problem and it seems to be that you have got a huge community of practitioners, does the level of criminal  
40 prosecution reflect the reality?

MR CHAPMAN: And that has been a criticism by the financial task force.

45 COMMISSIONER: I'm sorry. Does the level of prosecution reflect the reality of the problem?

MR CHAPMAN: I think the answer is no.

COMMISSIONER: Yes, I'm sorry to interrupt, Ms Sharp.

5 MR CHAPMAN: That was ..... in the financial task force review.

MS SHARP: Just following up on the Commissioner's question, and you may or  
may not be able to answer this, if you can't please let me know. But do you have any  
insight as to why there is a relatively low level of prosecution for money laundering  
10 offences?

MR CHAPMAN: I think it's understanding the offence and whether or not you  
have sufficient evidence to actually achieve a prosecution. Anecdotally, and I must  
say it is only anecdotally, when I have asked people in the law enforcement area  
15 about this they turn around and say it's much easier to prosecute the underlying  
offence, the predicate offence – whether it's the armed hold-up, whether it's the drug  
deal or whatever – than it is to get a convict of conviction of money laundering. That  
is changing, no doubt about that. And if you look at the US as an example they tend  
to run money laundering as the primary offence that they are prosecuting.

20

MS SHARP: Indeed they have done that for a very long time, haven't they?

MR CHAPMAN: Absolutely.

25 COMMISSIONER: I think Al Capone was tax.

MR CHAPMAN: It was.

MS SHARP: Tax and money laundering. Let me ask you this: on the one hand the  
30 casino wishes to make as much money as possible, which is probably something that  
all businesses want to do. On the other hand, the casino has various obligations  
under the Anti-Money Laundering Act. On third hand, assuming you have one, some  
of the people who stand to bring the most money into the casino are some of the  
biggest money laundering risks. Would you agree there's a tension there?

35

MR CHAPMAN: There is a tension there, absolutely. And it's not just the only  
industry but I do accept that that's prevalent in the casino industry because of those  
tensions. The same thing would apply in private banking, turning a blind eye  
because this is a wealthy customer and they're bringing lots of money in and I'm  
40 getting a good commission out of it.

MS SHARP: Have you reflected on, given that it happens not only in the casino  
industry but in other industries, have you reflected on how that tension is best  
resolved?

45

MR CHAPMAN: Separation of duties I think is a big one. What are the front line  
staff doing versus what are the control frameworks you have put in place and the

monitoring and who should be doing that monitoring. And an analysis of what services are we providing to what types of clients.

5 MS SHARP: Will you just elaborate a little bit more on the separation of duties for us?

10 MR CHAPMAN: I think those people that are monitoring that the customer due diligence is done correctly and appropriately and it's proportionate to the risk you are facing probably need to be separated from the people that are providing the service. So whilst the service provider, being the front line staff may do the customer due diligence, I think someone should be analysing that due diligence and saying the behaviour we are seeing suggests that we don't know enough about this particular client and we should have better controls on them or we could constrain that product or service being provided to those people.

15 MS SHARP: Are you suggesting there should be some sort of internal audit by a compliance on frontline staff?

20 MR CHAPMAN: I believe that the second line should be doing as the part of their normal business, as understanding what is happening. Show me the matrix. You know, you've got this volume, these metrics are coming out of your business. Is it general across the whole population of people using that or do we have a particular cadre of patrons that are doing something abnormal compared with them?

25 MS SHARP: Does the independent auditor play any role in resolving the tension that was just discussed?

30 MR CHAPMAN: As part of the audit they would make recommendations. They obviously can't be part of building the solution because the law says that if you part of assisting them build their program and maintaining their program then you can't do the next audit.

35 MS SHARP: One of our previous witnesses told us that in having an effective money laundering regime and in resolving the tension that I've just identified in the casino context, we need to have a culture of compliance. What do you say to that?

40 MR CHAPMAN: I say that's absolutely fundamental. If you want to stay in business, you should have a culture that ensures that you do it right first time every time; that you manage the controls because you understand the risks and, therefore, you have a reputational risk that you can avoid by providing these services at the right level and that you have good trained staff that identify. To me, culture of compliance is – it's fundamental to business.

45 MS SHARP: What is the relationship between a culture of compliance and the leadership of that organisation?

MR CHAPMAN: I think they're fundamentally linked. If the executives are not displaying a culture of compliance by example and actions and words, then I can't see the low levels ever saying why bother. The boss doesn't care so I don't care.

5 MS SHARP: I wanted to follow up on – you gave some evidence earlier about cryptocurrency. Are you able to say whether cryptocurrency and digital currencies are presenting any challenges to anti-money laundering and counterterrorism financing?

10 MR CHAPMAN: I think any new payment mechanism to present new challenges for control of money laundering and terrorist financing, but mainly money laundering. And now that we're moving into different forms of value, and I put digital currencies generically in a form of value, then they present issues, just like you could take fiat currency in one currency, say Aussie dollars, and swap it to US  
15 dollars and swap to pounds and so forth. You could do that in the digital currency space. I could buy bitcoin, pass it to someone else and they could sell me Ethereum or any of the other one thousand plus type digital currencies. And I could swap the values and so forth. So I have still got the placement layering and integration concepts in these new payment mechanisms.

20 MS SHARP: Are cryptocurrencies caught by the Australian Anti-Money Laundering .....

MR CHAPMAN: They certainly are. Except the only component of it that is  
25 regulated at this point in time is the digital currency exchange. And that's the entity that's business is to take bit currency and purchase digital currency on behalf of the client or the reverse.

30 COMMISSIONER: That's a reporting entity, is it?

MR CHAPMAN: Correct.

COMMISSIONER: So if anybody wishes to have a deposit into an account with a  
35 casino in cryptocurrency, do you know if that is permitted?

MR CHAPMAN: That would be up to, that would be entirely up to the casino to say what sort of values do they accept.

40 COMMISSIONER: All right. And if they do so, then the cryptocurrency would just be really an ethereal example of what we are doing in cash.

MR CHAPMAN: Yes, that's correct, Commissioner.

45 COMMISSIONER: Thank you. Yes, Ms Sharp.

MS SHARP: I have no further questions.

COMMISSIONER: Yes. I will just see if there are questions. Ms Hamilton-Jewell, any questions?

MS HAMILTON-JEWELL: No.

5

COMMISSIONER: Mr O'Brien?

MR O'BRIEN: No, thank you, Commissioner.

10 COMMISSIONER: Ms Hillman?

MS HILLMAN: No, thank you.

15 COMMISSIONER: Mr Chapman, I'm most grateful for your assistance. Thank you very much for the time prior to giving your evidence and, of course, for making yourself available today.

MR CHAPMAN: Thank you, Commissioner.

20 COMMISSIONER: You may step down.

**<THE WITNESS WITHDREW**

**[3.00 pm]**

25

COMMISSIONER: Yes, that brings us to the end of the proceedings for this week. And as I said yesterday, it's unknown when we will return, but only nominally. Anything further?

30 MS SHARP: Thank you. Nothing from me.

COMMISSIONER: Yes. All right. The parties will be notified. Thank you.

35 **MATTER ADJOURNED at 3.00 pm INDEFINITELY**

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