



IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERICAL COURT
GROUP PROCEEDINGS LIST

Case: S ECI 2022 01039
S ECI 2022 01039
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BETWEEN

DA LYNCH PTY LIMITED (ACN 626 635 514)

Plaintiff

and

THE STAR ENTERTAINMENT GROUP LTD (ACN 149 629 023)

Defendant

REPLY TO THE DEFENCE TO THE AMENDED STATEMENT OF CLAIM

(filed pursuant to the order of the Honourable Justice Nichols made [Date to be confirmed upon orders being made])

Date of document: 14 June 2024
Filed on behalf of the Plaintiff

Solicitor's code: 339

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In Reply to the Defence filed 19 March 2024 (**Defence**), the Plaintiff says as follows (adopting the definitions used in the Amended Statement of Claim dated 17 January 2023 (**ASOC**)).

1. Save as to the admissions contained in the Defence and where otherwise specifically pleaded in this Reply, the Plaintiff joins issue with each and every allegation in the Defence.
2. As to paragraph 21 and the particulars thereto, the Plaintiff refers to and repeats paragraphs 4 (sub-paragraphs (e)-(f)), 22, 45, 46 and 47 of the ASOC and says that Star:
 - (a) was the ultimate holding company of the Star Casino Entities; and
 - (b) carried on a business through which it held itself out to be the ultimate owner and operator of the Star Casino Properties.

Particulars

- i. *On or about 11 September 2014, Star (then named Echo Entertainment Group Limited) identified itself as the operator of Star Casino by written statement provided to the ABC (STA.7000.0001.6186):*

“Echo Entertainment, operator of Star Casino, response to Four Corners.”

- ii. *Star (then named Echo Entertainment Group Limited) identified itself as the operator of the Star Casino Properties in its 2013 Annual Report (STA.3412.0156.1833):*

“Casino operating performance” [.1844]

“Echo Entertainment is one of Australia’s leading owners and operators of integrated resorts and casinos. Echo Entertainment owns and operates the The Star in Sydney, Treasury Casino & Hotel Brisbane, Jupiters Hotel & Casino Gold Coast and Jupiters Townsville Hotel & Casino. Echo Entertainment also manages the Gold Coast Convention.” [.1848]

- iii. *Star (then named Echo Entertainment Group Limited) identified itself as the operator of the Star Casino Properties in its 2014 Annual Report (STA.7000.0001.0137):*

“Echo Entertainment creates world class casino resorts with a local spirit, partnering with each city and state in which we operate to create a world of opportunities and a lasting legacy of entertainment excellence.” [.0138]

“Echo Entertainment owns and operates The Star in Sydney, Treasury Casino & Hotel Brisbane, Jupiters Hotel & Casino Gold Coast and Jupiters Townsville Hotel & Casino.” [.0144]

- iv. *Star (then named Echo Entertainment Group Limited) identified itself as the operator of the Star Casino Properties in its 2015 Annual Report (STA.7000.0001.0198):*

“Echo Entertainment owns and operates The Star in Sydney, Treasury Casino & Hotel Brisbane and Jupiters Hotel & Casino Gold Coast.” [.0204]

“Echo Entertainment will continue to operate the Treasury Casino...” [.0218]

“Echo Entertainment owns and operates The Star in Sydney, Treasury Casino & Hotel Brisbane and Jupiters Hotel & Casino Gold Coast.” [.0240]

- v. *Star identified itself as the operator of the Star Casino Properties in its 2016 Annual Report (STA.7000.0001.0314):*

*“The Star Entertainment Group Limited owns and operates The Star Sydney (**The Star Sydney**), Treasury Casino and*

*Hotel, Brisbane (**Treasury Brisbane**) and Jupiters Hotel and Casino, Gold Coast (**Gold Coast**).*” [.0358]

- vi. *Star identified itself as the operator of the Star Casino Properties in its 2017 Annual Report (STA.7000.0001.0447):*

*“The Star Entertainment Group Limited owns and operates The Star Sydney (**Sydney**), The Star Gold Coast (**Gold Coast**) and Treasury Brisbane (**Brisbane**).*” [.0470]
- vii. *Star identified itself and its controlled entities as the operator of the Star Casino Properties in its 2018 Annual Report (STA.7000.0001.0518):*

*“The Group operates The Star Sydney (**Sydney**), The Star Gold Coast (**Gold Coast**) and Treasury Brisbane (**Brisbane**).*” [.0566]
- viii. *Star identified itself and its controlled entities as the operator of the Star Casino Properties in its 2019 Annual Report (STA.7000.0001.0666):*

*“The Group operates The Star Sydney (**Sydney**), The Star Gold Coast (**Gold Coast**) and Treasury Brisbane (**Brisbane**).*” [.0712]
- ix. *Star identified itself and its controlled entities as the operator of the Star Casino Properties in its 2020 Annual Report (STA.7000.0001.0814):*

*“The Group operates The Star Sydney (**Sydney**), The Star Gold Coast (**Gold Coast**) and Treasury Brisbane (**Brisbane**).*” [.0835]
- x. *Star identified itself and its controlled entities as the operator of the Star Casino Properties in its 2021 Annual Report (STA.3001.0001.0010):*

*“The Group operates The Star Sydney (**Sydney**), The Star Gold Coast (**Gold Coast**) and Treasury Brisbane (**Brisbane**).*” [.0028]
- xi. *Star recognised the nature of its operations meant that its activities were subject to a variety of statutory and other obligations, both in Australia and in other parts of the world where it had business activities, and made a statement to that effect in its “Compliance Policy and Framework” on its Corporate Governance Webpage, on a date presently unknown to the Plaintiff but by no later than 1 February 2021.*
- xii. *ASIC & Business Names organisation searches for TSPL, TSEQL and TSEQCPL conducted during the Relevant Period on 16 March 2022 confirmed that Star was the Current Ultimate Holding Company for each of those entities.*
- xiii. *Further particulars will be provided following discovery.*

3. As to paragraph 25, the Plaintiff says the pleading is vague and embarrassing for failing to particularise the “strategic priorities focused on international premium players and international junket players” and failing to identify the basis for the denial.
4. As to sub-paragraph 31(b), the Plaintiff says the pleading is vague and embarrassing for failing to specify when Star alleges that the relevant statements were not included in a Risk Management Framework or a Risk Management Policy during the Relevant Period from March 2017.
5. As to sub-paragraph 34(a), the Plaintiff says the pleading is vague and embarrassing in that Star says funds could be paid or repaid to a Star Casino Entity “in some or all of the ways” described in paragraph 34 of the ASOC without identifying in which ways Star says funds could be paid or repaid to a Star Casino Entity.
6. As to sub-paragraphs 36(c) and (d), the Plaintiff says the pleading is vague and embarrassing in that it fails to specify which members of the Star Group it says were providers of designated services within the meaning of s 6 of the *AML/CTF Act*.
7. As to paragraphs 45, 46 and 47 of the Defence, the Plaintiff refers to and repeats paragraph 2 above and says further that:
 - (a) in relation to Star Sydney, Star itself was also subject to regulation by ILGA, including as a close associate of TSPL by operation of ss 3A and 32 of the *NSW CC Act* and ILGA’s entitlement to compel the production of information by Star; and
 - (b) in relation to Star Gold Coast and Star Treasury, Star itself was also subject to regulation by the QLD Regulators as the holding company of TSEQCPL and TSEQL by operation of ss 90L and 90N(2)(a)(ii) of the *QLDCC Act* and the QLD Regulators’ entitlement to conduct reviews.
8. As to paragraph 52, the Plaintiff says there is no proper basis to deny TSEQL was required to comply with its obligations under the *QLD CC Act*.

9. As to paragraph 60, the Plaintiff says the pleading is vague and embarrassing in that it fails to plead or particularise the basis of the denials that Star is: (a) part of the Star DBG; and (b) adopted and maintained a joint AML/CTF program within the meaning of s 85 of the *AML/CTF Act*.
10. As to paragraph 63, the Plaintiff says sub-paragraph (a)(v) D-E and (a)(vi) D are vague and embarrassing.
11. As to sub-paragraphs 78(c) and 79(b), the Plaintiff says that the Investment Warning (as defined therein) does not, in fact or at law, absolve Star from liability to group members insofar as those group members have suffered loss and damage by virtue of the matters pleaded in the ASOC.
12. As to sub-paragraph 79(f), the Plaintiff admits the sub-paragraph and says:
 - (a) in the table setting out Star's "FY15 Group Key Performance Indicators" (**2015 KPI Table**), "Customer, Stakeholder and Sustainability performance" was one of five key performance indicator (**KPI**) categories identified by Star;
 - (b) the other four categories in the 2015 KPI Table were "Normalised NPAT performance", "Business Unit Performance" and "People and Safety performance" and "Strategic priorities";
 - (c) Star identified the following KPI in relation to "Customer, Stakeholder and Sustainability performance" in the 2015 KPI Table:
 - *Deliver results that are within the Group's risk framework appetite*
 - (d) the statement "*No material compliance or risk breaches*" identified as "commentary", and the overall rating of Star being "*Above target*" were contained in the 2015 KPI Table in relation to the category "Customer, Stakeholder and Sustainability performance" and by reference to the KPI of delivering results that were within the Star's "*risk framework appetite*";

- (e) Star's compliance with its AML/CTF and other legislative and regulatory requirements formed part of its KPI of delivering results that were within its risk framework appetite in the 2015 KPI Table; and
- (f) the 2015 KPI Table constituted a statement by Star that in the prior financial year ending 30 June 2015 there had been no material compliance or risk breaches in relation to, *inter alia*, Star's:
 - (i) company policy and procedures; and
 - (ii) regulatory and other legislative compliance requirements.

Particulars

Star's 2015 Annual Report, (STA.7000.0001.0198 [.0262]).

13. As to sub-paragraph 82(d), the Plaintiff admits the sub-paragraph and says:
- (a) in the table setting out Star's "FY16 Group Key Performance Indicators" (**2016 KPI Table**), "Governance" was one of four KPI categories identified by Star;
 - (b) the other three categories in the 2016 KPI Table were "Shareholder Value", "Customer" and "People";
 - (c) Star identified the following matter in relation to "Governance" under the sub-heading "Risk, Compliance & Sustainability" in the 2016 KPI Table:
 - *Foster a sound control and compliance environment underpinned by a strong governance framework, including:*
 - *Effective implementation and monitoring of compliance with company policies and procedures*
 - *Active monitoring of regulatory and other legislative compliance requirements*
 - (d) the statement "*No material compliance or risk breaches*" identified as "commentary", and the overall rating of Star being "*At target*" were contained in the 2016 KPI Table

in relation to the category “Governance” and by reference to the sub-heading “Risk, Compliance & Sustainability”;

- (e) Star’s compliance with its AML/CTF and other legislative and regulatory requirements formed part of its “Governance” KPI in the 2016 KPI Table; and
- (f) the 2016 KPI Table constituted a statement by Star that in the prior financial year ending 30 June 2016 there had been no material compliance or risk breaches in relation to, *inter alia*, Star’s:
 - (i) company policy and procedures; and
 - (ii) regulatory and other legislative compliance requirements.

Particulars

Star’s 2016 Annual Report, (STA.7000.0001.0314 [.0380]).

- 14. As to sub-paragraph 82(e), the Plaintiff says the Investment Warning does not, in fact or at law, absolve Star from liability to group members insofar as those group members have suffered loss and damage by virtue of the matters pleaded in paragraphs 236-241 and 246 of the ASOC.
- 15. As to sub-paragraph 84(b), the Plaintiff admits the sub-paragraph and says:
 - (a) in the table setting out Star’s “FY17 Performance outcomes against strategic priorities and key performance indicators” (**2017 KPI Table**), “Governance, risk and stakeholder management” was one of four KPI categories identified by Star;
 - (b) the other three categories in the 2017 KPI Table were “Shareholder Value and World Class Properties”, “Differentiated Value Proposition” and “People”;
 - (c) Star identified the following matter in relation to “Governance, risk and stakeholder management” under the sub-heading “Risk, Compliance & Sustainability” in the 2017 KPI Table:

- *Foster a sound control and compliance environment underpinned by a strong governance framework, including:*
 - *Effective implementation and monitoring of compliance with company policies and procedures*
 - *Active monitoring of regulatory and other legislative compliance requirements*
- (d) the statement “*No material compliance or risk breaches*” identified as “Performance outcomes / commentary”, and the overall rating of Star being “*Above target*” were contained in the 2017 KPI Table in relation to the category “Governance, risk and stakeholder management” and by reference to the sub-heading “Risk, Compliance & Sustainability”;
- (e) Star’s compliance with its AML/CTF and other legislative and regulatory requirements formed part of its “Governance, risk and stakeholder management” KPI in the 2017 KPI Table; and
- (f) the 2017 KPI Table constituted a statement by Star that in the prior financial year ending 30 June 2017 there had been no material compliance or risk breaches in relation to, *inter alia*, Star’s:
- (i) company policy and procedures; and
 - (ii) regulatory and other legislative compliance requirements.

Particulars

Star’s 2017 Annual Report, (STA.7000.0001.0447 [.0466]).

16. As to sub-paragraph 84(e), the Plaintiff says the Investment Warning does not, in fact or at law, absolve Star from liability to group members insofar as those group members have suffered loss and damage by virtue of the matters pleaded in paragraphs 236-241 and 246 of the ASOC.

17. As to sub-paragraph 89(c), the Plaintiff admits the sub-paragraph and says:
- (a) in the table setting out Star's "FY18 Performance outcomes against strategic priorities and key performance indicators" (**2018 KPI Table**), "Governance, risk and stakeholder management" was one of four KPI categories identified by Star;
 - (b) the other three categories in the 2018 KPI Table were "Shareholder Value and World Class Properties", "Differentiated Value Proposition" and "People";
 - (c) Star identified the following matter in relation to "Governance, risk and stakeholder management" under the sub-heading "Risk, Compliance & Sustainability" in the 2018 KPI Table:
 - *Foster a sound control and compliance environment underpinned by a strong governance framework, including:*
 - *Effective implementation and monitoring of compliance with company policies and procedures*
 - *Active monitoring of regulatory and other legislative compliance requirements*
 - (d) the statement "*No material compliance or risk breaches*" identified as "Performance outcomes / commentary", and the overall rating of Star being "*Above target*" were contained in the 2018 KPI Table in relation to the category "Governance, risk and stakeholder management" and by reference to the sub-heading "Risk, Compliance & Sustainability";
 - (e) Star's compliance with its AML/CTF and other legislative and regulatory requirements formed part of its "Governance, risk and stakeholder management" KPI in the 2018 KPI Table; and
 - (f) the 2018 KPI Table constituted a statement by Star that in the prior financial year ending 30 June 2018 there had been no material compliance or risk breaches in relation to, *inter alia*, Star's:
 - (i) company policy and procedures; and

- (ii) regulatory and other legislative compliance requirements.

Particulars

Star's 2018 Annual Report, (STA.7000.0001.0518 [.0591]).

18. As to sub-paragraph 89(f), the Plaintiff says the Investment Warning does not, in fact or at law, absolve Star from liability to group members insofar as those group members have suffered loss and damage by virtue of the matters pleaded in paragraphs 236-241 and 246 of the ASOC.
19. As to sub-paragraph 97(e), the Plaintiff says the Investment Warning does not, in fact or at law, absolve Star from liability to group members insofar as those group members have suffered loss and damage by virtue of the matters pleaded in paragraphs 236-241 and 246 of the ASOC.
20. As to sub-paragraph 101(e), the Plaintiff says the Investment Warning does not, in fact or at law, absolve Star from liability to group members insofar as those group members have suffered loss and damage by virtue of the matters pleaded in paragraphs 236-241 and 246 of the ASOC.
21. As to sub-paragraph 106(e), the Plaintiff says the pleading is vague and embarrassing in that it fails to identify which "individual key performance indicators" it says the relevant statements were made in the context of.
22. As to sub-paragraph 106(f), the Plaintiff says the Investment Warning does not, in fact or at law, absolve Star from liability to group members insofar as those group members have suffered loss and damage by virtue of the matters pleaded in paragraphs 236-241 and 246 of the ASOC.
23. As to:
 - (a) sub-paragraph 119(c), insofar as the Model Casino Operator Representations were statements of opinion (which is denied);

- (b) sub-paragraph 120(c), insofar as the Regulatory Compliance Representations were statements of opinion (which is denied);
- (c) sub-paragraph 121(c), insofar as the Compliance and Risk Systems Representations were statements of opinion (which is denied);
- (d) sub-paragraph 122(c), insofar as the Corporate Governance Representations were statements of opinion (which is denied); and
- (e) sub-paragraph 123(c), insofar as the False Media Reports Representations were statements of opinion (which is denied);
 - (i) Star impliedly represented each such opinion was held on reasonable grounds; and
 - (ii) there were no reasonable grounds for any of those opinions.

Particulars

The Plaintiff refers to and repeats paragraphs 129 to 134 and 138 to 140, 151 to 162, 166 to 176, 178 to 179, 184 to 187, 190 to 205, 211 to 213, 215 to 219 of the ASOC and the particulars thereto.

24. As to paragraph 130, the Plaintiff denies the document created by the Star was a “valid cheque”.

Particulars

The Plaintiff refers to and repeats particulars (ii) to paragraph 132 of the ASOC.

25. As to sub-paragraph 143(a), the Plaintiff says the pleading is vague and embarrassing in that it fails to particularise: (a) the turnover percentage or proportion of the lek junket; or (b) the status of the lek junket post October 2020.
26. As to sub-paragraph 145(c), the Plaintiff:
- (a) denies the sub-paragraph;

- (b) says that the pleading is vague and embarrassing in that it fails to particularise the allegation that a cage was not in fact operated in Salon 95; and
- (c) says further that Suncity used the Salon 95 Service Desk as a cage in order to exchange cash for chips and/or chips for cash with Junket Participants and other persons; and

Particulars

The Plaintiff refers to and relies upon:

- i. the particulars to paragraph 151 of the ASOC;*
- ii. an email dated 31 May 2018 from Mr Graeme Stevens to multiple recipients at Star including Kevin Houlihan and Skye Arnott stating "I was under the impression the enclosed service desk purpose was to allow sunscity [sic] to dispurse [sic] chips to its players and receive and exchange then [sic] with those players." (STA.3009.0004.0070);*
- iii. recorded instances of chips exchanged for cash in the Salon 95, as recorded in email alerts passing between Star representatives, and for which surveillance footage was said to have been obtained (STA.3411.0024.7383);*
- iv. warnings issued by Star to Suncity staff in relation to the exchange of chips for cash (STA.3411.0025.5203);*
- v. an email from Mr Sean White, Assistant Gaming Manager to Investigations Team on 14 May 2018 advising of a cash transaction of \$250,000 that occurred in Salon 95, between a junket representative and a junket player (STA.3411.0025.3743).*

Further particulars will be provided following discovery.

- (d) refers to and repeats paragraph 151 of the ASOC and the particulars thereto, together with the particulars to paragraph 145 of the ASOC.
27. As to sub-paragraph 151(b), the Plaintiff says the pleading is vague and embarrassing in that it fails to particularise any instances where Star says lek junket representatives at the Salon

95 Service Desk exchanged either cash for chips and/or chips for cash with junket participants and other persons.

28. As to sub-paragraphs 159(a) and (c) and paragraph 160, in each instance the Plaintiff says the pleading is vague and embarrassing in that it fails to particularise the allegation that Stevens was acting in the capacity as “NSW Regulatory Affairs Manager for TSPL”.
29. As to sub-paragraphs 182(b)(i)-(ii), the Plaintiff admits the sub-paragraphs and says further that the closure of the BOC Macau Bank Accounts and/or the EEIS BOC Macau Bank Accounts would also present a significant issue in relation to paying funds out to customers using those accounts.

Particulars

The Plaintiff refers to and repeats particulars ii.B and iii.B to paragraph 184 of the ASOC.

30. As to sub-paragraph 184(a), the Plaintiff says that Star was aware that, in addition to enabling customers to make repayment of gambling debts, another purpose was to enable customers to receive winnings via an entity which was apparently unrelated to the casinos.

Particulars

The Plaintiff refers to and repeats the particulars to paragraph 184 of the ASOC.

31. As to sub-paragraph 186(a), the Plaintiff says the options identified in the 26 September 2017 Board Paper titled “IRB Strategy Update” were not limited to the collection of outstanding gambling debts.

Particulars

The Plaintiff refers to and repeats the particulars to paragraph 184 of the ASOC and to the 26 September 2017 Board Paper titled “IRB Strategy Update” (STA.5002.0003.1476).

32. As to sub-paragraph 187(b)(ii) the Plaintiff says the sum to be transferred from Koi's Star Sydney's Front Money account was not intended to be limited to the repayment of gambling debts owed to Star Casino Entities by a customer.

Particulars

The Plaintiff refers to and repeats the particulars to paragraph 184 of the ASOC and to a board paper with a meeting date of 8 February 2018 regarding the arrangements and noting "This process was specifically introduced to address repayment of outstanding CCF however a business requirement exists for this to also extend to the transfer of cash funds prior to play" (STA.3403.0001.4739).

Further particulars will be provided following discovery.

33. As to paragraph 205A, the Plaintiff says that:
- (a) although described as an allegation concerning "operating risk matters", specific "matters" are not pleaded;
 - (b) Star instead alleges the existence of a risk of "a change" in the "operating environment", but does not specify what the change was;
 - (c) the particulars are said to be directed to what the "operating risk matters" arose from, but the "operating risk matters" themselves are given no content;
 - (d) the allegation is, as a result, vague and ambiguous and likely to prejudice, embarrass or delay the fair trial of the proceeding and is liable to be struck out under r 23.02(c) of the Supreme Court (General Civil Procedure) Rules 2015; and
 - (e) under cover of that objection, the Plaintiff denies the allegations in paragraph 205A.
34. As to sub-paragraph 228(b), the Plaintiff says that the relevant conduct pleaded in paragraphs 119 to 125 of the ASOC was conduct engaged in by Star in trade or commerce

in relation to financial services for the purposes of s 12DA of the *ASIC Act*, by reference to the definitions in ss 12BAA and 12BAB of the *ASIC Act*.

35. As to paragraph 232A, the Plaintiff refers to and repeats paragraph 33 above; and denies the allegations in paragraph 232A.

Dated: 14 June 2024

K E FOLEY

R T ZAMBELLI

SLATER AND GORDON

Solicitors for the Plaintiff