

**PROCEEDINGS AT HEARING
OF
JANUARY 29, 2021**

COMMISSIONER AUSTIN F. CULLEN

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January 29, 2021

(Via Videoconference)

(PROCEEDINGS COMMENCED AT 9:30 A.M.)

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Thank you, Madam Registrar.

Mr. McGowan, I understand we're now into the process where the participants have a chance to question Mr. Lightbody. Is that correct?

MR. MCGOWAN: Yes, Mr. Commissioner. I've concluded by examination.

THE COMMISSIONER: So I'll call on Ms. Chewka on behalf of the province, who has been allocated 30 minutes.

MS. CHEWKA: Thank you, Mr. Commissioner.

**JIM LIGHTBODY, a witness
for the commission,
recalled.**

EXAMINATION BY MS. CHEWKA:

Q Mr. Lightbody, can you hear me okay?

A If you could turn up your volume just a bit that would help, thanks.

Q Of course. Is that better?

A That's better.

Q Excellent. Sorry, Mr. Lightbody, I understand

1 from your evidence yesterday that you are
2 familiar with Mr. Kroeker's 2011 report
3 regarding AML measures?

4 A I am.

5 Q And you'll agree with me that a key
6 recommendation in the Kroeker Report was that
7 casinos should transition to cash alternatives;
8 is that right?

9 A Yes.

10 Q And BCLC was generally supportive of that
11 recommendation; is that correct?

12 A BCLC and GPEB were both supportive of that
13 recommendation.

14 Q Is it fair to say that BCLC focused its AML
15 efforts on cash alternatives following the
16 Kroeker Report?

17 A That was one of the things that we did after the
18 Kroeker Report, yes.

19 Q In the years immediately following the Kroeker
20 Report, BCLC did not implement a general source
21 of funds directive; is that correct?

22 A We followed expert advice by -- well, people
23 like Mr. Kroeker, the FATF direction, FINTRAC
24 direction, that we follow a risk-based regime,
25 and therefore we did not follow any prescriptive

1 programs.

2 Q So BCLC did not implement a general source of
3 funds directive?

4 A No, that would not have been consistent with the
5 expert advice that we were following.

6 Q But in 2015 BCLC did implement what's called a
7 cash conditions program?

8 A Yes, we did in April of 2015.

9 MS. CHEWKA: Madam Registrar, can you please turn up
10 exhibit 68 to Mr. Lightbody's affidavit. It's
11 page 335 of the exhibits.

12 Q You see that's a briefing note that you prepared
13 Mr. Lightbody? On the first page of the
14 document it's dated March 20th, 2018. It says
15 "prepared by Jim Lightbody." Do you see that?

16 A Yes.

17 Q I'd ask that you please turn to page 335 now,
18 and that's in the top right-hand corner.

19 A I have it.

20 Q And the second to last bullet on this page you
21 described the cash conditions program as
22 follows:

23 "In April 2015 BCLC initiated its
24 sourced-cash condition program, which
25 required players assessed to be at a

1 higher risk of money laundering to provide
2 evidence cash buy-ins were being required
3 from legitimate sources."

4 Do you see that?

5 A Yes, I do.

6 Q And you would agree with me that your briefing
7 notes provides an accurate description of the
8 cash conditions program?

9 A I think it's an overall statement.

10 Q And it's accurate?

11 A [Indiscernible] back here -- but yes, it's an
12 overall -- program.

13 THE COMMISSIONER: I'm sorry, I think we're
14 getting -- I'm going to interrupt here for a
15 moment. I don't know if it's just me, but I
16 think we're getting some feedback or double,
17 sort of doubling up on voices at the same time.
18 As I say, I don't know if it's just me. Is that
19 a problem elsewhere, Mr. McGowan?

20 MR. MCGOWAN: I'm hearing the same thing,
21 Mr. Commissioner. Is it something we need to
22 stand down to fix, or is it something we can
23 address?

24 THE COMMISSIONER: I'll just check with Ms. Matters.

25 IT SUPPORT: Ms. Chewka, I believe the audio is

1 coming from their office. Can we just have the
2 audio from one device, please.

3 MS. CHEWKA: There is only audio from one device.

4 IT SUPPORT: And Mr. McFee?

5 MR. McFEE: We only have audio from the one
6 microphone.

7 IT SUPPORT: Okay. It seems there's no error
8 anymore, it seems like.

9 THE COMMISSIONER: All right, thank you. We'll carry
10 on.

11 MS. CHEWKA:

12 Q I'll turn your attention to the last bullet on
13 this page, and you explain the two ways in which
14 a patron can end up the cash conditions program.
15 You state:

16 "Under the program, BCLC interviewed
17 players and placed them on sourced-cash
18 conditions if the player was unable to
19 provide sufficient evidence to demonstrate
20 their cash was being required from a
21 legitimate source such as a Canadian
22 chartered bank or BCLC received advice
23 from police that a player's funds were
24 coming from people associated with
25 criminal activity."

1 You would agree with me that your briefing note
2 accurately sets out the two ways in which a
3 patron could end up on the cash conditions
4 program?

5 A In addition, I understand our AML unit, through
6 their risk rating of players, would also look at
7 players who were at the high-risk threshold to
8 interview them as well.

9 Q Okay.

10 A And potentially source -- put them on cash
11 conditions.

12 MS. CHEWKA: Madam Registrar, can you please turn to
13 exhibit 89 of Mr. Lightbody's affidavit. In
14 particular I ask that you turn to page 598.
15 It's a letter dated September 11th, 2015, and
16 it's a letter from Mr. Ross Alderson.

17 A Okay.

18 Q And the subject line reads "BCLC direction to BC
19 gaming service providers." And I'll draw your
20 attention to the bulleted list, and it provides
21 a summary of the kinds of conditions that were
22 being imposed to the cash conditions program.
23 For example, it says:

24 "If any of the players on the list wish to
25 buy in using cash, any dollar amount, this

1 buy-in must be accompanied by a withdrawal
2 slip from an accredited financial
3 institution withdrawn within two business
4 days of the attempted casino buy-in. If
5 any of the players on this list wish to
6 buy in with gaming chips, the site must be
7 able to show that the chips were the
8 result of a previous verified win;
9 otherwise they will not be accepted until
10 BCLC has conducted a player interview to
11 ascertain the origin of those chips. No
12 player on this list will be able to accept
13 any cash or chips either sourced or
14 unsourced from any other persons while in
15 the facility at the time. Example, no
16 "cash passing or chip passing" of any
17 kind. No player on this list will be
18 allowed to dictate game play to a third
19 party while in a gaming facility."

20 You'll agree with me this letter accurately sets
21 out the conditions that were imposed to the cash
22 conditions program?

23 A Yes, as Mr. Alderson was responsible for that, I
24 will trust he knew it.

25 Q Thank you. Now, based on your evidence

1 yesterday I understand that BCLC identified
2 those early cash conditions patrons through
3 information sharing with BCLC and the police,
4 namely FSOC. Is that correct?

5 A Yes. As I understand it we provided them with a
6 list of 10 players and those were the first that
7 we were interviewed and either -- I think we
8 banned them all.

9 Q But it's fair to say that BCLC implemented the
10 cash condition program as part of its broader
11 AML strategy?

12 A Yes, that is fair to say.

13 Q And your evidence is that the cash conditions
14 program which required certain patrons to source
15 their funds was an effective anti-money
16 laundering tool?

17 A Yes. It followed the guidance of a risk-based
18 approach and it also followed the guidance of
19 making sure that we kept potential criminals out
20 of our facilities, which our information-sharing
21 agreement with the RCMP was also designed to do.

22 Q You depose at paragraph 96 of your affidavit
23 that it had a significant impact on cash
24 facilitators in casinos; that's correct?

25 A That's correct, it did.

1 Q And you observed that there is a corresponding
2 reduction in Suspicious Transaction Reports
3 following the introduction of the cash condition
4 program?

5 A That is what the facts say, yes.

6 Q And under the cash conditions program, only
7 specific patrons are required to source their
8 funds; is that correct?

9 A We would choose which ones we would put on cash
10 conditions based on, again, their risk rating,
11 and those were the ones that that were placed on
12 the sourced-cash conditions, or potentially
13 barred from play in any of our BC casinos.

14 Q At that time BCLC did not have a general
15 directive that required all patrons to source
16 their funds when conducting a large cash buy-in?

17 A No. Again, that would have been a prescriptive
18 measure and one that our -- again, the expert
19 advice that we were following was not
20 recommending.

21 Q BCLC didn't implement its general source of
22 funds directive until January 2018; is that
23 right?

24 A That's correct.

25 Q But you'll agree with me that as early as August

1 2015 the General Manager of GPEB was suggesting
2 to BCLC that it should implement a general
3 source of funds policy?

4 A I never took that as his direction. In all of
5 his letters and correspondence with me, he
6 always maintained that we should follow a
7 risk-based process.

8 MS. CHEWKA: Madam Registrar, can you please pull up
9 exhibit 49 to Mr. Lightbody's affidavit.

10 Q Now, my friend Mr. McGowan took you to this
11 yesterday, but I have a few questions about some
12 of these letters. Apologies for recanvassing
13 them. Exhibit 49.

14 Apologies, Madam Registrar. It's actually
15 exhibit 48 and it's page 215. Thank you.

16 This is the August 7th, 2015 letter that
17 was sent to you by Mr. Mazure. And I'll direct
18 your attention to the top of page 215. Do you
19 have that, Mr. Lightbody?

20 A Yes.

21 Q Mr. Mazure writes:

22 "To enhance the AML regime BCLC is asked
23 to pursue the following activities: 1,
24 develop and implement additional customer
25 due diligence, policies and practices

1 And so you were setting out or providing
2 feedback and recommendations to the minister in
3 response to Mr. Mazure's letter that we just
4 took you to.

5 A Correct.

6 Q And I'll draw your attention to the fourth
7 paragraph. It says in response to that
8 recommendation or direction that you received
9 from Mr. Mazure, which is set out there, you
10 write:

11 "While it is generally easier to identify
12 an individual source of wealth,
13 identifying the actual source of funds --"
14 And I believe it says "per transaction," but
15 it's hard because there is a stamp there:

16 "-- is far more problematic, especially
17 when the funds are presented as cash. It
18 is financial industry standard to ask a
19 customer to declare the source of funds
20 for all transactions (including cash) over
21 \$10,000, however little followup
22 investigation is then conducted. It is
23 all common practice in the financial
24 industry to terminate a business
25 relationship with a customer after two or

1 three Suspicious Transaction Reports.
2 While BCLC continue to encourage cash
3 alternative options for customers in BC
4 casinos cash is still the preferred
5 deposit method and it is not uncommon for
6 some individuals to have Suspicious
7 Transaction Reports in a calendar year
8 based on the cash buy-ins alone."

9 And if we can skip ahead three paragraphs at the
10 very bottom there right before the
11 recommendation, you state:

12 "BCLC believe that currently no one agency
13 in British Columbia is equipped to
14 identify the actual source of funds. To
15 do so would require in most cases law
16 enforcement intervention. Currently BCLC
17 and GPEB lack the legislative authority
18 and law enforcement lack the available
19 budget, resources and visibility into
20 gaming."

21 So based on your letter, I put it to you that
22 you were in fact aware that Mr. Mazure was
23 asking you to implement additional policies
24 regarding source of funds; BCLC just declined to
25 do so because it was problematic. Do you agree

1 with that?

2 A What BCLC was doing was trying to get some more
3 investigative support from enforcement agencies
4 like potentially GPEB, like potentially law
5 enforcement to help us understand whether or not
6 there was proceeds of crime in these funds
7 coming in. We did not have the ability to
8 identify them.

9 Q So it's your position that you required
10 investigative support to determine the source of
11 funds?

12 A Yes. We could not determine whether the source
13 of funds were proceeds of crime without law
14 enforcement or regulator support because they
15 could actually do the type of investigations
16 external to our casino environments.

17 MS. CHEWKA: Madam Registrar, can you please turn to
18 exhibit 50 next. This is a September 1st, 2015
19 letter from Mr. Mazure again addressed to you.
20 Do you see that, Mr. Lightbody.

21 A I do.

22 Q And I'll draw your attention to the second
23 paragraph just following the bulleted list. And
24 Mr. Mazure refers to his August 7, 2015 letter
25 once again where he outlined the four activities

1 that BCLC is requested to expand upon in order
2 to enhance the AML regime. One of these
3 included BCLC's need to:

4 "Develop and implement additional CDD
5 policies and practices which are
6 constructed around financial industry
7 standards. This would include robust know
8 your customer requirements with a focus on
9 source of wealth and funds as being
10 integral to the overall risk assessment
11 process."

12 Do you agree with that?

13 A Yes, I see that.

14 Q So once again, Mr. Mazure in the September 1st,
15 2015 letter is writing to you to take additional
16 steps to focus on the source of wealth and
17 funds. Would you agree with that?

18 A In an overall risk assessment process, yes.

19 MS. CHEWKA: Madam Registrar, can you please turn to
20 exhibit 52 next.

21 Q Now, this is a letter dated September 16th,
22 2015. This is a letter from you to Mr. Mazure
23 in response to Mr. Mazure's previous letters; is
24 that correct?

25 A Yes, it is.

1 Q And I'd like to draw your attention to page 238,
2 and it's the first paragraph but the second line
3 and I'll read that to you again. You state:

4 "With respect to your specific suggestions
5 in regard to source of wealth, source of
6 funds and Suspicious Transaction Reports
7 made to FINTRAC, I can confirm that all
8 three of these elements, amongst many
9 other factors, are integrated into BCLC's
10 risk assessment and ongoing monitoring of
11 individual customers. Despite this,
12 BCLC's AML regime is not static, and we
13 remain keenly committed to a process of
14 continuous improvement."

15 That's what you wrote in your letter dated
16 September 16th, 2015?

17 A Yes, I did.

18 Q So BCLC remained continued -- sorry, committed
19 to a continuous improvement progress, but at
20 that time BCLC didn't implement a general source
21 of funds directive; is that correct?

22 A No. As I stated earlier, that was not
23 consistent with the advice nor strategy that
24 experts internal to BCLC as well as external to
25 BCLC were advising.

1 MS. CHEWKA: Madam Registrar, exhibit 53, please.

2 Q This is an October 1st, 2015 letter. This is
3 from the minister, Mr. de Jong, and this is
4 addressed to Bud Smith, who is the chair of the
5 board of directors of BCLC, but it's also copied
6 to you. Do you agree with that?

7 A Yes. And Mr. Mazure.

8 Q That's correct. And the bottom of the first
9 paragraph Minister de Jong states:

10 "The purpose of this letter is to provide
11 you with direction on phase 3 of the AML
12 strategy which focuses on regulator
13 guidance and intervention. Despite the
14 introduction and promotion of non-cash
15 alternatives in gaming facilities through
16 earlier phases of the AML strategy, I am
17 advised that large and suspicious cash
18 transactions remain prevalent. This
19 situation must be addressed. As such,
20 BCLC is directed to take the following
21 actions with respect to AML."

22 And in the third bullet point he states:

23 "Enhance customer due diligence to
24 mitigate the risk of money laundering in
25 British Columbia gaming facilities through

1 the implementation of AML compliance best
2 practices, including processes for
3 evaluating the source of wealth and source
4 of funds prior to cash acceptance."

5 Do you agree that I've accurately read what
6 Minister de Jong directed BCLC to do?

7 A Yes, you have.

8 Q I understand from your evidence yesterday that
9 you had a meeting with Cheryl Wenezenki-Yolland
10 in October 2015; is that correct?

11 A Yes, I did.

12 Q And that would have been after you received this
13 letter from the minister?

14 A Yes.

15 Q And your notebooks said or indicated that
16 Ms. Wenezenki-Yolland said to you "the minister
17 didn't mean all cash transactions"; is that
18 correct?

19 A That's correct.

20 MS. CHEWKA: Madam Registrar, could you please now
21 turn to exhibit 54.

22 Q This is a January 15th, 2016 letter from
23 Mr. Mazure addressed to you; is that correct?

24 A Yes, it is.

25 Q And in this letter Mr. Mazure sets out the

1 original request that he made of you, and in the
2 last paragraph on the first page second line he
3 says:

4 "However, I continue to be concerned by
5 the prevalence of SCTs at British Columbia
6 casinos. Further to the letter from the
7 Minister of Finance addressed to Mr. Bud
8 Smith on October 1st, 2015, I expect BCLC
9 to implement AML best practices with
10 appropriate consideration of evaluating
11 the source of wealth and source of funds
12 prior to cash acceptance as well as robust
13 CDD policies and KYC requirements. These
14 processes and policies should be based on
15 a sound risk-based framework that
16 considers SCTs as one element of the
17 framework."

18 And it says:

19 "In addition I may provide further
20 direction after considering the work being
21 undertaken by MNP ..."

22 And, again, you interpret to mean -- or sorry,
23 you don't interpret that to be a direction to
24 implement a source of funds policy?

25 A We had a source of funds policy, and it was

1 based on a risk-based framework, and that's what
2 he said:

3 "These processes and policies should be
4 based on a sound risk-based framework."

5 Q You had a cash conditions program at the time?

6 A Yes.

7 Q Is that the source of funds policy you're
8 referring to?

9 A Yes, included in that cash conditions was
10 determining whether the source of funds that
11 they were bringing in were legitimate, and if
12 they weren't, then those players would be either
13 banned or placed on cash conditions. In other
14 words, they could not play with cash.

15 Q But the cash conditions program only related to
16 a specific number of patrons; is that correct?
17 It was not a general applicability policy?

18 A You are correct. It was based on a risk-based
19 approach. So we had a very comprehensive
20 customer due diligence, enhanced customer due
21 diligence process where we would identify
22 patrons, rate them based on their risk, based on
23 their number of suspicious transactions, based
24 on all of the open-source data that our team
25 could do using the various databases and then

1 finally determining whether or not those players
2 based on that risk should be put on cash
3 conditions, in other words not allowed to use
4 unsourced cash.

5 MS. CHEWKA: Madam Registrar, could I have
6 exhibit 55, please, up.

7 Q This is a letter dated July 14th, 2016, and it's
8 from Mr. Mazure addressed again to you, and this
9 letter's subject line is "cash alternative
10 proposals and source of funds," and I'd like to
11 draw your attention to the bottom of the second
12 paragraph where Mr. Mazure states:

13 "Fundamental to the success of these
14 initiative and BC's AML strategy as a
15 whole, however, is the need to evaluate
16 source of funds and make a risk-based
17 determination of their legitimacy prior to
18 acceptance. Due diligence on source of
19 funds resulting from the cash alternatives
20 proposed is important to ensure the AML
21 strategy is not undermined by providing a
22 means to convert illicit funds. In the
23 case of convenience cheques, the
24 conversion would occur upon provision of a
25 convenience cheque by the service

1 provider."

2 And at the bottom of that paragraph he states:

3 "The province has previously provided
4 written direction to BCLC to establish the
5 source of funds prior to accepting cash at
6 gaming facilities."

7 And he then sets out the correspondence that
8 we've just gone through as well as a mandate
9 letter to BCLC dated 2016, 2017. So he mentions
10 the January 2016 letter, the October 2015 letter
11 and the August 2015 letter as well. Do you
12 agree with that?

13 A And I think it's important to note in that
14 2016/17 mandate letter from the minister at the
15 time, he states, and I'll read this:

16 "Implementation of anti-money laundering
17 compliance best practices with appropriate
18 consideration of evaluating the source of
19 wealth and source of funds prior to cash
20 acceptance within a risk-based framework."

21 Q And on the last page --

22 A Nowhere did he say a prescriptive general
23 provision for source of funds.

24 Q Okay.

25 A Nowhere -- I have to say this: at no time did

1 verified within a risk-based framework."

2 But he continues to say:

3 "This approach could include, for example,
4 a source of funds questionnaire and a
5 threshold amount over which BCLC would
6 require service providers to refuse to
7 accept unsourced funds, or a maximum
8 number of instances where unsourced funds
9 would be accepted from a patron before
10 refusal."

11 A And that is exactly what our AML team was doing.
12 And if Mr. Mazure or members of GPEB had
13 understood that, they would have known that.

14 Q My question to you, then, is you say that that's
15 exactly what you were doing. At that time did
16 you have a source of funds questionnaire and a
17 threshold amount over which BCLC would require
18 service providers to refuse to accept unsourced
19 funds?

20 A I am not aware of all of the operational details
21 that our AML unit was doing. I was aware that
22 they were using a risk-based approach to
23 identify risky patrons, and based on their
24 interviews with those patrons, based on their
25 analysis of those patrons' relationships with

1 other people and their answers to questions
2 about their source of funds, they had the
3 authority and we gave them the autonomy to place
4 those players either on conditions if they could
5 not use unsourced cash or that they would be
6 barred from playing in a BC casino.

7 Q Mr. Lightbody, you just gave evidence that this
8 is what you were doing at that time, and so my
9 question is at that time did BCLC have a source
10 of funds questionnaire and a threshold amount
11 over which BCLC would require service providers
12 to refuse to accept unsourced funds?

13 A Again, it was not a prescriptive approach. This
14 was based on our investigators having the
15 authority, the intelligence and the autonomy to
16 make that decision based on the balance of
17 evidence that they were able to procure from a
18 patron. They would use many different ways to
19 analyze that. It wasn't a tick the box, you've
20 had two suspicious transactions; you're out.
21 They would consider many other things. Maybe
22 that person only had one suspicious transaction
23 but didn't meet what they believed was the right
24 thing to -- in order to place this person on a
25 cash condition.

1 Directive Source of Funds Declaration" effective
2 date January 10th, 2018?

3 A Sorry, 152 you said?

4 Q That's correct.

5 A Yes, I see this.

6 Q So you'll agree with me that in January 2018
7 BCLC did introduce a general source of funds
8 declaration?

9 A This was a Dr. German recommendation, yes.

10 Q Okay. And so if I'm understanding correctly,
11 that by 2015, 2016, at that point BCLC had heard
12 from a General Manager as well as the minister
13 on a number of occasions that source of funds
14 was a critical piece of the anti-money
15 laundering strategy; is that right?

16 A It was a critical piece for BCLC's anti-money
17 laundering strategy and it was a joint strategy
18 with GPEB.

19 Q And from your experience with the cash
20 conditions program, you knew that requiring
21 source of funds information was going to be
22 effective at reducing the amount of suspicious
23 cash in BC casinos?

24 A We were aware that -- there wasn't a panacea to
25 an anti-money laundering regime. There isn't

1 who were previously providing cash to
2 these VIP players. The implementation of
3 sourced-cash conditions resulted in a
4 dramatic reduction of the number of STRs
5 and a drop of cash buy-ins as well."

6 That's set out in your affidavit at
7 paragraph 96?

8 A Let me check. Yes.

9 Q You'll agree with me that the sourced fund
10 requirement as part of the cash conditions
11 program that BCLC implemented was effective at
12 combatting money laundering in BC casinos?

13 A I believe that it was effective in looking at
14 players who had the risk profile that we weren't
15 willing to accept and they were either barred or
16 put on cash conditions.

17 Q But BCLC did not introduce a general source of
18 funds policy until January 2018; is that
19 correct?

20 A That is correct. Under the guidance -- we were
21 following the interim recommendation by
22 Dr. Peter German.

23 Q Yesterday in response to my friend's questions
24 you testified that BCLC could not introduce a
25 source of funds policy alone, that it had to

1 Everything that GPEB was telling us, everything
2 that the minister was telling us was follow the
3 risk-based approach, and we were doing that.

4 Q You'll agree with me that you did not think that
5 BCLC required GPEB's approval to implement a
6 source of funds policy; is that correct?

7 A Oh, we would definitely need their approval. We
8 were taking approvals for cash conditions to
9 them. We were -- we believed it was a
10 collaborative approach for that and that they
11 many times said to us that they needed to
12 approve anything that we were going to do with
13 regards to anti-money laundering. In fact when
14 we wanted to implement the first recommendation
15 by Dr. German under the direction of the
16 minister, GPEB said they had to approve the way
17 we were going to do that, and we -- and
18 there's -- in my affidavit there's evidence of
19 the back and forth that we had with them until
20 they approved our approach to that source of
21 funds directive.

22 Q But it was your position that GPEB approval was
23 not required, or would you say it was required?

24 A It was required.

25 MS. CHEWKA: Madam Registrar, can I please have

1 BCLC0005577 on the screen, please.

2 Q This is a document that was included in the
3 will-say documents. It's a letter dated
4 December 13th, 2017, and it's a letter that you
5 drafted to Mr. Mazure. Do you agree with that?

6 A Yes, I agree with that.

7 MS. CHEWKA: Madam Registrar, can you please go to
8 the second page of this document.

9 Q And I'll read you the second paragraph. It
10 says:

11 "We want to work with GPEB to ensure
12 alignment in our approach to these two
13 recommendations from Peter German which is
14 why we sent to documents for GPEB's
15 review. However, BCLC does not agree with
16 your assertion that GPEB approval is
17 required before BCLC's implementation of
18 the source of funds directive
19 recommendation. We are prepared to
20 consult with GPEB, however, our authority
21 to implement arises from the GCA and
22 specifically, section 8."

23 A That was our belief at the time. GPEB came back
24 to us and said no, we need to approve this, and
25 being our regulator, I stood corrected and I

1 said, we'll therefore allow you to approve this.

2 MS. CHEWKA: Mr. Lightbody, I put it to you that the
3 reason that BCLC didn't implement a general
4 source of funds directive sooner --

5 Apologies, Mr. Commissioner. Can I please
6 have this document marked as the next exhibit.

7 THE REGISTRAR: Mr. Commissioner, you're muted,
8 sorry.

9 THE COMMISSIONER: I'm sorry. 512.

10 THE REGISTRAR: Yes, exhibit 512.

11 **EXHIBIT 512: Letter from Jim Lightbody to John**
12 **Mazure, re Peter German recommendations,**
13 **December 13, 2017**

14 MS. CHEWKA: Thank you, Mr. Commissioner. Madam
15 Registrar, I'm done with this document. But I'd
16 ask that you please pull up BCLC0015150.

17 THE COMMISSIONER: How much longer do you anticipate
18 you'll be, Ms. Chewka? I think you're over your
19 time limit.

20 MS. CHEWKA: I am. Apologies, Mr. Commissioner. I
21 anticipate that I can cut some questions and
22 perhaps 10 more minutes, Mr. Commissioner.

23 THE COMMISSIONER: All right.

24 MS. CHEWKA: Thank you very much.

25 Q Mr. Lightbody, I put it to you that the reason

1 why BCLC didn't implement a general source of
2 funds directive sooner is because BCLC was
3 concerned it would result in a potential loss of
4 revenue. Would you agree with me?

5 A There were a number of issues with a general
6 source of funds approach. Again, it did not
7 follow the guidance that we received on how to
8 build a sound anti-money laundering strategy and
9 to follow a risk-based process, and we also had
10 a fiduciary duty to the Ministry of Finance, to
11 our shareholder, to advise them of any decisions
12 that may be made and what the financial impact
13 of those may be.

14 Q On the screen right now is a document titled
15 "Minutes of the Meeting of the Board of
16 Directors." It's dated October 29, 2015, and on
17 the first page it says "management present, Jim
18 Lightbody." So you were present at this
19 meeting?

20 A I was.

21 MS. CHEWKA: Madam Registrar, can you please turn to
22 page 7 of this document.

23 Q There is a heading there under "Other Business,"
24 Response to Minister's Letter" and given the
25 timing, I'll say or put it to you that the

1 response to minister's letter would be the
2 response to the October 1st, 2015 letter sent by
3 Minister de Jong, and under this heading it
4 says:

5 "Bud Smith reviewed issues arising from a
6 recent directive received from the
7 minister. Discussion followed as to the
8 most appropriate board response, given
9 management estimates the effect of the
10 direction for BCLC, if fully implemented,
11 would be hundreds of millions of dollars.
12 The board directed the chair seek a
13 meeting with the Minister to review
14 implications of the directive."

15 Do you agree with that?

16 A Yes, I do.

17 Q And so you'll agree with me when you said
18 earlier that you took the direction to mean
19 continue to do this in a risk assessment
20 context, that doesn't necessarily line up with
21 the conversation that was having being had at
22 this board meeting? The suggestion here is that
23 implementation of such a program or directive
24 would result in hundreds of millions of dollars
25 in loss?

1 A Well, in fact we did discuss the risk-based
2 approach as well, but the responsibility of the
3 chair and the responsibility of BCLC was to
4 advise the minister of any implications of any
5 decisions that BCLC were going to make on the
6 financial performance, and therefore the revenue
7 that the government would receive from gaming.
8 We were required on a quarterly basis to update
9 the treasury board on our financial projections,
10 especially on ones that would be significant,
11 and we were seeing this as a potential
12 significant event. We're not saying that we
13 wouldn't do it because in fact it wasn't our
14 money anyway. This is government's money and
15 therefore we needed to advise them of what was
16 going to happen were this to be implemented.

17 Q But you'll agree with me at least based on these
18 meeting minutes that you did understand the
19 minister's October 2015 letter to be a general
20 source of funds policy that would have hundreds
21 of millions of dollars or potential loss of
22 hundreds of millions of dollars; isn't that
23 correct?

24 A We were not sure whether or not this was going
25 to be going forward as a directive, and we

1 wanted to make sure that we fully understood
2 this. So the discussion of the board was the
3 chair should have a conversation with the
4 minister to clarify exactly what he meant. And
5 we -- and we did find out that what he meant was
6 not all transactions. And that was insisted --

7 Q Did you have a meeting --

8 A -- with a conversation that I had with Cheryl
9 Wenezenki-Yolland.

10 Q But then there were subsequent letters, which I
11 won't the go back to, Mr. Lightbody, but we've
12 gone through many of those letters that come
13 after that meeting with Ms. Wenezenki-Yolland
14 where there was a direction provided by
15 Mr. Mazure that you implement a source of funds
16 policy and he provided the example where you
17 would be required to source the funds of a
18 certain dollar amount; isn't that correct?

19 A That was actually the recommendation that MNP
20 had given to GPEB, so I was actually kind of
21 surprised why he wasn't implementing that
22 policy. He had been given that recommendation
23 by MNP, and we were expecting to have him bring
24 that conversation forward. And I was kind of
25 taken aback why he was now placing that on us

1 whether and why not work to do what MNP directed
2 or recommended him to do.

3 Q Mr. Lightbody, in your affidavit you depose at
4 paragraph 150, I believe, that it was BCLC's
5 role to provide information to GPEB and RCMP
6 about potential illegal activity?

7 A Yes.

8 Q And you state at paragraph 152 that BCLC had to
9 play a greater role than simply providing
10 information. In that paragraph you said you
11 felt you had to play this greater role rather
12 than just providing information because you were
13 frustrated that you were providing information
14 and seeing nothing was being done; is that
15 correct?

16 A I think the Commissioner has heard before me
17 about the frustration that existed amongst many
18 partners, not just BCLC, in the lack of
19 investigation and enforcement.

20 Q Mr. Lightbody, under the *Gaming Control Act*
21 BCLC's responsible for the conduct and
22 management of gambling on behalf of the
23 government?

24 A That's correct.

25 Q And yesterday in response to my friend

1 Mr. McGowan's suggestion, you agree that this
2 includes maintaining the integrity of gaming in
3 BC?

4 A That's correct. Something we take very
5 seriously.

6 Q So BCLC had a broader responsibility than simply
7 providing information to GPEB and RCMP?

8 A We believed we live by the credo do the right
9 thing.

10 Q Yesterday you testified that as part of BCLC's
11 mandate it also had a financial responsibility.
12 Do you recall saying that?

13 A Yes, we do, and that was always repeated to us
14 in mandate letters on an annual basis from our
15 minister.

16 Q But you'll agree with me that financial
17 responsibility does not mean that BCLC had a
18 mandate to bring in the most revenue possible
19 regardless of the source of funds; is that
20 correct?

21 A We always, again, lived by running this business
22 with a social responsibility lens. The reason
23 why BCLC is a Crown corporation owned by the
24 people of BC was so that we would always balance
25 the opportunity to provide revenue to the

1 government who could then provide it to the
2 public in the form of health care and education
3 and all other charity support with the potential
4 harms that could come from it and how -- we had
5 to necessarily keep it under the legal
6 frameworks that we operated in.

7 Q Mr. Lightbody, I realize my time is almost up.
8 I have two brief questions to ask you.

9 In your affidavit you discuss a briefing
10 you had with Minister Eby on October 23rd, 2017.

11 A Could you tell me what ...

12 MS. CHEWKA: It's not in your affidavit -- sorry.

13 Mr. Commissioner, I'm not sure if I had that
14 document marked as an exhibit. I can't recall.

15 THE COMMISSIONER: You haven't.

16 MS. CHEWKA: If I haven't, can I have that marked the
17 next exhibit, please.

18 THE COMMISSIONER: 513.

19 THE REGISTRAR: Exhibit 513.

20 **EXHIBIT 513: BCLC Minutes of the Meeting of the**
21 **Board of Directors, October 29, 2015**

22 MS. CHEWKA: Thank you very much.

23 Q Sorry, at paragraph 207 of your affidavit you
24 refer that you had a meeting with the minister
25 on October 23rd, 2017, and you append a number

1 discussed in that meeting? And you can take
2 time, of course, to flip through the PowerPoint
3 presentation there.

4 A Yes.

5 MS. CHEWKA: Mr. Commissioner, can I have this
6 document marked as the next exhibit.

7 THE COMMISSIONER: 514.

8 MS. CHEWKA: Thank you.

9 THE REGISTRAR: Exhibit 514.

10 **EXHIBIT 514: BCLC Briefing - July 31, 2017**

11 MS. CHEWKA: Thank you. And I'm done with that
12 document now, but I'd ask that Madam Registrar
13 please pull up exhibit 160 to Mr. Lightbody's
14 affidavit, and this is the last document that
15 I'll take you to.

16 Q I understand that in December 2017 you've given
17 evidence on this, that Mr. German made two
18 interim recommendations to Minister Eby; is that
19 right?

20 A Yes, that's right.

21 Q But at that time Mr. German's final report was
22 still pending?

23 A That's correct.

24 Q But nevertheless in January 2018 BCLC decided to
25 implement a series of improvements aimed at

1 by GPEB or BCLC independently from the
2 ongoing review process could result in
3 consequences as serious as interfering
4 with law enforcement investigations or
5 could prevent necessary resources from
6 being dedicated to higher priority
7 initiatives identified by Mr. German."

8 You'll agree with me that Minister Eby's
9 suggestions that any changes should wait until
10 Mr. German's report was finalized was a prudent
11 suggestion?

12 A Well, it was different from what Dr. German had
13 said to us just a few months earlier in which he
14 said, during my report, gathering and
15 investigation, I do not want you to and do not
16 expect you to stop continuing to improve your
17 anti-money laundering controls.

18 Q But you'll agree with me that Minister Eby's
19 concerns about, for example, interfering with
20 active law enforcement investigations or
21 preventing necessarily resources from being
22 dedicated to higher priority initiatives or the
23 importance of coordination, those are reasonable
24 concerns. You would agree with me on that
25 point?

1 A Yes, they are reasonable.

2 MS. CHEWKA: Thank you, Mr. Lightbody.

3 Mr. Commissioner, I have no further
4 questions for this witness.

5 THE COMMISSIONER: Thank you, Ms. Chewka.

6 MR. MCGOWAN: Yes, Mr. Commissioner. Counsel for the
7 province went a fair ways over their time
8 allotment and I see we're getting close to an
9 hour into the day, and I'm going to suggest that
10 we take a brief break before the next
11 examination to allow Mr. Lightbody just a few
12 minutes.

13 THE COMMISSIONER: Yes, of course. I think that's a
14 sensible suggestion. We'll take 10 minutes.
15 Thank you.

16 THE REGISTRAR: This hearing is adjourned for a
17 10-minute recess until 10:36 a.m.

18 **(WITNESS STOOD DOWN)**

19 **(PROCEEDINGS ADJOURNED AT 10:26 A.M.)**

20 **(PROCEEDINGS RECONVENED AT 10:35 A.M.)**

21 **JIM LIGHTBODY, a witness**
22 **for the commission,**
23 **recalled.**

24 THE REGISTRAR: Thank you for waiting. The hearing
25 is resumed, Mr. Commissioner.

1 THE COMMISSIONER: Yes. Thank you, Madam Registrar.

2 I'll now call on Ms. French on behalf of

3 Canada, who has been allocated 10 minutes.

4 MS. FRENCH: Thank you, Mr. Commissioner.

5 **EXAMINATION BY MS. FRENCH:**

6 Q Good morning, Mr. Lightbody. Can you hear me
7 all right?

8 A Yes, I can. Thank you.

9 Q Thank you. I just want to take you back to some
10 of your testimony with Mr. McGowan yesterday.
11 Do you recall discussing with him the
12 information-sharing agreement that BCLC and the
13 RCMP entered into in 2014?

14 A Yes, I do.

15 Q And you testified that this information-sharing
16 agreement was a positive development in the
17 relationship between BCLC and the RCMP?

18 A Yes, we thought it was a very positive
19 development. It was initiated by Brad
20 Desmarais, who at the time was our Vice
21 President of Security and Compliance, and its
22 purpose was for the RCMP to be able to advise
23 BCLC of any criminal actors who may be entering
24 or trying to enter a BCLC casino and it would
25 allow BCLC to proactively ban those individuals

1 and keep them out of our casinos to keep the
2 public safe.

3 Q And so this was an information-sharing agreement
4 that allowed information to flow between, you
5 know, both BCLC to RCMP and back and forth?

6 A Yes, that's how I understood it.

7 Q Do you recall in 2014 and 2015 if BCLC received
8 any requests for information from the RCMP?

9 A I know there was some discussions between BCLC
10 and the RCMP regarding some individuals that we
11 were concerned about, and BCLC's security team
12 met with some people. I think it was from FSOC,
13 and they provided some of these individuals'
14 names, and there was discussions around that.
15 And we were trying to find out more information
16 so that we could act on that, and we thought
17 that the police would be interested in it,
18 obviously, as well.

19 Q And where requested, BCLC would have provided
20 information to the RCMP?

21 A Oh, absolutely. Absolutely.

22 Q And then you were discussing the information
23 sharing with FSOC in the spring of 2015. It was
24 in spring 2015 that BCLC became aware for the
25 first time of an ongoing investigation by the

1 RCMP?

2 A I became aware, and I believe BCLC became aware
3 in July of some of the findings of that
4 investigation. Our security team may be aware
5 that an investigation had started in the spring
6 or earlier.

7 Q So it wouldn't surprise you to know that
8 Mr. Alderson was aware of an investigation by
9 the RCMP in spring 2015 and was communicating
10 with the RCMP about that investigation?

11 A That wouldn't surprise me.

12 Q And BCLC provided a presentation to the RCMP in
13 the spring of 2015 to help assist with
14 resourcing for that investigation?

15 A That's what I recall, yes.

16 Q So you were just discussing this call in July of
17 2015 that you were on with RCMP where they
18 confirmed to you that BCLC -- that they advised
19 BCLC of a money services business in Richmond
20 that was lending out proceeds of crime that
21 could have been used to gamble in BC casinos; is
22 that correct?

23 A That's correct. And I was very mad to hear
24 that.

25 Q Yes, you described it as a pivotal moment, I

1 believe, in your testimony yesterday?

2 A Yes.

3 Q And you understood and based on our discussion
4 just now that prior to that call in July 2015,
5 the RCMP were investigating previous to July
6 2015?

7 A I had assumed they were and that's how they
8 found that information.

9 Q Thank you, Mr. Lightbody. I'd like to turn now
10 to exhibit 40 to Mr. Lightbody's affidavit,
11 please. This is a public document, so there's
12 no issue with sharing it either on the live
13 stream or with Mr. Jin's counsel.

14 Mr. Lightbody, do you recognize this
15 document?

16 A I believe so.

17 Q It's a press release issued by CFSEU in 2017
18 where they arrested nine people?

19 A Yes, okay. Regarding that, yes, I recall.

20 Q Excellent. And about -- just a bit further than
21 halfway down the page there is a paragraph that
22 starts:

23 "As a result of this complex, multifaceted
24 investigation ..."

25 Do you see that?

1 A I do.

2 Q I'll just read this first sentence into the
3 record:

4 "As a result of this complex, multifaceted
5 investigation, nine people have now been
6 arrested, with more arrests still
7 pending."

8 Did I read that correctly?

9 A You did.

10 Q At the time of receiving this press release, do
11 you recall if you noticed the statement that
12 more arrests were still pending?

13 A I can't recall.

14 Q That's fair. If we can turn now to
15 paragraph 140 of your affidavit, please.

16 And, Madam Registrar, I don't need that
17 document displayed anymore.

18 So after the announcement of these nine
19 arrests by the CFSEU in 2017, you wanted BCLC to
20 be given the names of those nine people
21 arrested; is that correct?

22 A Yes. I sent a letter to Kevin Hackett
23 congratulating him on this work and if he would
24 be so kind to provide us with these individuals'
25 names so that we could proactively ban them and

1 keep them out of casinos to keep and maintain
2 the safety of the public in BC casinos.

3 Q And I believe that's in paragraph 138 just
4 above. That's exhibit 43 to your affidavit, I
5 believe, just for the Commissioner's reference.

6 A Yes.

7 Q Thank you. And further down at paragraph 140
8 you even followed up with Minister Eby seeking
9 to know the names of those nine people arrested;
10 is that correct?

11 A Yes. You know, if you recall, there had been a
12 terrible tragedy down in Las Vegas where a
13 shooter had killed many people at an event, and
14 so we were really heightened at the time to any
15 possible, you know, criminal activity or
16 terrorist activity or whatever happening in one
17 of our casinos with, you know, the multitude of
18 people that were in them, so we were just out of
19 the utmost of caution we wanted to make sure
20 that these nine people could not come into any
21 casinos in BC.

22 Q To the best of your knowledge was CFSEU still
23 sharing the PTEP list with BCLC, the Provincial
24 Tactical Enforcement Priority list of dangerous
25 individuals at that time?

1 A I'm not aware of that. You'd have to ask one of
2 our security people.

3 Q Thank you. Returning to the list of these nine
4 names, you'd asked Assistant Commissioner
5 Hackett and then you'd asked Minister Eby. No
6 one was able to provide you with those names,
7 not even the minister; is that correct?

8 A That's correct.

9 Q And in the last sentence of paragraph 140, you
10 wrote:

11 "I later learned that the investigation
12 may still be ongoing."

13 Did I read that correctly?

14 A Yes, you did.

15 Q So was your understanding that the names could
16 not be released at that time because there may
17 have been an ongoing investigation?

18 A That was my understanding, yes.

19 Q And you would agree that with regards to public
20 safety and ongoing investigations the RCMP were
21 likely best placed to determine whether the
22 release of names would protect public safety or
23 further an investigation; is that correct?

24 A I would hope so, yeah.

25 Q Yes. And as someone outside of law enforcement

1 interest in knowing the names of those arrested
2 might not have been in the best interest of
3 furthering an ongoing investigation or
4 protecting the public?

5 A That's what I came to believe. But my primary
6 goal at the beginning was to keep the people,
7 whether they're the public or the employees, in
8 our casinos safe, and that was my priority, and
9 if the RCMP had a different risk profile or
10 understood that they could manage that
11 differently, then I trusted they would do that.

12 Q If we could just look at paragraph 114 of your
13 affidavit. This is my last question. And I
14 will just read that paragraph. It's a short one
15 sentence one:

16 "In meetings with the Minister of Finance,
17 Michael de Jong, the Attorney General,
18 Minister Eby, I and other members of BCLC
19 have consistently emphasized that law
20 enforcement is essential, not just to lay
21 charges but to provide an element of
22 disruption that allows BCLC to stay ahead
23 of the criminal elements."

24 And I've read that correctly as well?

25 A You have.

1 Q And so you would agree that law enforcement
2 plays a role in keeping BC casinos safe not only
3 by laying charges against individuals but also
4 that police presence in casino or casinos or
5 police investigations might have a positive
6 deterrent effect on criminal activity?

7 A Yes, I believe that, and it's one of the reasons
8 why I wrote a letter to Minister de Jong in
9 August of 2015, shortly after learning about
10 the -- what's now known as the E-Pirate
11 investigation, urging him to try to get more
12 enforcement involved and why in a subsequent
13 meeting in September, a couple weeks later, our
14 Chair Bud Smith and I implored the minister and
15 GPEB to get more enforcement involved in order
16 to deter and disrupt as well as hopefully
17 prosecute illegal activity that may be happening
18 in and around casinos.

19 MS. FRENCH: Thank you, Mr. Lightbody.

20 Mr. Commissioner, those are all my questions for
21 this witness.

22 THE COMMISSIONER: Thank you, Ms. French.

23 I'll now call on Mr. Stephens on behalf of
24 the BC Lottery Corporation, who has been
25 allocated 15 minutes

1 MR. STEPHENS: Thank you, Mr. Commissioner.

2 Madam Registrar, could I call up exhibit 55
3 of Mr. Lightbody's affidavit, please.

4 **EXAMINATION BY MR. STEPHENS:**

5 Q Mr. Lightbody, this is a letter you've seen a
6 few times in your testimony and I just wanted to
7 provide a reference point. This is a July 16th
8 letter that you've been taken to. I just wanted
9 to go to the bottom of it, if you would Madam
10 Registrar, for the -- just orient us and the --
11 for the Commissioner. There's a reference in
12 that at item 1 to a mandate letter and you
13 recall, Mr. Lightbody, you were asked about
14 that, and I believe you read that out, that
15 aspect of it, in your earlier testimony with
16 Ms. Chewka. Do you recall that?

17 A I do.

18 Q Now, what I'd like to do because I don't
19 believe -- I stand to be corrected -- I don't
20 believe Mr. Commissioner has seen a mandate
21 letter yet. I'd like to call up, Madam
22 Registrar, a mandate letter which resides in an
23 overview report that I understand is marked as
24 exhibit 501 in the inquiry. And I would like to
25 go to exhibit -- perhaps more accurately,

1 appendix 11 of -- thank you. Perfect. And this
2 is appendix 11, and if I could ask, Madam
3 Registrar, if you could just scroll down one
4 page to the beginning of that letter.

5 And there is a letter there, Mr. Lightbody,
6 that will be familiar to you, but I just want to
7 walk through it a little bit for the assistance
8 of the Commissioner and to provide a reference.

9 So this is a letter dated January 26 --
10 29th, 2016, and just before we go to a couple of
11 references, I'd like -- and you'll recognize
12 this, Mr. Lightbody, as a mandate letter?

13 A I do.

14 Q And this mandate letter is written to the
15 British Columbia Lottery Corporation; correct?

16 A That's correct.

17 Q Every year?

18 A Every year.

19 Q And these are quite significant letters, you
20 agree with me, in terms of BCLC's mandate from
21 the government of British Columbia?

22 A Yes, they are.

23 Q And just for the reference, Madam Registrar, if
24 you could scroll to page 4 of it just for one
25 moment. Perfect.

1 And that letter is signed by Minister de
2 Jong, correct, Mr. Lightbody?

3 A And Bud Smith, the chair of BCLC.

4 Q Correct. And you were copied with this letter
5 on page 6 of it. I don't know that it's
6 necessary to go to that, but you'll know,
7 Mr. Lightbody, that you're copied with this
8 letter?

9 A I usually was, yes.

10 Q Well, why don't we just go to it there.

11 Madam Registrar. If you wouldn't mind
12 scrolling to page 6 for us.

13 You're copied with this letter,
14 Mr. Lightbody, as the chief executive officer
15 and president of BCLC?

16 So if we could go back up to page 2 of
17 this -- or perhaps I'll just go to page 1 of the
18 letter, Madam Registrar, and there's just a
19 couple of references I'd like to provide.

20 At the beginning it states that the mandate
21 letter confirms BCLC's organization's mandate
22 and provides government annual strategic
23 direction and sets out the key performance
24 expectations for 2016/2017; correct?

25 A That's correct.

1 MR. STEPHENS: Madam Registrar, if you could go to
2 page 2 of the letter.

3 Q It says just above the italicized that the
4 government provided the following mandate
5 direction to BCLC under the *Gaming Control Act*,
6 which will be familiar to you, Mr. Lightbody,
7 being responsible for the conduct and management
8 of gaming. And then it says:

9 "To achieve this mandate, BCLC is directed
10 to take the following strategic actions."
11 And under item 1, it refers to BCLC optimizing
12 "the corporation's financial performance and
13 sustain net return to the province in accordance
14 with government policy and directives under the
15 *Gaming Control Act* and treasury board
16 directive." And you've referred to that, I
17 think, in passing in your testimony in terms of
18 financial mandate, Mr. Lightbody. Is that the
19 reference that you -- that exists for what you
20 describe in terms of BCLC's financial mandate to
21 its shareholder, the government?

22 A Yes, it is.

23 MR. STEPHENS: And then, Madam Registrar, if you
24 could turn over one page to item 3 -- page 3,
25 pardon me. And I'm just going to refer to item

1 4, and if you could scroll down -- that's
2 perfect, Madam Registrar.

3 Q Item 4 refers to the anti-money laundering
4 strategy of the government. Do you see that,
5 Mr. Lightbody?

6 A I do.

7 Q And one of the items in that in paragraph (c)
8 is:

9 "The implementation of anti-money
10 laundering compliance best practices with
11 appropriate consideration of evaluating
12 the source of wealth and source of funds
13 prior to cash acceptance within a
14 risk-based framework."

15 And that is the portion that is quoted in the
16 letter that we started with in my questioning to
17 you at exhibit 55; is that correct,
18 Mr. Lightbody?

19 A It is, yes.

20 Q And it's the source of -- at least part of the
21 source of your understanding that the government
22 of British Columbia endorsed the risk-based
23 approach that BCLC was employing in its AML
24 program?

25 A That's correct.

1 Q Thank you.

2 And, Madam Registrar, if I could ask you to
3 go to appendix 12 of the same document, and if I
4 could ask you to scroll down to one page to the
5 face page of this letter. And you mentioned
6 before these are annual letters. Mr. Lightbody,
7 you'll agree this is the mandate letter for the
8 following year, so this would be the 2017/2018
9 fiscal year?

10 A Okay.

11 Q Just to orient you because rather unhelpfully
12 this does not have the date on the front, if I
13 could ask Madam Registrar to go to page 5 of
14 that mandate letter. You'll see that's dated
15 December -- well, the signatories, the boards'
16 signatures are December 2016 or thereabouts;
17 correct?

18 A That's correct.

19 Q So this is a late 2016 letter being a mandate
20 letter for the 2017/2018 fiscal year. Have I
21 got that right?

22 A Yes, you do.

23 Q And if I could ask, Mr. Lightbody, if you
24 could -- and Madam Registrar, if you could go to
25 page 3 of this letter. Item 2 is an item with

1 respect to government's direction with respect
2 to the AML strategy. If I could ask you to go
3 to item 2(e).

4 A Yes.

5 Q Do you see that?

6 A Yes.

7 Q And it states that:

8 "The BCLC enhanced AML best practices with
9 appropriate consideration of evaluating
10 source of funds prior to cash acceptance
11 within a risk-based framework."

12 Do you see that?

13 A Loud and clear.

14 Q And, Mr. Lightbody, did you understand, then, by
15 at least late 2016 that the minister and indeed
16 the government of British Columbia continued to
17 endorse the risk-based approach employed by BCLC
18 in its AML program?

19 A I did. 100 percent.

20 MR. STEPHENS: Thank you, Mr. Lightbody.

21 Thank you, Mr. Commissioner. Those are my
22 questions.

23 THE COMMISSIONER: Thank you, Mr. Stephens.

24 I'll now call on Mr. Skwarok on behalf of
25 Great Canadian Gaming Corporation, who has been

1 allocated 10 minutes

2 MR. SKWAROK: Thank you, sir. First I apologize.

3 I'm having trouble with my feed so that I can't
4 turn on the video. Hopefully, though, you can
5 hear me.

6 THE COMMISSIONER: I can hear you loud and clear.

7 Thank you, Mr. Skwarok.

8 **EXAMINATION BY MR. SKWAROK:**

9 Q Mr. Lightbody, as the Commissioner suggested, I
10 am counsel for Great Canadian. I just have a
11 couple of questions of you, if I may.

12 I believe you testified that there was a
13 decrease in cash buy-ins after the source of
14 funds conditions were imposed. Do you recall
15 that?

16 A Which source of funds conditions? The -- in
17 2015 or 2018?

18 Q Both?

19 A Yes. Both of them had [indiscernible].

20 Q Mr. Kroeker gave evidence that the extent of the
21 impact of source of funds conditions was
22 difficult to measure. This is because there's
23 other events that were occurring at the same
24 time that could account for the decrease in cash
25 buy-ins. These included such things as a

1 decrease in worldwide table play by Chinese
2 players as well as currency restrictions in
3 China. Do you agree with that?

4 A Yes, I agree there was many factors that affect
5 the casino business. It's a very dynamic
6 customer-facing business, so I'm sure we could
7 draw a couple conclusions, but definitely there
8 was a straight line drawn with our cash
9 conditions program and the effect it had on
10 reducing Suspicious Transaction Reports.

11 Q Thank you. Could I please can you to go to
12 paragraph 30 of your affidavit.

13 A Yes.

14 Q In that paragraph and subsequent paragraphs you
15 say that Peter Goudron from Great Canadian
16 phoned you around April of 2012 and complained
17 about BCLC investigators speaking to players at
18 River Rock. Do you recall that conversation
19 with Mr. Goudron?

20 A I had it written in my notes, and I recall that
21 upon reviewing those in preparation for the
22 commission.

23 Q Do your notes suggest what Mr. Goudron's
24 concerns were at the time?

25 A Just that he had concerns that our investigators

1 were talking to players. That's all I wrote.

2 Q So are you aware that concerns had been raised
3 by Great Canadian around that time with BCLC
4 about how their investigators had approached a
5 patron on the floor of the casino and in full
6 view of his companions, pulled him off the floor
7 and questioned him, thus embarrassing him. Does
8 that surprise you that that was the case?

9 A I wasn't aware prior to the conversation with
10 Mr. Goudron. It would surprise me if our
11 investigators mistreated a member of the public.

12 Q I think "mistreating," sir, might be a little
13 bit of an overstatement. I think the
14 investigators weren't as sensitive to the
15 individual's status as the individual would have
16 preferred. So it was more a question of
17 sensitivity of the patron rather than
18 insensitivity of BCLC.

19 A Oh, okay.

20 Q Do you know who Daryl Tottenham is?

21 A Yes, I do.

22 Q He testified that a solution to BCLC's and Great
23 Canadian's concerns was reached whereby BCLC
24 investigators would tell Great Canadian
25 employees what information they needed from

1 patrons and Great Canadian employees would seek
2 to get it. He further testified that the reason
3 for this was that Great Canadian employees had
4 better relationships with patrons than did the
5 BCLC investigators. He also testified that this
6 was a win-win solution because patrons would be
7 more willing to give Great Canadian employees
8 information than BCLC investigators and patrons
9 would be happier because they were dealing with
10 Great Canadian employees. He further testified
11 that if Great Canadian employees were unable to
12 get the information that BCLC wanted, then BCLC
13 investigators would talk to the patrons
14 directly.

15 Do you have any reason, sir, to disagree
16 with his evidence?

17 A No. I trust Daryl Tottenham implicitly.

18 MR. SKWAROK: Thank you, sir. Those are my questions.

19 THE COMMISSIONER: Thank you, Mr. Skwarok.

20 I'll now turn to Mr. Gruber on behalf of
21 Gateway Casinos & Entertainment Ltd., who has
22 been allocated 15 minutes.

23 MR. GRUBER: Thank you.

24 **EXAMINATION BY MR. GRUBER:**

25 Q Mr. Lightbody, as the Commissioner said, I'm

1 counsel for Gateway in these proceedings.

2 Can I just start by asking you would you
3 agree with me as at CEO of the lottery
4 corporation you would not have been all that
5 familiar with service provider level operational
6 issues?

7 A That's fair to say.

8 Q And as a consequence of that, you wouldn't know
9 whether it's actually feasible for service
10 providers to determine in real time whether cash
11 coming into the casino was provided by a cash
12 facilitator?

13 A No, I would not be aware of all of the inner
14 workings of the cash cage.

15 Q All right. Thank you. You were asked by
16 Mr. McGowan to relate the table drop to the
17 amount of buy-ins. Would I be correct that the
18 table drop would also include the table wins as
19 well?

20 A Maybe explain that a little further.

21 Q Well, it's not just the amount bought in, is it,
22 it's the amount of the wins that are re-bet?

23 A Oh, yes. What we call a churn.

24 Q And depending on the amount of the wins or the
25 churn, the table drop could actually be

1 materially different from the amount bought in?

2 A That's true.

3 Q You made reference in questioning by Mr. McGowan
4 to there being a 60/40 split of the table
5 revenue between BCLC and the service providers.
6 Do you recall that?

7 A Yes, I did.

8 Q Would it not be more accurate to say that all of
9 the revenue belongs to BCLC until commissions
10 are paid to the service providers under the
11 terms of the OSAs?

12 A That would be a more legal interpretation, yes.

13 Q And would it be fair to say that your
14 understanding is the commission is the
15 compensation to the service providers for the
16 services they are contracted to provide to BCLC?

17 A That's correct.

18 Q Can I ask you to turn to paragraphs 11 and 12 in
19 your affidavit, please.

20 A Yes.

21 Q In paragraph 11 you set out that it has been
22 your initiative to develop a strategy where the
23 80 percent of casino business would come from
24 20 percent of players rather than 10 percent of
25 players. I'm just summarizing that.

1 A Yeah.

2 Q In paragraph 12 you say:

3 "Making this shift was not easy. It
4 required us to motivate and incentivize
5 BCLC's partner in business, service
6 providers, to be aligned with BCLC's
7 strategy and to work within BCLC's role in
8 the gaming industry."

9 Have I read that paragraph correctly?

10 A You have.

11 Q And would you agree with me that my client
12 Gateway has in fact been aligned with BCLC in
13 respect of that strategy?

14 A They have.

15 Q Thank you. Could I ask you to turn to
16 paragraphs 65 and 66 in your affidavit. In
17 paragraph 65 you refer to it being your
18 understanding that traditionally North American
19 casinos received 80 percent of their revenue
20 from slot machines and 20 percent from table
21 games. And in paragraph 66 you state that you
22 learned in or around 2012 that only two casinos
23 in North America had an equal split and you
24 identify which ones those are. Would you agree
25 with me that the majority of revenue at the

1 Grand Villa and Starlight Casinos is from slots?

2 A I would agree with that. I could be corrected
3 if somebody showed me data that may have changed
4 since I last saw it, but I think that is a very
5 fair statement.

6 MR. GRUBER: Thank you. Those are my questions.

7 THE COMMISSIONER: Thank you, Mr. Gruber.

8 I will now call on Ms. Mainville on behalf
9 of Mr. Kroeker, who has been allocated
10 15 minutes.

11 MS. MAINVILLE: Thank you, Mr. Commissioner.

12 **EXAMINATION BY MS. MAINVILLE:**

13 Q Mr. Lightbody, between 2015 and 2019 do you
14 believe that BCLC had strong and continuously
15 strenuous AML controls?

16 A Yes, I do. And that was supported by the annual
17 audits that we had by other FINTRAC or an
18 outside agency like Ernst & Young.

19 Q And that was under the direction of Mr. Kroeker?

20 A Yes. He was our chief compliance officer and
21 Vice President of Legal Security and Compliance.

22 Q And did you view the MNP report as an outlier in
23 terms of the reports you just referenced and the
24 audits you referenced?

25 A Yes, I would in a sense that it identified a

1 number of infractions, if you will, about
2 reports that claim that BCLC hadn't made to
3 FINTRAC, and I know that Mr. Kroeker was very
4 surprised by this and was very -- and seriously
5 looked at how this might occur and subsequently
6 followed up with FINTRAC because if it did, then
7 it was potentially a penalty that could be put
8 on BCLC, and FINTRAC never found that that had
9 occurred.

10 Q Thank you. You testified yesterday about trying
11 to get the names of 10 players who would have
12 used bank drafts in BC casinos that GPEB alleged
13 were problematic. Do you recall that?

14 A Yes. This was another area that Mr. Kroeker was
15 really perplexed by because we had a very
16 stringent protocol around reviewing bank drafts,
17 and he said in fact they've looked at I think
18 over 7,000 bank drafts to look for these
19 anomalies and they couldn't find them, and on a
20 couple of occasions he'd asked the GPEB auditors
21 for names of these individuals so that they
22 could ban them or do something about them, and
23 so he kept asking and wasn't getting any answer.
24 So I took the opportunity to ask Richard Fyfe,
25 who was the Deputy Minister to the AG at the

1 time if he could support and help us.

2 Q And so my question is Mr. Kroeker was diligently
3 pursuing this issue of bank drafts, to your
4 understanding?

5 A Yes, he was. And he also put in -- I forget
6 exactly the time he did it, but I think it
7 was -- I won't even say, but I know he didn't
8 just wait to find the names; he actually
9 proactively went and made it a requirement that
10 receipts be provided for all bank drafts.

11 Q Your evidence is that BCLC viewed GPEB as a
12 regulator; correct? As its regulator, I
13 should --

14 A 100 percent, no question.

15 Q And did that include Mr. Kroeker as well?

16 A Yes.

17 Q You had numerous interactions with Minister Eby,
18 Richard Fyfe and Doug Scott; correct?

19 A I did.

20 Q And you were directly instructed by the Attorney
21 General's office not to implement certain AML
22 controls; correct?

23 A At one point in time, yes.

24 Q And that included -- and, you know, that's
25 detailed in your affidavit, the \$25,000 cash

1 payout limit, delimiting convenience cheques and
2 removing minimum deposits for PGF accounts;
3 right?

4 A Those are some of them, yes.

5 Q And I'm right that after Dr. German's report was
6 released, BCLC sought to implement those changes
7 again?

8 A Yes, I recall that.

9 Q And BCLC was, again, asked to hold off on
10 implementation; correct?

11 A Yes.

12 Q And you indicate in that context at
13 paragraph 312 of your affidavit that you were
14 concerned and BCLC's AML unit were concerned
15 because they had been previously able to act
16 autonomously in furtherance of AML, and so I
17 take it you felt that that wasn't the case at
18 that time period.

19 A No, it shifted dramatically. We had pushed that
20 decision making down to the people who were
21 closest to the issue, those being our AML units
22 and the investigators who understood the issues
23 very clearly, and now they did not have the
24 autonomy to make those decisions and to
25 continuously improve our AML regime as we had

1 done in the past.

2 Q And another example you've given in your
3 evidence is the \$25,000 cash cap; correct?

4 A Yes, that's correct.

5 Q And that's detailed in your affidavit, so I
6 won't go over all of that, but if we could bring
7 up your notes that we received yesterday.

8 It's BCLC16887, Madam Registrar.

9 I just want to clarify a couple of
10 passages, if we could, starting at page 55.
11 First of all, up here you reference -- and I
12 should have -- I should have taken you to the
13 previous page, but this is indicated to be a
14 call with Mr. Fyfe and Sam Godfrey on
15 January 17th, 2018, and you discuss there
16 FINTRAC's position on this. Can you explain
17 that to us about the \$25,000 cash cap?

18 A Sure. One of the -- you know, the due diligence
19 that Mr. Kroeker had done around this was to
20 make sure that we wouldn't be offside with
21 FINTRAC if we were to implement this initiative,
22 and in his conversation he said that FINTRAC had
23 agreed that it was appropriate for us to conduct
24 this enhanced due diligence on transactions over
25 \$25,000, in essence not allowing any transaction

1 over \$25,000, because banks and ATMs and global
2 cash withdrawals of \$25,000 or less were not
3 uncommon and were -- and reasonable for high net
4 worth customers. So they agreed that this new
5 control was acceptable to them.

6 Q And acceptable in that -- do I understand that
7 to mean that they felt that it made sense from a
8 risk-based perspective? Is that --

9 A Yeah, that's exactly what I meant, yep.

10 Q And just below -- and, sorry, and so to be
11 clear, they were -- FINTRAC had conveyed that it
12 was not necessary for a lower cap to be
13 implemented, cash cap be implemented?

14 A From what I understand, like, we also were able
15 to -- and I can't say exactly how the
16 conversation with Mr. Kroeker and FINTRAC went,
17 but I was also aware that our team had analyzed
18 what players were buying in or making
19 transactions under \$25,000 and what players were
20 doing the transactions over \$25,000. And
21 primarily the players who were primarily
22 transacting over \$25,000 were in our high-risk
23 category, and the players transacting under
24 \$25,000 were either in medium to low or no risk.

25 Q Okay. And if we just go a bit lower on this

1 page, you've written there:

2 "Won't affect anything in the report. You
3 need to run the business and carry on. No
4 objection."

5 I take it is that a reference to what you've
6 indicated was your evidence about the initial
7 direction that Mr. German had conveyed to BCLC?

8 A That was the feedback I had received in, yeah,
9 before from Dr. German, and it may have been
10 reiterated by somebody else in the ministry, but
11 I can't recall. I also brought it up with
12 Mr. Mazure and said we'd work together with you
13 on this, and he really didn't give it much --
14 give me much feedback on it.

15 Q Right. And here basically this is a note of
16 your call with members of the Attorney General's
17 office. So this is you conveying this to the
18 Attorney General's office? Is that --

19 A That's correct.

20 Q And then at the next page, page 56, you'll see
21 there this is a 5:00 p.m. call with Mr. Fyfe,
22 and he conveys, you see there, correct me if
23 this is inaccurate, but the Attorney General's
24 concern of BCLC getting out in front of German's
25 report?

1 A Yes.

2 Q Yes?

3 A Yes.

4 Q And then do I understand further below that
5 Mr. Fyfe explained that the reason Peter German
6 didn't recommend, I take it the cash cap -- and
7 am I right to -- given the date to say that he
8 was referencing Mr. German's interim
9 recommendations?

10 A Yes.

11 Q And so he's saying he didn't recommend it
12 because it's not feasible or he didn't know
13 enough how to do it?

14 A That's correct.

15 Q And then Richard, I take it to be Mr. Fyfe, said
16 the AG didn't like random things happening?

17 A Yes.

18 Q And that it should be discussed with Mr. German
19 and wasn't -- and he conveyed that it wasn't a
20 positive reaction from the Attorney General;
21 correct?

22 A No.

23 Q And then if I just take you to page
24 [indiscernible] if I can.

25 THE REGISTRAR: Sorry, Ms. Mainville, can you repeat

1 the number.

2 MS. MAINVILLE: Yes, sorry. 60. Page 60 of the
3 notes. Of the document.

4 Q I believe this sets out what effectively your
5 evidence has been earlier I think in response to
6 questions from the province, but you see there,
7 you know, when asked by Richard why now, you
8 explain that "BCLC recognizes that the
9 environment has changed and acceptance for our
10 risk-based approach has diminished." Correct?

11 A That's correct.

12 Q And then a bit lower you explain:

13 "The MNP report recommended that GPEB
14 consider a cap on cash brought into
15 casinos. We have been waiting for their
16 decision, but in the meantime our team was
17 looking at the impact and implementation
18 feasibility so we could advise the
19 regulator. We even put in an assumption
20 on if it's set at \$10,000."

21 Is that a reference to what you were explaining
22 earlier, that BCLC had begun some analysis in
23 anticipation of receiving a direction to impose
24 a cash cap following the MNP report?

25 A That's correct.

1 Q And just to -- if we could just go to page 63.
2 This is in reference, I take it, to your
3 subsequent conversation with Dr. German on the
4 issue of the cash cap?

5 A Yeah. He said -- I think it's more on second --
6 next page are his comments.

7 Q So "should I be looking for a job" that's your
8 comment to him?

9 A Yeah.

10 Q You were concerned about, I take it, the
11 pressure to do or not do certain things.

12 A Yeah. And he said no, don't worry about it;
13 it's not going to affect you, and I've got
14 confidence in you and stuff like that. But if
15 you're looking for his comments on the cap, I
16 think it might be the following page.

17 Q Yes. So Peter's comments I just want to go to
18 the comment there "the \$25K timing is not right,
19 not good." Is that a comment from Dr. German?

20 A Yeah. I just couldn't see it there.

21 Q So just below the second --

22 A Yes, yes. We talked about it, and I explained
23 it to him and why we wanted to do it, and the
24 analysis that we had undergone similar to what I
25 had explained to Mr. Fyfe, and Mr. German's

1 feedback was immediate and it was no, it's not
2 good, not the right time. We just released the
3 source of funds report, like, you know, a couple
4 weeks earlier or something like that or a week
5 earlier, and that's in place, so why worry about
6 a cap, was his comment, and then let's see if
7 it's even necessary as we watch about the impact
8 of the source of funds declaration. He said
9 that he didn't put in a threshold because he's
10 not sure we have the right cash alternatives
11 yet.

12 Q Okay. And then just a last passage before I
13 move on at page 64. You have a note here, I
14 believe, from a discussion with Richard Fyfe
15 under Richard F?

16 A Yes.

17 Q And you wrote that he:

18 "Relayed info to the minister. AG
19 expressed in strong terms to reconsider
20 the timing."

21 A Yes.

22 Q So that's what was conveyed to you by Mr. Fyfe
23 in respect of the cash cap?

24 A That's correct.

25 MS. MAINVILLE: We can take this down, Madam

1 Registrar.

2 Perhaps it could be filed, Mr. Commissioner,
3 as an exhibit.

4 THE COMMISSIONER: All right. I think what we'll do
5 is not file the entire notebook, but pages 55,
6 56, 60, 63 and 64 will be the next exhibit
7 collectively.

8 MS. MAINVILLE: Sorry, I believe it should include
9 page 54 because that's the heading with the date
10 and time and participants in the conversation.

11 THE COMMISSIONER: Yes. Very well. That will
12 include 54.

13 MR. STEPHENS: Mr. Commissioner, it's Mr. Stephens --
14 sorry to interrupt -- from BCLC. We didn't have
15 notice of these pages. I'm not objecting to
16 that. But one of the things that
17 Mr. Lightbody's notes have been produced under
18 section 29 because we were concerned there might
19 be some privileged information in them. The
20 pages I've seen on the screen don't look like
21 they have any privilege, but if Ms. Mainville is
22 asked to mark another page, I just would ask to
23 be able to vet it for privilege before it's --
24 before it goes public. I'd ask we vet the notes
25 for privilege before the notes are made public,

1 if I could have that direction.

2 THE COMMISSIONER: I'll make that direction. You're
3 satisfied, though, with the pages that have thus
4 far been marked as exhibits being made public;
5 is that correct?

6 MR. STEPHENS: That's correct with the exception -- I
7 believe Ms. Mainville just referred to a page
8 that she did not turn up, I think 54. So I
9 haven't seen yet on the screen, so that's partly
10 why I'm asking for the direction. I want to
11 make sure that privilege is preserved in this
12 process.

13 THE COMMISSIONER: All right. That's fine. So what
14 we'll do, then, is page 54 will be treated
15 separately from the other pages, and it will be
16 marked as the next exhibit but subject to
17 vetting for privilege. So it won't be made
18 public and it won't be posted on the
19 commission's website; all right?

20 THE REGISTRAR: Sorry, Mr. Commissioner. May I ask
21 you to repeat the page numbers again.

22 THE COMMISSIONER: Yes. Pages 55, 56, 60, 63 and 64.

23 THE REGISTRAR: Thank you. And that will be
24 exhibit 515.

25 **EXHIBIT 515: Pages of notes of James Lightbody,**

1 **dated 1/17/18**

2 THE COMMISSIONER: Okay. And then page 54 will be
3 the next exhibit, but it is to be excluded from
4 the live stream or -- I'm sorry, be excluded
5 from the website and it will not be marked until
6 it's been vetted -- sorry, won't be posted until
7 it's vetted.

8 THE REGISTRAR: All right. So exhibit -- page 54
9 will be exhibit 516.

10 THE COMMISSIONER: Thank you.

11 **EXHIBIT 516: One page of notes of James**
12 **Lightbody, dated 1/17/18**

13 MS. MAINVILLE: Mr. Commissioner, I'm at time. But I
14 really have I think two more minutes if that --
15 if I could.

16 THE COMMISSIONER: Yes, all right.

17 MS. MAINVILLE: Thank you.

18 Q Mr. Lightbody, were there interventions by
19 government in BCLC's communications and proposed
20 releases, if they were vetted by them?

21 A Yes. Whenever we would want to put out a media
22 release, it had to go through government
23 communications and it would come back with edits
24 or removal and that process would go on
25 continuously.

1 Q BCLC received a copy of Dr. German's report, his
2 first report, "Dirty Money," in April of 2018;
3 correct?

4 A Yes.

5 Q And did you -- was it your understanding that
6 the report was initially set to be released in
7 short order?

8 A Yes. Within the next couple weeks.

9 Q Okay. And you were eventually informed that the
10 report caused government some concern; correct?

11 A Yes. It had challenges [indiscernible].

12 Q Sorry?

13 A They said they had some challenges with it.

14 Q And am I right that that was not simply in terms
15 of tone and language, but also the fact that at
16 least some felt within government that the
17 report had innuendoes but little quantified
18 evidence?

19 A Yes. And they were also concerned about any
20 defamation with individuals.

21 Q And there were concerns that some of the
22 recommendations were unworkable?

23 A Yes.

24 Q And do you recall being told that the Minister
25 of Finance and the premier's office in

1 particular were quite concerned?

2 A Yeah. I'm not clear on who told me that, but I
3 was made aware of that.

4 Q If I suggest --

5 MR. MCGOWAN: Mr. Commissioner, I'm just going to
6 interject. I don't object to my friend's
7 question, but I do wonder if it would be more
8 helpful for her not to simply ask, were you told
9 or did you learn, but if she could in her
10 question encourage the witness to identify the
11 source of the information, I think that would be
12 helpful.

13 THE COMMISSIONER: Yes. Thank you.

14 MS. MAINVILLE: Certainly. And that was going to be
15 my next question was to clarify the source.

16 Q Do you recall whether this was relayed to you by
17 Doug Scott?

18 A It would have been somebody like Doug Scott from
19 the ministry's office.

20 Q From the Ministry of the Attorney General's
21 office?

22 A Yes.

23 Q And my last question: You reference in your
24 affidavit various interventions, if I may use
25 that term, by the Attorney General's office in

1 respect of the issue relating to Mr. Alderson
2 leaking confidential information. Did you come
3 to have an understanding about any direct
4 relationship or contact, I should say, between
5 Mr. Alderson and Minister Eby?

6 MR. STEPHENS: Mr. Commissioner, it's Mr. Stephens
7 here, and I just -- I object in part because --
8 and it's revealed in Mr. Lightbody's affidavit
9 to some discussions that Mr. Lightbody had with
10 Mr. Alderson were done on a without-prejudice
11 basis and are subject to settlement privilege,
12 and my friend's open-ended question causes me
13 concern that because it's capable of eliciting
14 evidence from any source Mr. Lightbody has which
15 can include a settlement privilege source, and
16 so I have that concern with that question and an
17 objection to that extent.

18 MS. MAINVILLE: I can easily address Mr. Stephens'
19 concern, Mr. Commissioner. If I may rephrase.

20 THE COMMISSIONER: Okay.

21 MS. MAINVILLE:

22 Q Mr. Lightbody, did you come to have a direct
23 conversation with Minister Eby regarding Ross
24 Alderson?

25 A I had quite a few. I think one, if I may, it

1 was after the CTV *W5* program aired and
2 Mr. Alderson appeared on that, Mr. Eby also
3 appeared on that, amongst some other people, and
4 in it Mr. Alderson made some remarks about BCLC,
5 and we had sent him a letter reminding him of
6 his responsibilities and his duties. We wanted
7 to make it clear to him that he was free to talk
8 to the media; we just wanted him to be accurate
9 in his remarks and if he needed any support in
10 that, we were more than willing to do so. But
11 we were very clear that we were not trying to
12 stop him from talking to media; we just wanted
13 to provide him with some evidence that some of
14 the things that he had said were inaccurate.
15 And that letter was penned by our external
16 counsel. Shortly after sending that letter I
17 got a call from Doug Scott and he said the
18 minister wants to talk to you about this letter
19 that you sent to Alderson, and I -- how would he
20 know about that? And then I said, I'm more than
21 happy to talk to the minister about it; in fact,
22 in preparation, I'll send him a copy of it and
23 instructed our legal counsel at Norton Rose to
24 do so. And had the conversation with Mr. Eby
25 and Mr. Scott, and I believe Mr. Harder, Derrick

1 Harder was on the call, and Mr. Eby said, I
2 understand why you had the letter -- I think now
3 that he'd had a chance to read the letter that
4 it wasn't maybe as, I guess, tough on
5 Mr. Alderson as he had been led to believe. He
6 said, I understand why you had to do it, and I
7 just would have expected a heads-up before you
8 sent it. And I said well, how was I to know
9 that Mr. Alderson would contact you, but I take
10 your point, and from now on if we send any notes
11 to Mr. Alderson, I'll let you know.

12 Q Okay. Did you understand them to be on a
13 first-name basis?

14 A I can't say if I understood that.

15 Q Those are all my questions. Thanks for your
16 time, Mr. Lightbody?

17 THE COMMISSIONER: Thank you, Ms. Mainville.

18 And now call on Ms. Tweedie for the BC
19 Civil Liberties Association, who has been
20 allocated 10 minutes

21 MS. TWEEDIE: Thank you, Mr. Commissioner.

22 **EXAMINATION BY MS. TWEEDIE:**

23 Q Good morning, Mr. Lightbody. I just have a few
24 questions for you about the Joint Illegal Gaming
25 Investigative Team or JIGIT. If I could ask you

1 to please turn to paragraph 122 of your
2 affidavit.

3 A Yes.

4 Q So at that paragraph you state that:

5 "The creation of JIGIT was formally
6 communicated to me in December 2015. I
7 was told that JIGIT would be focused on
8 money laundering risks inside and outside
9 of casinos with an emphasis on organized
10 crime. BCLC was required to contribute
11 \$3 million annually forwards JIGIT."

12 Can you please clarify who formally communicated
13 that to you at the time and who was requiring
14 BCLC to contribute \$3 million?

15 A The person was Cheryl Wenezenki-Yolland, who at
16 the time was the Associate Deputy Minister of
17 Finance, and it was -- she was passing this on
18 as a -- from the Minister of Finance, Michael de
19 Jong, that BCLC would pay \$3 million towards the
20 formation and operation of JIGIT.

21 Q Okay. And it was at that time as well in
22 December 2015 that you learned that BCLC would
23 be required to contribute 3 million annually?

24 A That was formally required, but she had told me
25 back in October about that figure of the

1 \$3 million.

2 Q Okay. And what was your view on providing this
3 amount of funding to JIGIT?

4 A We were more than happy to see this enforcement
5 initiative come to the fore. Our only concern
6 was, you know, how -- like, we had been put
7 under this strict cost containment ratio by the
8 Ministry of Finance, and I asked if this would
9 be absorbed within that or if anything -- or if
10 they were going to increase that ratio slightly
11 to account for it, and she went back to the
12 minister and said, do you want them to absorb it
13 or give them an increase? And the minister said
14 that no, we'll give them a slight increase in
15 their ratio, because this was government's
16 decision to make them pay for it.

17 Q Okay. Thank you. And at the next paragraph of
18 your affidavit, paragraph 123, you refer to a
19 meeting that you were to attend with Mr. Mazure,
20 Mr. Pecknold, and Mr. Hackett, and you state
21 that you were "briefed prior to attending this
22 meeting by Mr. Kroeker and Mr. Desmarais about
23 the key concerns with JIGIT from BCLC's
24 perspective, namely that the funding contributed
25 by BCLC may not be targeted towards issues

1 relating to gaming and the need for this funding
2 to be 'ring fenced.'" Did you share this
3 concern with Mr. Kroeker and Mr. Desmarais?

4 A No. They were informing me of this. Based on
5 their experience in the RCMP, they said that
6 they had some experience that when funds were
7 made -- given to RCMP for certain initiatives
8 sometimes it would be used for other endeavours
9 or other initiatives by the RCMP, so they were
10 advising me -- asked them if they know of these
11 funds for JIGIT are going to stay, when they use
12 the term "ring-fenced," for the JIGIT
13 initiative.

14 Q Okay. So to the extent that BCLC was
15 contributing money to JIGIT, you wanted to be
16 able to direct to an extent what initiatives
17 that money tackled; is that fair?

18 A Yes. We wanted to make sure that -- if this
19 \$3 million was going to be provided by the
20 province through BCLC that it be directed in the
21 area of enforcement around gaming.

22 Q Okay. Thank you.

23 Madam Registrar, I'm hoping you could please
24 bring up exhibit 36 to Mr. Lightbody's
25 affidavit.

1 And at the bottom of that page,
2 Mr. Lightbody, do you recognize this as an email
3 you sent on April 12th, 2016, to Ross Alderson,
4 Kevin Sweeney and copying Mr. Kroeker and
5 Mr. Desmarais?

6 A Yes.

7 Q Okay. And I'll just read from the first
8 paragraph here:

9 "Guys: I know yesterday was tough on you.
10 I also recognize the tremendous work
11 effort you and our security team put forth
12 to fulfill our role in the anti-money
13 laundering strategy. You should know
14 this, we are very proud of the work you
15 do. Our role is to record and report to
16 the regulators. We have a very robust AML
17 program that allows us to complete our
18 role and provide solid information for
19 regulators and law enforcement to act. We
20 have been asking for more work effort in
21 the investigation and disruption of
22 illegal gaming by law enforcement. We now
23 have that. The responsibility and onus is
24 now on the Joint Illegal Gaming Enforcement
25 Team to execute on their mandate. And

1 since we are paying for it, we will hold
2 them accountable. Let's put them to work
3 for us and the gaming industry as they are
4 meant to."

5 So can you please elaborate on what type of work
6 you envisioned JIGIT doing for you and for the
7 gaming industry?

8 A Well, the investigation of any criminal activity
9 around casinos in particular, whether it was
10 money laundering or illegal gaming houses
11 outside of casinos.

12 Q And what type of results were you hoping to see
13 from JIGIT?

14 A I was hoping to see arrests and prosecutions and
15 disruption and the elimination of any criminal
16 activity in and around gaming in British
17 Columbia.

18 Q And do you feel as though JIGIT has made an
19 impact on money laundering in casinos?

20 A Unfortunately I can't speak to any. I haven't
21 seen any reports of that. I do know that BCLC
22 has a very good relationship with JIGIT which
23 includes some GPEB individuals embedded in that
24 and they work to train them on the casino
25 environment, and I know these investigations can

1 take a long time, but I'm hopeful that it
2 continues to strengthen the -- our work to keep
3 crime out of casinos.

4 MS. TWEEDIE: Okay. Thank you, sir. Those are all
5 my questions. Thank you, Mr. Commissioner.

6 THE COMMISSIONER: Thank you, Ms. Tweedie.

7 MR. MCGOWAN: Mr. Commissioner, I note the hour.
8 Mr. Lightbody has been testifying for
9 approximately two hours now. We've got I
10 believe 45 minutes of allocations remaining. I
11 have had some contact with his counsel and what
12 I'm going to proposal is that we stand
13 Mr. Lightbody down and find another day for him
14 to return when he is refreshed to address the
15 remaining examinations.

16 THE COMMISSIONER: Yes. All right.

17 MR. MCGOWAN: I'm certainly open to hearing from his
18 counsel if he has something to say. I believe
19 he's on muted.

20 THE WITNESS: I could use a 10-minute break, but I've
21 got to get it over with today.

22 MR. MCFEE: Mr. Commissioner, Mr. Lightbody has some
23 health issues as you know, but he feels that if
24 he had a 10-minute break he would be content to
25 complete his evidence in the assistance of the

1 commission today if that suits the timing.

2 MR. MCGOWAN: That certainly doesn't pose a problem
3 for the commission, Mr. Commissioner.

4 THE COMMISSIONER: No, that's fine. I think we have
5 55 minutes left with Mr. Lightbody. If you're
6 able to deal with it, Mr. Lightbody, and would
7 like to conclude today, I can certainly
8 understand that. But I think it is important
9 that we guard your health, so we'll take a
10 10-minute break at this point and provided
11 you're able to continue, we will continue. So
12 just let us know if there's any issue and you
13 require a further break. Thank you.

14 THE REGISTRAR: This hearing is adjourned for a
15 10-minute recess until 11:51 a.m. Thank you.

16 **(WITNESS STOOD DOWN)**

17 **(PROCEEDINGS ADJOURNED AT 11:42 A.M.)**

18 **(PROCEEDINGS RECONVENED AT 11:50 A.M.)**

19 **JIM LIGHTBODY, a witness**
20 **for the commission,**
21 **recalled.**

22 THE REGISTRAR: Thank you for waiting. The hearing
23 is resumed. Mr. Commissioner.

24 THE COMMISSIONER: Thank you, Madam Registrar.

25 I'll now turn to Mr. Butcher on behalf of

1 Mr. Desmarais, who has been allocated 10 minutes
2 MR. BUTCHER: Thank you, Mr. Commissioner. I'm not
3 seeing my video, but I don't know if that's
4 something I can fix. I can. Thank you.

5 **EXAMINATION BY MR. BUTCHER:**

6 Q Firstly, Mr. Lightbody, my client is Brad
7 Desmarais. He was the Vice President
8 responsible for AML measures between about
9 February 2013 and late 2015; is that correct?

10 A Yes, that's correct.

11 MR. MCGOWAN: Mr. Commissioner, I'm just going to
12 interject. Nothing to do with Mr. Butcher's
13 questioning, but I wonder if he might be able to
14 lower his camera; otherwise only his forehead
15 will be visible on the live stream.

16 MR. BUTCHER: It's a very shiny head, so it's
17 probably blinding.

18 THE COMMISSIONER: I've been told many times that the
19 top of my head is preferable to my face, which
20 is why [indiscernible].

21 MR. BUTCHER:

22 Q You were taken by Mr. Stephens to mandate
23 letters which were for a slightly later period
24 than Mr. Desmarais's period in that office.
25 Those mandate letters required a risk-based

1 approach to AML measures; correct?

2 A Consistently, yes.

3 Q And that was so back in the period Mr. Desmarais
4 was in the VP position?

5 A That's correct.

6 Q You met with him regularly during this time
7 period of February 2013 to late 2015?

8 A Yep. More regularly I'd say once I became the
9 CEO.

10 Q And you became familiar with the anti-money
11 laundering steps taken during his time in that
12 position?

13 A Yes.

14 Q And some of those would have been -- would
15 include the information-sharing agreement with
16 the RCMP, the development of cash conditions,
17 the banning of some players?

18 A Yes. And the creation of the AML unit.

19 Q And you were satisfied that despite the
20 challenges and the conflicting interests that
21 arise in this environment that BCLC was meeting
22 or beating contemporaneous industry standards
23 during that period?

24 A Yes. And it wasn't just my opinion. It was
25 based on external audits that we were receiving

1 from people like FINTRAC and others.

2 Q Yes. I was going to ask you about that because
3 you said something in your evidence about that.
4 You've been asked many, many questions by
5 commission counsel and counsel for British
6 Columbia about why a prescriptive-based approach
7 of requiring source of funds information for all
8 customers using cash, and you were taken to
9 those -- that correspondence in your affidavit.
10 It's exhibits 51 to 55 for the periods August
11 2015 to 2016. That's the background to the
12 question I'm going to ask. And you told us that
13 you relied on both internal and external
14 expertise that the steps being taken were
15 appropriate. Do you remember that?

16 A I do.

17 Q And my question for you was what was the
18 external advice and where was it coming from?

19 A It was coming from FATF, it was coming from
20 FINTRAC, it was coming from Ernst & Young, and
21 those particular, and those were experts in the
22 field of anti-money laundering, and they were
23 all recommending that organizations exhibit and
24 implement a risk-based AML framework.

25 MR. BUTCHER: Thank you. Those are my questions.

1 THE COMMISSIONER: Thank you, Mr. Butcher.

2 I'll now call on Mr. DelBigio on behalf of

3 Paul Jin, who has been allocated 15 minutes

4 MR. DELBIGIO: Mr. Commissioner, I can start, but I

5 remain in a position where I have

6 Mr. Lightbody's affidavit without supporting

7 documents. I don't have his notes. Some of the

8 documents were shown on screen today and the

9 notes were shown on screen and nobody told me to

10 look away, so I assume there was no concern with

11 respect to me seeing them. So I'm in that

12 position where I can begin to ask some

13 questions, but I am at a disadvantage in the way

14 that I have just described.

15 THE COMMISSIONER: All right. Have you -- and I'm

16 not sure if this is necessarily responsive to

17 the concern you've raised, but have you had an

18 opportunity to look through the documents that

19 have been posted on the commission's website in

20 so far as they relate to your client, and have

21 you had an opportunity to review those portions

22 of the transcripts that have been posted on the

23 commission's website and relate to your client?

24 MR. DELBIGIO: I'm aware of some public documents.

25 And, Mr. Commissioner, I will say that I've had

1 some communications with your lawyers, and I
2 don't intend to try to resolve this issue right
3 now. I simply raise it so that I can say that I
4 can start. I might not be able to finish, and
5 that with respect to, for example,
6 Mr. Lightbody's journal or notebook, which
7 became known of yesterday, as I understand, I
8 haven't seen it. And -- but that's where I am.
9 I'm prepared to start.

10 THE COMMISSIONER: All right.

11 **EXAMINATION BY MR. DELBIGIO:**

12 Q Mr. Lightbody, are you able to hear me okay?

13 A Yes, I can.

14 Q So my client is Mr. Jin. I have listened to the
15 various questions that have been put to you and
16 to the tussle back and forth as to who did what
17 and when and that sort of thing. You might
18 be -- you know, you might be pleased to know
19 that I'm not going to be asking you those sorts
20 of questions.

21 A I'm ready for them.

22 Q But by way of background, and you just heard me
23 say that I don't have a number of documents
24 which others do, so I need to ask you questions,
25 I'll say -- I'm going to have to set some

1 context for the way in which you refer to
2 Mr. Jin in your affidavit; okay?

3 A Okay.

4 Q And because I don't have documents and I don't
5 know the subtleties of what might be contained
6 in those documents I'm going to have to resort
7 to prairie logic or commonsense rather than
8 reference to documents themselves; okay?

9 So here -- and I want to, then, set the
10 context to make a picture that I understand how
11 it is that you come to refer to Mr. Jin. First
12 of all, Mr. Stephens showed you what was called
13 a mandate letter from 2016. You recall that a
14 few minutes ago?

15 A Yes, I do.

16 Q I don't have it, so I can't show it to you and
17 it's maybe not necessary to post it, but it
18 talks about, amongst other things that letter
19 talks about financial achievements. And there's
20 a phrase about a net income target of
21 1.19 billion -- 1.19 billion dollars, and a
22 phrase about optimizing the corporation's
23 financial performance. And you recall that
24 letter and you recall those phrases?

25 A Yes, I can recall that.

1 Q And is that right, in -- that letter is 2016. I
2 think it's backwards looking to 2015. And is it
3 2015 that the income was in excess of a billion
4 dollars?

5 A Yes, that's true. That's for all of BCLC
6 revenue streams and that includes casino,
7 lottery as well as e-gaming.

8 Q And I apologize if I don't get the pronunciation
9 properly. Ms. Chewka asked some questions and I
10 believe that she is the province's lawyer, and
11 you responded, this is government's money, and
12 you responded -- you provide or I guess the
13 corporation provides money to government who can
14 provide it to health care services and
15 education. And you recall that question and
16 those answers?

17 A I do. BCLC does not have any retained earnings.
18 Everything that we make at the end of the year
19 goes to the province, and they use it for the
20 public good, and it's primarily things like
21 health care, education, but also
22 charities and --

23 Q So -- I apologize. I cut you off.

24 A No, that's fine.

25 Q So the drop in revenue through gambling means a

1 drop in the amount of money that goes to the
2 government?

3 A That's true.

4 Q And it is the revenue is -- profit is based
5 upon, you know, just in very blunt terms or
6 broad terms, revenue subtract costs; right?

7 A That's about as blunt as you can put it, yes.

8 Q I'm sure a good accountant could dress that up,
9 but that's really what it is, isn't it?

10 A Yes, it is.

11 Q And in 2015 -- and their costs -- we've heard a
12 lot of questions about compliance, who's doing
13 what, who's directing what, who's talking to
14 whom. There's a cost to a compliance regime;
15 right?

16 A Yes, there is.

17 Q What was compliance costing you in 2015, just
18 approximately?

19 A Well in AML in particular, over \$10 million.

20 Q Okay. And so based upon your experience, it's
21 fair to say -- and again I'm just trying to
22 situate the context in which Mr. Jin is of
23 interest to you -- the increase compliance will
24 result in increase costs probably; right?

25 A Well, probably it could, yes.

1 Q And increased costs will result in decreased
2 profit; right?

3 A That could, unless we take that cost from
4 another cost area so --

5 Q Right, unless you shave elsewhere?

6 A Yes.

7 Q And decreased profit will result in decreased
8 money to the government and decrease -- reduced
9 ability for them to make the allocations that
10 they do?

11 A That's fair to say.

12 Q Now, as I heard your testimony through your
13 counsel, Mr. McFee, it seems to me that you're
14 operating in a framework first of all governed
15 by law; right?

16 A Yes.

17 Q Secondly, there are business considerations, and
18 what I mean by that is it's a revenue generating
19 business; right?

20 A Yes, in fact you may have read in previous
21 submissions that we are a gaming entertainment
22 company.

23 Q And there are --

24 A Very dynamic business.

25 Q And in your testimony to Mr. McFee you talked

1 about also what I will use the phrase as client
2 [indiscernible] to describe considerations about
3 what you perceived as being clients or patrons
4 of interest and privacy and the common use of
5 cash. That is sort of another dynamic that was
6 at play in the operation of the business?

7 A Yes. It started with an overall focus on our
8 player, focus on our customer. Without a
9 customer, we don't have a business. And my
10 mandate -- my message to our people was we're
11 going to take care of our people because we know
12 that our people will take care of our customers,
13 and our customers will take care of our
14 business, and therefore yes, we needed to know
15 as much as we could about our customers.

16 Q And I've listed law -- just as the factors which
17 you took into account, law, business, client
18 culture and then your shareholder, you had a
19 fiduciary duty to the shareholder; right?

20 A We viewed as the citizens of British Columbia.

21 Q And then here is where I get into just what I'm
22 going to have to call commonsense. There was
23 concern with respect to, as I understand the
24 questions and the answers, concern with respect
25 to the possibility of dirty money coming into

1 casinos; right?

2 A Yes.

3 Q And one way of addressing that concern would be
4 to simply say, no more cash, period; right?

5 A That would be one way.

6 Q And the government never instructed you or
7 created a law to that effect; right?

8 A No, they never did.

9 Q And another way of ensuring that there's no
10 dirty money in casino is to, for example,
11 require that each patron who enters a door have
12 an affidavit with attached bank records for that
13 day to show where the cash came from. Just an
14 example; right?

15 A It's an example, yes.

16 Q But it would interfere with business, wouldn't
17 it?

18 A That is quite a -- I'm not aware of any other
19 business that may make you do that, a business
20 at least in the entertainment realm.

21 Q And it sounds to me that you were trying to
22 balance business issues, meaning keeping clients
23 coming in the door, with compliance issues. Is
24 that a fair broad strokes description of what
25 you were doing?

1 A Yes. It was always a balance, but if it ever
2 came down to a compliance issue that always
3 trumped a revenue issue.

4 Q Okay. But it also sounds a little bit like, for
5 example, you know, if you don't want people to
6 get cancer from cigarettes, make cigarettes
7 illegal. If you don't want money, dirty money
8 coming into the casino, ban cash; right? Isn't
9 it that simple?

10 A Yeah, and that's -- it's actually -- it's
11 unfortunate that it is more complicated than
12 that, as you well know. And what we are
13 hopefully one day going to get to a cashless
14 society, but as I, you know, was cautioning
15 Mr. Commissioner earlier, you know, I think that
16 that will also create just another group of
17 problems because unfortunately the criminal
18 element is very insidious and sometimes they can
19 be pretty smart, too.

20 Q Well, but it is -- it's a little bit sort of the
21 Goldilocks theory, isn't it? You don't want to
22 exclude too many patrons but you don't want to
23 exclude too few; you want to get it just right
24 with respect to the running of the casino?

25 A Well, our approach is we didn't want any dirty

1 money coming into the casino. We weren't
2 satisfied with allowing some. We didn't want
3 any dirty money.

4 Q But as long as you allow some, there's a risk of
5 some of it being dirty; right?

6 A If we don't know that it's dirty coming in, that
7 was always our disk. That's why we wanted to
8 know whether it was dirty or not.

9 Q So it's against that sort of a compliant regime
10 and efforts at compliance that I'm going to ask
11 you about some other things. First of all,
12 again, I do not have your notebook, but at
13 paragraph [indiscernible] of your affidavit, you
14 refer to a meeting with -- and that's -- I'll
15 just let you get to that for a moment; okay?

16 A Yes.

17 Q You refer to a meeting with the RCMP. Do you
18 have a notebook entry that refers to that
19 meeting? And --

20 A I would have to look.

21 Q Okay. Would that be a time-consuming thing for
22 you to do? Like would it take you less than
23 30 seconds?

24 A No. Because I don't have my notebooks with me.

25 Q Okay. So it will take you more than 30 seconds?

1 A Yeah.

2 Q You had various discussions with the minister
3 just by virtue of the job that you -- the job
4 you were doing; right?

5 A Yes.

6 Q And did you ever discuss with the minister an
7 RCMP investigation called E-Pirate?

8 A Yes.

9 Q And do you know if you have any notebook entries
10 pertaining to that?

11 A Not that I necessarily -- I don't think we knew
12 it was named necessarily E-Pirate at the time.
13 And I would have to, again, check to see what my
14 notebooks say about that.

15 Q When did you first learn of an investigation
16 which you now know is called E-Pirate?

17 A On and around July 15th, 2015.

18 Q And that's paragraph 113 of your affidavit?

19 A Correct.

20 Q Was the phrase "E-Pirate" used in that meeting
21 so far as you recall?

22 A I can't recall. It may have been.

23 Q Okay. Now, how many people -- if you're able to
24 say -- I want to be clear that paragraph 113 you
25 say you do not recall specifically which

1 individuals were on the call. But do you recall
2 how many roughly?

3 A I do. Subsequently after pleading my affidavit
4 I was shown a document that did identify the
5 people who were in that meeting, and there were
6 three people from BCLC, there was three people
7 from GPEB and three people from the RCMP.

8 Q Can you tell me what that document is?

9 A I believe it's a document that Ross Alderson
10 provided to Rob Kroeker on -- in September of
11 2015.

12 Q And do you have that document? I don't mean do
13 you have it with you necessarily, but do you
14 have that document?

15 A I'm not sure exactly where it is amongst all
16 these affidavits.

17 MR. DELBIGIO: Okay. Did you -- well,
18 Mr. Commissioner, I think that at this stage in
19 light of some of the answers that have been
20 given, I'm going to ask that -- and the
21 circumstance that I have described, I'm going to
22 ask to adjourn the rest of my cross-examination
23 so that I can make further inquiries with
24 respect to the production of documents.

25 THE COMMISSIONER: All right. Thank you,

1 Mr. DelBigio. The issue of the documents will
2 at some point be resolved and then we can
3 revisit whether and to what extent you can
4 resume your cross-examination of Mr. Lightbody.

5 So I'll turn now to Mr. McFee, who has been
6 allocated 30 minutes on behalf of Mr. Lightbody.

7 MR. DELBIGIO: Sorry, Mr. Commissioner, if I can just
8 be clear that I am not done my
9 cross-examination. It's just that it is not
10 desirable that I should be required to continue
11 my cross-examination without the benefit of
12 first examining documents which exist and which
13 other people have and which seem to pertain to
14 relevant portions of the evidence, and so I wish
15 to be clear that I'm not done, and I'm just
16 concerned by Mr. Commissioner's remarks that
17 there will be a determination as to what extent,
18 if any, I might be permitted to carry on.

19 THE COMMISSIONER: Well, to the extent your continued
20 cross-examination depends on documents which you
21 may or may not be entitled to, that is the
22 extent to which your further cross-examination
23 of Mr. Lightbody will develop. So that's all I
24 can say at this point, Mr. DelBigio.

25 MR. DELBIGIO: Thank you.

Discussion re redacting paragraph 157 of Mr. Lightbody's affidavit before posting on the website

1 THE COMMISSIONER: Thank you.

2 MR. MCGOWAN: Mr. Commissioner, prior to Mr. McFee
3 commencing his examination, I understand there's
4 a matter that Ms. Chewka wishes to raise with
5 you respecting the affidavit. I think it should
6 just take a few seconds.

7 THE COMMISSIONER: All right. Thank you.

8 MS. CHEWKA: Yes, thank you, Mr. Commissioner. My
9 friends at BCLC kindly contacted me to draw to
10 my attention paragraph 157 of Mr. Lightbody's
11 affidavit. You'll see that the last sentence of
12 this paragraph just refers to some
13 solicitor/client privileged information, and
14 you'll be aware that we have an application
15 outstanding before Mr. Commissioner with respect
16 to the legal opinions that we've disclosed
17 pursuant to the *Public Inquiry Act*. And so I'm
18 just concerned about this document being
19 available on the website publicly while we have
20 that application outstanding, so there's one of
21 two options I propose. The first is that the
22 affidavit until the determination of our
23 application is made is not be made available
24 publicly, or, alternatively, if it is made
25 available that that last sentence of this

1 paragraph be redacted.

2 THE COMMISSIONER: I think that's the preferable
3 course to follow, Ms. Chewka. Thank you. I'll
4 make that direction. So -- I'm sorry, I just
5 want to make sure I've got it right, though, is
6 it 157.

7 MS. CHEWKA: That's correct. And it's not the entire
8 paragraph. It's the last sentence beginning
9 "this report" to the word "disagreements."

10 THE COMMISSIONER: So the affidavit will be posted
11 save and except that that sentence will be
12 excluded or redacted, rather, until such time as
13 the issue is determined.

14 MS. CHEWKA: Thank you, Mr. Commissioner.

15 THE COMMISSIONER: Thank you.

16 Yes, I'm sorry, Mr. McFee.

17 MR. McFEE: Thank you.

18 **EXAMINATION BY MR. McFEE:**

19 Q Mr. Lightbody, Mr. McGowan asked you if from
20 2011 the development of cash alternatives was
21 BCLC's primary approach to addressing potential
22 money laundering. Do you remember those
23 questions?

24 A I do.

25 Q And you answered to the effect that development

1 of cash alternatives was a key driver and one of
2 the things you added was with the support of
3 GPEB. Do you recall that?

4 A Yes.

5 Q Now, in that context, after the receipt of the
6 Rob Kroeker Report, did BCLC and GPEB engage in
7 a collaborative venture by forming and
8 participating in a joint AML working group?

9 A We did. I recall those meetings.

10 Q And you were a member of that joint AML working
11 group?

12 A Yes. There was a number of us from BCLC. Terry
13 Towns was leading it. Daryl Schiewe, who was my
14 predecessor, participated on it. And I was on
15 it, and there may have been someone else, but
16 that's clearly who the BCLC employees were.

17 Q Just to be clear, this is in the 2011, 2012 time
18 frame?

19 A Right. Just as I started in the casino role.

20 Q And who do you recall were the GPEB members?

21 A I recall Bill McCrea. I also recall that Larry
22 Vander Graaf attended a few of those meetings.
23 And the ABM or GM, so it was a bit of Doug Scott
24 and then John Mazure. I don't remember if John
25 Mazure participated in many of them.

1 Q Do you recall a joint working group considered a
2 number of potential AML measures?

3 A Oh, yes, yes.

4 Q And what AML measures do you recall the joint
5 working group deciding should be pursued in
6 priority to the others?

7 A Cash alternatives.

8 Q And to your recollection did GPEB's
9 representatives on that joint working group ever
10 propose that instead of or in addition to
11 developing cash alternatives a cap on the value
12 of cash buy-ins should be implemented?

13 A That was never raised as an alternative or an
14 idea.

15 Q And did the GPEB representatives in that joint
16 working group ever to your recollection propose
17 a cap on the buy-ins with \$20 bill denominated
18 bills?

19 A I do not recall that being raised in one of our
20 meetings.

21 Q And did the GPEB reps in that joint working
22 group ever to your recollection propose that
23 patron participation in the patron gaming fund
24 account should be mandatory rather than
25 voluntary?

1 A No. In fact they were really interested in how
2 we would support marketing this, and we elicited
3 support of the service providers who had the
4 relationships with these patrons to try to
5 convince them to participate in the patron
6 gaming fund account system.

7 Q I want to turn now, if I could, to you learning
8 and other BCLC officials learning in July 2015
9 about the RCMP investigation that a money
10 services business in Richmond was using proceeds
11 of crime to lend money to people, including
12 casino patrons. There's been a lot of focus in
13 the questioning of you on the cash conditions
14 program. I take it the cash conditions program
15 was implemented in April of 2015.

16 A That's correct. April.

17 Q Now, what additional [indiscernible] if any, did
18 BCLC take with respect to the cash conditions
19 program after this news you learned in July of
20 2015 about this RCMP investigation?

21 A I think as I stated before, I was mad as hell
22 that our suspicions were now -- came true and
23 that we had now learned that the criminal
24 element had found a way to launder money through
25 lending it to some casino patrons as well as

1 other people to buy real estate or whatever they
2 may want to do. And I was mad.

3 And we acted swiftly to enhance and expand
4 our source of funds interviews and source of
5 funds sanctions and barring individuals based on
6 name that we were provided by the RCMP as well
7 as people who were high on our risk rating.

8 The second thing we did was Great Canadian
9 had advised us that they had a high outstanding
10 chip liability. I think you heard Mr. Kroeker
11 talk about that earlier. It was around the
12 \$12 million range. And that, again, signalled
13 that maybe chips were being used as an
14 instrument for the criminal underground. So we
15 ordered a chip swap. And unfortunately that was
16 delayed and never came to fore until January.

17 But as you've also seen and it's in my
18 evidence that I took it even further and I wrote
19 a letter to our minister, which was not a
20 regular thing for me to do. Most communication
21 to our minister went through our chair. But I
22 implored him to put together some sort of
23 enforcement unit to help us against this fight
24 against crime. And we followed up with a
25 meeting that my chair did share with me, and we

1 met with JIGIT -- sorry, with GPEB in that
2 meeting and the subsequent result of that was
3 the formation of JIGIT, which we were pleased to
4 see that finally we were going to get some
5 directed enforcement and investigation into the
6 suspicion of proceeds of crime coming into
7 casinos.

8 Q So the cash conditions and statement of funds
9 element of that was only one component of the
10 response to the news from the RCMP?

11 A Yes. We needed help from others.

12 Q And part of the information you received was
13 that it was a money services business in
14 Richmond that was using proceeds of crime to
15 lend money to people, including casino patrons.
16 What action, if any, did BCLC then take with
17 respect to money service businesses?

18 A Our AML unit began investigating the money
19 service businesses in around Richmond. They
20 were subsequently admonished, unfortunately, in
21 the German report for doing that. But, again,
22 you know, they recognized how serious this was
23 and they were doing whatever they could in order
24 to stop this activity.

25 In addition the -- under Rob Kroeker's

1 direction, they looked at how could we delimit
2 or de-risk money services businesses so that
3 people couldn't use them as a source of cash to
4 bring into casinos, and those were ultimately
5 de-risked, as we say, or not allowed for
6 customers to bring funds from.

7 Q And then I just want to focus for a minute on
8 the questions that you were asked by both
9 Mr. McGowan and Ms. Chewka on behalf of the
10 province with respect to BCLC's reaction. Now,
11 at the time when you received this news from the
12 RCMP, I take it BCLC was following a risk-based
13 assessment in its anti-money laundering regime?

14 A Yes, we were.

15 Q And you were asked by both Mr. McGowan and
16 Ms. Chewka effectively why didn't BCLC require a
17 statement of funds declarations for all cash
18 buy-ins, or as Mr. McGowan quoted a receipt for
19 all cash buy-ins. Is that consistent with a
20 risk-based approach?

21 A No. As I understood it and as the experts told
22 me, it was entirely inconsistent with a risk
23 based process. That would have been a
24 prescriptive basis, which has many concerns by
25 experts and Financial Action Task Force and

1 FINTRAC and others, and so that was never in our
2 mind to employ. And in fact it was never
3 directly stated to me that's what they want.
4 And I've got to believe that if Mr. Mazure
5 wanted me to do an about-face on a risk-based
6 process and put together a standard protocol
7 where you ask everybody who comes in for source
8 of cash, he would have picked up the phone and
9 asked me. Or he would have set a directive. Or
10 he would have told me he was going to set a
11 directive. But he did none of that. He sent me
12 letters and said, keep looking at source of
13 funds in a risk-based process. And in our
14 mandate letters we kept being told look at
15 source of welt, source of funds from a
16 risk-based process. So I never heard that we
17 should be following a prescriptive approach
18 until Dr. German's first recommendation. That
19 was the first time we moved to a prescriptive
20 approach.

21 Q I just want to refer you again to one of the
22 letters from Mr. Mazure that you were referred
23 to. If I could ask you to look at exhibit 55 of
24 your affidavit, please.

25 If that could be brought up on the screen,

1 please. Actually, I don't think that's the
2 right -- it's exhibit 55 to Mr. Lightbody's
3 affidavit. 55?

4 And this is a letter of July 14th, 2016,
5 from Mr. Mazure to you?

6 A It is.

7 Q If I could take you over to the next page,
8 page 256 in the top right-hand corner, if you
9 have that, please.

10 A I do.

11 Q If you go to the second to last paragraph,
12 Ms. Chewka took you to this, and it says:

13 "To ensure the province is taking the
14 steps necessary to eliminate the proceeds
15 of crime from BC gaming facilities and to
16 support the AML strategy and the integrity
17 of gaming in BC, BCLC should contemplate
18 not accepting funds with a source of those
19 funds cannot be determined or verified
20 within a risk-based framework. This
21 approach could include, for example, a
22 source of funds questionnaire and a
23 threshold amount over which BCLC would
24 require service providers to refuse to
25 accept unsourced funds or a maximum number

1 ministers and ADMs. Do you recall those
2 questions?

3 A Yes.

4 Q And you described BCLC developed a practice of
5 proactively drafting and sending briefing notes
6 and information notes to the minister in
7 response to media reports?

8 A Yes, we did.

9 Q And when was that practice initiated,
10 approximately?

11 A In 2017.

12 Q And why was it initiated?

13 A There were media reports that were written, and
14 it came in quite a flurry in the fall of 2017,
15 and they contained inaccurate information, one
16 of which was that you could walk into a casino
17 with hundreds of thousands of dollars, play
18 notionally and then walk out with a casino
19 cheque.

20 We subsequently hired Ernst & Young to audit
21 every single cheque for a three-year period, and
22 that -- the result of that audit, as I think the
23 Commissioner has already heard was that never
24 happened. And so it was important for us to
25 continue to provide our minister with the facts

1 of the matters, point out inaccuracies in the
2 media reports, and our hope was that this would
3 not only inform him and give him more confidence
4 in BCLC's AML practice, but also perhaps give
5 him the -- maybe the chance to defend BCLC in
6 the public domain.

7 Q And in addition to that, did you take the
8 opportunity to communicate with the minister
9 seeking support for BCLC in the public domain in
10 light of these inaccurate media reports?

11 A I did. You know, I think many of you saw the
12 impact that this whole episode has had on people
13 like Rob Kroeker, and it makes me very sad to
14 see that. But he wasn't the only one. There
15 was other people within our organization that
16 were affected greatly by an organization that
17 they take great pride in because of the work
18 they're doing on behalf of British Columbians
19 and on behalf of the many charities and health
20 care and education that we support. And to be
21 told and said in the media by our minister that
22 we were willfully blind or by having media report
23 about how our hard-working women and our
24 organization were looking the other way because
25 of some revenue reason is simply wrong. And as

1 the leader of that organization, I've never been
2 more frustrated in my life not to be able to
3 stand up and defend them publicly. And that is
4 something that I'll always carry with me and I
5 have to live with.

6 Q And in this time frame of the negative media
7 reports, the fall of 2017, as we've heard and
8 you'll recall the minister appointed Dr. German
9 to undertake a review of the allegations of
10 money laundering in Lower Mainland casinos. Do
11 you recall that?

12 A Yes.

13 Q And that resulted in Dr. German's report, "Dirty
14 Money," dated March 31st, 2018?

15 A Yes.

16 Q And one of the assertions in Dr. German's
17 report, it's under a title "Nobody Said No,"
18 what was an issued response to the assertion
19 that nobody at BCLC said no to these alleged
20 dirty money transactions?

21 A That was also wrong and inaccurate. And in the
22 response that our chair, Bud Smith, wrote to the
23 minister regarding that, in the appendix he
24 listed the hundreds of people who were actually
25 barred from play because of concerns about their

1 source of funds and/or source of wealth. And so
2 there was direct evidence that BCLC did say no.
3 And I can say I personally also said no. I
4 recall I received a phone call in September of
5 2015 from the CEO of Great Canadian, Rod Baker,
6 and he was very upset that our investigators
7 were interviewing his VIP players and
8 potentially scaring them off. And to Mr. Baker
9 I said no, we're not going to stop that. I
10 couldn't tell him why they were doing it because
11 there was an ongoing police investigation, but I
12 said they were doing it because of their
13 anti-money laundering responsibilities. And I
14 followed up with an email to him. And I believe
15 that was the last time I ever had conversations
16 with Mr. Baker.

17 Q Just to be clear, you referred to the chair's
18 letter to the minister respecting the German
19 report, the response and BCLC to the German
20 report and that's exhibit 130 and 131 to your
21 affidavit that's already before the commission.

22 A Maybe I can look at them. 131?

23 Q 130 and 131.

24 A Yes, that is the -- that is the letter with
25 appendices to Mr. Eby.

1 Q And exhibit 131 are the appendices to the
2 letter?

3 A They are.

4 Q And included within those appendices as you've
5 indicated were information including lists of
6 banned players?

7 A Yes. We of course redacted their identities,
8 but it was meant to show the volume of cash
9 condition players, and you can see that it was
10 in the hundreds. In fact -- I'm sure we could
11 find the number, but it was in the hundreds.

12 Q So from your perspective did that letter serve
13 to refute the assertion of the allegation that
14 nobody at BCLC said no?

15 A It absolutely refuted that, and it didn't just
16 start recently. It went back years when we
17 started banning players as far as back as I
18 recall 2011, 2012.

19 MR. McFEE: Those are my questions. Thank you.

20 THE COMMISSIONER: Thank you, Mr. McFee. Anything
21 arising from that, Mr. DelBigio?

22 MS. PETER: Mr. DelBigio has left.

23 THE COMMISSIONER: Thank you. All right.

24 Mr. Butcher.

25 MR. BUTCHER: No, thank you.

1 THE COMMISSIONER: Ms. Tweedie.

2 MS. TWEEDIE: No, thank you.

3 THE COMMISSIONER: Ms. Mainville.

4 MS. MAINVILLE: No, thank you.

5 THE COMMISSIONER: Mr. Gruber.

6 MR. GRUBER: Nothing arising.

7 THE COMMISSIONER: Mr. Skwarok.

8 MR. SKWAROK: No, sir, thank you.

9 THE COMMISSIONER: Mr. Stephens.

10 MR. STEPHENS: Nothing arising, Mr. Commissioner.

11 THE COMMISSIONER: Ms. French.

12 MS. FRENCH: Yes, Mr. Commissioner, I do have a
13 couple of questions.

14 THE COMMISSIONER: Thank you.

15 **EXAMINATION BY MS. FRENCH:**

16 Q Mr. Lightbody, you'll recall that counsel for
17 the BC Civil Liberties Association, Ms. Tweedie,
18 she asked you about BCLC funding for JIGIT, and
19 she asked if you wanted to direct the
20 initiatives to direct the work that JIGIT would
21 be undertaking because BCLC was providing
22 funding. Do you recall a question to that
23 effect?

24 A Yes. But I would never want BCLC to direct the
25 work. To be clear.

1 Q So yes, just to be clear, you did not mean that
2 BCLC wanted to direct what investigations
3 specifically JIGIT would undertake?

4 A Absolutely not, no. We just wanted to make sure
5 it was in and around gaming that they were
6 interested in.

7 Q So you wanted to ensure that the money would
8 remain with JIGIT, but it was up to JIGIT to
9 decide what investigations they would undertake?

10 A Absolutely. It is not our role, never has been,
11 to tell the RCMP what to do.

12 Q And just for the sake of clarity, Mr. Lightbody,
13 I appreciate this, you did not seek nor did you
14 interfere with any police independence, did you?

15 A Never.

16 Q And to your knowledge no one at BCLC interfered
17 with or sought to interfere with police
18 independence; correct?

19 A They never would.

20 Q Thank you. In addition, counsel for BCCLA also
21 asked you questions about whether you feel JIGIT
22 has made an impact on money laundering in
23 casinos and you said something to the effect, I
24 believe, that you had not seen any of the
25 reports on that. Do you recall that question?

1 A Yes.

2 Q Would you agree that you are not personally
3 aware of the impact that JIGIT has had on money
4 laundering in the province of BC?

5 A I would agree with that. Because they're
6 [indiscernible].

7 Q And I -- sorry. Could you repeat that. I cut
8 you off.

9 A There would be many things that I would not be
10 made aware of that the RCMP is doing, so I trust
11 that there are things that they're doing that
12 I'm not aware of.

13 Q And have you seen the November 2020 independent
14 consultants' report on JIGIT? It was prepared by
15 Catherine Tait and Doug LePard?

16 A No. I've been on medical leave, so I did not
17 see that.

18 Q Okay, thank you. So this was an evaluation that
19 came out in November 2020 about the impact JIGIT
20 has had on money laundering in BC and you're not
21 aware of that report at this time?

22 A No, sorry, I'm not.

23 MS. FRENCH: That's all right. Thank you,
24 Mr. Lightbody, those are my questions.

25 THE COMMISSIONER: Thank you, Ms. French.

1 Ms. Chewka on behalf of the province.

2 MS. CHEWKA: Nothing arising, Mr. Commissioner, thank
3 you.

4 THE COMMISSIONER: Thank you. Mr. McGowan.

5 MR. MCGOWAN: No, thank you, Mr. Commissioner.

6 THE COMMISSIONER: All right. Thank you. Thank you,
7 Mr. Lightbody. I'm very appreciative of the
8 time you've taken and the experience and
9 insights you provided us with respect to the
10 operations of BCLC over the last few decades,
11 and I'm particularly grateful to the fact that
12 you've done that while facing some medical
13 challenges and I can now excuse you subject to
14 possible recall for some further examination,
15 but you're certainly excused for the time being.
16 Thank you.

17 THE WITNESS: Thank you, Mr. Commissioner.

18 **(WITNESS EXCUSED)**

19 THE COMMISSIONER: All right. I think now we need to
20 stand down briefly, Mr. McGowan.

21 MR. MCGOWAN: Yes, the next witness,
22 Mr. Commissioner, just to sort of lay out the
23 lineup will be Terry Towns. We intend to start
24 with him today, but we will not conclude with
25 him today. He will go over to Monday. So we

1 plan to start and spend perhaps an hour or so
2 with my examination at least commencing with
3 Mr. Towns. We then have Mr. Sweeney, who
4 commission counsel doesn't have very many
5 questions for. He's prepared an affidavit, but
6 there are a couple of participants who have some
7 brief allotments to examine him and we're going
8 to try and see if we can get him done today so
9 we can resume with Mr. Towns on Monday.

10 THE COMMISSIONER: All right. Thank you. We'll
11 stand down for five minutes.

12 THE REGISTRAR: The hearing is stood down for five
13 minutes until 12:46 p.m.

14 **(PROCEEDINGS ADJOURNED AT 12:41 P.M.)**

15 **(PROCEEDINGS RECONVENED AT 12:45 P.M.)**

16 THE REGISTRAR: Thank you for waiting. The hearing
17 is resumed. Mr. Commissioner.

18 THE COMMISSIONER: Yes, thank you, Madam Registrar.
19 Yes, Mr. McGowan.

20 MR. MCGOWAN: Thanks, Mr. Commissioner. Mr. Towns is
21 the next witness. I see him on the screen. I
22 see Mr. Klein, his counsel, is also on the Zoom.

23 **TERRY TOWNS, a witness**
24 **called for the**
25 **commission, affirmed.**

1 THE REGISTRAR: Please state your full name and spell
2 your first name and last name for the record.

3 THE WITNESS: Terry Vincent Towns, T-e-r-r-y. Last
4 name is T-o-w-n-s.

5 THE REGISTRAR: Thank you.

6 THE COMMISSIONER: Yes, Mr. McGowan.

7 MR. MCGOWAN: Thank you.

8 **EXAMINATION BY MR. MCGOWAN:**

9 Q Mr. Towns, can you hear me okay?

10 A Yes, I can.

11 Q If that changes at any point, please let us
12 know.

13 Sir, you were employed by the British
14 Columbia Lottery Corporation from 2002 till
15 2012?

16 A I was actually employed for the lottery
17 corporation starting in 2000.

18 Q 2000, okay. From up until 2012 you were the
19 director of security; is that correct?

20 A Yes. The last four years I was VIP -- or Vice
21 President of Security and Compliance.

22 Q Okay. And you held that role until your
23 retirement from the corporation in approximately
24 2012?

25 A That's right.

1 Q And prior to joining BCLC you had a 29-year
2 career with the RCMP?

3 A That's correct.

4 Q 26 of those years the majority of your time with
5 the RCMP spent dedicated to investigating
6 organized crime and drug offences in British
7 Columbia and Alberta?

8 A That's correct.

9 Q And I understand from your affidavit that you
10 spent some time with the Greater Vancouver drug
11 section and in that role you were involved in a
12 number of investigations that were large, often
13 international in scope and were conducted in
14 conjunction with IPOC. Is that correct?

15 A Yes. In Vancouver the IPOC unit would embed
16 IPOC officers into the Greater Vancouver drug
17 section major cases, so that IPOC expertise was
18 available on those investigations on an ongoing
19 basis.

20 Q Did you find it of assistance to have IPOC
21 investigators joining up with your team to
22 further those investigations?

23 A Absolutely.

24 Q Okay. When you were conducting these large
25 investigations in connection with IPOC, did you

1 have a federal prosecutor assigned to
2 [indiscernible] investigation?

3 A There were federal prosecutors embedded in the
4 IPOC unit and they provided advice to various
5 investigations. Not necessarily specific to
6 that investigation.

7 Q Okay. And did they provide advice to
8 investigations that you were involved in?

9 A That our teams were involved in, yes.

10 Q And did you find it to be a benefit to have a
11 federal prosecutor embedded in the unit or
12 assigned to the investigations?

13 A Yes.

14 Q Why is that?

15 A It was easy to contact them. It was easy to get
16 advice on an easy basis to -- they could support
17 documents, search warrants, all those kinds of
18 things.

19 Q In your role as Vice President, who did you
20 report to?

21 A Initially it was through Vice President Penrose
22 and with an indirect line to the CEO, and then
23 when I was promoted to Vice President, it was to
24 the CEO.

25 Q And who was that?

1 A That at that time was Mike Graydon.

2 Q Okay. You've identified in your affidavit
3 during your early years with the corporation a
4 vision that BCLC had to upgrade its facilities
5 and modernize gaming in the province?

6 A M'mm-hmm.

7 Q What period of time are you talking about when
8 you talk about this vision?

9 A I would say very shortly after BCLC took over
10 the responsibility for casinos, the vision was
11 to -- at that time the casinos were in very
12 small facilities. They were in bottoms of
13 hotels. There were limited hours, limited
14 tables, limited slot machines. I think the idea
15 was to provide more amenities for the public,
16 including, you know, entertainment, restaurants,
17 theatres, those kinds of things.

18 Q Was this vision motivated by a desire to
19 increase revenue for the province?

20 A Yes, I believe that's true.

21 Q With a move towards the expansion and
22 modernization of casino gaming in British
23 Columbia, did the corporation turn its mind to
24 whether it could responsibly undertake this
25 expansion and modernization without revisiting

1 the question of whether British Columbia casinos
2 would be entirely cash based?

3 A No. I think the government had mandated cash
4 based at that time, and that did not change till
5 sometime quite a few years later.

6 Q Did the lottery corporation turn its mind to
7 money laundering risks that may accompany such
8 an expansion in the context of a cash-based
9 regime?

10 A Yes. We had -- actually I had a former staff
11 sergeant from the IPOC unit on our team, and he
12 was implementing or developing policies early on
13 around money laundering.

14 Q Okay. And who was that individual?

15 A It was Mr. Gord Board, who is now deceased.

16 THE COMMISSIONER: I'm sorry, what was his last name?

17 THE WITNESS: His name is Board, B-o-a-r-d.

18 THE COMMISSIONER: Thank you.

19 MR. MCGOWAN:

20 Q You speak in your affidavit, sir, about FINTRAC
21 reporting and I gather FINTRAC reporting is
22 something that came into being around the
23 early -- your early time with the British
24 Columbia Lottery Corporation. Is that --

25 A Yeah, initially when I started BCLC was not

1 responsible for casinos. That took place maybe
2 a year or two after. And at that time the
3 FINTRAC reporting also took place.

4 Q Okay. And we've heard some evidence of the
5 lottery corporation's reporting, and during your
6 time was there regular reporting to FINTRAC of
7 large cash transactions and suspicious cash
8 transactions by the investigators that reported
9 to you?

10 A Yes. That was mandated by FINTRAC, and in
11 specified time frames.

12 Q Up until the time you departed the corporation
13 in 2012 were you ever made aware of an
14 investigation that was commenced as a result of
15 any report made by the British Columbia Lottery
16 Corporation to FINTRAC?

17 A No, I was not.

18 Q Did you [indiscernible] as a police officer with
19 FINTRAC and FINTRAC disclosures?

20 A Yes, I did.

21 Q What was your assessment of the value of those
22 disclosures as a police officer conducting
23 large-scale drug investigations?

24 A Well, in the 90s we would get information from
25 FINTRAC, usually from -- in regards to banking

1 issue, and most of the time the information was
2 quite dated, several months after the
3 transaction had taken place, and from a police
4 standpoint, dated information is of very
5 diminished value in terms of, you know,
6 obtaining search warrants or using that
7 information in an ongoing basis.

8 Q Okay. And did you carry with you concerns about
9 the timeliness of these disclosures when you
10 joined the British Columbia Lottery Corporation?

11 A Yes. We implemented reporting to the police,
12 Suspicious Transaction Reports very soon after
13 we took over those responsibilities because I
14 wanted the police to have that information in a
15 more timely way.

16 Q And so those reports were -- you directed they
17 go directly from your investigators to law
18 enforcement?

19 A They went from -- we also reported to FINTRAC
20 and to GPEB, so the police of jurisdiction and
21 IPOC, so all four of those entities were
22 receiving those Suspicious Transaction Reports.

23 Q And when did they start receiving Suspicious
24 Transaction Reports directly from your office?

25 A I'm going to say it was in 2004, in that

1 neighbourhood. I don't recall specifically.

2 Q Fair enough. And did that practice continue
3 until you departed in 2012?

4 A Yes, it did.

5 Q And just to be clear, when you were the Vice
6 President, did the investigations division of
7 the British Columbia Lottery Corporation report
8 directly to you and through you up to the CEO?

9 A Well, they reported actually to a director that
10 was between me and the investigators.

11 Q Okay. But they were under your jurisdiction?

12 A Yes, they were.

13 Q I gather from your affidavit that at least --
14 well, throughout your time with the British
15 Columbia Lottery Corporation you spent a fair
16 amount of time dealing with what you refer to as
17 cash facilitators?

18 A Yes. That was a term that -- we initially had
19 used the term "loan sharks," and that was a term
20 that the service provider staff understood, our
21 staff understood, so a lot of the correspondence
22 was addressed under either cash facilitator or
23 loan sharking, which wasn't a real definition, I
24 guess, of a loan shark because of the lack of a
25 criminal interest rate, but it was useful in

1 terms of -- also in reporting to GPEB they had
2 it as one of the reporting offences, loan
3 sharking.

4 Q Was the concern about cash facilitators and loan
5 sharks that the funds they were providing might
6 be proceeds of crime?

7 A There was that possibility.

8 Q Were there other concerns that drove the lottery
9 corporation to want to get rid of them?

10 A When I first started in the casinos, the
11 investigators were observing loan sharking
12 activities fairly overtly on the gaming floors
13 and were fairly aggressive in banning loan
14 sharking and took a pretty aggressive approach
15 to that, although -- actually, all the way
16 through. So they were banned from the casino
17 properties, and as a result of that I think over
18 the years it became less obvious, I guess, on
19 the gaming floor.

20 Q Okay. I gather from your affidavit that this
21 aggressive barring had some success in
22 eliminating the prevalence at least or reducing
23 the prevalence of loan sharking on the casino
24 floor or on the casino property. Was that your
25 observation?

1 A That's a fair comment.

2 Q Okay. And was it a concern to the lottery
3 corporation if funds were being lent to patrons
4 off the casino property?

5 A Yes. But there wasn't -- you know, BCLC had no
6 basis to do anything about that in terms of --
7 other than observation, if it was on the casino
8 parking lot, those kinds of things.

9 Q Right. So in your time at least, did the
10 lottery corporation's efforts to address cash
11 facilitators or loan sharks really stop at the
12 property line?

13 A I'm not sure of your question, sir. Did they
14 stop there?

15 Q Yeah. Were they focused on an address to
16 transactions taking place on the casino
17 property?

18 A Yes.

19 Q Okay. You observe in your affidavit that until
20 2009 gaming in the province was exclusively a
21 cash-based business?

22 A That's correct.

23 Q Even after 2009 up until your departure, was it
24 the case that despite the introduction of some
25 cash alternatives, practically the industry

1 remained not exclusively but largely cash based?

2 A It was largely cash based, but with the
3 introduction of player gaming fund accounts, we
4 had hoped to move players, especially large
5 high-volume players, to those accounts.

6 Q Thank you. I wonder if we might bring up
7 paragraph 59 of Mr. Towns's affidavit, please.

8 I just want to ask you about a sentence in
9 your paragraph, and it's under "reporting
10 suspicious and large cash transactions." And,
11 Mr. Commissioner, perhaps I'll -- well, let me
12 ask you this first, sir: in conjunction with
13 your counsel, you have prepared an affidavit
14 setting out some of your experiences and
15 observations during your number of years with
16 the British Columbia Lottery Corporation?

17 A Yes.

18 Q And you provided that to the commission for
19 introduction into evidence today?

20 A Yes.

21 MR. MCGOWAN: Mr. Commissioner, if this might be the
22 next exhibit, please.

23 THE COMMISSIONER: Very well.

24 THE REGISTRAR: Exhibit 517, Mr. Commissioner.

25 THE COMMISSIONER: Thank you.

1 **EXHIBIT 517: Affidavit of Terry Towns made on**
2 **January 22, 2021**

3 MR. MCGOWAN: Thank you.

4 Q We're at paragraph 59 of 517, sir, and I'm just
5 going to read the second sentence of that
6 paragraph to you:

7 "Although I viewed the volume of cash as
8 suspicious, in my view to determine
9 whether the cash used for gaming was
10 proceeds of crime required a criminal
11 investigation, which BCLC had no authority
12 to conduct as it had no police authority."

13 A Yes.

14 Q For what purpose did the lottery corporation
15 need to come to a conclusion about whether the
16 large amounts of cash that were being used to
17 buy in at British Columbia casinos was proceeds
18 of crime?

19 A For what reason did they come to that
20 conclusion?

21 Q Why did you need to determine the source of
22 those funds, or why were you interested in
23 determining the source of those funds?

24 A I think that's the point there that BCLC had no
25 ability to determine the source of the funds.

1 Q Well, did you feel that in order to take action
2 the lottery corporation had to determine the
3 source to the criminal standard?

4 A Well, I don't know if it's a criminal standard,
5 but there was also balance of probabilities, and
6 I -- that could have been used.

7 Q Okay. Well, some types of investigations are
8 reserved for law enforcement. Was the lottery
9 corporation not able to look at information it
10 did have access to and make a determination
11 about the likely source of the cash?

12 A No.

13 Q Okay. We've heard evidence of perhaps not an
14 infrequent scenario where a high end patron
15 would be gaming late into the evening and would
16 exhaust their initial buy-in and would take a
17 break and return outside of banking hours with
18 large buy-ins sometimes in the hundreds of
19 thousands of dollars in \$20 bills wrapped in
20 elastic bands carried in the likes of cardboard
21 boxes or grocery store bags. In a scenario like
22 that did you view that there were sufficient
23 clues for BCLC to draw any conclusion about the
24 likely source of the funds?

25 A They were suspicious and we reported it as such,

1 both to the regulator and police and GPEB.

2 Q Did you in your role as VP view that those
3 suspicions were a sufficient basis to take
4 action to direct the service provider to not
5 accept those funds?

6 A No.

7 Q Could you at the time in a scenario like the one
8 I described conceive of any legitimate source
9 for those funds being delivered late into the
10 evening presented as I've described?

11 A I mean, there are -- they're certainly, you
12 know, cash intensive businesses, all kinds of
13 them from underground banking, underground
14 economy, renovation businesses, adult
15 entertainment, jewelry. There's all kinds of
16 cash sensitive, intensive businesses.

17 Q Did you believe those were likely sources of
18 hundreds of thousands of dollars in 20s being
19 delivered to patrons on casino property or near
20 casino property in the middle of the night?

21 A I didn't make any judgment on that.

22 Q Just didn't turn your mind to it?

23 A We had no basis to think that it was proceeds of
24 crime. The players were not in my mind
25 criminals. They were gambling that money and

1 are losing it, and if they weren't losing, they
2 weren't given any cheques. They were given back
3 cash. Unless there was a win on that initial
4 buy-in, and then the cheque would be for that
5 amount only.

6 Q Right. One of the things that I've seen in some
7 documents and I see in your affidavit is -- and
8 I'm just reading from paragraph 85. If we could
9 bring that up, please, Madam Registrar.

10 This is referring to a specific patron, but
11 I'll just perhaps ask you if it sort of was your
12 general position at the time:

13 "My perception of this patron was that he
14 was not laundering money in BC casinos
15 because he lost almost all of the cash
16 that he brought in."

17 And did you at the time you held the position of
18 Vice President hold the view that if a patron
19 who was gambling with cash lost the money or put
20 the money at risk at least there was not a money
21 laundering concern?

22 A Well, there's proceeds of crime and there's
23 money laundering, so the fact this gentleman
24 that had lost a substantial amount over a time
25 and had been given a win cheque for 270,000 and

1 returned the next day and cashed the cheque in
2 led me to belief that he was not a money
3 launderer.

4 Q Okay. Did that mean that -- did you view that
5 as sort of the end of the issue in terms of
6 money laundering at the time?

7 A No.

8 Q Okay. What further considerations did you give
9 to scenarios like that when assessing whether
10 there was a money laundering risk?

11 A It was based on all kinds of issues, whether --
12 you know, frequency of it, the person's
13 occupation had bearing it on. There were a
14 number of -- you know, going to multiple
15 facilities, were they obtaining cheques at an
16 abnormal rate. There were a number of different
17 aspects to it.

18 Q Okay. You speak of the lottery corporation in
19 your affidavit as having an obligation to report
20 what it observed?

21 A Yes.

22 Q And did you view that as your investigators'
23 primary function to observe and report?

24 A Yes.

25 Q Did you believe that's where their obligations

1 ended?

2 A No.

3 Q In terms of -- okay. What further obligations
4 did they have in terms of combatting proceeds
5 entering casino facilities aside from observing
6 and reporting?

7 A Well, they were involved in training of casino
8 employees. They were involved in both classroom
9 in terms of the senior people in the casino, I'm
10 talking about cash cage people and surveillance
11 people, et cetera, that were dealing firsthand
12 with players, and they were involved in
13 gathering those documents, forwarding them to
14 FINTRAC and the police of jurisdiction. We also
15 set up meetings so that the police of
16 jurisdiction, for example, Richmond, they met
17 regularly with the police on people that were
18 subject to Suspicious Transaction Reports and
19 provided them that information. Even though
20 they had already received the information, they
21 were meeting on a regular basis to go over or
22 see if the police required further information
23 or had some detail that they were missing that
24 we could have provided.

25 Q Did you believe the lottery corporation had a

1 role to play in preventing suspicious cash from
2 entering the casino in the first instance?

3 A Yes.

4 Q Okay. In your time are you aware of any
5 instance when one of your investigators
6 intervened to prevent suspicious cash from
7 entering a casino?

8 A Yes. There were a couple of occasions that I
9 recall. One I believe the cash had blood on it.
10 Another one that I recall the cash had been
11 burnt or looked like it had been in a fire.
12 There was another one, I believe, where there
13 was white powder found on the money. So those
14 funds were held and the police were called.

15 Q Okay. So the police were called in instances
16 where what appeared to be drugs or blood were
17 visible on the cash. Are you aware of any
18 circumstance where the context of the funds
19 being presented, perhaps late at night in an
20 unusual receptacle packaged in a way that's
21 inconsistent with the bank predominantly in \$20
22 bills obtained outside of banking hours, led
23 your investigators to intervene and prevent the
24 cash from being accepted at first instance?

25 A No, I'm not aware of that.

1 Q Would that have been consistent with the
2 direction you gave your investigators to
3 intervene in a scenario like that?

4 A It would have been suspicious. They were to
5 report it, and they had to be careful that when
6 they were reporting that that the person that
7 they were reporting of was not in some way
8 alerted to a Suspicious Transaction Report being
9 filed on that person.

10 Q Leaving aside the issue of reporting -- and
11 we've heard a lot about your investigators's
12 reporting -- did you feel they had any
13 obligation to prevent cash which they suspected
14 might be proceeds of crime from being accepted
15 into British Columbia casinos?

16 A That was not their role at that time. Their
17 role was to observe it, report it and complete
18 the transaction with FINTRAC and the police.

19 Q Thank you. We've heard some evidence of the
20 quantity and the frequency and amounts of cash
21 buy-ins sort of increasing year by year, say,
22 from 2009 till 2012. Does that accord with your
23 recollection of what was happening in at least
24 Lower Mainland casinos?

25 A Yeah. And in particular in the Lower Mainland.

1 I think the amounts of cash increased more
2 around the time of the Olympics and then into
3 2011.

4 Q Okay. And starting in 2009 the lottery
5 corporation we've heard was introducing some
6 cash alternative programs, notably the patron
7 gaming fund?

8 A That's correct.

9 Q And this was one of the strategies they were
10 pursuing to reduce the amount of cash coming
11 in [indiscernible] --

12 A Yeah.

13 Q -- casinos?

14 A Yes, it was initially in meetings with service
15 provider companies that had experience in other
16 jurisdictions where these accounts were in vogue
17 and so we proposed that to GPEB as a way to
18 reduce cash -- the reliance on cash in the
19 casinos.

20 Q Was the idea that it would be both safer and
21 more convenient for the patron and for the
22 casino?

23 A Yeah. I mean, we could reduce the opportunity
24 for loan sharking and cash facilitators. We
25 were providing a cash alternative that would

1 reduce the reporting, it would reduce -- or
2 increase player safety, absolutely.

3 Q And at least initially how were these patron
4 gaming fund accounts received by your higher-end
5 players?

6 A Unfortunately in the initial pilot project that
7 was initiated, a six -- I believe it was a
8 six-month project to start with. We had it in
9 three -- I think three facilities initially, one
10 from kind of each gaming company, and the
11 opening of the accounts was quite restrictive.
12 It required a 10K -- \$10,000 amount to open the
13 account. They could only open -- fund the
14 accounts with wire transfers, certified cheques
15 or -- I guess that was it, really. And then the
16 players were giving the service provider
17 companies feedback that these types of accounts
18 with the difficulties in opening accounts and
19 the restrictions on them were too restrictive.

20 Q Maybe I'm missing something. Did you assess
21 that it was a challenge for players that were
22 buying in for hundreds of thousands of dollars
23 to contribute \$10,000 to a patron gaming fund
24 account to get it opened?

25 A Well, it was a voluntary program, and the fact

1 was that yeah, we didn't allow cash to be put
2 into the accounts.

3 Q Yes.

4 A To the gaming account. And so we started
5 working with GPEB in I think 2010, 2011, to
6 enhance or modify the accounts and make them
7 easier for players to use.

8 Q How did you make them easier to use?

9 A Well, after the -- in 2011 I guess the Kroeker
10 Report was released, and it had recommended that
11 EFTs be utilized, and so we tried to implement a
12 number of changes to the account using the
13 example high-limit debit cards. We had a
14 cheque-hold program. EFT funding was part of
15 that program. Bank drafts from Canadian banks
16 were accepted. The top 50 USA banks we were
17 able to get that approved.

18 Q Sorry, go ahead. I didn't mean to cut you off.

19 A Sorry. Casino convenience cheques were issued.
20 I think initially in the amount of -- as I
21 recall \$5,000 and then later, I believe, in --
22 up to the amount of 8,000, so these cheques were
23 primarily to help ease the -- or make safer the
24 players in the casino so they didn't have to
25 leave with cash or as much cash.

1 Q For 2009 and 2010, maybe into 2011, when you had
2 presented an alternative to your patrons to buy
3 in with, what on the face might seem like
4 something much easier, a bank draft, and they
5 continued to show up with suitcases and sacks
6 full of 20s, did that cause you concern?

7 A Well, we were hoping that -- and I think we did
8 see a significant uptick in the use of the
9 accounts up into when I departed BCLC. As I
10 said it was a voluntary program at that time,
11 and the marketing of the accounts was left to
12 the service providers, but as I said, I think we
13 did see significant use of the accounts, more
14 accounts being opened and more money being
15 deposited into the accounts up until the time I
16 left.

17 Q And did you also see a significant number of
18 high-limit players continuing to buy in with
19 cash, predominantly \$20 bills?

20 A There were still high-limit players playing with
21 cash.

22 Q Did that concern you when they had available to
23 them the ability to buy in with a bank draft
24 instead of walking across town with sacks full
25 of 20s?

1 A Well, you know, it would have been nice to have
2 no cash at all. I mean, those improvements I
3 talked about weren't in place till about April
4 of 2012, and so that -- when I left in December
5 of 2012, in that nine-month period, as a
6 brand-new program, really, it had shown
7 significant uptick.

8 Q Did the fact that there was an alternative
9 available and a number of high-end players were
10 still buying in with \$20 bills -- in your mind
11 did that lend you any insight into the possible
12 source of the funds they were buying in with?

13 A No.

14 Q You've told the Commissioner it was not for BCLC
15 to investigate or come to conclusions about the
16 source of the funds, that was a matter for -- I
17 gather was it your view the Gaming Policy
18 Enforcement Branch and law enforcement?

19 A Or a combination of the two.

20 Q Okay. And were you in your mind as Vice
21 President prepared to be -- accept their
22 conclusions as to the source of the cash?

23 A We would have and did help the police on any
24 number of instances. We would have been happy
25 to assist the police on any investigation.

1 Q Okay. I'd like to turn -- you had a manager
2 under you named Mr. Friesen?

3 A Yes.

4 Q And an investigator and perhaps an Assistant
5 Manager I believe he was, a Mr. Karlovcec?

6 A Yes.

7 Q And they reported to you?

8 A They reported through the director of
9 compliance.

10 Q And who was the director of compliance?

11 A Bryon Hodgkins.

12 Q There was in 2010 and 2011 a series of
13 correspondence between Mr. Friesen and
14 Mr. Karlovcec and their counterparts at the
15 Gaming Policy Enforcement Branch, Mr. Schalk and
16 Mr. Dickson and you've appended some of that to
17 your affidavit, sir; is that right?

18 A Yes.

19 Q I'm going to take you to a couple of pieces of
20 that correspondence and ask you a few questions
21 about it. I'll just -- tab 17. When I say tab,
22 sorry, I'm referring to exhibit numbers in these
23 exhibits appended to Mr. Towns' affidavit. It's
24 PDF. -- yes, PDF page 253, if that assists.
25 I'm looking at the page numbers in the top right

1 corner of the pages.

2 A The memo dated April 14th, 2010. Yes, I have
3 it.

4 Q Yes, so April 14th, 2010. This is a letter to
5 Mr. Morrison, and remind the Commissioner who
6 Mr. Morrison was.

7 A Mr. Morrison was the manager of casino security
8 prior to Mr. Friesen.

9 Q Okay. With the British Columbia Lottery
10 Corporation?

11 A That's correct.

12 Q And he is receiving this letter from Mr. Dickson
13 who has given some evidence, and he was the
14 Director of Casino Investigations for GPEB;
15 correct?

16 A That's right.

17 Q And this correspondence is raising concern about
18 suspicious currency and loan sharking at British
19 Columbia casinos?

20 A Yes.

21 Q Okay. And if we could just flip over to the
22 next piece of correspondence, that's tab 18.
23 And this is a letter to Mr. Dickson from
24 Mr. Friesen, who is now the manager of BCLC
25 Corporate Security and Surveillance?

1 A Right.

2 Q And it doesn't -- you were copied I believe on
3 the last piece of correspondence. Yes, you
4 were. It doesn't indicate whether you were
5 copied on this one. Did you see this piece of
6 correspondence at the time?

7 A I can't say I did.

8 Q Is this something you would have approved?

9 A I don't see any approval note on here.

10 Q Okay. Would it have been the practice of
11 Mr. Friesen to run by letters like this
12 addressed to GPEB by you, or did he have sort of
13 autonomy to --

14 A No, he could have addressed the letter back to
15 Mr. Dickson.

16 Q He says in the second paragraph of the letter:

17 "To reiterate our conversation about this
18 ongoing program, particularly with respect
19 to chronic violators of loan sharking and
20 chip passing, we at BCLC share your
21 concern that this activity could be the
22 greatest single threat to the integrity of
23 gaming in the province."

24 Was that a view you shared at the time?

25 A It was definitely a threat.

1 Q For the integrity of gaming?

2 A Yeah, I guess that's the way to put it.

3 Q Okay. And how was it a threat to the integrity
4 of gaming?

5 A In terms of public confidence.

6 Q Was it just the unsavoury nature of having these
7 people who may or may not have been connected to
8 organized crime hanging around the casino, or
9 was it a concern that the British Columbia
10 gaming industry might be being funded by
11 proceeds of crime?

12 A I think it was your former answer. The
13 integrity of gaming was a thing that BCLC held,
14 you know, because of the public confidence in
15 the gaming system. And if the public didn't
16 have confidence that the games were fair and
17 lawful and that they could trust them, then the
18 gaming wouldn't be available.

19 Q Okay. I see. So in your mind at the time at
20 least, the integrity of gaming didn't relate to
21 the question of whether proceeds might be
22 entering the --

23 A Well, that was one aspect of it for sure. Yeah.

24 Q Okay. And could we turn to the next exhibit,
25 please, exhibit 19.

1 THE REGISTRAR: Mr. McGowan, do you mind telling me
2 what page number is that.

3 MR. MCGOWAN: Well, let me just check here. 261.

4 Q This is a letter to Mr. Friesen from
5 Mr. Dickson, again, copying you. So I gather
6 this is a letter you would have seen at the
7 time.

8 A Yes.

9 Q He's writing to you about a particular patron
10 and he says:

11 "Recently we have begun to see a dramatic
12 increase in the amounts of small
13 denomination Canadian currency used for
14 large buy-ins by LCT patrons within Lower
15 Mainland casinos. Although there have
16 been numerous similar suspicious
17 transactions, one particular LCT patron's
18 play over a four-week period at the
19 Starlight Casino illustrates the magnitude
20 of this situation. The division, the
21 branch and the RCMP are very concerned
22 about the potential money laundering by
23 patron in British Columbia casinos."

24 Did you take this letter as communicating to you
25 some view on the part of law enforcement or GPEB

1 as to what might be happening in the casinos you
2 were managing?

3 A GPEB definitely had a concern with this. I saw
4 that they had met with the RCMP about this
5 particular individual. It states later in the
6 memo.

7 Q Did you accept their conclusion that there was a
8 very real concern about potential money
9 laundering with this patron?

10 A This is the patron that we referred to earlier
11 that had brought in significant amounts of money
12 and proceeded to lose almost all of it. And he
13 is the same gentleman that was given a
14 \$270,000 cheque and brought it back into the
15 casino and spent that money and lost it as well.
16 So yes, we had concerns about the activity of
17 this individual. I had asked -- or at least
18 Mr. Friesen asked Mr. Karlovcec to conduct
19 further inquiries on this individual, and I
20 believe he did and responded to Mr. Dickson and
21 Mr. Schalk.

22 Q And the individual continued to play in British
23 Columbia casinos for quite some time after this?

24 A I don't have that knowledge, no.

25 Q Okay. You'll see that -- if we just even look

1 at the first four days' worth of entries, I
2 count up over a million dollars in cash buy-ins
3 over a span of four days, all but 6,000 of which
4 are in \$20 bills.

5 A Yeah.

6 Q What at the time did you make of that?

7 A Well, this guy -- this gentleman, as I continued
8 to learn, had access to obviously cash. He --
9 we didn't have the power to investigate him from
10 a criminal proceeds of crime aspect. He was, as
11 I understood, or had access to -- his
12 occupation, as I understood, was listed as a
13 coal mine owner and commercial real estate. He
14 was from, as I understood it, from China. And
15 he was in Vancouver for a period of -- I believe
16 for a period of time.

17 Q How does the fact he was a coal miner from China
18 explain a million dollars in Canadian \$20 bills?

19 A Well, he had enough wealth or whatever to gamble
20 at this level. That's what that explains.

21 Q Did the quantity of -- or the magnitude of his
22 wealth in your mind tell you anything about the
23 source of the \$20 bills he was buying in with?

24 A No, it didn't.

25 Q Okay. Was the approach BCLC took in the face of

1 this correspondence to continue to accept the
2 cash and report to FINTRAC?

3 A Every one of these transactions was reported to
4 FINTRAC and the police.

5 Q And every one of these transactions was accepted
6 by the service provider?

7 A Yes.

8 Q The bottom of page 2. Last paragraph:

9 "Senior Director Joe Schalk and the writer
10 met recently with the Officer in Charge,
11 RCMP Integrated Proceeds of Crime Unit
12 (IPOC), and they are well aware of this
13 issue and are seriously concerned that the
14 casinos are being used as a method to
15 launder large sums of money for organized
16 crime ..."

17 Now, you've told the Commissioner that the
18 British Columbia Lottery Corporation wasn't
19 placed to investigate or draw conclusions, and
20 that was a matter for law enforcement and the
21 Gaming Policy Enforcement Branch. Having
22 deferred the issue of whether there was
23 suspicious -- whether suspicious circumstances
24 rose to the level of concern about proceeds of
25 crime to law enforcement and the Gaming Policy

1 Enforcement Branch, did it not fall to your
2 organization to accept their advice when it was
3 given?

4 A We had -- didn't receive any advice. I mean,
5 they had concerns. Obviously GPEB had met with
6 them over this particular individual, and I
7 didn't interfere with that. I didn't know if
8 they were commencing a criminal investigation on
9 this individual or not.

10 Q Did you ask?

11 A I didn't ask. They wouldn't -- that wasn't -- I
12 had no police power. They wouldn't have advised
13 me of that in any event.

14 Q In the face of advice that the proceeds of crime
15 unit was seriously concern that casinos were
16 being used to launder large sums of money, did
17 you not view it as incumbent upon your
18 organization to take action to prevent those
19 funds from entering the gaming system in British
20 Columbia?

21 A In the case of this particular individual, as I
22 said, he'd lost all the money, so if he was
23 laundering money, he wasn't very good at it.

24 Q Well, had you not had put to you the possibility
25 that proceeds of crime were being loaned to

1 patrons to play with and those patrons were
2 paying back the loans in some other form,
3 perhaps in some other jurisdiction and through
4 that process casinos in British Columbia were
5 being used to facilitate the laundering of
6 illicit proceeds?

7 A I don't see how that's laundering. I don't get
8 your ...

9 Q You don't see how the scenario I just outlined
10 could be part of a money laundering scheme
11 involving British Columbia casinos?

12 A It may have been proceeds of crime, as I said.
13 We didn't know that. We had no knowledge of
14 that. No one told us that was the case.

15 Q You had been told -- sorry, go ahead, sir.

16 A The GPEB had expressed concerns over this. We
17 were concerned as well. We were happy to assist
18 the police in any investigation that they might
19 want to undertake. And we didn't have the power
20 at that time to change the rules on
21 transactions. That would have required a
22 government decision and GPEB in fact, if they
23 felt the rules needed to be changed could have
24 done that through their power as both for the
25 police power and/or regulatory power. They had

1 power over the service provider companies; they
2 had power over all the staff in terms of
3 registration. Terms of registration. And they
4 could have had -- in my mind they could have had
5 an administrative directive if they felt this was
6 the direction that they were wanting to go.

7 Q Okay. Did the lottery corporation have the
8 ability at that time to ban a patron?

9 A Yes.

10 Q Okay. And did they have the ability to direct a
11 service provider not to accept cash from a
12 patron?

13 A No.

14 Q Your view was that the British Columbia Lottery
15 Corporation couldn't direct a service provider
16 to decline a transaction from a patron?

17 A As I said, we did decline transactions, but mere
18 suspicion was not a basis to decline the
19 transaction.

20 Q If we could have the next exhibit, please, which
21 commences on page 265. This is a letter to
22 Mr. Dickson from Mr. Karlovcec, who discussed
23 copying you, so I gather this is correspondence
24 which came to your desk at the time. Do you
25 know if you approved it before it went?

1 A I doubt I would have done that.

2 Q Bottom of page 2 of the correspondence, please.

3 A Yes.

4 MR. MCGOWAN: Madam Registrar. Bottom of page 2,
5 please. Thank you.

6 Q And this is referring to something that you have
7 mentioned, which is the occupation.

8 "As you are well aware, gambling in
9 British Columbia gaming facilities is a
10 cash-based business. Our experience has
11 been that this is amplified even more when
12 it involves patrons of Asian ethnicity.
13 Our records reveal that [this patron] has
14 provided his occupation as "owner of coal
15 mine/commercial real estate."

16 And was it the case at the time that the lottery
17 corporation focused on source of wealth as a
18 course to the source of the actual funds that
19 were being used to buy in?

20 A Source of wealth was one of the determining
21 factors, yes.

22 Q The patron had stated his occupation to be. Did
23 you rely on stated occupations for assessing
24 wealth of patrons?

25 A Well, one of the things about occupations is

1 there's no document actually that a person
2 carries or produces that can verify an
3 occupation.

4 Q So you took their word for it?

5 A We more or less had to take their word for it.

6 Q Okay. You say -- bottom of page 3, please.

7 Mr. Karlovcec sets out:

8 "It is our opinion that based on [the
9 player's] history of play, his betting
10 strategy, the fact he has requested only
11 one verified cheque during the dates in
12 question, his win-loss ratio and the fact
13 his occupation states he owns a coal mine
14 and commercial real estate firm, he does
15 not meet the criteria that would indicate
16 he is actively laundering money in British
17 Columbia casinos."

18 So when you read this, did you see your
19 investigation management team -- did you see
20 your investigation management team essentially
21 rejecting the conclusion of IPOC unit and the
22 Gaming Policy Enforcement Branch that there were
23 serious concern about this patron using casinos
24 to launder money, and coming to a different
25 conclusion?

1 A No, I didn't. I think they -- inside the memo
2 it talks about BCLC intends to remain vigilant
3 and sensitive to money laundering, anti-money
4 laundering programs and paper risk management
5 protocols are continually reviewed and
6 refreshed, so no, I did not see that.

7 Q Okay. Well, Mr. Karlovcec states:

8 "He does not meet the criteria that would
9 indicate he is activity laundering money
10 in British Columbia casinos."

11 Mr. Dickson stated:

12 "Integrated proceeds of crime are well
13 aware of the issue and are seriously
14 concern that casinos are being used as a
15 method to launder large sums of money for
16 organized crime groups."

17 How do you reconcile those two conclusions?

18 A Well, if you looked at this document that
19 Mr. Karlovcec wrote, I think he did some due
20 diligence on this particular player, and his --
21 he did not meet the criteria in Mr. Karlovcec's
22 eyes that he was a money launderer.

23 Q At the time did you see Mr. Karlovcec's
24 conclusion as different than Mr. Dickson's
25 conclusion?

1 laundered. The end user, the patron, must
2 still pay back all of the moneys he/she
3 receives in order to facilitate his buy-in
4 with \$20 bills, and for the person on the
5 initial start of the facilitation process,
6 the money is being laundered for him or
7 her through the use of the gaming venue."

8 Was this method of laundering -- was this the
9 first time you learned of it in this
10 correspondence?

11 A The fact it was two or three people away from
12 the player?

13 Q Yes. And the fact that the laundering is
14 ultimately accomplished by the repayment of the
15 loan?

16 A I'm not sure that -- to me it's either money
17 laundering is converting dirty money into an
18 asset, and the casino they could not do that.
19 Now, whether it was proceeds of crime and it
20 happened somewhere along the chain, I have no
21 idea.

22 Q Did you view this correspondence as lending you
23 any insight into what might be happening in
24 British Columbia casinos in 2010 and '11?

25 A We had no specific knowledge of this. I mean,

1 it was a theory that Mr. Schalk held, and we
2 were alert to the flow of cash and concerned
3 over it, and we had a number of AML processes in
4 place to combat that.

5 Q Looking back now, do you think Mr. Schalk was
6 right?

7 A I don't know. I have no way of knowing.

8 Q With the benefit of hindsight now, do you
9 believe that British Columbia casinos were used
10 to facilitate the laundering of proceeds of
11 crime?

12 A No.

13 Q There was advice from the Gaming Policy
14 Enforcement Branch in the face of these large
15 cash buy-ins in \$20 bills suggesting that PGF
16 accounts be mandatory. You see it in this
17 correspondence. What was your response to that
18 proposal?

19 A Well, it was early in the day of the PGF
20 account. I think we set them up to see if they
21 had merit in removing cash, you know, the
22 reliance on cash. Mandatory account-based
23 gaming is probably -- is probably something that
24 should be explored even now, but at that time we
25 were in the infancy of that particular program.

1 It was voluntary, and service providers were
2 left to market it to players.

3 Q In some of this correspondence there's a
4 proposal that BCLC limit the number, the
5 quantity of cash that can be used to buy in with
6 or at least limit the quantity that can be used
7 in the \$20 denomination. In the face of the
8 concern that was being expressed in this
9 correspondence and in the face of the growing
10 use of magnitude of cash buy-ins did the British
11 Columbia Lottery Corporation consider imposing a
12 cap on cash?

13 A Not at that time, no. That would have been
14 something that -- like I said, if the regulator
15 had wanted that to be in place, that would have
16 had to be government approved.

17 Q Did you consider putting in place a requirement
18 that if somebody was going to buy in with cash,
19 they establish the source of it by way of, for
20 example, a bank withdrawal receipt from the same
21 day?

22 A No, that wasn't considered at that time.

23 Q Would that not have been an easy way to gain
24 insight into the source of cash that was being
25 used to buy into the casinos that your

1 organization managed?

2 A In hindsight it may have been.

3 Q Were you -- did you review a copy of the Kroeker
4 Report when it was released?

5 A Yes, I did.

6 Q Do you recall that Mr. Kroeker in his report
7 commented on the view held by BCLC that gaming
8 losses on the part of a patron provided evidence
9 the patron was not involved in laundering funds
10 and that that interpretation of money laundering
11 was not consistent with law enforcement and
12 Mr. Kroeker encouraged BCLC to better align its
13 thinking on that issue with that of law
14 enforcement? Do you recall that recommendation?

15 A Yes, I do. And I think we did change the
16 training to include a broader view on proceeds
17 of crime, encourage the casino service providers
18 to remain vigilant even if the player was a
19 known player to them. And the fact that the
20 person had lost money, it was considered
21 probably to be a less likely to be a money
22 launderer. It was one indicator amongst many
23 things.

24 Q Okay. We've heard some evidence from
25 Mr. Beeksma and Mr. Lee about a meeting they say

1 they had with you. Do you remember Mr. Beeksma
2 and Mr. Lee?

3 A I remember both of them, yes.

4 Q They've told the Commissioner that in or around
5 April of 2012 after a larger meeting you called
6 them into an office and admonished them for
7 speaking to gaming patrons and directed them not
8 to speak with casino patrons. Do you -- so I
9 wanted to give you a chance to address the
10 Commissioner on whether you recall such a
11 meeting taking place and whether you agree with
12 their characterization of what occurred?

13 A I don't recall that meeting specifically. But I
14 can say there was no prohibition from speaking
15 with players. Investigators spoke with players
16 frequently on all kinds of matters.

17 Q To your understanding -- it was your
18 understanding when you held your position as
19 Vice President that your investigators were
20 frequently speaking to casino patrons?

21 A They were speaking to casino patrons on a
22 regular basis, yes, on all kinds of matters in
23 the casino.

24 Q Were they permitted to speak to casino patrons
25 about the source of the cash they were buying in

1 with?

2 A No. That wasn't -- we didn't employ that method
3 at that time.

4 Q Sir, when you were with the British Columbia
5 Lottery Corporation was a portion of your
6 compensation tied to revenue?

7 A Yes.

8 Q Okay. And --

9 A Sorry, the bonus portion.

10 Q Right. And do you recall how it was tied to
11 revenue?

12 A It's my recollection that at that time the
13 revenue for the corporation was split on bonuses
14 50/50 and then personal goals as 50 percent.
15 And in my case, my recollection was the personal
16 goals were around reducing compliance issues or
17 deficiencies, audit deficiencies, those kinds of
18 things, and the corporate goal had a revenue
19 component.

20 Q Okay. And was the portion of your salary or the
21 bonus that was tied to revenue used by upper
22 management in the lottery corporation to put
23 pressure on you and other executives to maximize
24 revenue?

25 A No. I had no impact on revenue.

1 Q If we could call up, please, BCLC0013078 and
2 just while Madam Registrar is doing that, you
3 say you had no impact on revenue, but would
4 decisions that you made about imposing
5 conditions that would reduce cash coming into
6 casinos in your mind have a potential impact on
7 revenue?

8 A Well, at that time that wasn't considered, so
9 no.

10 Q Okay. Sir, this is an email to a number of
11 individuals, including yourself, from Michael
12 Graydon, and just remind the Commissioner who
13 Michael Graydon was.

14 A Michael Graydon was the CEO of BCLC at the time.

15 Q I'm just going to skip the first sentence and
16 read a couple of sentences:

17 "I want to stress to this group that it is
18 absolutely critical that we come in on
19 budget from a net income perspective this
20 year, and I expect every one of you to
21 make an all-out effort to achieve that.
22 If we do not, I also want to be very clear
23 that there will be no opportunity to pay
24 out incentives this year. The tone of
25 government is not good these days, and to

1 not achieve budget then pay out incentives
2 will not fly. So remember the
3 consequences you will unleash if you do
4 not participate with some energy through
5 this process."

6 Did you interpret this as really some pretty
7 stern advice that revenue had to be on the
8 uptick if anyone was going to get their bonus?

9 A Well, I think it was a message that he was
10 hoping that we could make budget. And whether
11 that included revenue or cutting expenses, I
12 think that's what the tone of that was.

13 MR. MCGOWAN: If that could be the next exhibit,
14 please, Mr. Commissioner.

15 THE COMMISSIONER: Yes, very well. 5 ...

16 THE REGISTRAR: 518. Thank you. 518.

17 THE COMMISSIONER: Thank you. 518.

18 **EXHIBIT 518: Email from Michael Graydon re**
19 **Current Year Forecast Budget - December 1, 2011**

20 MR. MCGOWAN: Thank you. If we could have
21 BCLC0013079.

22 Q Just, again, skip the first sentence and read a
23 portion. This is an email to you, sir, from
24 Mr. Graydon:

25 "I want to ensure everyone understands

1 that this is not a process of negotiation
2 but rather targets I have signed off on
3 with the full expectation of you hitting
4 these numbers. It is imperative that your
5 division comes up with these numbers or
6 better. As I have said before, Victoria
7 is not keen to pay incentives if budgets
8 are not met, and I do not want the company
9 to be put in that position, so let's
10 please work together to ensure success."

11 Was this an email from Mr. Graydon to your
12 group --

13 A No.

14 Q -- stressing the importance of --

15 A That was an email to all executives at BCLC.

16 Q To all executives at BCLC stressing the
17 importance of hitting targets and tying that to
18 bonuses?

19 A The security division was not a revenue
20 generator. It was a cost setter. And we would
21 have had no ability to increase revenue.

22 Q Well, did you view that actions -- compliance
23 actions you took which might restrict the manner
24 or type of buy-in might impact on revenue?

25 A No. This wasn't part of the consideration at

1 all.

2 MR. MCGOWAN: If that could be the next exhibit,
3 please, Mr. Commissioner.

4 THE COMMISSIONER: 519.

5 THE REGISTRAR: Exhibit 519.

6 **EXHIBIT 519: Email from Michael Graydon re**
7 **Year-End Forecast - December 13, 2011**

8 MR. MCGOWAN: Can we please have exhibit 511 on the
9 screen. If you could scroll down to --

10 Q This is at the top, sir. We see it's an email
11 from Bill McCrea to some other individuals
12 forwarding on something that I believe you had
13 sent as well. If we could just move down the
14 page. This is an email from you to Mr. Sturko
15 copying Mr. Graydon and Mr. McCrea, and it's
16 providing material for a 2:00 p.m. telephone
17 conference. Are you able to tell us what and
18 why you were -- what you were providing to
19 Mr. Sturko and why?

20 A I am not. I just received this document last
21 evening, so I have not seen this document for, I
22 guess, 12 years.

23 Q Okay. Well, I apologize for that. It's
24 something that we just found late. It was just
25 entered late, late in the process, and I did

1 want to give you an opportunity to look at it.
2 Maybe if we just flip to the next page you'll
3 see if this refreshes your memory. It's a money
4 laundering risk management. Did you at times
5 prepare, and perhaps under the direction of
6 Mr. Graydon, information for either Mr. Graydon
7 or others to use when briefing ministers or
8 deputy ministers?

9 A Yes. I think from time to time.

10 Q Okay. Does this look like some information that
11 you prepared for --

12 A I don't recognize this document, as I said. I
13 don't know who prepared it. I don't know.

14 Q Fair enough. Let me ask you just one question,
15 then. On the right-hand side of this document
16 on the second box, under the heading "BCLC"
17 you -- somebody says:

18 "The FINTRAC requirement is to report, not
19 refuse suspicious transactions. The only
20 transactions that are currently refused
21 are those where the information
22 requirements are not met (i.e. no ID is
23 provided)."

24 Is that an accurate statement of the state of
25 affairs from BCLC's perspective at the time of

1 this email which was 2009?

2 A Yes, I guess if the individual couldn't provide
3 identification. I'm just reading through here.

4 Q Certainly. Take your time, sir.

5 A Like I said, I don't know who prepared this
6 document.

7 Q Well, perhaps leave the document aside for a
8 second and let me ask you the question this way:
9 leaving aside circumstance -- were the only
10 circumstances in which a transaction, a buy-in
11 would be refused is when proper documentation
12 wasn't provided and in all other circumstances
13 the buy-in would be accepted and reported if
14 necessary?

15 A In terms of suspicious transactions or large
16 cash transactions? I guess there's a -- a
17 suspicious transaction --

18 Q If there's a distinction please let me know.

19 A Yeah, we would try to identify that person for
20 sure.

21 Q Okay. And in the case of either suspicious
22 transactions or large cash transactions the
23 transaction would be accepted and reported?

24 A Yes. Now, cash disbursements were a different
25 matter where if the person couldn't provide ID

1 on a cash disbursement the cash would not be
2 disbursed.

3 Q And was ID required for the acceptance of --

4 A Yes.

5 MR. MCGOWAN: Okay. Mr. Commissioner, those are my
6 questions for this witness. I note we're at
7 just about 2 o'clock. The witness is scheduled
8 to return Monday. What I am going to propose is
9 that we stand down briefly and excuse Mr. Towns
10 for the remainder of today, have him return
11 Monday morning for questioning by participants
12 and then Ms. Latimer is going to address the
13 issue of Mr. Sweeney, who I believe will be
14 tendering an affidavit in relation to and
15 tendering for examination by a couple of
16 participants.

17 THE COMMISSIONER: All right. Thank you,
18 Mr. McGowan. So, Mr. Towns, you're excused now
19 until Monday morning at 9:30, and we will stand
20 down for five minutes.

21 **(WITNESS EXCUSED)**

22 MR. MCGOWAN: Yes. And the witness certainly has
23 responsible counsel who is familiar with the
24 rules, because I wonder if it might just make
25 sense to remind the witness that he is under --

1 well, I suppose others haven't begun questioning
2 him yet, so perhaps that's -- I don't know
3 whether you view that as necessary,
4 Mr. Commissioner.

5 THE COMMISSIONER: I think probably not at this stage
6 in the game. Thank you.

7 MR. MCGOWAN: And if I might be excused for the
8 remainder of today.

9 THE COMMISSIONER: Yes, of course. All right. Thank
10 you. Five minutes.

11 THE REGISTRAR: This hearing is adjourned for a
12 five-minute recess until 1:58 p.m.

13 **(PROCEEDINGS ADJOURNED AT 1:53 P.M.)**

14 **(PROCEEDINGS RECONVENED AT 1:59 P.M.)**

15 THE REGISTRAR: Thank you for waiting. The hearing
16 is resumed. Mr. Commissioner.

17 THE COMMISSIONER: Thank you, Madam Registrar. Yes,
18 Ms. Latimer.

19 MS. LATIMER: Yes, Mr. Commissioner. The next
20 witness is Mr. Sweeney, who will be sworn.

21 **KEVIN SWEENEY, a witness**
22 **called for the**
23 **commission, sworn.**

24 THE REGISTRAR: Please state your full name and spell
25 your first name -- please state your full name

1 and spell your first name and last name for the
2 record.

3 THE WITNESS: Kevin Sweeney, S-w-e-e-n-e-y.

4 THE REGISTRAR: Thank you.

5 THE COMMISSIONER: Yes, Ms. Latimer.

6 MS. LATIMER: Thank you.

7 **EXAMINATION BY MS. LATIMER:**

8 Q Mr. Sweeney, are you able to hear me okay?

9 A Yes, I can.

10 Q You are currently the Director of Security,
11 Privacy and Compliance in the Legal Compliance
12 Security Division of the British Columbia
13 Lottery Corporation; correct?

14 A That's correct.

15 Q And you prepared an affidavit to assist in
16 presenting evidence to this commission; correct?

17 A That is correct.

18 MS. LATIMER: Madam Registrar, may I have
19 Mr. Sweeney's affidavit number 1 displayed,
20 please.

21 Mr. Sweeney, do you recognize this as the
22 affidavit number 1 that you made to provide
23 evidence to this commission on October 26th,
24 2020?

25 A Yes, I do.

1 MS. LATIMER: And, Mr. Commissioner, could I have
2 that marked as the next exhibit.

3 THE COMMISSIONER: Yes. Are we at 420, Madam
4 Registrar?

5 THE REGISTRAR: 520, Mr. Commissioner.

6 THE COMMISSIONER: I'm sorry, 520. Thank you.

7 **EXHIBIT 520: Affidavit no.1 of Kevin Sweeney**
8 **sworn October 26, 2020**

9 MS. LATIMER: Thank you, Madam Registrar. I don't
10 need that displayed any longer.

11 Q Mr. Sweeney, just in very broad strokes, this
12 affidavit outlines BCLC's compliance program for
13 private sector service providers with which it
14 enters into service agreements for administering
15 and carrying on the day-to-day operations of
16 gaming facilities; is that right?

17 A That is correct.

18 Q And it also outlines efforts to assess the
19 effectiveness of BCLC's monitoring programs;
20 correct?

21 A That is correct.

22 MS. LATIMER: Mr. Commissioner, I don't have any
23 questions for this witness, so I'll turn it over
24 to the participants at this point.

25 THE COMMISSIONER: Thank you, Ms. Latimer.

1 I'll call on Ms. Chewka on behalf of the
2 province, who has been allocated 20 minutes.

3 MS. CHEWKA: Thank you, Mr. Commissioner.

4 **EXAMINATION BY MS. CHEWKA:**

5 Q Mr. Sweeney, can you hear me okay?

6 A I can, thank you.

7 Q Excellent. I just have a few questions for you
8 today. I understand that you're currently in
9 the role of Director of Security, Privacy and
10 Compliance in the Legal Compliance Security
11 Division at BCLC; is that correct?

12 A That is correct.

13 Q And am I right in my understanding that it's
14 BCLC's AML unit who would be responsible for
15 establishing or creating AML policies for BCLC?

16 A That is correct.

17 Q And you in your role as director are not
18 responsible for establishing those AML policies?

19 A That's correct.

20 Q But is it fair to say that in your role as
21 director you are responsible for ensuring
22 compliance with those policies?

23 A Those among other areas of operations, for sure.

24 Q Can you explain to the Commissioner what
25 ensuring compliance with those policies would

1 look like and what your job entails?

2 A Sure. So the operational compliance group is a
3 group that works underneath me with the
4 management and assistant management team. They
5 conduct inspections of our facilities to ensure
6 that those facilities are adhering to BCLC
7 standards and any relevant legislation that's
8 applicable to the gaming operations.

9 Q In your capacity as director, would you be
10 familiar with BCLC's cash conditions program
11 that was implemented in 2015?

12 A I was, yes.

13 Q And would you be familiar with BCLC's source of
14 funds directive which was implemented in January
15 2018?

16 A Yes, I am.

17 Q And you'd be responsible, among other things, of
18 course, for ensuring compliance with those
19 programs?

20 A That is correct.

21 Q To assist the Commissioner I'm hoping what you
22 can do next is explain what's entailed in both
23 of these programs beginning with the cash
24 conditions program. Just to give a general
25 overview of what is involved in it.

1 A Sure. So the cash conditions or investigative
2 interviews that we conducted in mid-2015, we
3 started doing it in min-2015, the purpose of
4 that was to address any risk areas associated
5 with individuals that were attending our
6 facilities and buying in with large sources of
7 unsourced cash. Our investigators which
8 reported to me at the time in my role as the
9 director of compliance and investigations would
10 conduct interviews with those individuals,
11 namely to identify source of funds, to identify
12 employment or occupations and any other relevant
13 information they felt was necessary. Pending
14 those interviews, we would either look to ban
15 that individual based on the interviews
16 themselves or the contents of the interview, put
17 that individual on additional cash
18 considerations, which is essentially no
19 unsourced cash, no unsourced chips, or we would
20 allow them to play based on the information they
21 were able to provide in our investigative
22 interviews.

23 Q Now, am I correct in understanding that in 2015
24 there were only a handful of people who were on
25 these cash conditions originally and then it

1 escalated or increased from there?

2 A That's correct.

3 Q Can you recall the numbers just generally or no?

4 A The number 10 and 14 pop up. There was a very
5 limited number in the initial onset. I don't
6 know how high that got up to. I know for a fact
7 it's in the hundreds in the last few years.

8 Q But on the cash conditions program it wasn't a
9 general requirement requiring all patrons to
10 source the funds for large cash transactions.
11 That's a fair assessment? It was a limited
12 number of people that were subject to these
13 conditions?

14 A That's correct.

15 MS. CHEWKA: Madam Registrar, if I could please have
16 document BCLC0004506 placed on the screen.

17 MR. STEPHENS: And Ms. Chewka, it's Mr. Stephens
18 here, we have a hard copy. If it's satisfactory
19 he's going to follow along with that.

20 MS. CHEWKA: Yes, of course. Thank you,
21 Mr. Stephens.

22 Q My question is there's a summary you can where
23 under the heading "Unsourced Cash and Chips" and
24 there's four bullet points. Is that an accurate
25 summary of what you've just described as the

1 cash conditions program or the kinds of
2 conditions that players would be subject to once
3 identified?

4 A Yes, that's correct.

5 MS. CHEWKA: Thank you. And, Madam Registrar, I'm
6 done with this document, and we don't need it
7 entered as an exhibit. It's already appended to
8 the affidavit of Mr. Lightbody.

9 Q So turning now, I have a couple of questions
10 about the source of funds direction that was
11 implemented in January 2018. In the same way
12 can you please explain to Mr. Commissioner what
13 was involved in that directive?

14 A Yes. So that directive would have come from our
15 anti-money laundering group, which is colleagues
16 of mine within the Legal Compliance Security
17 Division. The purpose of that source of funds
18 was to formalize the source of funds declaration
19 document, which would be attributed to all
20 patrons who attended our facilities with any
21 buy-in over \$10,000.

22 MS. CHEWKA: Madam Registrar, may I please document
23 BCLC000027 on the screen, please.

24 Q Is that the source of funds declaration that
25 you're referring to, Mr. Sweeney?

1 A Yes, that's correct.

2 Q So this was implemented effective January 10th,
3 2018?

4 A That's correct.

5 Q And this document would accurately summarize the
6 source of funds policy that was implemented at
7 that time?

8 A Yes, it does.

9 MS. CHEWKA: Madam Registrar, if you could please
10 scroll to the third page of this document. It's
11 a question and answer sheet.

12 Q Mr. Sweeney, have you read this document before?
13 Are you familiar with it?

14 A I have, yes.

15 Q And you agree with me -- I don't intend to read
16 everything, but maybe we'll read a couple of
17 them. There's a couple of questions here and
18 answers posed. So for example:

19 "If a patron attends with \$10,000 in cash
20 and when asked refuses to provide any
21 information as to where they obtained the
22 cash, do I document their answer and allow
23 them to buy in anyway?

24 And then there's an answer there:

25 "No. The information and receipt must be

1 casinos?

2 A Sure. I mean, so when an individual attempts to
3 buy in at a cash cage or at a table, this
4 document would be completed by the service
5 provider staff. So this document would be
6 completed in full and would accompany any
7 additional information associated with the Large
8 Cash Transaction Report that would accompany
9 this for the purpose of our compliance with AML
10 or *PCMLTFA*.

11 Q And the service provider would generally
12 speaking follow that question and answer process
13 that's set out when filling out this form or
14 dealing with the patron?

15 A I would say they would refer to that, yeah,
16 absolutely. As guidance for sure.

17 Q In your experience or in your role as director,
18 in order to implement this source of funds
19 policy or directive, did you or the service
20 providers require investigative support?

21 A Sorry, can you repeat the question.

22 Q Yeah. My question is this: in filling out this
23 form, it's just a matter of simply asking
24 questions. Is that a fair assessment?

25 A Yes. That's a fair assessment.

1 Q The service providers wouldn't require
2 investigation powers, for example, to complete
3 this form?

4 A No, they would not.

5 MS. CHEWKA: Mr. Commissioner, I'd ask that this be
6 marked the next exhibit.

7 THE COMMISSIONER: Yes, very well. 521.

8 THE REGISTRAR: Yes, 521.

9 **EXHIBIT 521: BCLC Directive - Source of Funds**
10 **Declaration - Effective date: January 10, 2018**

11 MS. CHEWKA: Thank you. Madam Registrar, the next
12 document -- and I'd ask that it not be shared on
13 the live feed, please, but it's BCLC0006403, and
14 I'd just like to confirm that counsel for
15 Mr. Jin is no longer on the Zoom call. I don't
16 believe he is on the participant status, but if
17 he is, I'd ask that similar to Ms. Wray's
18 request from yesterday, that he not view this
19 document.

20 THE COMMISSIONER: I should just indicate perhaps
21 generally that the reason that Mr. Jin's counsel
22 has been asked not to view the document is
23 simply because he has an obligation to his
24 client that may be at odds with the need to
25 keep -- at this stage to keep documents away

1 from Mr. Jin's view, and it has nothing to do
2 with anything apart from that. All right.

3 Thank you.

4 MS. CHEWKA: Yes, thank you.

5 Madam Registrar, I'd ask that you please
6 turn to page 4 of this document.

7 Q And there's an excerpt here, Mr. Sweeney, and
8 I'm going to read it to you, but it says:

9 "On August 21st, 2015, Kevin Sweeney and
10 Ross Alderson met with Len Meilleur in
11 Victoria to discuss Section 86 Reporting.
12 The current AML climate was discussed and
13 Meilleur indicated that GPEB has done an
14 analysis of STRs from June 2015 and that
15 the content of those STRs primarily had
16 caused grave concern among the GM and
17 ADM."

18 And it goes on to say:

19 "The chip swap was mentioned, and that
20 caused concern over the coming days with
21 GPEB accusing BCLC of not previously
22 notifying them of the issue, which was
23 clearly an integrity issue."

24 Do you recall this August 21st, 2015 meeting?

25 A I do recall it.

1 Q Is it fair to say it was yourself, Mr. Alderson
2 and Mr. Meilleur that were present?

3 A That's correct.

4 Q Do you recall that at this meeting you discussed
5 spreadsheets that GPEB had created that compiled
6 the Section 86 Reports into one document?

7 A I don't recall that specifically, no.

8 Q Do you recall what you did talk about at this
9 meeting?

10 A I do. There was a number of topics. I was
11 there with my compliance and investigative hat.
12 Ross was there with his anti-money laundering
13 portfolio. So because Len Meilleur was fairly
14 new to his role -- I think he'd been in his role
15 for three months as the executive director for
16 compliance at GPEB -- he also had a larger
17 portfolio that he interacted with both Ross and
18 I. So typically we would meet as a group rather
19 than having independent meetings.

20 So a number of topics included everything
21 from mystery shop compliance to some work we
22 were doing with some of the privacy concerns
23 around information that was being shared back
24 and forth. I mean, until I saw this document, I
25 didn't even recall these topics being discussed.

1 I actually have an email that I provided to my
2 counsel that was from Len identifying what
3 topics were discussed at this meeting and these
4 two weren't even part of those topics.

5 Q I understand from your evidence just now that
6 you didn't see this spreadsheet. Did you
7 discuss that GPEB had this information about the
8 amount of suspicious cash that had been coming
9 in and they had documented it in July 2015?

10 A I do recall a conversation that Len and Ross
11 were having regarding that, and in particular to
12 a number of STRs over the last few months that
13 was causing some concern for GPEB and ultimately
14 some of their senior management.

15 Q Do you recall what you or Mr. Alderson did with
16 that information, if anything?

17 A I personally didn't do anything with that. Ross
18 Alderson obviously as that fell under his
19 portfolio, it would have been left with him. I
20 can tell you at that time we were in flux.
21 There was no Vice President. We were in the
22 midst of moving between Brad Desmarais and Rob
23 Kroeker coming on board. So this document
24 actually was a document prepared by Ross
25 Alderson specifically for Robertson Kroeker when

1 he came on board as the VP of Corporate Security
2 and Compliance.

3 Q Thank you, Mr. Sweeney.

4 MS. CHEWKA: Mr. Commissioner, I have no further
5 questions for this witness.

6 THE COMMISSIONER: Thank you, Ms. Chewka. And now on
7 behalf of Mr. Lightbody, Ms. Ollek has been
8 allocated 10 minutes.

9 MS. OLLEK: Thank you, Mr. Commissioner.

10 **EXAMINATION BY MS. OLLEK:**

11 Q Mr. Sweeney, can you hear me?

12 A I can, thank you.

13 Q Yes. So as you've heard, Mr. Sweeney, I
14 represent Mr. Lightbody, as you know as your CEO
15 currently on medical leave.

16 I'd like to just confirm you're the Director
17 of Security, Privacy and Compliance in the Legal
18 Compliance and Security Division?

19 A That's correct.

20 Q And you've been in that role since April 2016?

21 A That's correct.

22 Q And prior to that you were the director of
23 compliance and investigations from July 2013 to
24 April 2016?

25 A That's correct.

1 Q Yes. And I understand you've given some
2 evidence on this already, but I'd just like to
3 confirm, the role of the operational compliance
4 department is to assess, identify and address
5 the levels of compliance of all BCLC casinos
6 with all applicable BCLC standards, policies and
7 procedures?

8 A That's correct. Casinos, community gaming
9 centres and commercial bingo halls.

10 Q Yes. And that includes those standards,
11 policies and procedures relating to AML?

12 A That's correct.

13 Q Okay. Who did you report to in your role as
14 Director of Security, Privacy and Compliance and
15 previously in your role as director of
16 compliance and investigations?

17 A I reported to the Vice President of Corporate
18 Security and Compliance. That title has now
19 changed a bit, but Vice President of legal
20 compliance security over that period of time.
21 Even prior to that, I should note, from 2009 to
22 2013 as a manager of gaming audit, I also
23 reported to the Vice President of Corporate
24 Security and Compliance.

25 Q Okay. And in those roles although you were

1 reporting directly to the Vice President of
2 Corporate Security and Compliance and
3 subsequently the Vice President of Compliance
4 and Legal division, did you have access to any
5 other executives at -- senior executives at
6 BCLC?

7 A Yeah. In my role I interacted quite regularly
8 with the Vice President of Casino and Community
9 Gaming Division, so that was Daryl Schiewe
10 pre-Jim Lightbody being in that role, and then
11 Jim Lightbody when he was in that role for a
12 period of time, and then Brad Desmarais as well
13 continuing to this day.

14 Q Okay. You mentioned that you had direct access
15 to Mr. Lightbody in his capacity as Vice
16 President of Casinos and Community Gaming. Did
17 you subsequently have direct access to
18 Mr. Lightbody in his capacity as President and
19 CEO.

20 A I wouldn't say direct access. Most of the time
21 I would go through my Vice President, but Jim
22 Lightbody was always a very supportive
23 individual, and we would pass each other quite
24 regularly in the hallway. He would actually sit
25 down and have lunch and coffee with a number of

1 us, including myself, so indirectly I did have
2 access to Mr. Lightbody.

3 Q Okay. Thank you. In the roles that you've held
4 with BCLC in the period of 2011 onwards when my
5 client became the VP of Casinos and Community
6 Gaming and subsequently the President and CEO of
7 BCLC, what were your observations with regard to
8 the support provided by senior executives to
9 undertake audits and to identify deficiencies in
10 BCLC's AML program and service providers'
11 implementation of these AML policies and
12 procedures?

13 A That's a lot. You know, it's very supportive.
14 There wasn't any instance that I ever came
15 across when my team brought information to me
16 and ultimately I escalated it to the executive
17 that I was ever challenged. They were
18 supportive. They would provide any assistance
19 they could possibly give. In some instances
20 they've actually addressed some roadblocks or
21 challenges that were seeing with other agencies
22 at times so I would say it was very supportive
23 and very good.

24 Q Okay. What were some of those roadblocks and
25 challenges that you may have encountered?

1 executives at BCLC exhibited a willingness to
2 address the deficiencies identified and ensure
3 that they were resolved?

4 A Absolutely.

5 Q I understand that you're also on the board of
6 the Gaming Security Professionals of Canada.

7 A That's correct.

8 Q And could you please explain to the Commissioner
9 what is this organization?

10 A Sure. So the Gaming Security Professionals of
11 Canada, it's a not-for-profit association. It's
12 made up of senior officials that work in either
13 a Crown corporation or a gaming service provider
14 across Canada. The purpose of that group is to
15 provide information to share, network and
16 ultimately build out best practices among every
17 aspect of security, compliance or even risk
18 management within the gaming industry. So my
19 role as a member of the board for the last six
20 years now is to provide governance over that --
21 over the membership. So we regularly meet. We
22 share information, and we assist one another
23 with some of the challenges that obviously span
24 not just within this provincial province of BC
25 but across Canada.

1 Q Thank you. What are your observations with
2 respect to how BCLC's AML program is regarded by
3 other Gaming Security Professionals of Canada
4 members?

5 A You know, I'd say it's well received. We get a
6 lot of requests in my capacity as a board member
7 but also as the representative for BC, I
8 typically up to and including, you know, the
9 last year or so would receive requests to assist
10 other jurisdictions with enhancing or building
11 out their program. Over the years, I mean, we
12 have been contacted by a number of jurisdictions
13 to provide them with some insight and even help
14 stand up some things like policy and standards
15 and program development for the purpose of their
16 AML duties as well.

17 MS. OLLEK: Thank you, Mr. Sweeney, for answering my
18 questions today.

19 Mr. Commissioner, I have no further
20 questions for this witness.

21 THE COMMISSIONER: Thank you, Ms. Ollek.

22 Anything arising, Ms. Chewka?

23 MS. CHEWKA: No, Mr. Commissioner.

24 THE COMMISSIONER: Thank you. Ms. Latimer?

25 MS. LATIMER: No, thank you.

1 THE COMMISSIONER: All right. Thank you,
2 Mr. Sweeney, for taking the time to provide us
3 with your experience and insights as a director
4 at BCLC. You're now excused from any further
5 testimony.

6 **(WITNESS EXCUSED)**

7 THE COMMISSIONER: I think we can adjourn until
8 tomorrow -- I'm sorry, Monday morning at 9:30,
9 Ms. Latimer.

10 THE REGISTRAR: The hearing is adjourned until
11 February 1st, 2021, at 9:30 a.m. Thank you.

12 **(PROCEEDINGS ADJOURNED AT 2:24 P.M. TO FEBRUARY 1, 2021)**

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