

**PROCEEDINGS AT HEARING
OF
NOVEMBER 13, 2020**

COMMISSIONER AUSTIN F. CULLEN

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November 13, 2020
(Via Videoconference)
(PROCEEDINGS COMMENCED AT 9:30 A.M.)
LARRY VANDER GRAAF, a
witness for the
commission, recalled.

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

THE COMMISSIONER: Thank you, Madam Registrar.

Yes, Ms. Latimer, do you have any further examination of Mr. Vander Graaf?

MS. LATIMER: No, thank you.

THE COMMISSIONER: Thank you. As I understand it, then, Ms. Gardner on behalf of Canada is next, and she has been allocated 15 minutes.

MS. GARDNER: Thank you, Mr. Commissioner.

EXAMINATION BY MS. GARDNER:

Q Good morning, Mr. Vander Graaf. Can you hear me all right?

A Yes, I can.

Q Thank you. So in your testimony yesterday you noted that you were a member of the RCMP for approximately 30 years; is that correct?

A That is correct.

Q And from the years of 1991 to 1998 you were in

1 charge of the anti-drug profiteering integrated
2 unit, which subsequently became known as IPOC?

3 A That's correct.

4 Q And in that position you gained a significant
5 amount of knowledge and experience with money
6 laundering and proceeds of crimes
7 investigations; is that fair?

8 A That's correct.

9 Q And indeed you also had significant experience
10 as a lecturer and trainer on those issues, and
11 Ms. Latimer took you through your CV which
12 outlined some of that experience; correct?

13 A That's correct.

14 Q Now, I'll ask you to turn up your affidavit. So
15 you state in your affidavit at paragraph 6 --
16 you don't necessarily need to go there at this
17 time, but have it handy, if you will -- you
18 state in paragraph 6 of your affidavit that
19 these investigations are time and resource
20 intensive. Is that correct?

21 A That's correct.

22 Q Can you explain based on your experience why
23 these investigations are so time and resource
24 intensive.

25 A Well, I think generally what you have to do

1 when -- there's two methods of approaching
2 proceeds of crime investigations. One is you
3 receive notification of the assets and then try
4 and go back to the predicate offence and deal
5 with the predicate offence.

6 The one we were used to in ADPIU was the --
7 the predicate offence was being investigated by
8 another agency or another section within the
9 RCMP, and as a result of that investigation we
10 would then hook onto that investigation to try
11 and seize and forfeit the assets and identify
12 them as well.

13 So what takes the time is that you have to
14 have the predicate offence. And you'll see the
15 example of when there used to be -- the
16 Vancouver drug section was 125 persons that were
17 investigating drug enforcement throughout --
18 probably the world, and they were targeting
19 high-level criminals. So what they were doing,
20 they didn't do a lot of street activity. That
21 was left to the municipalities. They were
22 targeting the highest level. So you would have
23 to wait until they got to the certain position
24 in their investigation that it was going to be
25 fruitful to prosecute that offence and then you

1 It's complicated hooking the asset to the
2 actual, say, drug offence. That's what I mean
3 by that. And you have to have specific
4 knowledge. You have to have people that are on
5 the ADPIU that are knowledgeable on various
6 aspects of the housing market, say, the car
7 market, whatever it may be that gives you the
8 insight as to where the asset could be placed
9 and laundered. It takes a long period of time
10 and it takes a multitude of expertise. That's
11 why the ADPIU when it was first constructed had
12 legal advice on site. Not prosecutors.
13 Prosecutors are always independent. Canada
14 Customs, so you would have some expert on the
15 customs area. We had Vancouver Police
16 Department members that were involved in
17 Vancouver activities, and you would have RCMP
18 from various sections. Some of them from
19 commercial crime who understood how to do the
20 commercial crime aspect of it or stock market
21 per se. So you would have all of those
22 expertises to be able to go and try and locate
23 the funds. But it takes time. And they're
24 complicated because you're trying to always link
25 it to the predicate offence, and that's

1 difficult to do.

2 Q And in terms of linking those assets back to the
3 predicate offence, what types of information
4 might you need to gather in order to accomplish
5 that link?

6 A Well, it would be banking documents, number one.
7 They would be very, very valuable. You would
8 be -- but the best way to do it was through
9 informant activity or undercover activity that
10 were involved in the predicate offence would
11 usually indicate to where the assets were. But
12 banking activity would be very, very crucial
13 because again, normally, even the international
14 drug trafficking they have problems with the
15 money. They have problems with cash money and
16 they're always trying to convert into a tangible
17 asset like a house, car -- and I'll give you an
18 example: Project Exceed. They tried to convert
19 it into used cars; they tried to convert it into
20 housing market, things of that nature. Anything
21 that there's a paper trail that you can
22 associate to the predicate offence, that's of
23 value.

24 It's hard to explain over -- in a short
25 period of time, but once you've done them a few

1 times, you can understand how complicated they
2 are. And to link it to the predicate offence of
3 drug trafficking right to the profit from that
4 drug offence is complicated and difficult.

5 Q Now, in your affidavit you also make mention of
6 this, but it's true that while you were with the
7 ADPIU your unit received referrals from FINTRAC;
8 is that correct?

9 A That is correct.

10 Q And would those referrals generally include
11 intelligence that FINTRAC had received and
12 perhaps collated from one or many reports that
13 FINTRAC receives from reporting entities?

14 A Yes, it would. And it would come into a central
15 location within the ADPIU, one person, I believe
16 a staff sergeant was in charge of that. But
17 again, they're of value, but they're an
18 intelligence. They're an intelligence product
19 as I see it. And that intelligence product is
20 fine. You can see the transferring of assets
21 and the movement of assets wherever it -- and
22 they do what they call a matrix type evaluation,
23 a mosaic evaluation of what's being transpired.
24 But if you can't link it to the predicate
25 offence, really all it is is intelligence.

1 And the volume of FINTRAC documents is
2 significant to try and weed through them, and
3 then if you do see a multitude of activity from
4 FINTRAC's perspective, you would have to get the
5 drug unit or the unit within the RCMP to respond
6 to that intelligence, if I can call it that way.

7 Q So it's fair to say, then, that the referrals
8 you might receive from FINTRAC can direct your
9 attention to certain individuals or issues, but
10 your unit would still then need to undertake
11 significant investigations to gather additional
12 information; is that accurate?

13 A There's no doubt about it. You have to go to
14 the predicate offence. You have to go to the
15 drug offence or whatever the offence may be to
16 be able to link the assets because forfeiture is
17 linked to the predicate offence. If you can't
18 prove that's from that specific offence, then
19 you're not going to prove -- forfeit the
20 document or forfeit the proceeds of crime, so
21 that's -- FINTRAC does a great job from an
22 intelligence perspective, I can say, but from an
23 investigative standpoint it's limited.

24 We felt it much easier or more effective
25 when you have a big unit behind you doing the

1 predicate offence and then tagging onto the
2 predicate offence to be able to locate the
3 assets because you're probably going to be more
4 successful. And the other thing you benefit
5 from is the big unit has the surveillance units
6 and the undercover and wiretap ability to gather
7 intelligence through the investigation of that
8 offence that can be referred to the asset
9 forfeiture group, if I can call it that. That
10 seemed to work fairly good.

11 When we were going international, it was a
12 whole different story because we would be going
13 down to the United States and across the Pacific
14 over to Southeast Asia to do some of these
15 investigations. It became even more complicated
16 because the predicate offence would be taking
17 place over in Southeast Asia, i.e. the Ice
18 Queen. Guangzhou Province in China, PRC. How
19 do we prove the predicate offence when it's in a
20 foreign jurisdiction to satisfy the forfeiture
21 of assets in Canada? It's very difficult. The
22 ADPIU units have been very mobile, have a
23 significant amount of resources, but I still say
24 they have to have tied to the predicate offence
25 investigative body.

1 Q And picking up on one aspect you just mentioned
2 there with respect to investigations that
3 require some international information, so is it
4 accurate to say that your understanding is that
5 if, for example, cash funds are used in Canada
6 to gamble and those were acquired through a loan
7 shark but the loan is ultimately repaid
8 internationally, that then those funds need to
9 be somehow identified and located in that
10 international location before any type of
11 proceeds of crime investigation could proceed.
12 Is that fair?

13 A That's fair to say. If you -- under that
14 scenario, it's a money launderer's dream.
15 Because what you're doing is taking the money
16 from whatever offence it is in Canada and you're
17 using the money through, say, a casino, you're
18 putting it in there. If you lose the money, you
19 pay it back in a foreign jurisdiction, you're
20 severing the link. There's no link between the
21 actual predicate offence, the vehicle for using
22 to get rid of the money to where it shows up in
23 Hong Kong or Southeast Asia.

24 And the banking laws over there, when you
25 move it into -- everybody -- it's nice to say

1 that you can track it, but it's very difficult
2 because there's a broken line. The line's
3 broken in half, and underground racking does
4 come into play there and then it can be moved.
5 Once it's in the banking system, it's gone. It
6 moves very quickly. And they know how to do it
7 very quickly. Maybe that explains it a little
8 bit.

9 I saw the casinos being used as a vehicle.
10 They may not be actually laundering the drug
11 money, but they're part of the laundering
12 process. If I can express it that way. If in
13 fact they're going in there, they take the
14 money, they put the money into the casino
15 environment, the money is paid back in a foreign
16 jurisdiction like Hong Kong.

17 And I've been over to Hong Kong trying to
18 get into their banking system to get money -- or
19 track money, and it's not as easy as you think
20 it is. And PRC is another whole level trying to
21 get into their banking system to try and track
22 money. And Macao, in the 90s Macao was a big
23 place for putting money and wire transferring
24 back to Canada. I mean, that's the way it
25 works. Not every time, but that's generally.

1 Q Right. Now, with respect to the time-intensive
2 nature of these money laundering or proceeds of
3 crime investigations, is it possible to provide
4 an estimate of how long those investigations
5 might typically take?

6 A I don't -- I'll give you an example. Project
7 Exceed, when I did the disclosure with my --
8 before we get into time consumption, the
9 disclosure was a van full of material. I don't
10 think you could read it in a year. I mean, and
11 I'm just telling the magnitude of these things.
12 They would take sometimes two, three years to
13 put that investigation together. By the time
14 you do the predicate offence of major
15 international drug trafficker to locating all
16 the assets and trying to secure the assets for
17 potential forfeiture and link to the predicate
18 offence, takes a huge amount of time.

19 I don't know -- we're talking two or three
20 years. I mean, that's the way they go, if the
21 court system moves quick enough to deal with it.
22 I mean, disclosure alone takes in a case of that
23 magnitude -- and probably E-Pirate as well. I
24 don't know the -- you know, the disclosure alone
25 is massive. So the time to use it -- I mean you

1 can have a small case, a small case that could
2 be done in a year and a half. But I don't see
3 much done in a year and a half in the court
4 system these days. I'd say two, three years.

5 And that's what happens, your people get
6 tied up in that investigation with the predicate
7 offence and locating the assets, so you lose
8 them for that period of time, and they're locked
9 in there. Even though you have a file, they're
10 locked into that case for that period of time
11 and you -- so your unit gets dwindled very, very
12 quickly to respond to assets that come up on
13 other investigations.

14 Q I just have a few final questions for you.
15 Could I ask you to please turn up exhibit NN of
16 your affidavit.

17 Madam Registrar, that will be at page 365
18 of the PDF of the affidavit.

19 Are you there?

20 A Yes.

21 Q Thank you. So I understand that you don't know
22 who created this decision note. It appears to
23 be prepared for ADM Derek Sturko at the time
24 dated November 22nd, 2010. Is that correct?

25 A That's correct.

1 Q But you're not sure who created this note?

2 A I believe -- I believe it was Kevin Begg. He's
3 a Director of Police Services for the province
4 at the time, but I'm not sure. I believe it
5 would be him. Anything involving any police
6 resources throughout the province in government
7 usually goes through the Director of Police
8 Services, the Assistant Deputy Minister police
9 services. Usually in the Solicitor General's
10 ministry. And at this time Kevin Begg was the
11 ADM Police Services. So this is a policing
12 function per se along with a gaming function, so
13 I'm assuming Kevin Begg would be involved in
14 that.

15 Q Okay. You're familiar with the document as it's
16 attached to your affidavit?

17 A Yes, I am.

18 Q And this decision note presents three
19 recommendations aimed at addressing the issues
20 related to illegal gaming and illegal activity
21 in casinos; is that accurate?

22 A That's correct.

23 Q I just want to bring you to the first
24 recommendation, so that's on page 309 in the
25 upper left, two pages ahead.

1 Thank you, Madam Registrar.

2 And recommendation number 1 you'll see at
3 the top there is to create a combined forces
4 special enforcement unit or CFSEU task force to
5 address organized crime operations related to
6 gambling?

7 A Correct.

8 Q And in the second paragraph it goes on to set
9 out the resources that might be necessary for
10 such a task force, and it says:

11 "While a detailed business case has not
12 yet been conducted, an order of magnitude
13 estimation for the size of the task force
14 necessary to address money laundering and
15 loan sharking at licensed gaming venues in
16 an effective manner would be approximately
17 40 CFSEU officers. A similarly rough
18 estimate of required budget would likely
19 be between \$10 and \$15 million annually."

20 Have I read that accurately?

21 A Yes, you have.

22 Q And would the estimation here of the number of
23 officers and the budget that might be required
24 for a task force aimed specifically at
25 addressing organized crime operations and

1 illegal activity in casinos, would that accord
2 with your understanding of the complexities and
3 resource-intensive nature of the money
4 laundering and proceeds of crime investigations
5 that might be linked to casinos?

6 A It would. And if I can just clarify, CFSEU is
7 an organized crime agency in the province, so
8 even with those 40 people, you're doing legal
9 and illegal gaming, that would be similar to the
10 Ontario model of the Ontario Provincial Police,
11 I would suggest. You would then be able to
12 utilize the support networks, which is very
13 important. The support networks of undercover,
14 wiretap and surveillance units. And that --
15 that would be an additional benefit to attach to
16 the 40 people at CFSEU.

17 It could also be done the same way within
18 the RCMP. They have the same person power as
19 that. CFSEU is funded by the province now, and
20 this would be -- would have been in addition to
21 CFSEU. And could have been in addition to the
22 RCMP as well, either way. And they would split
23 this unit and they'd make sure that some would
24 be doing legalized gaming and the others would
25 be doing illegal gaming, similar to the Ontario

1 Provincial Police. I think that was the plan,
2 and that would certainly address it.

3 You can take 10 or 12 persons to try and
4 address certain aspects of the legal or illegal
5 gaming, but you need the support units behind
6 that. You need those surveillance units and
7 wiretap ability in the undercover pool, which I
8 don't get into too much, which I used to be
9 involved in. That's what I'm saying. The
10 person power that you're getting through here is
11 definitely supplemented by the support units
12 that are on the other side.

13 MS. GARDNER: Thank you. Those are all my questions,
14 Mr. Vander Graaf.

15 Thank you, Mr. Commissioner.

16 THE COMMISSIONER: Thank you, Ms. Gardner.

17 Now on behalf of the BC Lottery
18 Corporation, Mr. Smart, who has been allocated
19 30 minutes

20 MR. SMART: Thank you.

21 **EXAMINATION BY MR. SMART:**

22 Q Mr. Vander Graaf, the counsel for Canada has
23 asked you questions about the complexity of
24 these investigations into money laundering, but
25 that's what you were seeking, wasn't it, to get

1 law enforcement to undertake those kinds of
2 investigations to deal with the increasingly
3 large suspicious cash transactions coming in the
4 casinos, deal with money -- or loan sharks, the
5 people that were conveying transporting this
6 cash into casinos. That's what you wanted,
7 wasn't it?

8 A Yes.

9 Q And it may be expensive, it may be resource
10 intensive, but that's what you expected and
11 that's what you wanted?

12 A I think we expected it, and we would have liked
13 them to come in and take on that role of dealing
14 with money laundering and possession proceeds of
15 crime. We were not capable -- as you know,
16 Mr. Smart, we were not capable of doing that.
17 And we met with them, and we spoke with them and
18 we asked them to participate in that function.

19 Q And you as a former RCMP officer understand the
20 challenges of trying to prioritize where
21 resources are directed, but this was a -- this
22 was criminal activity that you thought warranted
23 those kinds of resources. Am I right?

24 A That's correct. As it developed, I certainly
25 did. Past 2010.

1 Q So let me -- I want to, Mr. Vander Graaf, start
2 by taking you to tab C of your affidavit, the
3 document entitled "Roles and Responsibilities of
4 Participants in the British Columbia Gaming
5 Industry." If you can find that.

6 A Yes, correct.

7 Q And this is a 2010 document. And I'll just say
8 you provide a unique window into gaming because
9 you were involved for 16 -- over 16 years as an
10 investigator and executive in the GAIO,
11 the gaming -- I don't know if I know the
12 acronym, and eventually GPEB. But you've been
13 involved through this whole evolution of the
14 expansion of gaming in British Columbia, haven't
15 you?

16 A That's correct.

17 Q Yes. So this document sets out the roles and
18 responsibilities of participants, starting with
19 government. And it states:

20 "Government through the minister
21 responsible."

22 And that may have changed, but generally it was
23 either finance or another ministry. Do you
24 remember during your time what ministry was
25 generally responsible for gaming?

1 A We were involved in the housing and social
2 development ministry, the mines, energy and
3 resources ministry, the Solicitor General's
4 ministry, and I believe there was one more. And
5 it appeared that we would go where Mr. Coleman
6 went. If Mr. Coleman was in the housing and
7 social development or mines and energy and
8 resources, we would go there with gaming.
9 Solicitor General Ministry, we would stay in the
10 Solicitor General Ministry. So we bounced
11 around. It was different.

12 Q So:

13 "The government through the minister
14 responsible provides broad policy
15 direction to ensure British Columbia's
16 social and economic priorities for gaming
17 are achieved."

18 So it's -- you agree that the government's role
19 is really policy, trying to balance social and
20 economic priorities?

21 A I guess that would be their role, yes. I never
22 really thought about it, quite frankly.

23 Q Well, there's a social cost to gaming, isn't
24 there?

25 A Yes, there is.

1 Q And money laundering, loan sharks, other kinds
2 of crimes, people becoming addicted to gaming.
3 Those are some examples of social cost?

4 A That's correct.

5 Q But there's also economic benefits, economic
6 opportunities for employment, for revenue, for
7 government, local and provincial, and for
8 charities?

9 A That's correct.

10 Q Yeah. And the government's role is to try to
11 find the right balance, the right -- as it says:

12 "The broad policy direction to ensure
13 social and economic priorities for gaming
14 are achieved."

15 That's their role?

16 A Okay.

17 Q Would you agree with me?

18 A Yes.

19 Q That seems to be what it states?

20 A I think I agree with that, yes.

21 Q BC -- the Gaming Policy Enforcement Branch,
22 you're a regulator and that's too, isn't it?

23 Your role and responsibility -- I say yours,
24 that organization -- has regulatory oversight

25 over all gaming in the province. This includes

1 enforcement agencies."

2 You understood that was one of your
3 responsibilities, but from your evidence it
4 sounds like it was challenging for you and the
5 other investigators to fulfill that
6 responsibility?

7 A We always -- it was always defined to us, assist
8 law enforcement, do those investigations as
9 necessary and appropriate. We can't do homicide
10 investigations. We couldn't do proceeds of
11 crime investigations. We didn't have the
12 ability to do those investigations even under
13 this mandate. We had to refer to the police to
14 do those things. And those -- and that's what
15 we did. We investigated wrongdoing, we
16 investigated it significantly, but what we could
17 not do is move out of the venues when we were
18 dealing with organized crime.

19 Q Yes. And 3, looking at the BC Lottery
20 Corporation's role and responsibility, its
21 conduct and management of gaming, and it states:
22 "BCLC is a commercial Crown corporation
23 and agent of the Crown, which is
24 responsible for conducting and managing
25 all commercial gaming in the province with

1 the exception of horse racing. In
2 general, BCLC is a gaming entertainment
3 company that manages all contracts and
4 formal relationships with gaming
5 facilities service providers."

6 It carries on. Are you surprised to have the
7 description "a gaming entertainment company"?

8 A I don't know what to say about that, Mr. Smart.
9 It's written there, but I don't know what that
10 means, actually.

11 Q All right. But it says -- carries on:

12 "BCLC is responsible for enhancing the
13 financial performance, integrity,
14 efficiency and sustainability of the
15 gaming industry in the province within the
16 policy framework established by the
17 Province of British Columbia."

18 So I'm going to suggest to you and see if you
19 agree that that states BCLC is responsible for
20 enhancing the financial performance, that would
21 be revenue generated. Do you agree with that?

22 A Yes. The integrity of revenue generated as well
23 comes in there.

24 Q Yes.

25 A Enhancing the financial performance and

1 integrity of revenue.

2 Q Yes.

3 "Efficiency and sustainability of the
4 gaming industry."

5 It's important that it maintain -- maintain
6 integrity, but it remains financially
7 sustainable; correct?

8 A That's a balance, yes.

9 Q Yes.

10 "Within the policy framework established
11 by the Province of British Columbia."

12 Which goes back to government's role really
13 which is to establish the priority, the social
14 and economic priorities for gaming. So you
15 agree with me that BCLC is very much -- it has
16 to work in hand with the government and what the
17 government priorities are?

18 A I assume that. I assume that, yes.

19 Q You --

20 A I think what you're saying is that government
21 would give direction to the lottery corporation
22 in way to do business. Is that what you're
23 saying, Mr. Smart? Is that what you're
24 suggesting?

25 Q That is what I'm suggesting.

1 A Yep.

2 Q I'm going to come to this, Mr. Vander Graaf, but
3 you had very -- you and your fellow
4 investigators, but you in particular had strong
5 feelings -- you felt quite -- you were very
6 concerned about the money laundering, what
7 appeared to be money laundering and loan
8 sharking occurring. You wrote -- consistently
9 wrote reports, provided it up the management
10 chain hoping for changes to be made by your
11 General Manager?

12 A That's correct.

13 Q But all of that really has to go through
14 government, doesn't it? You knew that?

15 A I believe that probably that BCLC and the
16 General Manager would have to put through
17 government for changes that I was suggesting on
18 my reports of findings.

19 Q Yes. You reviewed Mr. Kroeker's report, and you
20 may not have agreed with all of it, but
21 essentially it said BCLC's responsibility was
22 to -- was to observe, record and to report to
23 law enforcement and let law enforcement do the
24 investigation and determine whether the
25 suspicious cash was in fact the proceeds of

1 crime. That's essentially its role, wasn't it?

2 A I didn't agree with that. They have a bigger
3 role than that.

4 Q But that's what they were being told by
5 Mr. Kroeker in his report.

6 A What they were told by Mr. Kroeker in their
7 report is something I disagreed with.

8 Q I appreciate that.

9 A The BC lotto corporation would be saying they're
10 a reporting agency, and they would report -- I
11 don't suggest that they weren't reporting, but
12 they couldn't do anything because it couldn't be
13 proven the proceeds of crime. I think there's a
14 higher standard for them to do than that.

15 Q But as an investigator with the BC Lottery
16 Corporation they could read the Kroeker Report
17 and understand that was their obligation?

18 A I'm assuming that's true.

19 Q Yes. And they didn't have the authority -- the
20 investigators didn't have the authority to
21 direct service providers not to accept cash
22 unless they had hard evidence it was the
23 proceeds of crime. Do you agree with that?

24 A No, I don't.

25 Q Well --

1 A I think BCLC, the president of BC Lottery
2 Corporation could direct the service provider to
3 a standard operating procedure to not take that
4 money based on specific criteria.

5 Q Yes. But that's the chief executive officer of
6 BCLC, not the investigator working in the
7 casinos or reviewing surveillance?

8 A That's correct.

9 Q You're back again to the head of BCLC, the head
10 of GPEB, really has to work hand in hand with
11 government in terms of what their priorities
12 are. That's balance between the social and
13 economic priorities. Do you agree with that?

14 A To some degree. Not completely. I see it as a
15 regulatory oversight. I think that was the
16 problem, having us both in the same minister
17 going to government -- ministry, so I believe
18 there has to be an independent oversight. I
19 think -- I understand the social responsibility
20 aspect of it, and the revenue generation hand in
21 hand, but the revenue can't trump the integrity
22 of the General Manager. And I see -- BCLC is a
23 revenue generator and the gaming policy
24 enforcement General Manager is the integrity.
25 That scale has to be tipped in the integrity

1 direction with the General Manager of GPEB
2 because he's overall responsible for integrity.

3 Q Well, you disagreed with the decisions being
4 made by the General Manager?

5 A I didn't see any decisions.

6 Q No. Okay. You agree there's a lack of action
7 by the General Manager?

8 A I believed that there should be -- there
9 probably was some discussion at that level that
10 I was not privy of. And I'm sure there was
11 discussion between the president of the lottery
12 corporation and the minister as well, and I was
13 not part of those discussions. In fact, I
14 believe I was intentionally blocked out of those
15 conversations.

16 Q But we've heard from a number of BC Lottery
17 Corporation investigators, from Mr. Friesen,
18 from Mr. Karlovcec, and they all were
19 constrained by the directions they were being
20 given by those higher up at BCLC, weren't they?

21 A I don't know that specifically. That's quite
22 possible that they were. But I don't know that
23 specifically. I've never heard that
24 specifically from any one of them, but it's
25 possible.

1 Q They were -- you know that they were writing
2 their reports to FINTRAC and writing detailed
3 reports and providing it to your organization
4 and to law enforcement, weren't they?

5 A They weren't providing detailed intelligence to
6 our agency. They were providing some, but
7 our -- they were getting stuff from us through
8 Section 86 as much as we were -- we were getting
9 much less from them than they were getting from
10 Section 86. I'm not trying to make that into a
11 big point or anything, but I know that they were
12 reporting to FINTRAC. They were reporting to
13 law enforcement, I know that. And they were in
14 concert with some of our investigators at
15 certain times as well.

16 Q But we've heard from some of your investigators,
17 Mr. Vander Graaf, that they felt like they were
18 just duplicating in some respects what BCLC was
19 already doing. They were being provided
20 thorough, detailed reports.

21 A Who was being provided that? My
22 investigators were being --

23 Q Your investigators, yes, like Mr. Ackles?

24 A Mr. Ackles would be getting reports from
25 Section -- Mr. Ackles, when he was in that

1 position in GPEB, I was gone. So I don't know
2 what transpired after 2014, but prior to that
3 the transfer of information from the lottery
4 corporation to us, I didn't believe was that
5 good. And I didn't believe it was -- I'm not
6 saying it was bad either, but I don't think
7 there was a lot of it because -- there may have
8 been some duplication, but the duplication would
9 have been through Section 86 and iTrak. We were
10 both going to iTrak. We were both using
11 Section 86.

12 Q But they were being provided further reports,
13 copies of what was going to FINTRAC, weren't
14 they? The Suspicious Transaction Reports?

15 A I don't believe they were. They may have seen
16 some of that. I don't think they were. STRs
17 are with the reporting agency only. The
18 reporting agency was the lottery corporation.
19 I'm not sure it shouldn't be the service
20 provider, by the way, but anyway, that they were
21 reporting STRs to FINTRAC, and I think they may
22 have seen some of that stuff in the casinos. I
23 don't know that specifically, but I will say I
24 know personally. I had the conversation with
25 FINTRAC that when we looked at some of the LCTs

1 or large cash transaction or happened to notice
2 them, we thought they were STCs, so we were
3 giving voluntary disclosure, which you can do to
4 FINTRAC as well.

5 Q You weren't yourself receiving reports and
6 reviewing them; you were relying on those that
7 were working for you to summarize them and give
8 you essentially a sort of reports that we've
9 seen in your affidavit, a summary of what was
10 contained?

11 A Generally, yes. That's correct.

12 Q You have told the commission that while these
13 large cash transactions were very suspicious,
14 you couldn't prove beyond a reasonable doubt,
15 and you couldn't even prove on a balance of
16 probabilities that they were the proceeds of
17 crime, could you?

18 A [Indiscernible.]

19 Q Of course BCLC was in no better position than
20 you. Probably no lesser position, but no better
21 position than you to prove?

22 A That's possible. I don't know what they
23 thought. But just so we're clear, I understood
24 that and my people understood that. We were
25 looking at the integrity of gaming. That's what

1 we were looking at. And we believed that
2 everything that was going on with those -- with
3 the bills, the \$20 bills, impacted the integrity
4 of gaming. That's where somebody had done. We
5 weren't capable of investigating the criminal
6 offence, neither was BCLC. We agree on that.
7 But the issue of integrity of gaming was -- they
8 were responsible for financial performance and
9 integrity; we were responsible for the overall
10 integrity through the General Manager. That's
11 my position on that.

12 Q Well, you wanted to do more investigation,
13 didn't you, with GPEB?

14 A If we could have been have been real police
15 officers, yes. Not -- we can't do more if we
16 weren't under 34-1 of the *Police Act* of section
17 18 of the *Police Act* as a designated law
18 enforcement unit. We could have been placed at
19 CFSEU like the previous decision that I just
20 met [sic]. If we'd have been at CFSEU with real
21 police cars and guns and things of that nature,
22 we certainly would have addressed that
23 situation. But that wasn't in the position --
24 in the writing as far as I was concerned. From
25 government.

1 Q You wanted to do that, though, didn't you?

2 A I suggested it. I didn't want to do it; I
3 wanted the police to do it. I was -- you know,
4 but if there was any way that I could have
5 addressed the situation, it would have to have
6 been a full police officer status. Regulators
7 and corporate security couldn't address this
8 problem other than through the integrity of
9 gaming standard operating procedures,
10 registration, things of that nature. I believe
11 this was a regulatory problem at that time. If
12 we're talking about the police, the police come
13 in, when they come in and do something, they
14 don't stay long. They'll spend a year or so
15 doing it. The problem, I believed, was
16 regulatory problem and integrity of gaming.

17 Q Okay. Do you know today that GPEB members are
18 working with the RCMP in an organization with
19 the acronym JIGIT?

20 A They are basically doing the same thing as we
21 did except that they moved out of the office and
22 went to the RCMP. We were meeting with the
23 police IPOC at their office on 152nd and 10 on a
24 daily basis. We were dropping off Section 86
25 Reports, and intelligence to them. It's just

1 that they were not capable of addressing it at
2 that time for whatever reason, the police are
3 doing. JIGIT, I know a little bit about it, but
4 I don't know a lot about it because it was
5 established after we left. But what it was was
6 putting two police officers -- two GPEB officers
7 doing the same thing as we were doing
8 previously. Just we didn't embed them within
9 the policing environment.

10 Q You're right there with -- they're right there
11 with the RCMP to try to motivate them to conduct
12 these investigations, aren't they?

13 A I don't know what their actual function is
14 there. It's mainly to coordinate intelligence,
15 I would suggest.

16 Q Okay. You've watched the expansion of gaming in
17 this province since the late 1990s, haven't you?

18 A That's correct.

19 Q The government decided to expand gaming, they
20 brought in slot machines, authorized the
21 building of new casinos?

22 A Correct.

23 Q And that was to -- in part to create jobs and
24 create a source of additional revenue for
25 provincial government, local government and

1 charities? Those are the economic benefits;
2 correct?

3 A Yes. Yep.

4 Q But with the expansion of this gaming came, as
5 we've talked about, increased crime, including
6 loan sharks and money launders?

7 A That's correct. With the bet limits.

8 Q IIGET was formed to try to deal with this
9 anticipated increase in crime?

10 A Who was?

11 Q IIGET. The integrated --

12 A IIGET.

13 Q Yes.

14 A IIGET.

15 Q IIGET.

16 A Yeah.

17 Q I mispronounced the acronym. It was formed to
18 try to deal with that?

19 A No. They were to do illegal gaming. The intent
20 of IIGET was to do illegal gaming.

21 Q Well, we've actually -- we've heard from the NCO
22 and there was a Backgrounder by the RCMP in
23 2004, and they wanted to do crime in legal
24 casinos. You're not aware of that?

25 A I'm not aware of that. I know that they did

1 some little things in the casinos. And let's be
2 clear here. They were never, ever prohibited
3 for not going into the casinos. I want to make
4 that clear that the police can go anywhere they
5 want and do anything they wish in relation to
6 the *Criminal Code* and do those functions. I
7 know those people that came into work for IIGET,
8 and they were not at all in any way prohibited
9 from doing any criminal investigations.
10 However, the mandate of IIGET was illegal
11 gaming. It was formed under that intent because
12 of the issues up northern BC in the illegal slot
13 machines. And that was the intent. And
14 remembering that IIGET only went from 2003
15 basically to 2008, and I outlined yesterday the
16 number of issues involved in that to hamper its
17 success. But it was never inhibited to do any
18 type of investigation anywhere in the province,
19 or the country as a matter of fact. When you
20 look at role and responsibility documents, the
21 role and responsibility document might say that
22 they have the authority to investigate *Criminal*
23 *Code*. That's a given. That's a given.
24 Q Well, whether -- whatever the cause, it ended up
25 being disbanded by 2009, didn't it?

1 A That's correct.

2 Q Yeah. And it left the situation where gaming
3 was expanding, table limits were expanding,
4 there was efforts to bring in wealthy Chinese
5 gamblers, VIP rooms were being built, the amount
6 of cash coming in the casinos was expanding
7 exponentially?

8 A Correct.

9 Q Do you agree?

10 A I agree.

11 Q With that came money laundering and loan
12 sharking?

13 A That's correct.

14 Q And you had the police apparently unable to --
15 law enforcement to investigate that?

16 A No. You mean the IPOC units were advised of it
17 and for whatever reasons they did not come and
18 investigate that.

19 Q Yeah --

20 A I shouldn't say that. They did for a portion of
21 time, five or six months they were doing some
22 surveillance and we knew IPOC was doing that
23 surveillance.

24 Q But essentially they did not effectively
25 investigate and attempt to charge people for

1 those offences, did they?

2 A I don't like the word "effective. They were
3 there doing what they could with what they had.
4 If they wanted to fully investigate those things
5 they would need more people, more support units,
6 and there was a disbanding of the IPOC unit. It
7 was a transition time. Now, remembering,
8 Mr. Smart, a year later from 2009 the government
9 addressed its -- the issue of 40 full-time
10 employees to work at CFSEU. Now, I didn't have
11 the ability to do that, to involve that many
12 people to go and investigate criminal activity.
13 But there was only from 2009 to 2010 that it was
14 suggested again, and remembering that up to 2007
15 there wasn't really a big issue within the
16 casinos. It was -- we were -- we were managing
17 it, and I always previous believed, even though
18 the IPOC units were there -- and I agree with
19 you on that, they could have probably done more
20 investigation, I agree with you on that -- this
21 could have been remedied through an easy
22 regulatory change or direction from the lottery
23 corporation or the General Manager. And that
24 would have stopped that problem in its tracks.
25 And talk about cost effective to the public.

1 That was an extremely cost effective way of
2 dealing with it.

3 Q My question to you, the police weren't dealing
4 with it, were they?

5 A No, they weren't.

6 Q You weren't able to deal with it?

7 A That's correct.

8 Q So from a law enforcement perspective, there was
9 a huge gap in which organized crime could come
10 in and launder money, isn't that right?

11 A That's correct.

12 Q And what you did, what you suggested as early as
13 2009 in some of these reports is let's have
14 regulation, let's have directives, let's define
15 suspicious transactions so that includes
16 anything at \$3,000 or more in \$20 bills, we're
17 not guilty going to accept it. That's what you
18 suggested?

19 A In 2019 we put that remedy forward to the
20 General Managers, that's correct, and we put
21 \$3,000 as a limit. But as you realize, it
22 progressed further as we went through. It went
23 from 3- to \$10,000, then it went to 20,000, et
24 cetera, et cetera. Stop the bleeding.

25 Q No, I'm not being critical. I'm saying as early

1 as 2009 you were advocating a different solution
2 to money laundering coming in occurring in these
3 casinos.

4 A That's correct.

5 Q You were ahead of your time, essentially,
6 Mr. Vander Graaf. And by that I mean this:
7 throughout casinos around the world, nobody was
8 putting in -- was implementing the kinds of
9 conditions that you were advocating that should
10 be implemented to deal with money laundering.
11 Do you agree with that?

12 A I think some areas -- a lot of jurisdictions --
13 I know what you're talking about -- is in Las
14 Vegas, they were wrestling with the source of
15 funds declaration. FinCEN, which is an agency
16 down there equivalent to FINTRAC were
17 threatening, and threatening loudly, to the
18 casino industry in the United States to do that.

19 Q I'm just going to show you GPEB264, Madam
20 Registrar.

21 This is an article -- I guess it's
22 *Las Vegas Review-Journal* 2014. Have you seen
23 this before?

24 A Yes, I have.

25 Q Yeah. I'll just take you to a portion of the

1 article. Madam Registrar, thank you, just
2 scroll to the second page. Thank you.

3 Under the *Las Vegas Review-Journal*:

4 "Word that the US Treasury Department may
5 soon require the casino industry report
6 the source of gambling funds used by their
7 big spending high rollers sent a few shock
8 waves through corporate offices. It
9 wasn't so much a rumble as it was a
10 magnitude 7 earthquake. The move is part
11 of a stepped-up effort by the Treasury
12 Department Financial Crimes Enforcement
13 Network to crack down on money
14 laundering."

15 And I'll just stop there. This is 2014, and the
16 kind of measures that you were suggesting in
17 2009 are only being really discussed and maybe
18 implemented in 2014 in Las Vegas. Am I right?

19 A But you have to understand something, Mr. Smart.
20 In Las Vegas they have full-fledged police
21 officers working in the casinos. They're Nevada
22 gaming or gun-carrying police. That's a
23 different regime. And they could afford that
24 time to deal with it. In Vancouver, I didn't
25 believe we had those people in there. Well, we

1 didn't have them in there, so we had to do it in
2 2009. I agree with what you're saying. I may
3 have been ahead of my time for the situation
4 here, but in Las Vegas they had preventive
5 measures in place to deal with it with police on
6 the floor in casinos. Same as Ontario. Ontario
7 had police on the floor. So they could take
8 their time. We couldn't take our time here. We
9 were hemorrhaging.

10 Q And what were is police doing in Ontario?

11 A The police would then show up at the cash cage
12 when somebody brings 3- or \$400,000 in \$20 bills
13 and there would probably be an investigation of
14 some type. They certainly wouldn't probably
15 take the money. They would refuse to come in
16 and that would be the end of it. And as time
17 goes on in Ontario when you talk to the OPP,
18 they say nobody brings \$250,000; are you
19 kidding; nobody brings that in here; they know
20 full well that there's a deterrent method of law
21 enforcement there as well.

22 Q So why couldn't your investigators ask patrons
23 where they got the money from?

24 A We did not feel that was our role. It -- what
25 would we do? Tell them they couldn't bring it

1 in?

2 Q Well, if you're going to investigate, can't you
3 at least find out -- isn't that what the source
4 of funds declaration is all about --

5 A That is a responsibility of the lottery
6 corporation. I ran a scenario by that, and
7 maybe you're coming to that next, a scenario in
8 which they would do that. All we wanted to do
9 was we believed in due diligence, source of
10 funds declaration by the point of entry within
11 the casino or limit the 20s. That was our --
12 without direct police intervention into
13 organized crime, that was the method we felt
14 would be most successful in stopping the flow of
15 money.

16 Q And you were right. But you were ahead of your
17 time. What was happening in British Columbia,
18 the government's priorities, what GPEB was
19 doing, what BCLC was doing I'm going to suggest
20 to you was relatively consistent with what was
21 happening around the world. Do you disagree
22 with that?

23 A No, I do not.

24 Q You don't disagree?

25 A I don't disagree.

1 Q Yeah. And you -- I mean, it took a while,
2 frankly, for the anti-money laundering measures
3 to catch up with organized crime. Do you agree
4 with that?

5 A I don't quite understand what you're saying
6 there.

7 Q Well, it took time for governments -- you may
8 have recognized it took time for the casino
9 industry to recognize just with the expansion of
10 gaming to bring in measures to address all of
11 the suspicious cash that was coming in. I
12 appreciate you were -- you had suggestions, but
13 it took a while for the rest of the business,
14 the industry and the government to catch up?

15 A I don't agree with that. I mean, this was on TV
16 consistently, 18 feet of money coming into the
17 casino in \$20 bills. You better catch up pretty
18 quick. I mean, organized crime is attacking the
19 legalized gaming venues. I mean, I know what
20 you're trying to say, there's an evolution. But
21 the evolution stops when you see that
22 significant coming into the casino. You have to
23 react very quickly and limit the 20s or do
24 something. Lottery corporation had sufficient
25 resources and knowledgeable people to deal with

1 that. It's not like we're talking about -- I
2 believe they had the people to recognize that
3 very quickly.

4 Q Well, they recognized as suspicious, but just
5 like you they, couldn't prove on a balance of
6 probabilities that it was proceeds of crime?

7 A We're protecting the integrity of gaming,
8 Mr. Smart. I mean, integrity of gaming, then
9 they should have orchestrated something to
10 prevent that money from coming in or at least
11 say, where did you get the money? And in 2009
12 Doug Morrison put a memo out on the player
13 gaming fund from BC lottery corporation, Manager
14 of Security and Surveillance, and said, we are
15 going to do that.

16 Q You could have -- GPEB could have done it,
17 couldn't they?

18 A No, they couldn't have.

19 Q Why not?

20 A The General Manager could have done that through
21 registration, terms and conditions of
22 registration. I believe the General Manager
23 could have put that through terms and condition
24 registration.

25 Q You discussed doing it, but your investigators

1 decided it was too dangerous?

2 A No, I didn't discuss -- that was a scenario
3 you're looking at. I'm putting that scenario
4 there for one reason. And I knew -- what that
5 was is September 2013 we were moving into the
6 final phase of the AML strategy. The AML
7 strategy was that we were going to regulate or
8 put something in place, customer due diligence
9 to deal with the money coming in. That's the
10 third phase. The third phase then. I wanted to
11 know what they were saying at the point of entry
12 in the casino, because we were moving quickly
13 into that and that was the spawning of the
14 Malysh report where we went out and contracted
15 somebody. Because it wasn't good enough to
16 believe me or believe anybody else at GPEB. We
17 had to go outside to get somebody else to come
18 in and do a customer due diligence review
19 basically for the source of funds. Even though
20 Doug Morrison had said it in 2009 in the lottery
21 corporation, we were saying it and we wanted to
22 get somebody from outside. And what Malysh came
23 back and said was source of funds is helpful,
24 it's very helpful. I said, source of funds is
25 mandatory; we are in a crucial situation here;

1 and we should have done it. And we went through
2 all of 2014 to do that. And that's what that
3 was about. We were never intending to go down
4 and interrupt what BCLC's responsibility was in
5 relation to the source of funds at the point of
6 entry within the casino. Them and the service
7 provider. Could we have gone through a term and
8 condition of registration? I proposed that many
9 times that we should do that. We did that in
10 2009 as well, recommended it. It didn't get any
11 traction. So I'm not just saying BCLC. I'm
12 saying the General Manager in the branch missed
13 the opportunity under the terms and conditions
14 of registration. But I do believe that the
15 General Manager would have had support of the
16 ministry, of the minister, and I don't know
17 whether the president and CEO of the lottery
18 corporation would have had to have support of
19 the minister as well. I don't know that
20 relationship and how that worked. But as a
21 result -- nobody did it.

22 Q My time is up. I just want to conclude with
23 this: you say BCLC should have determined the
24 source of funds. Mr. Kroeker said that wasn't
25 their job; right?

1 A Mr. Kroeker wasn't saying that job. He was
2 saying that they only had a job to report. They
3 had to report and it said to be curious.
4 Mr. Kroeker will be up here too, I'm sure. He
5 said to be curious. BCLC should be curious when
6 they're bringing in 18 feet of money into a
7 casino, they should be more than curious. They
8 should be saying it's not coming in here or
9 source of funds.

10 MR. SMART: My time is well passed, Mr. Commissioner,
11 I'm sorry.

12 THE COMMISSIONER: That's fine, Mr. Smart. Thank
13 you.

14 Now on behalf of Great Canadian Gaming
15 Corporation, Mr. Skwarok, who has been allocated
16 20 minutes.

17 MR. SKWAROK: Thank you, sir.

18 **EXAMINATION BY MR. SKWAROK:**

19 Q Mr. Vander Graaf, GPEB had the responsibility
20 for maintaining the overall integrity of gaming
21 in the province; right?

22 A That's correct.

23 Q And the BCLC is responsible for the conduct and
24 management of gaming in the province; right?

25 A They still have responsibility for the integrity

1 of the financial aspects as well.

2 Q But in answer to my question, did BCLC have the
3 responsibility for conduct and operations?

4 A Yes, they did.

5 Q So between GPEB and BCLC, service providers were
6 bound to be concerned about the directions given
7 by two different bodies; right?

8 A That's correct.

9 Q Did you believe that GPEB could have issued an
10 order to service providers to refuse buy-ins
11 from certain patrons who GPEB believed were
12 compromising the integrity of gaming?

13 A I believed that GPEB could put a term and
14 condition of registration. As you know,
15 Mr. Skwarok, the service providers are under the
16 registration of the -- through GPEB. I believe
17 they could have put a term and condition of
18 registration as to a source of funds declaration
19 on the service providers. I believe they could
20 do that.

21 Now, I do have one caveat there, is that I
22 didn't know on a publicly traded company whether
23 the regulator could do that from a legal
24 perspective, but I believe they could have tried
25 it or done it. With the support of the minister

1 I certainly believed they could have done that,
2 and I believe they would have needed the support
3 of the minister because of course there could be
4 an impact to revenue.

5 Q I believe you also testified in your opinion
6 GPEB had the authority to direct BCLC to take
7 certain actions such as barring undesirable
8 patrons?

9 A I believe that GPEB was established and had
10 oversight over the lottery corporation. But
11 what it went from was an oversight capacity to a
12 cooperative capacity in dealing with the money
13 laundering issue. That was different to the
14 issue on the lottery retailers that I explained
15 earlier. The lottery retailers had an
16 independent oversight. When you put the revenue
17 generator in the same place as the primary
18 responsibility for integrity of gaming, then it
19 becomes an issue as to whether you're regulating
20 the -- or BCLC corporation or in fact you are
21 working with the BC Lottery Corporation.

22 Q All right. Thank you, sir. Moving on to
23 registration issues. You talked about how
24 conditions could be put on registration of
25 service providers; right?

1 A Yes.

2 Q You're aware that the General Manager could
3 refuse to renew a service provider's
4 registration; correct?

5 A That's correct. It would be a big move though.

6 Q Yes. And the standard for refusing to renew was
7 the General Manager had to have reasonable
8 grounds to consider that the service provider
9 was acting as a detriment to the integrity or
10 lawful conduct of gaming. Were you aware of
11 that test?

12 A I wasn't aware of that test, but it sounds
13 reasonable to me.

14 Q Do you know whether Great Canadian's application
15 for renewal was ever denied on the basis its
16 conduct was a detriment to the integrity of
17 gaming?

18 A I'm sure I would have heard that, even though
19 registration wasn't in my forte. I would have
20 certainly heard that, and it wasn't.

21 Q All right. Were you also aware, sir, that in
22 addition to concerns about renewing
23 registration, the General Manager had the power
24 to suspend or cancel registration or to fine a
25 service provider if it was considered

1 appropriate. Were you aware of that?

2 A That's correct. But I should put the caveat
3 that the Executive Director of Registration had
4 been delegated the General Manager's authority
5 to do that.

6 Q The test under the legislation -- I'm not going
7 to ask you legal questions, but did you
8 understand that the test for imposing these
9 types of remedies was that the General Manager
10 had to consider that the conduct of the service
11 provider, again, was a detriment to the
12 integrity of gaming?

13 A That sounds reasonable, but I have no
14 knowledge -- I don't have -- I'm not up to speed
15 on every -- all of those aspects of
16 registration.

17 Q All right.

18 A But it sounds logical to me.

19 Q To your knowledge did the General Manager or his
20 delegate ever impose conditions on Great
21 Canadian's registration for non-compliance with
22 anti-money laundering rules or fine it or
23 threaten to suspend its registration?

24 A I have no knowledge of that.

25 Q All right. But you certainly expressed concerns

1 on a number of occasions that there was conduct
2 in casinos that was contrary to the public
3 interest and to the integrity of gaming;
4 correct?

5 A That's correct.

6 Q And you passed on those concerns to the General
7 Manager; right?

8 A And -- yes, I did.

9 Q And the General Manager chose not to accept your
10 recommendations regarding such individuals;
11 correct?

12 A I don't know if he chose not to accept the
13 recommendations and why he didn't, but we sent
14 them to him and he did what he did with them and
15 I don't know what he did.

16 Q You were the director of investigations. I'd
17 like to get a sense from you, if I may, about
18 how you perceived the scope of your powers in
19 conducting investigations. What could you do?

20 A Well, we had -- the division was set up in that
21 there's a registration -- and I'll just talk
22 about registration division and the
23 investigation division.

24 We could investigate -- rather than getting
25 into a bunch of legal terms, like you're saying,

1 we would investigate minor *Criminal Code*
2 offences, i.e. if there was a theft or a bet
3 capping things of that nature within a casino
4 environment or a fraud or something like that.
5 And it wasn't only the casinos. It was
6 charitable gaming and lottery retailers. We
7 would do any of those. In the Lower Mainland we
8 had specific units that could do that. In the
9 up country we had multitasking units that could
10 do investigations. But we could also do a term
11 and condition of registration violation. So if
12 some -- a gaming worker, per se, was doing
13 something, say, in Kelowna, that was -- or had
14 something that they had done offsite and it
15 could impact the integrity of gaming, we would
16 do an investigation. We used to call it a
17 post-registration investigation. That
18 registration -- that document would then be a
19 report of findings, it would be small in nature,
20 usually, would be forwarded to the registration
21 division in Victoria that worked right
22 underneath the General Manager, who was
23 responsible for the overall integrity of gaming.
24 They would then make a rule, Director of
25 Registration had that responsibility, either

1 corporate or persons, to deal with that matter.
2 So we had a corporate registration division and
3 a person dealing with registration.

4 In Vancouver, in the Lower Mainland, what
5 we would do -- they had actually had
6 post-registration investigators there. So if
7 there was an issue within Great Canadian casino
8 dealing with a -- and it may impact the
9 integrity of gaming -- those investigators would
10 do the investigation and forward it over to
11 Victoria, not mine. My investigators didn't do
12 that

13 Q Thank you, sir. You made a number of
14 recommendations to the General Manager for
15 reform that you thought would be helpful in
16 addressing potential money laundering issues;
17 correct?

18 A That's correct.

19 Q And just to list a few of them, you suggested
20 that the General Manager issue a directive
21 saying that if a service provider identified a
22 transaction as suspicious, then the service
23 provider must refuse the transaction; correct?

24 A That was the initial stage, yes. In 2009.

25 Q No such directive was issued, was it?

1 A No, it was not.

2 Q Did you tell Great Canadian about your
3 recommendation?

4 A No, I did not.

5 Q Is there a reason for that?

6 A I didn't liaise a lot with Great Canadian
7 casino. More of the service -- the people in
8 registration did all the time, and I don't think
9 that audit did a lot either, although there was
10 some audit functions there. We mainly dealt
11 with BC Lottery Corporation, and in limited
12 amount. In the later years. In the beginning
13 years when Brian Egli and those people were
14 there at Great Canadian we were down there and
15 dealing with them. But later on we didn't do
16 much liaison with the service provider because
17 we felt BC Lottery Corporation had the conduct
18 and manager power over the service provider.
19 That was my rationale. And the registration
20 division had the registration authority over the
21 service provider, both corporate and personal.
22 So they were dealing with the service provider
23 much more than we would. We on site -- on site
24 we dealt with corporate security.

25 Q I'm just going to run through a few of your

1 other recommendations. One of them was to put
2 limits on the number of \$20 bills that service
3 providers could accept; correct?

4 A That's correct.

5 Q Another was that there be source of funds
6 declarations for suspicious transactions; right?

7 A That's correct.

8 Q You also recommended to the General Manager that
9 service providers should be required to consider
10 all cash transactions of \$3,000 or more in
11 \$20 bills, consider those as suspicious
12 transactions; right?

13 A In 2009 in its infancy, yes. That moved -- that
14 figure of \$3,000 would have definitely moved.

15 Q It moved to 10?

16 A It could have went to 20 as far as I was
17 concerned at certain times.

18 Q But the point being you made a recommendation on
19 there being a cap?

20 A That's correct.

21 Q Thank you. None of those recommendations were
22 accepted by the General Manager, were they?

23 A No, they weren't. They may have been accepted
24 by him, but maybe he couldn't have done it
25 himself.

1 Q All right. Well, let me do it differently.
2 Your recommendations were not accepted by GPEB;
3 correct?

4 A That's correct.

5 Q Yeah. Even if you didn't have the actual
6 authority to direct a service provider to do
7 certain things, couldn't you recommend to them
8 that they should do the types of things that you
9 are recommending that GPEB should put in force?

10 A I didn't feel that that was our function. I
11 mean, it's possible that we could have done
12 that. I know -- but we would be stepping over
13 grounds and over people. Once I advised the
14 General Manager and corporate registration were
15 aware of that, I felt that was their
16 responsibility to do that. The General Manager
17 is the ultimate power within the branch in
18 integrity, and if these things were that
19 important, I felt that the General Manager would
20 have taken the initiative to deal with them.
21 Remembering that the service provider was on an
22 AML strategy, the service provider was meeting
23 with the General Manager and Bill McCrea on the
24 AML strategy in 2011 that Kroeker recommended,
25 so they were having conversations. We were not

1 involved in that. We were left and relegated to
2 the intelligence role and investigative role
3 that we were performing. And I know for a fact
4 that GCC was on that board with BCLC and the
5 General Manager. That was the -- that was the
6 forum to deal with it. And I don't know if
7 BC -- or the Great Canadian felt it would have
8 been appropriate to bring it up there. But you
9 know, we didn't know what was going on there.

10 Q So you felt it was inappropriate to pass on to
11 Great Canadian a recommendation that they comply
12 with the types of things you were trying to put
13 through with GPEB?

14 A I didn't feel it was necessary at the time
15 because they were dealing with the General
16 Manager and the head of our AML strategy and the
17 lottery corporation. You were having meetings
18 with that group and that group was well aware
19 what the investigation division was saying. So
20 the investigation was passing it to the General
21 Manager; he's quite aware of it. The AML
22 strategist is aware of it. The lottery
23 corporation is aware of it. We sent memos there
24 in 2010. Our position was why would I go down
25 to GCC and do that? There was a communication

1 board set up as a result of Kroeker.

2 Q So the answer to my question is no?

3 A Correct.

4 Q In your affidavit you refer to a number of
5 reports outlining concerns about various aspects
6 of money laundering, and you make reference to
7 discussions with BCLC officials, police agencies
8 and the like. Did you share the details of
9 those conversations with Great Canadian?

10 A I don't -- personally I did not.

11 Q All right. Are you aware whether anyone else in
12 your organization did?

13 A I would -- the people that would be doing it
14 would be at the lower level, I would suggest,
15 but maybe it could have been also Derek Dickson,
16 the head of the casino group. He may have. But
17 I don't know that for sure.

18 Q But while all these discussions are occurring
19 with regulatory and police services, why
20 wouldn't there have been a priority to let the
21 service providers know what the thought
22 processes were?

23 A When the AML group was set up in 2011, the group
24 was there, Mr. Skwarok. There was people from
25 Great Canadian casino on it. I knew the group

1 of people there were there. That was a forum.
2 Everything we were funneling up we were
3 relegating to the intelligence aspect of the
4 branch, and we were relegating up to the head of
5 our AML group, Bill McCrea and the General
6 Manager. The General Manager is responsible for
7 that responsibility. These meetings were taking
8 place all the time. From what we saw on paper,
9 we didn't see it was necessary to go to GCC and
10 do that. We didn't.

11 Q You didn't think it was necessary to inform GCGC
12 of the elevated concerns that your groups had
13 and to seek input or give direction?

14 A We had the General Manager doing that. He was
15 aware of that. He was the conduit to GCC.

16 Q All right. And are you aware whether or not the
17 General Manager did keep Great Canadian informed
18 of all of the activities that the various groups
19 were undertaking to attack money laundering?

20 A I do not know.

21 Q I'd like to go to paragraph 127 of your
22 affidavit, if I may. It's on page 21 at the
23 bottom. Do you have it?

24 A Yes, I do.

25 Q In section 127 you say:

1 "The service providers could have
2 voluntarily chosen to stop accepting
3 suspicious cash transactions, but I
4 believe that they were content to take the
5 cash as long as neither BCLC nor GPEB took
6 any action to prevent them from it."

7 Let me ask you a question that addresses that
8 assertion maybe in a little bit of a different
9 way than you put it. You're aware that Great
10 Canadian knew that both BCLC and GPEB had
11 investigative powers regarding anti-money
12 laundering activities; right?

13 A Restricted investigative powers. We couldn't
14 investigate money laundering offences nor could
15 we investigate proceeds of crime offences.

16 Q Did you tell Great Canadian that?

17 A I don't know if we did or not. I don't believe
18 so. Maybe our investigators would have told
19 them at that level.

20 Q You're aware that Great Canadian also knew that
21 the regulators -- and by "regulators" I mean
22 your organization and BCLC -- were dealing with
23 police agencies on issues relating to money
24 laundering; correct?

25 A I'm assuming they knew. I don't know for sure.

1 Q And you had no reason to dispute that Great
2 Canadian gave all relevant information on large
3 cash transactions to GPEB or BCLC; right?

4 A No question to GPEB. I won't dispute that at
5 all. Very cooperative.

6 Q Did you think that Great Canadian relied on GPEB
7 and BCLC and to some extent the police to tell
8 them what they should or shouldn't do with large
9 amounts of cash?

10 A That is a different way of putting it compared
11 to 127. I believe that as a major -- I think
12 that they knew that the authority above them to
13 deal with issues of this nature was with the
14 service -- or was with BCLC and GPEB. I think
15 they realized that, if that's what you're
16 saying, Mr. Skwarok. I believe they realized
17 that, and they could have looked for direction
18 from them or were looking for direction from
19 them, if I can put it that way.

20 Q Thank you for a very candid answer. Putting
21 yourself in the shoes of Great Canadian it's
22 looking at these various organizations, yours,
23 BCLC and the police, and Great Canadian's
24 recognizing that all of you had more knowledge
25 about money laundering investigations than Great

1 Canadian; right?

2 A Well, not necessarily. You had people that were
3 fairly knowledgeable within the organization as
4 well. Some of your corporate security are
5 fairly knowledgeable.

6 Q But it wasn't the obligation of Great Canadian
7 to investigate; its obligation was to report;
8 correct?

9 A I think you have -- I still think you have a due
10 diligence obligation to the integrity of gaming
11 as a corporation.

12 Q Okay. But you also knew that Great Canadian was
13 aware that these other entities had expressed
14 investigative enforcement responsibilities?

15 A We had oversight authority over GCC.

16 Q And these organizations had access to more
17 information than Great Canadian; correct?

18 A Potentially, yes.

19 Q And all three of your organizations, GPEB, BCLC
20 and the police, had more investigative
21 expertise; correct?

22 A Yes, but I don't believe you needed the
23 expertise. I'm going back to integrity of
24 gaming again. The integrity of gaming is
25 defined -- and we know what integrity of gaming

1 is; GCC knew what integrity of gaming was too.
2 They were well aware of that from the
3 registration side of the fence, that there was
4 an integrity issue that they could do something
5 about it. I'm not saying they had to, but I'm
6 saying they could have.

7 Q If the parties who regulate didn't think it was
8 desirable to restrict cash buy-ins, why should
9 it have been left to the service provider to do
10 that?

11 A The service provider has the opportunity to
12 restrict it if they wish, but I understand where
13 you're going and saying in relation to the
14 regulatory body and the conducting manage body
15 have, I believe, an obligation to tell the
16 service provider that as well.

17 MR. SKWAROK: Thank you, sir for answering my
18 questions.

19 THE WITNESS: Thank you, Mr. Skwarok.

20 THE COMMISSIONER: Thank you, Mr. Skwarok.

21 Next on behalf of Gateway Casino, Ms.

22 Bevan, who has been allocated 10 minutes.

23 MS. BEVAN: Thank you, Mr. Commissioner.

24 **EXAMINATION BY MS. BEVAN:**

25 Q Thank you. Mr. Vander Graaf, can you hear me?

1 A Yes, I can.

2 Q I'm going to ask you to turn to exhibit C, which
3 is one of the exhibits Mr. Smart was reviewing
4 with you earlier this morning. Specifically
5 page 29 in the upper left-hand corner.

6 A Yes.

7 Q Page 53 in the PDF. This is the roles and
8 responsibilities of participants in British
9 Columbia gaming industry document. Under
10 section 2.1 the first two bullets refer to
11 GPEB's responsibility to develop and maintain
12 the policy and regulatory framework for gaming
13 and horse racing, and then secondly,
14 establishing industry-wide public interest
15 standards. GPEB did in fact issue public
16 interest standards from time to time, including
17 with respect to security and surveillance and
18 responsible gaming?

19 A Did they -- I'm sorry. What did you ask again?

20 Q Are you aware of whether GPEB did issue public
21 interest standards from time to time
22 specifically with respect to security and
23 surveillance and responsible gaming?

24 A I'm not aware of that. I'm sure they did, but
25 that would come out of our policy branch. It

1 wouldn't have come out of the investigation
2 branch. It would have come out of Victoria, but
3 I was not aware of those.

4 Q Okay. Did you have an understanding in 2010
5 that it was a condition of registration for
6 gaming service providers that they obey all
7 public interest standards established by the
8 General Manager of GPEB?

9 A I wasn't aware of that.

10 Q Okay. I'm going to ask you to scroll down --
11 sorry, turn to page 31 in the upper left-hand
12 corner. Section 4.1 refers to the roles and
13 responsibilities of gaming service providers.

14 So it says that BCLC contracts with the
15 private sector to provide day-to-day operational
16 services at its gaming facilities. Were you
17 aware -- you certainly were aware, I guess, in
18 at least 2010 that gaming service providers were
19 parties to commercial agreements with BCLC?

20 A That's correct, I was aware of that.

21 Q And the last sentence says that gaming service
22 providers are registered by GPEB and are
23 responsible for complying with all applicable
24 rules and regulations as well as complying with
25 the terms and conditions of contract with BCLC.

1 A That's correct.

2 Q Did you agree in 2010 that this paragraph
3 accurately summarized the core roles and
4 responsibilities of gaming service providers?

5 A I believe that, yes. Derek Sturko did this, by
6 the way.

7 Q That's right. But you reviewed this document in
8 2010?

9 A Yes, I did.

10 Q You're familiar with it?

11 A I am familiar with it, but it is a very broad,
12 broad document, and it was issued by the General
13 Manager, and there's certain areas that apply to
14 my function in the Gaming Policy Enforcement
15 Branch and don't apply -- my function doesn't
16 apply to some of the things in here, if you
17 understand what I'm saying.

18 Q Fair enough. I think you've said that you
19 were -- registration was not in your wheelhouse,
20 correct?

21 A No. And post-registration wrongdoing, we were
22 involved in, in the regional areas, but there
23 was their own investigators and registration in
24 the Lower Mainland, so we didn't do it in the
25 Lower Mainland.

1 Q Okay. Now, yesterday your evidence was that
2 service providers were generally very compliant
3 with directions that they received from GPEB
4 with respect to registration or Section 86
5 Reporting. Do you recall saying that?

6 A Yes, I did. And I believe that.

7 Q And you generally held that view throughout your
8 time at GPEB?

9 A There was the odd incident, but once we
10 identified something, especially in reporting,
11 that was the big thing with my division because
12 they were reporting to all the offices. When we
13 brought it to their attention, the service
14 provider would comply very quickly. They were
15 very good.

16 Q Was that true with respect to any form of
17 direction given by GPEB, whether or not it was
18 pursuant to regulation or directive or a
19 recommendation that found its way into standard
20 operating procedures issued by BCLC?

21 A I don't know that. I'm only dealing -- I've
22 only dealt specifically with the service
23 providers on investigative matters and
24 Section 86s we reported to our office on
25 wrongdoing or integrity issues, et cetera, and

1 if there was something missing or something
2 wrong, they were very cooperative in fixing it.

3 Q Okay. I'm going to ask you to turn to
4 exhibit S, which is the 2009 document that
5 you've reviewed as part of your evidence here.

6 A Yes.

7 Q This is the 2009 memo to Mr. Sturko?

8 A Yes.

9 Q Now, I understand that this document -- I'm
10 looking at page 184 in the upper left-hand
11 corner, but this document sets out what was
12 viewed by the people who prepared this document
13 as the requirements for the basis of GPEB's
14 recommendations going forward as part of this
15 document?

16 A What this was, this document was prepared in
17 2009 as a result of some money laundering issues
18 that had surfaced by Mr. Rampone in 2008. Derek
19 Sturko asked him to do it, but it was
20 specifically attached to the player gaming fund
21 account. That's what spurred it on, and you can
22 see that in the first paragraph. And it was our
23 first attempt to define what we thought was
24 suspicious. Not considering what FINTRAC was.
25 This was going to be completely separate from

1 FINTRAC.

2 Q And if you go down to page 186 in the upper
3 left-hand corner. There are listed here
4 "enforcement instruments in no particular
5 order," and those include regulation, directives
6 and then there's a reference to enhanced
7 security and surveillance standards for the BC
8 gambling industry, public interest standard. Do
9 you recall reviewing that in 2009?

10 A That must have been -- no, I don't. That must
11 have been somebody from registration or the
12 audit group that did that. That's something --
13 that's not a terminology that I would be using a
14 lot of times. The rest I would, but not that
15 one.

16 Q Okay.

17 A But somebody put that in as an enforcement
18 instrument, and that's what the General Manager
19 was asking, what enforcement instruments do you
20 have at your disposal to deal with this
21 pending onslaught of money? And this is what we
22 did the three of us. We took a long time doing
23 this. Because defining what suspicious was is
24 not easy, and so at the time -- and \$3,000 was a
25 small amount of money, but that just is

1 indicative of what the problem was in 2009 and
2 how I escalated it very quickly to try and get
3 interest to 20- and \$25,000 even of \$20 bills.
4 And it was always the 20s.

5 Q And so yesterday I think you mentioned that the
6 basis for this document, the content of this
7 document was something that you continued to
8 preach within GPEB for a number of years;
9 correct?

10 A That's true.

11 Q And Ms. Latimer took you yesterday to a number
12 of reports -- which I don't think I need to go
13 back to today -- but that referred to that GPEB
14 still did not have a regulation or term and
15 condition of registration in place that
16 addressed these matters in and around 2013; is
17 that right?

18 A That's correct.

19 Q And did you also hold the view that it was
20 important for GPEB to publicly demonstrate its
21 commitment to anti-money laundering measures
22 through regulation?

23 A Yes, I did.

24 Q And did you hold that view in around 2013, 2014?

25 A I think I held that view all the time that --

1 you could have done a regulation -- it was
2 always one of the three or four. Regulation, a
3 ministerial order, a source of funds
4 declaration, limit the 20s. Any one of those at
5 a specific time would have been promoted by us
6 to nauseam almost, I mean, you know, at board
7 meetings and things of that nature. And after a
8 while I think when you talk like that, you talk
9 on deaf ears, eh, and that's what happened, and
10 we figured that had to be done to protect the
11 integrity of the gaming. You know, I get
12 frustrated even when I talk about it now. I
13 mean, this was going on; it was on television.
14 You know, we were seeing this since 2011 on
15 television all the way through to 2014 when I
16 left, and there should have been no necessity to
17 promote interacting -- everybody was dealing
18 with money laundering and things of that nature,
19 not the real issue was the integrity of gaming.

20 Q So I'm going to ask you to turn to exhibit AA.

21 THE COMMISSIONER: Could you repeat that.

22 MS. BEVAN: AA.

23 THE COMMISSIONER: Thank you.

24 MS. BEVAN:

25 Q It's on page 264 in the upper left-hand corner.

1 Sorry, excuse me, it starts on page 261, but I'm
2 going to ask you to go to the bottom of the
3 email chain, which starts at 264.

4 Do you have it there, Mr. Vander Graaf?

5 A Yes, I do.

6 Q On page 264, this is a draft -- this is an email
7 that circulates to a number of people, including
8 yourself, a draft portion of Mr. Malysh's
9 report --

10 A Yes.

11 Q -- that I think you had alluded to earlier?

12 A Yes.

13 Q And this section is in relation to GPEB's
14 proposed AML guidelines?

15 A That's correct.

16 Q And Mr. Malysh's draft includes a recommendation
17 for AML compliance regime regulation under the
18 *Gaming Control Act* with the companion guideline.
19 And I understand that that is what you had been
20 advocating for and advancing in your reports and
21 correspondence since 2009; correct?

22 A Yes. Generally, yes. But when we did the
23 customer due diligence with Mr. Malysh, we
24 wanted him to go to the financial institutions
25 to look at them and the financial sector to see

1 exactly what -- we knew what they were doing
2 generally. We knew what they were doing.

3 Q Right.

4 A And this is one of the recommendations he came
5 up with.

6 Q Right. And so if you go up in time to page 263,
7 Mr. McCrea responds and he proposes a
8 modification to broaden the recommendation. Do
9 you see that? He says it's too restrictive and
10 he would like to include, pursuant to their
11 discussions, reference to a public interest
12 directive. Do you see that?

13 A Yes.

14 Q And in a subsequent email on page 262,
15 Mr. McCrea asks Mr. Malysh to include that
16 expansion of the recommendation. Do you see
17 that?

18 A Yes.

19 Q And then the subsequent email from you, which is
20 above it, to Mr. McCrea on September 9 about
21 four minutes later, you suggest that Mr. McCrea
22 is watering down the recommendation?

23 A That's correct.

24 Q And then you expand on that view a little bit in
25 the subsequent email, which is on page 261 at

1 the bottom of page 261. And you say that:

2 "It has been proven many times in the past
3 that a regulation and accompanying
4 guidelines gets the attention of and meets
5 with compliance with the service
6 provider."

7 But I understand it was your view generally at
8 the time that service providers would comply
9 with whatever direction GPEB and BCLC gave.

10 A I believe -- I can't speak of BCLC, but I
11 generally believed that if you gave a direction
12 to the service providers they would -- unless
13 there was some significant reason why they
14 couldn't -- and I don't know what that would be,
15 either publicly traded company or something --
16 you could give that direction and they would
17 abide by it.

18 Q And you also make the comment in the middle of
19 this paragraph that "a regulation clearly
20 demonstrates an entrenched public record of
21 commitment to defer money laundering by the
22 regulator (government)." That was the sentiment
23 that you were echoing -- the view you had that
24 it was important for GPEB to take a public stand
25 through regulation passed by order and counsel;

1 is that right?

2 A One of the options, yes.

3 Q Okay. Would it be fair to say that your concern
4 about watering down this version of the
5 recommendation was driven more by your view that
6 it was important for GPEB to express publicly
7 through regulation a commitment to defer money
8 laundering than it was driven by a concern that
9 a public interest direction alone wouldn't be
10 met with compliance by service providers?

11 A There's three questions there. I knew -- we put
12 this one -- the service provider would comply
13 with both. Whether we had to have public
14 awareness of a regulation or not, what I was
15 concerned about was this -- and you have to go
16 back to the other emails in this regard whereby
17 Mr. Malysh would be saying that a source of
18 funds declaration would be helpful, and I said
19 no, a source of funds -- source of funds
20 document is mandatory. And what I was thinking
21 of is a regulation. A regulation was something
22 that was solid that you had to do rather than a
23 guideline. Guidelines are out there; I know
24 that. But a regulation was something that was
25 solid that would be reacted, the public would

1 see, as you're saying, and it would be
2 corrective in nature, but it would be
3 transparent. And when you put a regulation in
4 place, it becomes transparent. And it went on
5 to say in here that it would be very difficult
6 to do, I think an OIC or whatever, and go and
7 get those things done. But I found in
8 government if it's necessary to protect a
9 political aspect or an issue of that nature,
10 they can do things rather quickly. And that's,
11 I think, what the hidden message behind this was
12 for me.

13 Q Okay. Yesterday --

14 MS. LATIMER: Sorry, I apologize to interrupt if I am
15 interrupting, but I just note that my friend is
16 out of time.

17 MS. BEVAN: Mr. Commissioner, I only have about two
18 minutes left.

19 THE COMMISSIONER: All right. That's fine. Carry
20 on.

21 MS. BEVAN: Thank you.

22 Q Yesterday Ms. Latimer asked you the question
23 about the reports that you had issued between
24 2010 and 2014 and asked you whether or not these
25 were shared with service providers and I think

1 your answer to that question was no. My
2 question to you is whether or not there was a
3 decision, a specific consideration and a
4 decision taken not to communicate these reports
5 with service providers, or was it just a
6 practice?

7 A I think it was just a practice. It wasn't --
8 they wouldn't -- it wouldn't be shared. The
9 content may be shared with them. Again, I
10 wasn't in the meeting like Mr. Skwarok asked,
11 which was the -- I could call it a senior AML
12 meeting with the service provider, BCLC and
13 GPEB. And the General Manager was involved in
14 that. And so if he wanted to pass on certain
15 aspects of things to them, that would be
16 appropriate. But I do think in that meeting
17 there was some paper that went in there on
18 statistics into that group meeting, and they
19 would be formulated probably from the report of
20 findings that we had generated earlier. And I
21 do believe that was happening. But the actual
22 content of the report of findings, I don't
23 believe the service provider would have ever
24 seen that. And it wasn't to say don't give it
25 to -- it was just a matter of practice is all it

1 was.

2 Q And finally I just want to go quickly to
3 exhibit J of your affidavit, and specifically
4 page 128 in the upper left-hand corner. This is
5 a report that Ms. Latimer took you to yesterday
6 with respect to a letter that had been issued by
7 Starlight Casino.

8 A Yes.

9 Q After this report was issued did you ever learn
10 of a letter similar to the one at issue in this
11 report being issued by Starlight Casinos?

12 A No.

13 Q Did you ever have any direct interaction in 2010
14 around the time of this report with senior
15 management at Gateway Casinos & Entertainment
16 Inc. about this issue?

17 A Personally I did not, but I did go down to the
18 casino to Starlight and have conversations at
19 the Starlight with people in relation to this,
20 Gateway's people at the casino. But I don't
21 know that it was specifically over this issue.
22 It may have come up in the conversation. And I
23 should put out, we had very good cooperation
24 with Gateway. There was -- that was there. And
25 this is -- this was a faux pas and it was a

1 beauty. But, I mean, I don't remember this
2 happening again after this incident took place.

3 Q Do you recall being aware in the fall of 2010
4 that there was a transaction that resulted in
5 the formation of a new entity Gateway Casinos &
6 Entertainment Limited?

7 A No, I don't know that.

8 Q You are aware, though, that a new gaming service
9 provider company and new gaming service workers
10 would have to be registered by GPEB's
11 registration division?

12 A Could be. I don't know. I wouldn't have known
13 that. Registration did that.

14 MS. BEVAN: Okay. Those are all my questions. Thank
15 you, Mr. Commissioner.

16 THE COMMISSIONER: Thank you, Ms. Bevan.

17 Mr. McFee, I'm inclined to carry on with
18 your examination at this point. I think you've
19 been allocated 15 minutes on behalf of
20 Mr. Lightbody.

21 MR. McFEE: Thank you, Mr. Commissioner.

22 **EXAMINATION BY MR. McFEE:**

23 Q Mr. Vander Graaf, at paragraph 116 of your
24 affidavit you indicate you met with your ADM
25 Doug Scott and BCL executives, including

1 Mr. Graydon and my client Jim Lightbody when he
2 was BCLC's Vice-President of Casinos?

3 A Yes.

4 Q You don't state in the affidavit when that took
5 place. Do you have a recollection of when that
6 was?

7 A No. It was certainly there when Doug Scott was
8 the General Manager. And I don't recall -- I
9 recall Mr. Lightbody sitting directly across
10 from me and Michael Graydon sitting on the
11 opposite side to Doug Scott. I remember that
12 and it probably was -- and Doug Scott came into
13 GPEB in fall of 2011, and he left in the fall
14 basically of 2013, if I can put it that way, or
15 late spring and fall of -- so it would be
16 somewhere in that area of time. But my
17 recollection is it was one of the first meetings
18 we had. We used to have boardroom meetings. It
19 was mandatory to have these boardroom meetings
20 with BCLC with executive meetings. And at that
21 time it would have been probably one of the
22 first or second meetings, to some degree. And I
23 do -- and I do recall that, and he was rather
24 new, Doug Scott, at that time what number was
25 that again?

1 Q It's paragraph 116.

2 A Thank you.

3 Q Are you with me?

4 A Yes, I am.

5 Q Okay. Now, I think you're answered this in
6 part, but what was the purpose of that meeting
7 to your recollection?

8 A All of those meetings were -- we would have the
9 executive of the lottery corporation and the
10 executive of GPEB there, and we were -- these
11 meetings dictated we had to go to these meetings
12 and all of us would be there and it would be a
13 cooperative endeavour and BCLC would tell us
14 what's going on in the gaming industry and GPEB
15 would give general discussions in relation to
16 what GPEB was doing. And we had them sometimes
17 in Victoria, most of the time in BCLC because
18 they had the better boardroom and the good lunch
19 and everything. So we went there. And it was
20 all good. And that's what the context of this
21 meeting was. And I can remember Doug Scott
22 sitting directly across from Michael Graydon and
23 Mr. Lightbody was sitting across from me and
24 there was other executives in the room. And
25 Mr. Scott was bringing up the \$20 bill issue and

1 the money laundering and when he brought it up
2 and I saw an opportunity to say, you know, why
3 aren't we asking the origin of the funds, and I
4 looked over at Michael Graydon and Mr. Lightbody
5 came very quickly and said, because it's a
6 privacy issue and he looked straight over at
7 Doug Scott. I remember it clearly. And I said,
8 it's not a privacy issue if we suspect that it's
9 the proceeds of crime.

10 And that was the end of that. And it
11 happened quickly and fast and nothing to it.
12 But it was the first time I had really heard the
13 privacy issue. So that's why I locked it in my
14 mind and I remembered it. For no particular
15 reason. And that was the extent of that. And
16 we carried on with the meeting. But we never
17 did get into deep conversations at those
18 executive meetings in relation to the issue at
19 hand. It never really got into, I said we
20 should be, this is what you should do. It never
21 got into that. And that was what kind of
22 surprised me a little bit.

23 And then subsequent to that meeting I don't
24 know that we had a whole bunch more meeting with
25 the joint executive committee, from my

1 recollection.

2 Q So in terms of the time frame, although you
3 can't be precise about it, if it was one of the
4 early meetings in Mr. Scott's regime, it was
5 likely in the fall of 2011?

6 A Could have been, yes.

7 Q Was this the first time you'd met Mr. Lightbody?

8 A No, no. I knew Mr. Lightbody for a number of
9 years. I've known him -- and I don't say this
10 is a relationship with him, but I talked to him
11 on a number of occasions, and I'd run into him
12 around town the odd time. You know, at the
13 Cactus Club or something I ran into him a couple
14 times. I mean, that's where I'd seen him. I've
15 always had a really good relationship with him.
16 He's always been a gentleman.

17 Q Did you understand, however, in this time frame,
18 the fall of 2011, Mr. Lightbody had relatively
19 recently been appointed BCLC's Vice President of
20 Casinos?

21 A I believed he was the Vice President of Casinos
22 at the time. But I don't know that for sure. I
23 know he was Vice President of Casinos at one
24 time, and that's how I interacted with him. But
25 at that meeting whether he was the Vice

1 President of casino, I don't know. I can't
2 recall.

3 Q Now, moving to a bit of a different topic. I
4 want to be sure that I understand your evidence
5 with respect to the mandate as you understood it
6 of GPEB.

7 A Okay.

8 Q Now, did you as the executive director of GPEB's
9 investigation division understand that part of
10 GPEB's mandate was to investigate money
11 laundering and loan sharking that may occur in
12 the gaming industry in BC?

13 A Just depends how you define "investigate." If
14 we were going to gather -- it was our mandate --
15 and I looked at it as -- if you had something
16 like -- we could not, we were not capable of
17 investigating money laundering. There's no way
18 that we could investigate the predicate offence
19 to prove that the money originated from the
20 proceeds of crime and the fact that it was being
21 laundered somewhere, you know, converted or et
22 cetera. We had no ability to do that for a
23 number of reasons. One, we didn't have the
24 structure as police officers and the support
25 units to do those complicated investigations.

1 That's number one. But we did have a role --
2 and I keep going back to that -- integrity of
3 gaming. So we could do what we could do. And
4 we would gather as much intelligence as we
5 could. We would deal with the iTrak units at
6 the casinos. We would monitor the tapes and
7 things of that nature and pass them on to the
8 police of jurisdiction. The police of
9 jurisdiction were the people -- not
10 jurisdiction, the police IPOC unit was the one
11 that should have been doing the investigation.

12 Q But certainly the service provider was directed
13 by GPEB [indiscernible].

14 THE COMMISSIONER: I think you've gone mute on us,
15 Mr. McFee. I can't hear you.

16 THE WITNESS: I can't either.

17 THE COMMISSIONER: Madam Registrar or Madam
18 Coordinator, is there something we can do to --

19 MR. McFEE: I switched to a different microphone.
20 Can you hear me now.

21 THE COMMISSIONER: Yes, we can. Thank you.

22 MR. McFEE:

23 Q Mr. Vander Graaf, can you hear me fine?

24 A Yes, I can.

25 Q Good. Now, certainly the service providers were

1 directed by GPEB to send Section 86 Reports to
2 GPEB of suspected and real conduct of a number
3 of *Criminal Code* offences, including money
4 laundering and loan sharking?

5 A That's correct.

6 Q And so you understood that GPEB certainly had a
7 role to play in the investigation of money
8 laundering and loan sharking?

9 A Yes, we believed a role of integrity of gaming
10 in money laundering and loan sharking.

11 Q If I could ask Madam Registrar, could you bring
12 up GPEB document number 00688, please.

13 Mr. Vander Graaf, this is a compliance note to
14 the minister from GPEB of February 19th, 2014.

15 Do you see that?

16 A Yes, I do.

17 Q And this would have been during the time that
18 you were the executive director of the
19 investigations division?

20 A That's correct.

21 Q And what exactly is a compliance note to the
22 minister?

23 A It could be a number of things. A minister may
24 want to know what investigations is doing or
25 what their mandate was based on an inquiry or

1 something of that nature. I don't know what the
2 second page says. Sometimes they would ask for
3 statistics, for general statistics for maybe a
4 press conference or something of that nature.
5 It was an advisory note to the ministry just --
6 maybe -- it's not like a speaking note, but it's
7 similar to that.

8 Q Okay. Given that it's coming from the
9 Investigations and Regional Operations Division.
10 Would you have reviewed this and authorized it
11 before it went to the minister?

12 A Probably I would have.

13 Q If you look at the bottom bullet of the first
14 page, it says "three strategic priorities of the
15 division and the branch are." Do you have that?

16 A Yes.

17 Q Number 1 under that is:

18 "Investigate, gather intelligence and
19 report regarding notifications in order to
20 deter money laundering or the perception
21 of money laundering in gaming facilities
22 in British Columbia."

23 A Sure.

24 Q Was that accurate at the time that was one of
25 the three strategic priorities of the division

1 in the branch?

2 A I don't know how you deter by doing that, but
3 yes, I guess it's accurate depending on how you
4 interpret that.

5 Q But in your affidavit at paragraph 28, if you
6 could turn to that for a moment, please. Sorry,
7 paragraph 27. Are you with me?

8 A I'm trying here. Paragraph 27?

9 Q Yes. 27, please. It's under the title "GPEB's
10 Mandate to Investigate Money Laundering." Are
11 you with me?

12 A Yes.

13 Q Paragraph 27 the first sentence says:

14 "There was never an intention that the
15 GPEB investigation division would
16 investigate money laundering and I knew
17 that GPEB did not have the capacity to do
18 so."

19 When we look at the ministerial note that
20 investigate, gather intelligence and report
21 regarding notifications in order to deter money
22 laundering and the perception of money
23 laundering as being one of GPEB's three
24 strategic priorities, is that accurate that it
25 was never the intention that GPEB's

1 investigation division would investigate money
2 laundering?

3 A Depends how you define "investigation."
4 Investigation here is -- we didn't have the
5 capacity to do investigation. That's a
6 refining. I'm not saying here that we would
7 investigate, gather intelligence and report.
8 The key word there is "notifications" in order
9 to defer money laundering. We're getting
10 notified and we're doing investigations to the
11 best of our ability and capability. I've never
12 ever seen -- have I stood up and said we were
13 capable of investigating money laundering, which
14 has to have the predicate offence investigated,
15 i.e. drug trafficking. We couldn't go out and
16 do surveillance. We couldn't go outside the
17 casino and do surveillance on especially
18 organized crime to try and establish the
19 predicate offence for money laundering. What
20 we're saying -- what I'm saying there, I
21 believe, is we're gathering intelligence.
22 Investigative aspects there is more than just
23 going up and following somebody around the
24 street to investigate. We were gathering
25 intelligence and reporting out on the

1 notifications to try and deter money laundering
2 or a perception of money laundering in gaming.
3 We were trying to do the best we could to do and
4 accomplish anything that would help deter money
5 laundering. But again, I've never, ever said
6 that we could investigate money laundering.
7 Can't do it. And neither can BCLC's corporate
8 security.

9 Q Fair enough. But was the situation that you
10 were faced with was that investigation of money
11 laundering and loan sharking was within GPEB's
12 mandate, however GPEB wasn't clothed with the
13 necessary law enforcement powers and resources
14 by the government to fulfill that portion of its
15 mandate?

16 A There are three or four questions there, but we
17 didn't have the authority because we weren't
18 police officers under section 4-1 of the *Police*
19 *Act*. Along with what comes regular police
20 officer status is the guns and the cars and
21 support units. So we didn't have that
22 authority, period, number one. And number two,
23 there was no hidden fact that we could not
24 investigate money laundering. If you look at
25 the -- it always was the caveat, to investigate

1 criminal offences to the extent necessary in
2 cooperation with police of jurisdiction. It was
3 always -- we had -- we could only do the small
4 end, if I could put it that way, but generally
5 the high-end investigative matters, we would
6 provide intelligence and assist where we could
7 to police of jurisdiction. That's the role we
8 had. I saw it as that.

9 Q But --

10 A We're not police officers. We weren't police
11 officers.

12 Q No, no, I understand that. You've articulated
13 that many times. But was the situation that
14 investigation of money laundering and loan
15 sharking as you understood it was within GPEB's
16 mandate but you lacked the resources to fulfill
17 that mandate?

18 A We didn't have the responsibility to investigate
19 it because we couldn't investigate it. It was
20 never my mandate to investigate money
21 laundering. It was my mandate to gather
22 intelligence and gather information to pass on
23 to law enforcement and assist law enforcement
24 where we could. That was our mandate. We
25 couldn't -- you're trying to say that

1 investigation -- you have to define the word.
2 The word of investigation can be as minimal as
3 taking a report and doing a computer check on it
4 or doing some background. The other
5 investigative matter could be a full-brown
6 surveillance with undercover operations and
7 things of that going on. There's two levels of
8 investigation. We could do the little part of
9 the investigation where we could gather
10 intelligence and pass on to police. We were
11 never mandated to do the high-end stuff. And I
12 said in correspondence that if the solicitor
13 general wanted us to do that, he could have done
14 it. All he had to do was redesign our
15 authorities and put us in a policing agency.

16 Q And giving you more resources?

17 A More resources certainly, but it would have to
18 go to CFSEU for the support network. Five or
19 ten people are not going to take on organized
20 crime to the magnitude that was happening at the
21 River Rock. You need a full-blown policing
22 agency with knowledgeable investigators, special
23 O surveillance, which is surveillance units,
24 wiretap and undercover at your disposal to take
25 those people on.

1 MR. McFEE: Mr. Commissioner, could we have the
2 document that we put to the witness marked as
3 the next exhibit, please.

4 THE COMMISSIONER: Yes, very well. That will be
5 exhibit 185, Madam Registrar.

6 THE REGISTRAR: That's correct. Exhibit 185.

7 **EXHIBIT 185: Gaming Policy and Enforcement**
8 **Branch, Investigations and Regional Operations**
9 **Division - Compliance Note to the Minister -**
10 **February 19, 2014**

11 THE COMMISSIONER: Thank you.

12 MR. SMART: Mr. Commissioner. It's Mr. Smart. I
13 forget to have the *Las Vegas Review-Journal*
14 marked as an exhibit. I apologize. It was
15 GPEB0264. With the interruption here I thought
16 I might ask to have it marked.

17 THE COMMISSIONER: Yes, that's fine, Mr. Smart. We
18 will mark that as 186, then.

19 THE REGISTRAR: Yes, exhibit 186.

20 **EXHIBIT 186: *Las Vegas Review-Journal* -**
21 **"Casinos shudder over possible federal**
22 **requirement to divulge source of rollers'**
23 **gambling funds" - April 8, 2014**

24 MR. McFEE: Mr. Commissioner, I'm getting a message
25 that my time has run out. I'd asked for

1 30 minutes and was only allocated 15. I have
2 one more line of questioning that should take
3 about five to seven minutes to pursue it if I
4 might.

5 THE COMMISSIONER: All right. Carry on.

6 MR. McFEE:

7 Q Mr. Vander Graaf, as I understand your evidence,
8 for a period of time before GPEB established the
9 AML cross division working group you had been
10 advocating that GPEB take obviously proactive
11 steps to address the large cash transactions at
12 BC casinos?

13 A Correct.

14 Q And you told us about those steps, which were
15 issuing a regulation or a term and condition of
16 registration defining specific AML requirements;
17 correct?

18 A Or source of funds under standard operating
19 procedures.

20 Q But that regulation or term and condition of
21 registration, that would have to come from your
22 registration branch?

23 A That's correct.

24 Q And did your registration branch pick up on that
25 and draft any form of regulation or term or

1 condition to your knowledge?

2 A Not that I was aware of.

3 Q And to be clear, that was a step that you
4 believed the branch GPEB could and should have
5 taken?

6 A I believe -- I was of the opinion that the
7 General Manager -- we had an Executive Director
8 of Registration that would have -- was
9 responsible for registration matters delegated
10 by the General Manager, but one of that
11 magnitude, certainly the General Manager would
12 have been involved. He would have had to have
13 been involved for sure. And I'm not sure that
14 it wouldn't have even had to go -- and I'm not
15 speaking for the General Managers, I'm sure
16 they'll get their opportunities, is that they
17 would have to escalate that one to the minister,
18 because the minister under the *Gaming Control*
19 *Act* had the authority to do that, even though it
20 could be a term and condition of registration.

21 Q That was outside of your investigation division?

22 A That's correct. We would -- and the term and
23 condition of that would have been imposed --
24 would have been -- and whatever that would have
25 been, would have been enforceable under the

1 *Gaming Control Act*, is if you didn't comply to
2 that term and condition of registration. And
3 that's the way I looked at that.

4 Q And, Mr. Vander Graaf, if I could ask you to
5 look at exhibit V as in victor, to your
6 affidavit, please.

7 A Sure.

8 Q This is Mr. Kroeker's draft report of February
9 2011 and you've embedded your comments on it;
10 correct?

11 A Yes. Yep.

12 Q If I could ask you to go over to the last page
13 of that, page 219 in the top left-hand corner,
14 please.

15 A 219?

16 Q Yes. The top left-hand corner. Are you with
17 me?

18 A I'm trying.

19 Q 219?

20 A Got it.

21 Q These are some of your comments in terms of
22 recommendations that you felt Mr. Kroeker should
23 add to his report?

24 A That's correct.

25 Q And if I can go down about five or six lines

1 you'll see:

2 "Additional regulatory investigative
3 staff."

4 Are you with me?

5 A Yes.

6 Q "There's additional regulatory
7 investigative staff on site to interview
8 and query suspicious large cash placement
9 at the time it is at the cash cage."

10 A That's correct.

11 Q By additional regulatory investigative staff you
12 were referring to additional GPEB investigators;
13 correct?

14 A That's correct. But I think you have to go back
15 to -- in the report I refer to the OPP model on
16 page 210 when I say "alternately under this
17 logic I would suggest it be prudent to have the
18 regulatory agency on site, like the OPP." So
19 what that is, I'm feeling that this is a
20 different model completely where you have law
21 enforcement right on the site like Ontario does
22 and Nevada does. And you would add -- and I put
23 that in the previous page, you would have
24 additional regulatory staff with the police to
25 be involved at that time on site.

1 Q But this would be --

2 A It's a different model, too, than the conduct
3 and manage with BCLC as well.

4 Q Understood. But --

5 A Yeah.

6 Q What you were contemplating and recommending
7 here was having GPEB investigative staff on site
8 to interview and query large cash placement at
9 the time the cash was being entered at the cash
10 cage; right?

11 A I was suggesting that that could be a
12 possibility if in fact Kroeker wanted to put it
13 in his report, let's see what would happen if he
14 did. And he didn't include it.

15 Q No, but you were suggesting that that would be a
16 good idea at the time?

17 A I didn't know it would be a good idea. I was
18 just suggesting it that way. But again, I was
19 going back to the Ontario model with the police
20 with us. I did not see the regulatory staff
21 doing that at the time themselves. That was not
22 in my mind at that time. I'm thinking with
23 police of jurisdiction there as well. Like an
24 OPP model.

25 Q And the time you were the executive director

1 your investigators never interviewed patrons to
2 determine the source of their funds as I
3 understand it. Correct?

4 A No. They only were going to try it once because
5 I wanted to do it for the due diligence. We
6 didn't see that as our role. We saw that as the
7 role -- we're the oversight regulatory body and
8 that's what I've always thought we were, and we
9 would go in and look as to what we were doing
10 after the fact. They had corporate security
11 from BCLC. You had security as well from the
12 gaming service provider that were well equipped
13 to deal with the source of funds. I know that
14 they -- and we didn't have any authority to ban.
15 We didn't have any authority to say don't take
16 the money. We didn't have any ability to do
17 that. The service provider could have gone in
18 there, and they could do what they want from the
19 corporate security and BCLC corporate security
20 could have done something as well. But again,
21 they would have needed some direction from the
22 upper management within BCLC to do that. That's
23 my answer.

24 Q My question was a little more focused than that.
25 During the period of time you were the executive

1 director of the investigation division of GPEB,
2 did your GPEB investigators ever interview
3 patrons to determine the source of their funds?

4 A I don't believe they did. And I may be wrong
5 there because I don't know the idiosyncrasies of
6 the investigators at the time they were doing
7 it. Sometime -- it may have happened. And I do
8 believe now that I think of that Colin Burrows
9 did investigate one person that was -- brought
10 some money or got some money from a loan shark,
11 I recall that one. And there may have been --
12 Rob Barber may have done it in concert with BCLC
13 at River Rock on one occasion or two occasions,
14 but I don't have any specific knowledge of that.

15 Q We're left with the situation, then, where the
16 GPEB investigators had the ability to interview
17 patrons with respect to the source of their
18 funds but in large part did not do so?

19 A They did not do so. That's my recollection.

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

21 THE COMMISSIONER: Thank you, Mr. McFee.

22 THE WITNESS: It's the same as the bank. The
23 regulator doesn't interview the person coming
24 into the bank.

25 THE COMMISSIONER: Thank you. I think what we'll do

1 A Yes.

2 Q I'm going to suggest that it wasn't by any
3 stretch the sole or even the main focus of
4 Mr. Kroeker's report, these cash alternatives.
5 Do you agree?

6 A This is what I felt it was, was recommendations
7 were to curb money laundering in BC casinos, the
8 principle recommendation was to develop cash
9 alternatives that. I believe that. If you
10 believe something different, then ...

11 Q He makes four recommendations directed at BCLC,
12 four at GPEB and two at the province, if you
13 recall, approximately?

14 A I can't remember that. I'm sure we can look at
15 the report and see that.

16 Q Well, I'll suggest simply that the
17 recommendation about EFTs is the fourth
18 recommendation that he makes in respect of BCLC,
19 and the first he makes in respect of the
20 province, and other than that and comments about
21 improving PGF accounts, there is no other
22 discussion about cash alternatives or -- and it
23 does not feature in the recommendations directly
24 targeting GPEB. Does that refresh your memory?

25 A No. I would have to look at the report to do

1 that. I'm sure there was something -- our risk
2 management people, Mr. McCrea, looked at that
3 report, and as a result of looking at that
4 report, the focus of what GPEB did was the AML
5 strategy was to reduce cash.

6 Q Yeah, I agree that what GPEB and others appear
7 to have taken from it principally is this
8 strategy to reduce cash on the basis of cash
9 alternatives, but what GPEB and others may have
10 taken from it may not be reflective of what
11 exactly the report says; is that fair?

12 A I don't know that. If you're saying that, I'm
13 just ...

14 Q We'll be able to look at the report. It will
15 say what it says; is that fair?

16 A That's fair, yeah.

17 Q Do you recall that Mr. Kroeker recommended a
18 cross agency task force?

19 A I vaguely remember that, yes.

20 Q And I'll suggest that by cross agency he
21 minimally means GPEB and BCLC and perhaps the
22 police division.

23 A I thought that -- I would have -- and, again, I
24 can't speak for Mr. McCrea because he was in
25 charge of that. I wasn't in charge of that; I

1 was investigations. He was in charge of the AML
2 group. He did all of that stuff. That was his
3 responsibility. But there was a group that was
4 put together. I know that. I wasn't part of
5 it. It was BCLC, the service provider and GPEB.
6 And that would be Mr. McCrea and the General
7 Manager, somebody from BCLC, either it would be
8 a VP, either Mr. Desmarais or Mr. Towns
9 depending on who was in those positions at that
10 time.

11 Q And if we could take it up perhaps. Exhibit 141
12 is the report at page 4.

13 A Exhibit 141.

14 Q Page 4 of the report. At the bottom number 2
15 the cross agency task force you'll see would be
16 created to investigate and gather intelligence
17 on suspicious activities and transactions at BC
18 gaming facilities --

19 A Wait until I find it.

20 Q Apologies.

21 A 142.

22 Q 141 is the exhibit.

23 MS. LATIMER: If it assists, Mr. Casey, it's GPEB
24 document number -- GPEB document number 71 --
25 sorry, BCLC document 710.

1 THE WITNESS: Okay. BCLC document 710.

2 MS. MAINVILLE:

3 Q It's on the screen. I don't know if you see the
4 screen, Mr. Vander Graaf.

5 A I'd like to have it in my hand. Just a second,
6 please. 71 ...

7 MS. LATIMER: 08.

8 THE WITNESS: There it is here. I've got it.

9 MS. MAINVILLE:

10 Q And it's page 4 --

11 A Yes.

12 Q Page 4 of that report?

13 A Yep, thank you.

14 Q Number 2 at the bottom?

15 A Yes.

16 Q Okay. About creating a cross agency task force.

17 Task force:

18 "To investigate and gather intelligence
19 from suspicious activities and
20 transactions at BC gaming facilities."

21 A I'm sorry, I'm just lost which page it is again.

22 Q 4.

23 A Sorry, I'm having trouble finding that.

24 Q Do you not -- is that Mr. Kroeker's report that
25 you have?

1 A I believe it is, yes.

2 Q Page 4 of the actual report.

3 A This looks different than that. Okay. I have
4 it now. Thank you, I have it 5 here for some
5 reason.

6 Q So:

7 "Creating a cross agency task force to
8 investigate and gather intelligence on
9 suspicious activities and transactions in
10 BC gaming facilities."

11 Do you have that?

12 A Yes, I do.

13 Q Okay.

14 "The task force would report out on the
15 type and magnitude of any criminal
16 activity it found occurring in relation to
17 gaming facilities in BC. This information
18 would help guide any additional actions
19 that may be required."

20 So my question is -- if you've done reading.

21 Okay. My question is you indicated in your
22 affidavit that communications between GPEB's

23 investigative division and BCLC's corporate

24 security unit, which used to take place by way

25 of memo, you said, stopped because of the

1 implementation of the Kroeker recommendations.
2 And I'm going to suggest that the absence of
3 communication in that regard is entirely
4 inconsistent with Mr. Kroeker's recommendations.
5 Do you agree?

6 A No, I don't agree. I -- what I said is that the
7 communication was between BCLC and the service
8 provider and Mr. McCrea in relation to the --
9 what I'd call the AML strategy cash reduction.
10 And I don't know -- I don't know -- I don't
11 know -- everything to deal with AML aspects of
12 it was dealt with by Mr. McCrea.

13 Q But you don't agree with me that what
14 Mr. Kroeker in the end was advocating for was
15 greater -- a better working relationship or an
16 enhanced working relationship between GPEB and
17 BCLC? Not working in silos.

18 A I don't know. I believe that -- I believed that
19 that silo was broken down at the AML group.
20 That's what I thought that was.

21 Q In respect -- it seems primarily of cash
22 alternatives. That was your understanding?

23 A Yeah.

24 Q And you say in your affidavit that the Kroeker
25 Report made recommendations designed to curb

1 money laundering in BC casinos. Now, that's at
2 paragraph 73 as well of your affidavit.

3 A Okay.

4 Q Now, that pre-supposes that he establish that
5 money laundering was in fact occurring in
6 casinos, and I will suggest that he did not find
7 as a matter of fact that money laundering was
8 occurring, that that was not his premise; is
9 that fair?

10 A I don't know what his thoughts were on that. He
11 never expressed that to me. But if he thought
12 money laundering wasn't occurring in the casinos
13 and he believed that as the head of civil
14 forfeiture in the province, wow.

15 Q What he said was, let's create a task force, a
16 cross agency task force and gather intelligence
17 and investigate on what suspicious activities
18 and transactions are happening and have them
19 report on the types and magnitude of criminal
20 activity. So let's look into it and this will
21 help gather -- this will help guide
22 additional action that --

23 A Was he not on that -- did he not put himself on
24 that task force?

25 Q I'm asking the questions, Mr. Vander Graaf.

1 So --

2 A But -- okay.

3 Q So your understanding was that that was his
4 premise, that essentially your answer that money
5 laundering was occurring?

6 A You have me confused here a little bit.

7 Q Do you agree he also recommended that an
8 independent firm with expertise assist BCLC and
9 GPEB ensure that it adopt best practices from an
10 AML standpoint?

11 A Okay. Okay. That was Bill McCrea.

12 Q Okay. We can take the report down, I think,
13 Madam Registrar.

14 Now, you wrote in your affidavit, though,
15 that GPEB created a cross divisional AML working
16 group within GPEB.

17 A Yes.

18 Q But you say there that your group was never
19 invited to meet with BCLC or service providers?

20 A We were never invited into that. There was two
21 groups. There was the group that --

22 Q Hang on.

23 A Yeah, okay.

24 Q I know. So the cross divisional AML working
25 group was never invited, you said. My question

1 is this: did GPEB as the regulator try to
2 initiate such a meeting?

3 A Who? Me?

4 Q Of your cross divisional AML working group. You
5 were part of that group; correct?

6 A Of GPEB's cross divisional working group? Yes,
7 I was part of that group and I believe
8 Mr. McCrea did do that. Mr. McRae did get ahold
9 of BCLC with Brad Desmarais, Terry Towns and the
10 service provider.

11 Q At that level about the cash alternatives?

12 A Yes. Yeah, but no, it wasn't only that. There
13 was issues to be resolved with that group
14 involved there. It wasn't only cash
15 alternatives. That was a spinoff from that.

16 Q Okay. But you were not involved?

17 A No, I was not.

18 Q And so at your level you didn't seek to reach
19 out or meet with your counterparts at BCLC or
20 the service providers?

21 A Not the service providers. We didn't talk to
22 them a lot. I agree with that. And our
23 managers were dealing with BCLC when it was
24 necessary. And we all did that. But there was
25 no actual formal -- the formal aspect of dealing

1 with British Columbia Lottery Corporation was
2 left to Risk Manager and the General Manager.
3 And that was after 2012 when we couldn't -- on
4 memo communicate for them --

5 Q Do you recall that Mr. Kroeker recommended that
6 GPEB enter into a formal agreement or
7 arrangement with the police?

8 A I do recall that.

9 Q And did GPEB try to implement that
10 recommendation that it establish a formal
11 arrangement with the police of jurisdiction or
12 IPOC?

13 A I don't think we did, no.

14 Q And he had indicated that that was important
15 because otherwise you could not expect money
16 laundering to be made a priority of --

17 A No, I don't agree with that.

18 Q Why not --

19 A Well, we're talking to the police -- we're
20 talking to the police at the officer in charge
21 level, officer in charge of units, Inspector
22 Arnold, Inspector Baxter, and these people.
23 They're in charge of the units. If they can
24 make things happen they will.

25 Q Yes. And has history not shown, Mr. Vander

1 Graaf, that the police did not make it a
2 priority up until 2015?

3 A Well, I don't know -- they didn't make it a
4 priority. I don't think they had the
5 resources to make it a priority.

6 Q Correct.

7 A Yeah.

8 Q Correct. Now --

9 A And I don't think a memorandum of understanding
10 would have changed that. I mean, I don't know
11 what memorandum of understanding you would do
12 with a police to -- we want you to come and -- a
13 memorandum of understanding to come and
14 investigate crimes at the River Rock? I don't
15 know that they would enter into that. The
16 memorandum of understanding that I understand,
17 and I wasn't involved with, with JIGIT, was
18 fairly loose, and it was that we were going to
19 cooperate and will embed two people in your
20 offices in the RCMP. But we were dealing with
21 them continuously.

22 Q Do you agree that the recommendations he made as
23 it relates to GPEB effectively strengthening its
24 oversight role were not ultimately
25 implemented --

1 A No, I don't agree with that.

2 Q You don't agree with that. Do you agree that
3 GPEB never produced guidelines or policy
4 directions or an expectations documents or a
5 regulation or anything of the sort?

6 A Risk management within the --

7 MS. HUGHES: Mr. Commissioner, it's Jacqueline
8 Hughes, counsel for GPEB. I simply interrupt to
9 note that my friend's questions aren't
10 necessarily objectionable if they're phrased to
11 properly capture this witness's knowledge.

12 As we know, his time with GPEB ended in
13 2014, and so in order to more fairly, I think,
14 pose the question to the witness, they ought to
15 be time limited.

16 THE COMMISSIONER: Fair enough. I think they can be
17 taken as addressing the time frame within which
18 Mr. Vander Graaf was actually at GPEB.

19 MS. MAINVILLE:

20 Q Mr. Vander Graaf, let me ask you this: at the
21 time you were there, Mr. Len Meilleur was the
22 head of registration; correct?

23 A That's correct.

24 Q So when you were making recommendations or
25 requests that there be terms and conditions

1 imposed as it related to registration, that was
2 under Mr. Meilleur's leadership?

3 A Yes, it would. But I should put the caveat in
4 there, that if I was making a term and condition
5 of registration of this magnitude the General
6 Manager would certainly be involved. We were
7 always delegated as executive directors from the
8 General Manager. But if it was something of
9 magnitude the General Manager would certainly be
10 involved and maybe even higher.

11 Q Do you recall that Mr. Kroeker in his report
12 does suggest that BCLC and GPEB look to best
13 practices of financial institutions to improve
14 their AML regime?

15 A I don't recall it specifically, but the AML
16 group would have done that and we did do that
17 eventually in 2014. We hired a consultant,
18 Jerome Malysh, to do that, and he did that.

19 Q And I'm going to suggest the report
20 Mr. Kroeker's report contemplated a greater role
21 for both BCLC and GPEB in the AML regime beyond
22 their legal obligations.

23 A Go ahead.

24 Q That the report contemplated a greater role for
25 both BCLC and GPEB in the AML sphere beyond

1 their legal obligations. For instance --

2 MS. HUGHES: Mr. Commissioner, Jacqueline Hughes. I
3 object to the question to the extent that my
4 friend is asking for this witness to comment on
5 legal obligations. She can ask him about his
6 understanding but not the legal obligations.

7 MS. MAINVILLE: Well, I said the report recommended.

8 THE COMMISSIONER: I think that's a fair question,
9 whether -- and what the report recommended, and
10 I guess Mr. Vander Graaf's understanding of what
11 the report recommended.

12 MS. MAINVILLE:

13 Q Sorry, Mr. Vander Graaf, he suggested that they
14 look to financial institutions for best
15 practices. So you'll agree with me he's
16 contemplating more than simply meeting legal
17 requirements, whatever they might be; is that
18 fair?

19 A I don't know. The legal -- to go to the -- to
20 get to due diligence from the financial
21 institutions, absolutely we looked at that. And
22 that was part of the process that Mr. McCrea put
23 in place starting out with the -- and that was
24 part of the cash alternatives process.

25 Q But listen to my question. I'm asking you about

1 when Mr. Kroeker did, not what Bill McRae ended
2 up doing. What Mr. Kroeker said is my question.

3 A Okay.

4 Q Because I'm going to suggest this: Mr. Kroeker
5 did not say that BCLC met all of its obligations
6 simply if it reported, I'm going to suggest
7 that.

8 A Okay.

9 Q He said there was a duty to diligently
10 scrutinize all buy-ins for suspicious
11 transactions whether or not patrons are known
12 and have wealth and whether or not they put
13 their money at risk for losses. Did that --

14 A I remember that, yes. And he also said that
15 BCLC just had to be curious, and they were a
16 reporting entity.

17 Q We'll look at the final draft of the report to
18 see if the word "curious" appears anywhere
19 there.

20 A Okay.

21 Q But we'll leave that for another exercise, given
22 our limited time.

23 You asserted that Mr. Kroeker sided with
24 Mr. Towns' interpretation of BCLC's limited role
25 in dealing with the money laundering issue?

1 A Yes, I believe that.

2 Q And you have no knowledge, though, of any
3 discussions between Mr. Towns and Mr. Kroeker,
4 any that they may have had?

5 A I have no knowledge of any discussions
6 Mr. Kroeker had with Mr. Towns or Mr. Desmarais
7 or others.

8 Q And I'm going to suggest that Mr. Kroeker states
9 the roles, the respective roles of GPEB and BCLC
10 as he observed them to be, but do you agree with
11 me he never makes any recommendation as to what
12 the roles ought to be?

13 A I don't know that, no.

14 Q Okay. You say that you recommended a source of
15 funds declaration to Mr. Kroeker --

16 A Yes.

17 Q -- in the context of his review?

18 A Yes.

19 Q I'm going to say that you never made such a
20 recommendation to him. You disagree?

21 A I suggest that I did.

22 Q You testified that you told Mr. Coleman about
23 the -- restricting the \$20 bills?

24 A That's correct.

25 Q But not about the source of funds declaration.

1 Do you recall that?

2 A Yes, I do.

3 Q Do you agree that in your comments on
4 Mr. Kroeker's draft report there is no reference
5 there to any source of funds declarations?

6 A No. Not the words aren't there. The specific
7 words aren't there. But here's where I'm
8 talking about source of funds. And it doesn't
9 necessarily mean at this time. I had many
10 conversations with Mr. Kroeker on the phone.

11 Q In 2011 leading up to his report?

12 A Between 2011 and he finally did the report, I
13 believe it came out in March or whenever, but
14 I -- Mr. Kroeker was in my office; we had a
15 lengthy conversation about a multitude of other
16 things that are not in this report, including
17 separating BCLC and the branch from because it
18 was conflict. A number of issues are there that
19 are not outlined in report.

20 Q And I'm going to suggest that when you were
21 talking to Mr. Kroeker in 2011 your primary
22 concern aside from \$20 bills was the need for
23 GPEB investigations to be an independent police
24 department under the direction of the Ministry
25 of the Solicitor General. Do you recall that?

1 A No. That wasn't my main focus. That would have
2 been one of my focuses. My focuses were
3 generally the same thing that I had been
4 projecting since 2009, was source of funds and
5 limit the 20s and those things of those natures.
6 That may have been one of them. I believe that
7 we should have been under the solicitor general
8 ministry and in fact I tried to move under the
9 Solicitor General Ministry. The whole branch
10 and then the investigation division went there
11 for six weeks, but we were brought back because
12 it was outside of the *Gaming Control Act*. That
13 was the reason I got. But that wasn't my focus
14 to get us to be a policing agency. No.

15 MS. MAINVILLE: Mr. Commissioner, I'm out of time. I
16 do have -- there are two records that I would
17 like --

18 THE WITNESS: That I can recall.

19 MS. MAINVILLE: -- with this witness. Like
20 Mr. McFee, I requested far more time than I was
21 allocated. I would be grateful if I could get
22 10 more minutes. And I note for what it's worth
23 that I think we have additional time today in
24 terms of what's left following me.

25 THE COMMISSIONER: All right. You can have 10 more

1 minutes.

2 MS. MAINVILLE: Thank you. Could we bring up, Madam
3 Registrar, GPEB0673.

4 Q And go to page 3, please. 3 of the underlined
5 report. Mr. Vander Graaf, you'll recall --

6 A Just a second here. It will just take me a
7 second here to find that.

8 Q Sure.

9 A 06 ... This is the one with Ms. Mazure and
10 McCrea on the side. You know the one. 0673.
11 Yeah. That's the one. Yeah. Thanks, John.

12 Q This is a version similar to exhibit I to your
13 affidavit.

14 A Yes.

15 Q But it has -- it's very similar but it has
16 additional comments from Mr. McCrea that don't
17 feature in the other exhibit?

18 A On this note there's another version of this
19 with my comments in response to Mr. McCrea's
20 response underneath them.

21 Q Okay. Fair enough.

22 A Just so you know, this is not a complete
23 document.

24 Q Okay.

25 A Just so you understand, though, the original

1 report came out, then we put the report in.
2 These came back with Mr. McCrea's and
3 Mr. Mazure's comments on them. Then we replied
4 back to these -- these questions that Mr. McCrea
5 asked and it was lengthy in that document, and
6 the responses to these questions. So when you
7 read these questions, we have made responses to
8 it on that third document.

9 Q Okay. Fair enough. And if your counsel or
10 somebody else feels the need to include those,
11 we can do that. You know, I have located this
12 record amongst the many records we have. If you
13 could look at the bottom second to last comment
14 from Mr. McCrea at the bottom of the page.
15 You'll see there in respect of -- it's in
16 respect -- if we could -- that's not the right
17 page. Page 3 of the actual report. I think
18 this is page 2. So lower. Page 4 of the entire
19 document. Yep. Further down.

20 So you'll see there the second to last
21 comment is, I believe, in respect of the phrase
22 "the origin of the money is not questioned."
23 And there you -- WJM, that's William McCrea in
24 terms of the comments?

25 A That's correct.

1 Q And so he said there:

2 "Agreed. The origin of the money is not
3 questioned."

4 I think that's what he's agreeing to.

5 "This is an issue that GPEB needs to deal
6 with, as our current legislation
7 regulation and ministerial directives do
8 not require --"

9 I believe that's "casino service providers":

10 "-- to inquire about the source of funds.
11 That may be a next step in dealing with
12 this issue, although it requires careful
13 consideration by all parties involved."

14 Do you recall that comment?

15 A I'm just trying to figure out exactly where
16 you're reading from. Which number?

17 Q The second to -- the bottom -- second to last
18 comment on this page.

19 A WJM 18; right?

20 Q Yes.

21 A Okay. Okay.

22 Q So -- and this is towards the end of 2013;
23 right? And he says this may be the next step
24 and needs careful consideration is his comment.
25 Do you recall that?

1 A I don't recall that. But I'm reading it. I see
2 it.

3 Q At page 4 of the actual report, so page 5. The
4 top comment there, do you recall that he says --
5 he's asking about this information regarding
6 criminal elements in the casinos. And he says:

7 "Again, what are the police doing about
8 this? Also, what has been shared with
9 GPEB and BCLC as any issue of safety to
10 the public needs to be taken quite
11 seriously. BCLC has already banned a few,
12 between five and 10, I believe,
13 individuals due to concerns about their
14 activities. We know they will take
15 further steps if they are given
16 information that can be acted on."

17 Do you recall that?

18 A I don't recall it, but it's there written. Yep.

19 Q And you told Mr. McFee earlier that while you
20 didn't have the capacity to conduct complete
21 money laundering investigations you could do
22 little investigations and pass that information
23 on to law enforcement was your answer?

24 A No. To the police.

25 Q To the police.

1 A Yeah.

2 Q What about is my question, what about passing it
3 on to BCLC or the service providers given
4 Mr. McCrea's comment there that we know they
5 will take further steps if they are given
6 further information that can be acted on?

7 A I think they knew that. They were putting in
8 the Section 86 Reports. They were getting
9 material coming to us. I'm sure the
10 investigators were going back to their corporate
11 investigators to some degree as to what we were
12 doing and what was happening. But thinking,
13 remembering, we don't know what the police of
14 jurisdiction are doing and I'd sure like to have
15 had my answer when -- I put an answer down to
16 this question that Mr. McCrea was suggesting
17 here.

18 Q And if your investigators testified that they --
19 that BCLC investigators wanted information from
20 GPEB?

21 A Okay.

22 Q But they weren't given that information.

23 A Okay.

24 Q Do you know why information such as this,
25 criminal affiliations, informs GPEB had about

1 that, why that would not have been provided so
2 BCLC could ban them?

3 A Well, I think our investigators would have given
4 them certain stuff in relation to this. I don't
5 think they were going to with held anything
6 unless it was sensitive police information. And
7 if it was sensitive police information, we
8 wouldn't give that, and you know, you have to
9 remember, BCLC had an MOU with the police to get
10 information in relation to criminal activity in
11 the casinos.

12 Q As of 2014 I agree with you.

13 A Yeah, but --

14 Q And that made a difference.

15 A Well --

16 MS. MAINVILLE: Could we please file this,
17 Mr. Commissioner.

18 THE COMMISSIONER: Very well. I think we're at 187,
19 Madam Registrar.

20 THE REGISTRAR: That's correct, Mr. Commissioner.
21 Exhibit 187.

22 **EXHIBIT 187: Email from John Mazure to Larry**
23 **Vander Graaf, re Comments to GPEB Investigations**
24 **Report on Money Laundering in BC Casinos -**
25 **December 2, 2013**

1 MS. MAINVILLE: Could we please bring up, then,
2 GPEB101. This one, Mr. Commissioner, I need to
3 seek leave to put to the witness. I did give
4 notice, but it was, I think, a couple days late.
5 It is just the first page or one page that I'm
6 interested in. And so in my submission, it's
7 not unfair to the witness.

8 THE COMMISSIONER: Let me ask Ms. Latimer if she
9 takes any position on it.

10 MS. LATIMER: I don't object.

11 THE COMMISSIONER: All right. Carry on,
12 Ms. Mainville.

13 MS. MAINVILLE:

14 Q Mr. Vander Graaf, do you recall this email you
15 sent to Mr. McCrea in July of 2013 where you say
16 at the end there -- well, in the middle:

17 "I must also point out that should this
18 division be presented with a situation or
19 opportunity to deter, prevent or deter
20 money laundering or any perception of
21 money laundering, we would be compelled
22 with the limited capability we possess to
23 investigate as appropriate."

24 A That's true. What I'm saying there is -- what
25 I'm saying is even being involved in the AML

1 strategy, whatever the AML strategy is to attack
2 money laundering, we were still operating as we
3 generally were, generally were, prior to the AML
4 strategy if it surfaced. Like if we get 86
5 requests and things of that nature, we are still
6 responding to them as an investigative division
7 and we're providing intelligence to the AML
8 group. As soon -- to investigate as
9 appropriate. You know, I'm talking about
10 86 Reports there reporting to the
11 service provider "and report out to the AML
12 working group, you and the ADM." So what we're
13 doing is we are investigating still, to a
14 degree, and we're purporting to the ADM and AML
15 working group, that's us, and then the working
16 group above that with the service provider and
17 BCLC. VP corporate security.

18 MS. MAINVILLE: Thank you. Could we please file this
19 as the next exhibit.

20 THE COMMISSIONER: Very well. That will be marked as
21 exhibit 188.

22 THE REGISTRAR: Exhibit 188.

23 **EXHIBIT 188: Email from Larry Vander Graaf to**
24 **Bill McCrea, re Strategic Priority**
25 **Measurements - July 23, 2013**

1 THE COMMISSIONER: Are you done with that, then?

2 MS. MAINVILLE: Yes, yes, please. Thank you.

3 THE COMMISSIONER: Thank you.

4 MS. MAINVILLE:

5 Q I just want to briefly talk to you, Mr. Vander
6 Graaf, about Mr. Malysh's review.

7 A Okay.

8 Q In 2014, right, which is about the height of the
9 money issue, correct?

10 A Yeah. 2014 is the culmination of the AML group.
11 That's when we're coming into the regulatory
12 phase, the first two levels, I guess, have been
13 dealt with, and we're moving into customer due
14 diligence.

15 Q And do you recall that he also does not
16 recommend limiting \$20 bills?

17 A I think I do recall something about that. I
18 don't think he's recommending that you don't do
19 \$20 bills. I'm saying that he says he does not
20 find anywhere that is recommending \$20 bills
21 from my recollection.

22 Q And his two main recommendations were that GPEB
23 significantly enhance its leadership by creating
24 AML compliance regime regulation under GCA
25 regulations and a companion guideline for

1 detering and detecting money laundering or a
2 public interest directive. Do you recall that?

3 A Generally, yes.

4 Q And that didn't happen, I think you said.

5 A No, that didn't happen that I'm aware of. And
6 that was directed at Bill McCrea.

7 Q Right. Do you recall that Mr. Malysh in his
8 review of what other -- deposit taking
9 institutions do, he said:

10 "They generally do accept the cash. In
11 all but the most glaring of
12 circumstances."

13 Do you recall that?

14 A I haven't read that, but if you're reading from
15 there, I can take that word on it.

16 Q So you'll recall that in your affidavit that you
17 talk about how -- first of all how the banks
18 would never accept this kind of cash. And my
19 question is where does your belief come from in
20 that respect?

21 A It comes from dealing with the banking
22 community. I've dealt with the banking
23 community. "Glaring" is an interesting word. I
24 would suggest it's glaring when you bring the
25 money into the casinos that you would refuse it.

1 MS. MAINVILLE: I'm on my very last point,
2 Mr. Commissioner. I know I'm pushing my time.
3 If I could just finish this one line of thought.

4 THE COMMISSIONER: You've pushed beyond it, but you
5 can finish your last question.

6 MS. MAINVILLE: Okay.

7 Q In your affidavit you say "organized crime."
8 This is at paragraph 67, if you want to follow
9 along, of your affidavit:

10 "Organized crime would not risk depositing
11 suspicious sums of cash at legitimate
12 financial institutions which were subject
13 to origin of cash inquiries,
14 identification of the customers, record
15 keeping and reporting to FINTRAC."

16 I might have paraphrased that:

17 "When such cash could easily be laundered
18 directly at casinos without any such
19 risk."

20 A Yep.

21 Q And my question, are you not aware that casino
22 patrons, anyone buying in with more than \$10,000
23 at a minimum in a casino are also identified,
24 they are very much reported, they are reported
25 to FINTRAC, and they are under significant

1 monitoring? Is that not fair?

2 A Correct, but they didn't have the origin of the
3 cash.

4 Q And I'm going to suggest that first of all it is
5 misleading, though, to say that there would be
6 no such risk in casino as it relates to -- as
7 compared to banks. Do you agree that it's
8 misleading to say there are no such risk here,
9 identification, record keeping, reporting to
10 FINTRAC, basically the activity in casinos is
11 not conducted anonymously; is that fair?

12 A The origin of the cash is the key issue there.
13 If they ask the origin of the cash, I wouldn't
14 have had 67 in there.

15 Q My last question. Is there limit on the number
16 of \$20 bills that a customer can deposit at an
17 ATM on any given date? Do you know?

18 A Not that I'm aware of.

19 MS. MAINVILLE: Those are all my questions.

20 THE COMMISSIONER: Thank you, Ms. Mainville.

21 Next on behalf of Mr. Desmarais,

22 Mr. Butcher, who has been allocated 10 minutes

23 MR. BUTCHER: Thank you.

24 **EXAMINATION BY MR. BUTCHER:**

25 Q First of all, Mr. Vander Graaf, you worked with

1 my client, Brad Desmarais, in the 1990s in the
2 integrated proceeds of crime unit? He'd worked
3 under you may be more accurate?

4 A I hired him.

5 Q And how long did he work under you?

6 A I don't know. I would say -- I don't know.

7 Three years maybe. Four years. It could be
8 very wrong there, Mr. Butcher, but he definitely
9 worked there. I know I hired him from CLEU,
10 Coordinated Law Enforcement Unit, and he came up
11 there and worked as a VP member as a detective.

12 Q And then crossed over into the RCMP at some
13 point?

14 A Yes, he did, that's correct.

15 Q Now, you've mentioned several times, you
16 mentioned his name several times in passing with
17 regards to consultations that might have taken
18 place with respect to the Kroeker Report in
19 2011. Do you remember saying that, that you've
20 mentioned it would either have been discussed
21 with Towns or Desmarais?

22 A Well, I'm not -- I thought it might have been.
23 I'm certainly not saying they had any discussion
24 with Mr. Desmarais. The only reason I say that
25 is because in Kroeker's report he talks about a

1 member in charge of the major crime in municipal
2 police department and I made that leap and I
3 apologize if it wasn't him. I never suggested
4 it was him, but I thought it might have been
5 him.

6 Q And certainly it wouldn't have been in his
7 capacity at BCLC because he didn't get the --

8 A He wasn't there.

9 Q February 2013?

10 A No, he wasn't there. In February '13?

11 Q He arrived at BCLC in at February '13?

12 A That's right, and this happened before that.

13 Q Yes. That's all I'm trying to clarify.

14 A Exactly. That's why I suggested that he wasn't
15 there. He was in Vancouver police at the time.
16 And I thought he might have been there with
17 Mr. Towns because they knew each other and the
18 international expert might have been -- might
19 have been Mr. Marsh, so I don't know.

20 Q That's all speculation on your part?

21 A Of course, yes. But ...

22 Q You mention in paragraph 117 of your affidavit a
23 meeting with Mr. Desmarais and you're not able
24 to put a date on it other than it being in the
25 fall of 2013?

1 A That's correct.

2 Q I understand that was the only time that you met
3 with him one to one between February 2013 and
4 when you left GPEB in 2014. Is that correct?

5 A Person to person? Maybe, yes.

6 Q Now, you say that he raised the subject of the
7 potential of cash coming in as part of capital
8 flight from China [indiscernible]?

9 A Yes.

10 Q As being one explanation for the source of some
11 of the cash coming in and you then said that you
12 discussed it with Mr. Dickson and Mr. Schalk.
13 Can you tell us what those discussions were.

14 A When I went with Mr. Dickson and Schalk?

15 Q Yes.

16 A I went back to the office after I had a
17 conversation with Mr. Desmarais, and I mentioned
18 to Dickson and Schalk that Mr. Desmarais had
19 said that this money could have come over an
20 excess of capital out of People's Republic of
21 China.

22 Q You said some of the money; correct?

23 A Yes, I believe some of the money. That's what I
24 believed.

25 Q And so what was their response?

1 A Well, we had a little chuckle over it, quite
2 frankly, and we didn't think that that was
3 probable. Why would \$20 bills come from the
4 People's Republic of China back into Canada?
5 And that was the extent of the conversation
6 because they knew I was going to see
7 Mr. Desmarais, and I came back with that.

8 Q It was an informal meeting in a restaurant,
9 wasn't it?

10 A It was, yes.

11 Q Joey's to be precise?

12 A Could have been. And I remember it. I remember
13 it quite well because I didn't realize that Brad
14 or Mr. Desmarais ate food that was gluten free
15 and I can remember him ordering a salad, so it
16 stuck in my mind. It didn't seem that was
17 appropriate for his personality, but it
18 obviously was.

19 Q So you obviously misjudged him an aspect of his
20 personality. I want to take you to exhibit PP.
21 Page 317. This is a report about a very large
22 cash transaction.

23 A Okay. Wait a second here.

24 Q It's the last but one exhibit.

25 A Okay. Yes.

1 Q I take it you would agree that the appropriate
2 response to receiving this kind of information
3 about this individual would be to ban them from
4 the casino.

5 A I don't know. You're talking about Tam?

6 Q No, I'm talking --

7 A Mr. Wei? Mr. Wei?

8 Q Yes.

9 A I don't know if we would or not. I mean, we
10 left that to BCLC's discretion --

11 Q I'm asking you if you would agree that that
12 would be an appropriate response.

13 A From us?

14 Q No, from BCLC.

15 A They could have, sure. If it was undesirable.
16 The term is "undesirable." If they term him
17 undesirable, then fine. That's what the
18 prohibition order says -- or the prohibition
19 section is. If it's -- the person is
20 undesirable.

21 Q So from your perspective, you're saying it
22 wasn't mandatory that he be banned?

23 A I don't believe that. But if I would have had
24 that authority, Mr. Butcher, that might have
25 changed. But it may have been desirable for me

1 and not desirable for them. I don't know.

2 Q If I was to tell you he was banned you would
3 agree that was the right thing to do?

4 A Sure. That's their decision.

5 Q I'm a little curious. The issue of interagency
6 communication arises over and over again here.
7 And if I can just take you as an example to
8 exhibit O, which is at page 158.

9 A A report of findings?

10 Q It's your exhibit O, page 158. Yes, correct,
11 report of findings.

12 A Yes.

13 Q At the top it has this language in a box:

14 "Confidential. This document is the
15 property of the investigation division,
16 gaming policies and enforcement branch.
17 Is confidential and shall not be disclosed
18 in whole or in part without prior consent
19 of the writer."

20 That appears on all of these reports, doesn't
21 it?

22 A That's correct.

23 Q To your knowledge were these documents shared
24 with BCLC?

25 A I do not believe they were, no.

1 Q Why would that be?

2 A I would say that there must be confidential
3 information in relation to GPEB, and that's --
4 that would be the extent of it.

5 As we may have got some information that is
6 attached to these reports, maybe from the police
7 or something, and we would put them in the
8 report and we just wouldn't disclose the entire
9 report. There may be contents of it. When we
10 were in 2010 when we sent messages to
11 Mr. Karlovcec and Mr. Friesen, we would cut
12 things out of here and send them to BCLC. And
13 that was working fine. We were getting
14 responses up until we got the AML group and the
15 Kroeker Report. Things were going back and
16 forth. But we got shut down after the Kroeker
17 Report.

18 Q So looking back at it now, would you agree it
19 would have been constructive to provide these
20 kind of reports to BCLC?

21 A I don't think it's constructive to supply the
22 actual reports. I believe it would have been
23 constructive to continue with what we were doing
24 in 2010, providing capsules from the report of
25 findings on memos and sending them to BCLC. And

1 we did that, and it was working. And we were
2 getting back and forth. So they were getting
3 information from the reports of findings, but it
4 wasn't getting it in entirety.

5 Q But you understand that my concerns relate to
6 the period after 2013, after that period had
7 long passed.

8 A Okay.

9 Q So the question is looking back on it now, would
10 you think it would be constructive to provide
11 that sort of information to BCLC?

12 A If we could have provided it in the manner we
13 were providing it in 2010, absolutely.

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

15 THE COMMISSIONER: Thank you, Mr. Butcher.

16 Now on behalf of the British Columbia Civil
17 Liberties Association, Ms. Tweedie has been
18 allocated five minutes

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

20 **EXAMINATION BY MS. TWEEDIE:**

21 Q Mr. Vander Graaf, can I please ask you to turn
22 to exhibit FF of your affidavit.

23 A Okay. Just a second, please. Yes.

24 Q Do you have that, sir?

25 A Yes, I do.

1 Q And do you recognize that as an email between
2 you and Mr. Sturko?

3 A Yes, I do.

4 Q And it involves an investigation into a woman
5 named Deborah McKechnie and it attaches a draft
6 letter that Mr. Sturko drafted recording the
7 investigation. Can you please tell me more
8 about the investigation that this letter
9 addresses.

10 A I vaguely remember it. It was -- we were in our
11 infancy in 2005 this happened. And, you know,
12 2005 we were just starting up the Integrated
13 Illegal Gaming Enforcement Team and there was a
14 lot of training going on between us training the
15 integrated unit on unlicensed lottery schemes
16 and things of that nature was all it was. And
17 they went over to the Galiano Island one day and
18 they observed an unlicensed bingo. And as a
19 result of being there and seeing it, et cetera,
20 et cetera, and I don't remember all of the
21 details of it, they issued a ticket of \$289 for
22 an unlicensed -- unauthorized lottery scheme.
23 And that was in the purview. It was a ticket
24 violation notice. It was something like a
25 traffic ticket for speeding. That's the way we

1 looked at it.

2 Q Okay. And in the draft letter, the third
3 paragraph it states:

4 "In December 2004 an investigator visited
5 Galiano Island and gathered evidence. On
6 February 8th, 2005, investigators again
7 visited Galiano Island to gather
8 evidence."

9 So it appears from this letter that more than
10 one investigator was deployed to gather evidence
11 on this situation. And I'm wondering if you
12 could tell me to your knowledge how these
13 investigators gathered evidence and what was
14 observed?

15 A They probably went over -- there would be a
16 normal process and there wouldn't have been -- I
17 don't recall how many, but at least -- there
18 appears to be more than one and they went over
19 there and they probably sat in the bingo hall
20 and watched what was going on and then took some
21 notes, et cetera, and came back to the office
22 and let it sit on that for a while and went back
23 again and I think that's when they ultimately
24 issued the ticket. That's my recollection on
25 15 years ago.

1 Q Yes, I understand it was quite a few years ago.
2 But I'm wondering if you recall whether this was
3 in a restaurant.

4 A I don't know. I'm sorry.

5 Q And do you know the approximate size of the
6 bingo game that was taking place?

7 A I have no idea. But what I did -- no, I have no
8 idea.

9 Q Okay. So what it looks like occurred, though,
10 was an undercover operation by two GPEB officers
11 that ultimately led to the issuance of a
12 \$289 ticket on Galiano Island. Is that fair to
13 say?

14 A That's what it looks like.

15 Q And this is the type of activity that would fall
16 within the mandate of GPEB investigators?

17 A It would. It would. And you can always use
18 discretion in these things. I tend to agree
19 with that.

20 But the issue with this -- and I didn't put
21 this in here, by the way -- the issue with this
22 was more IIGET was involved in it and that might
23 have been another issue that I was dealing with
24 Mr. Sturko on. But this is something that GPEB
25 investigation, the low-level and unlicensed

1 lottery scheme we would be dealing with that.

2 That was what we felt. Yeah.

3 Q And I take it from your email exchange with
4 Mr. Sturko -- and I'm happy to give you a moment
5 to review that -- but I take it from the
6 exchange that there was some disagreement over
7 how this situation was handled.

8 A Well, there was in the fact that -- let me just
9 see if I can find that actual conversation in
10 here. There was concern -- we were entering
11 into the IIGET at that time, and we were
12 concerned about the policing independence, and
13 that was -- that's what caused the issue there,
14 was whether we -- who would be responsible for
15 file retention, who would be responsible for
16 things of that nature, FOI, and the security of
17 a policing matter rather than a regulatory
18 matter. As we reported to Mr. Sturko, I did,
19 the police reported to their people. And that
20 was the gist of this conversation because we'd
21 ran into a few other issues in relation to
22 policing independence. This wasn't a big one,
23 but it was one of the ones that later on we ran
24 into a number of them that concerned us. And
25 that's the generality of the conversation, is

1 that Mr. Sturko was saying that the minister and
2 Mr. Sturko were -- could intervene on an
3 enforcement matter from a political perspective
4 if they felt it was appropriate. And that
5 concerned me a little bit when I was -- on the
6 GPEB IIGET policing independence issue. That's
7 the extent of it. That was it. And that was a
8 back and forth between me and Mr. Sturko.
9 Because we were setting the guidelines for
10 IIGET. That's probably why.

11 Q Thank you for that. I also understand, though,
12 from the email exchange with respect to this
13 incident in particular it appears that
14 Mr. Sturko held the view this may have been an
15 overreaction. Is that fair to say?

16 A Yes, he held that view.

17 Q And you held the view that this was an
18 appropriate use of GPEB resources; correct?

19 A I -- what I said -- the ticket was already
20 issued at that time, and once you issue that
21 ticket you're not going to retract the ticket
22 per se. And that incident -- I wasn't there to
23 evaluate it, but I didn't -- once you issue the
24 ticket, you don't bring it back, is what I
25 thought. There was no way or mechanism that I

1 knew of that you could cancel the ticket. You
2 know, you can always use discretion. In
3 hindsight I can look at this and say maybe we
4 shouldn't have issued the ticket, but they did.

5 MS. TWEEDIE: Thank you, sir. Those are all my
6 questions.

7 THE WITNESS: Thank you.

8 THE COMMISSIONER: Thank you, Ms. Tweedie.

9 And Ms. Hughes for the province who has
10 been allocated 30 minutes.

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

12 **EXAMINATION BY MS. HUGHES:**

13 Q Mr. Vander Graaf, can you hear me all right?

14 A Yes, I can, Ms. Hughes.

15 Q Thank you. Please let me know if at any point
16 you can't or you don't understand my questions.

17 I'd like to start in your affidavit, please,
18 at exhibit H. And what you should have in front
19 of you is a report of findings that counsel for
20 the commission took you to, Ms. Latimer, and
21 it's the March 15th, 2010 report of findings?

22 A Yep.

23 Q This is the one that was written by Mr. Dickson,
24 and documented instances where service providers
25 were, as Mr. Dickson phrased it, willing to

1 accept ongoing issues with things like chip
2 passing, inappropriate cash transactions, and
3 the involvement of VIP patrons with loan sharks.
4 Do you recall this report of findings?

5 A Yes, I do.

6 Q All right. And so if you could turn to page 5,
7 please. In the first full paragraph under the
8 heading "Findings"?

9 A Yes.

10 Q My friend Ms. Latimer took you to this. This is
11 where Mr. Dickson characterizes BCLC's
12 acceptance of the violations he's noted earlier
13 in the report as troubling?

14 A Yes.

15 Q Yes. And you understood at that point what
16 Mr. Dickson was referring to was his view that
17 there was no meaningful attempt by BCLC to
18 sanction these individuals?

19 A That's true.

20 Q And you agreed with Mr. Dickson's views at the
21 time?

22 A I believe I did. What date was this again?

23 Q This is March of 2010?

24 A Okay, yes.

25 Q And perhaps if it's easier, Mr. Vander Graaf, if

1 you turn over to page 8, this is where we have
2 your comments on this report.

3 A Okay.

4 Q My apologies, it's page 10 that your comments
5 are on.

6 A Okay.

7 Q And if you look in the first full paragraph of
8 your comments, you concurred with Mr. Dickson's
9 findings in the report and noted -- and I'm
10 quoting here, it's about midway through the
11 paragraph:

12 "The report of findings reveals that it is
13 believed that these high-level players are
14 being given extreme latitude in violating
15 these procedures due to the fact that they
16 are extremely high-volume players."

17 Do you see that, sir?

18 A Yes.

19 Q And you wrote that in 2010?

20 A I believe I did, yes.

21 Q And that was your opinion at the time?

22 A My opinion is based on Mr. Dickson's opinion,
23 and if he's telling me that has as my director
24 of casinos investigations, that they're getting
25 special treatment, I'm not down on the floor,

1 I'm believing what Mr. Dickson is telling me.

2 Q That's right. And so I take it there was for
3 lack of the better way of putting it, a sense of
4 frustration perhaps with the perceived lack of
5 meaningful action being taken by BCLC with
6 respect to these patrons?

7 A That what I'm reading in Mr. Dickson's report,
8 yes.

9 Q And that's certainly what you understood when
10 you added your comments in 2010?

11 A Yes, I did.

12 Q Okay. Indeed, one of the things that you had
13 asked for over your time with GPEB, and it
14 starts in 2009, was for the investigations
15 division, your group, to have the ability to
16 prohibit individuals from casinos in the
17 interest of preserving the integrity of gaming;
18 is that right?

19 A That's correct.

20 Q And we've heard this referred to as being able
21 to bar people from the casinos?

22 A Undesirables.

23 Q Yes. A barring power?

24 A It's barring power for undesirables is the word.

25 Q Right. And when you say "undesirables" you're

1 referring to section 92 of the act; that's
2 right?

3 A I believe so. I don't have the act here. If
4 you say that, I'll believe you.

5 Q Okay. And so perhaps if we turn, then, to
6 exhibit R of your affidavit, please, Mr. Vander
7 Graaf. And what you should have there is an
8 email that you were CC'd on between Mr. Sturko,
9 Mr. McCrea and Ms. Van Sleuwin?

10 A Yes.

11 Q From March of 2009?

12 A Yes.

13 Q And just to orient you I think most of my
14 friends have asked you questions about
15 exhibit S, which is at the following tab.

16 A Yes.

17 Q And in exhibit --

18 A Yep.

19 Q Yeah. And so we see the same attachment to both
20 emails; is that right? One of them has a
21 confidential watermark, but the letter, the
22 March 16, 2009 letter is the same?

23 A Yes, it is.

24 Q And so at exhibit R what we have is the
25 original -- or the first time that that letter

1 was forwarded --

2 A By Van Sleuwin. Executive Director of Audit
3 forwarded the first one, and I forwarded the
4 second one to Mr. McCrea.

5 Q That's right. And so if you can just look at
6 the cover email for exhibit R.

7 A Okay. Yes.

8 Q In the last sort of full paragraph, Ms. Van
9 Sleuwin writes:

10 "All three Executive Directors have
11 confirmed their agreement with the
12 requirements put forward in this document
13 for your decision."

14 Do you see that?

15 A Yes.

16 Q And you would have been one of the three
17 executive directors who confirmed your agreement
18 with the letter?

19 A That's correct.

20 Q Okay.

21 A I asked for the barring permission in that
22 letter.

23 Q That's right. You're jumping ahead of me
24 here --

25 A Oh, I'm sorry.

1 Q No, that's fine. And so you'll recall that
2 Ms. Latimer asked you questions about this
3 letter and you, as you've said, contributed to
4 the letter; isn't that right?

5 A That's correct.

6 Q And in it you asked for a barring power?

7 A That's correct.

8 Q And at that time in 2009 GPEB did not have the
9 power or the ability to bar patrons?

10 A No, we did not.

11 Q That was a power that BCLC had?

12 A That's correct.

13 Q And that sort of the theme that we see in the
14 report of findings we just looked at where GPEB
15 was frustrated that BCLC wasn't using the
16 barring power as perhaps rigorously as you would
17 have liked?

18 A On occasion, that's true.

19 Q Yes.

20 A And that's -- you know, my people are telling me
21 that, you know, I'm getting that from my
22 Director of Casinos and my senior directors and
23 my people on the floor, boots on the floor,
24 boots on the floor.

25 Q And fair enough. What the boots on the floor,

1 as you say, were reporting to you was in their
2 view BCLC was using the barring power as a last
3 resort and you wanted it done or they wanted it
4 done more readily; is that fair?

5 A Depending on what you're talking about. If
6 you're talking about undesirables, there's
7 different undesirables depending on how you term
8 what an undesirable is. Is an undesirable an
9 individual who brings a million dollars' worth
10 of 20s in that doesn't have a criminal record
11 and is a president of a bank -- I think that's
12 where we're going anyway -- or that is it
13 somebody that's a criminal loan shark that's
14 coming in. BCLC would take the loan sharks out
15 and bar them. After 2007 they made a blitz on
16 it -- and I may be moving ahead, Ms. Hughes --
17 and they would do that, but they wouldn't -- I
18 used to call it you'd bar the people as
19 undesirable, but the cash wouldn't be
20 undesirable.

21 Q Yeah, and that's actually my next question, is
22 you saw BCLC, as you say, effectively using that
23 power to remove loan sharks, the cash
24 facilitators from the casinos; yes?

25 A That's correct.

1 Q And also their known associates?

2 A That's correct.

3 Q But what they didn't do was use that power to
4 bar the patrons who were actually using the
5 cash; is that right?

6 A That's my impression, yes.

7 Q And so as I think you'll agree what happened,
8 then, was the cash facilitators and their
9 associates were moved off site?

10 A Correct, correct.

11 Q But that didn't stop the problem, did it?

12 A No, it didn't.

13 Q Because they adopted, I think -- and correct me
14 if I'm wrong here, I think you referred to it in
15 your testimony as a drive through model?

16 A That's correct.

17 Q Okay.

18 A And we can pick that up on surveillance. Or
19 they could. The casino could pick it up and you
20 could see them bringing it in.

21 Q In your view a further step that could have been
22 taken would be bar the patrons that had repeated
23 history of using these cash facilitators?

24 A Quite possible, yes. It was a tool.

25 Q And one of the other tools or recommendations

1 you made in the 2009 letter -- I should more
2 accurately say the executive directors
3 collectively made, was that requirements in
4 terms of source of funds, or origin of funds I
5 think is the term you commonly use, should be
6 incorporate rated into BCLC's standard policies
7 and procedures for service providers?

8 A That's correct.

9 Q And so is it fair to say, then, Mr. Vander
10 Graaf, that at the time you saw, or the
11 executive directors of GPEB saw BCLC's
12 contractual relationships with its service
13 providers as a potential way to try and limit
14 suspicious cash in casinos?

15 A Absolutely.

16 Q And as you understood it at the time, BCLC had
17 the ability to direct service providers at the
18 operational level through those standard
19 policies and procedures?

20 A Yes, I did. I believe that.

21 Q And that was part of its role in conducting and
22 managing gaming in the province?

23 A That's what I felt.

24 Q Okay. If I could ask you now, please,
25 Mr. Vander Graaf, to turn to exhibit E of your

1 affidavit. So what you should have in front of
2 you is a November 20, 2013 memorandum from
3 Mr. Dickson to Mr. Schalk, do you see that?

4 A Yes, I do.

5 Q I think you'll recall my friend Ms. Latimer
6 asked you some questions about this document
7 yesterday?

8 A Yes.

9 Q And one of the issues that was discussed was the
10 conclusions that are set out on page 2 of the
11 memorandum?

12 A That's correct.

13 Q And in particular in the first paragraph where
14 you talk a little bit about safety concerns?

15 A That's correct.

16 Q And so if I can just paraphrase. I think my
17 understanding of the evidence you gave was that
18 given the suspected involvement of organized
19 crime investigating proceeds of crime would have
20 in your view put your investigators at risk; is
21 that right?

22 A That's correct.

23 Q You saw that as creating a safety hazard for
24 your team to go and investigate the loan sharks
25 or the -- I think as you put it the predicate

1 offence that created the proceeds of crime?

2 A That's correct.

3 Q And these are the types of safety concerns we
4 see being raised in Mr. Dickson's memorandum
5 here?

6 A That's correct.

7 Q And specifically you'll recall yesterday you
8 were asked some questions about what types of
9 interdiction strategies, and those are the words
10 that Mr. Dickson uses in that first paragraph,
11 what types of interdiction strategies were being
12 ruled out. Do you recall those questions?

13 A What he would have meant is approaching the
14 people on the floor and confronting organized
15 crime in relation to revenue or anything of that
16 nature would have been an interdiction where you
17 intercene [sic] on the people that were coming
18 into the casino to do things at the cash cage or
19 at the cash cage. That interdiction, if it was
20 organized crime, was something we would not do.

21 Q Right. So if I -- just let me ask you this
22 question to make sure I understand your
23 evidence. What you're saying is the
24 interdictions that create the safety concern are
25 those dealing with known or suspected members of

1 organized crime groups; is that right?

2 A Yes. But it could be players as well. It could
3 be players as well. Because the difficult comes
4 is when you start talking to players of high
5 level and you start interacting with them, you
6 have to remember organized crime isn't far away.
7 When they put out 3- or \$400,000, they're
8 somewhere in the vicinity. And if they're being
9 questioned by the police or by the GPEB or BCLC,
10 they get aware of that. And so what you can do
11 is even put that individual in a position where
12 he may be impacted as potentially giving
13 information on the origin of the funds of things
14 of that nature in that setting. And I think
15 that could even put you at a little bit of risk.

16 Q Okay. So Mr. Vander Graaf, I think -- that's a
17 little bit different than the evidence you gave
18 yesterday. Yesterday you agreed with
19 Ms. Latimer when you -- when she put it to you
20 that refusing cash buy-ins at the cash cage was
21 not a type of interdiction that Mr. Schalk was
22 ruling out. Are you changing your evidence on
23 that front now?

24 A We've never said we could interdict cash at the
25 cash cage inside them. I'm just saying that

1 this right here organized crime can be at the
2 cash cage as well or coming into the casino. I
3 don't believe I've ever said we would interdict
4 in the cash cage on the -- for the money coming
5 into the casino.

6 Q Okay. So what you're saying, then, is the
7 safety concern arises when dealing with members
8 of organized crime groups; right?

9 A That's correct.

10 Q And with their cash facilitators?

11 A That's correct.

12 Q And perhaps with the associates of those cash
13 facilitators?

14 A That's correct.

15 Q So when it comes to patrons, though, are you
16 saying that those patrons pose the same risk,
17 the same safety hazard as the organized crime
18 members?

19 A No, not to that degree, that's for sure, no, no.
20 This is talking about organized crime people
21 here. But I'm doing a spinoff on the person.
22 I'm not -- no, I'm talking about -- you're
23 talking about organized crime. They're not the
24 same safety risk, but they can create a safety
25 work for the patron.

1 Q Right. The organized crime group pays the risk
2 for the patrons.

3 A That's right.

4 Q The patron is not a danger to the service
5 provider staff?

6 A No, no.

7 Q Okay. Thank you.

8 A Sorry about that.

9 Q That's all right. Glad we've cleared that up.

10 The next thing I'd like to ask you
11 about is -- you can put away the affidavit for
12 now.

13 A Okay.

14 Q The next thing I'd like to ask you about is some
15 of the evidence that's been given around the AML
16 working group and the steps that arose out of --
17 after Mr. Kroeker's review was published. So as
18 we've seen today I think in questions from
19 Ms. Mainville, you know that in about January of
20 2011 there was some media reporting on cash in
21 casinos.

22 A Yes.

23 Q And that led to Mr. Kroeker being engaged to
24 conduct an anti-money laundering or an AML
25 review?

1 A Agree.

2 Q And he was tasked with making recommendations
3 for how to combat money laundering?

4 A That's correct.

5 Q Is that right?

6 A That's correct.

7 Q He wasn't asked to determine whether or not
8 money laundering was happening, was he?

9 A Not that I recollect.

10 Q And so if it assists your memory, Mr. Vander
11 Graaf, we can look at the Kroeker Report.

12 It's exhibit 141, Madam Registrar. Thank
13 you, Madam Registrar, I'm on page 2 of the
14 report.

15 A Yes page.

16 Q Yes. I don't intend to read it to you at
17 length, but this is the executive summary of the
18 report?

19 A Okay.

20 Q And I think you'll agree with me that nowhere in
21 here is it indicated that Mr. Kroeker was asked
22 to determine whether or not money laundering was
23 actually occurring at the time, was he?

24 A Correct.

25 Q Okay. And so we can set that aside. What

1 Mr. Kroeker's report did do -- and just to
2 orient you in time, you recall the report was
3 published in August of 2011?

4 A Correct.

5 Q We can take the report off the screen, thank
6 you, Madam Registrar.

7 And what it did was make a series of
8 recommendations. My friend Ms. Mainville took
9 you to those.

10 A Yes.

11 Q One of which was moving away from the cash in
12 casinos by implementing cash alternatives; is
13 that right?

14 A That's correct.

15 Q And just to be fair you didn't necessarily agree
16 with all of Mr. Kroeker's recommendations, did
17 you?

18 A I didn't agree with his recommendations, but I
19 didn't have any problem with the cash
20 alternatives.

21 Q Right. And so I think in your evidence
22 yesterday you indicated that after Mr. Kroeker's
23 report was published, there was a shift in
24 government strategy in addressing money
25 laundering in casinos; is that right?

1 A That's correct.

2 Q And part of that shift included a focus on cash
3 alternative strategies; is that correct?

4 A That's correct, that's correct.

5 Q And one of the steps that was taken in response
6 to the review was in September 2011, the
7 creation of GPEB's anti-money laundering cross
8 divisional working group?

9 A That's correct.

10 Q And that's the group that has been at times
11 referred to as AML X-DWG?

12 A That's correct.

13 Q And the goal, or one of the goals, of that
14 working group was to provide enhanced due
15 diligence in approving new gaming industry
16 initiatives; is that right?

17 A Correct.

18 Q And to contribute to best practices and foster
19 knowledge sharing between industry participants?

20 A That's correct.

21 Q And the focus was as well, of course, to
22 implement the recommendations that were made in
23 Mr. Kroeker's report?

24 A That's correct.

25 Q And another aspect of it was to improve

1 coordination between GPEB's various divisions on
2 AML issues?

3 A That's correct.

4 Q And also as a by-product to also attempt to
5 centralize communications on AML issues as
6 between GPEB and BCLC?

7 A Point of contact, yeah.

8 Q Yeah. That's right. Communications were now
9 meant to flow through -- and I think you
10 testified about this earlier today -- through
11 Mr. McCrea?

12 A That's correct.

13 Q And so the AML X-DWG group that included members
14 from all of GPEB's different divisions?

15 A Yes, it did.

16 Q And both or all of you, Mr. Schalk and
17 Mr. Dickson were formal members of that working
18 group?

19 A Yes, we were.

20 Q And you were members of the investigations
21 division at the time?

22 A That's correct.

23 Q And, indeed, investigations division had the
24 most members of any of the GPEB's divisions in
25 that working group; is that right?

1 A That's correct.

2 Q And the three of you participated actively in
3 the work that the AML X-DWG group was doing?

4 A Exactly. We did exactly what they wanted and
5 what they needed, we did.

6 Q And you helped develop the strategic initiatives
7 through to the X-DWG working group?

8 A Yes.

9 Q And to be fair, you didn't always see the
10 initiatives coming out of that group as having
11 much impact on the suspicious cash coming into
12 the casinos, but you were included in the
13 group's work; right?

14 A We were included in the group work and we
15 participated the best we could, but we did not
16 believe that this was going to deter the money
17 laundering.

18 Q You were given the opportunity to share your
19 knowledge and voice the investigation division's
20 recommendations?

21 A Absolutely, yes.

22 Q And --

23 A At nauseam.

24 Q Fair enough. You were also at various times
25 invited to participant in GPEB and BCLC joint

1 executive meetings?

2 A Not at that time, no. I was -- there was a BCLC
3 and GPEB group meeting between them with
4 Mr. McCrea, the General Manager, BCLC and the
5 service providers, et cetera. I wasn't invited
6 to go to that meeting at that time. It was
7 McCrea and the General Manager was doing that.
8 The joint executive meetings were prior, were
9 earlier when we used to have the joint executive
10 meetings. We didn't have joint executive
11 meetings probably in two thousand and -- I was
12 going to say 2000 and -- I don't know, '12 and
13 '13 we didn't have them -- I'm sorry.

14 Q I'd like to show you a document to perhaps help
15 refresh your memory on that?

16 A Okay.

17 Q If I can please have BCLC13089.

18 A Oh, okay.

19 Q And so, Mr. Vander Graaf, to be fair to you,
20 what you have in front of you is what appears to
21 be an agenda for a GPEB/BCLC joint --

22 A Oh, 2012.

23 Q -- executive meeting November 5th, 2012. Do you
24 see that?

25 A Yes, okay. At that time. That was early, yes,

1 2012.

2 Q So you do recall these meetings occurred in
3 2012?

4 A Oh, yes, they did.

5 Q And I believe this issue also came up earlier
6 today in Mr. Lightbody's counsel's questions of
7 you, and you indicated you recalled them
8 happening in 2011 as well. Do you recall giving
9 that evidence earlier?

10 A Yes, I do remember that. But these weren't
11 X-DWG meetings.

12 Q No.

13 A No, okay.

14 Q No, no. These are separate.

15 A Okay.

16 Q But -- and so you were provided with the
17 opportunity to attend these meetings with BCLC;
18 is that right?

19 A That's correct.

20 Q And at least in the meeting that we have in
21 front of us, you were there to provide an AML
22 update on behalf of GPEB; is that right?

23 A Generally, yes. Sometimes, you didn't speak --
24 no, not an AML update. I wouldn't be doing the
25 AML update. I don't know that that corresponds

1 with the -- the dot correspondence with the
2 people that are doing it. I would never have
3 done probably an AML update. Mr. Scott might
4 have.

5 Q Right. I think to be fair it's Mr. Scott,
6 yourself and Mr. Meilleur are all listed under
7 the "AML Update" heading?

8 A Okay.

9 Q So you do recall, suffice it to say whether or
10 not you spoke, you recall members of GPEB
11 attending these meetings and providing an AML
12 update to BCLC?

13 A Absolutely, yes.

14 MS. HUGHES: Thank you. If I could -- we can take
15 the document off the screen now. Thank you,
16 Madam Registrar.

17 THE COMMISSIONER: Do you want that marked?

18 MS. HUGHES: Oh, yes, please. Thank you,
19 Mr. Commissioner. If that can be marked the
20 next exhibit.

21 THE COMMISSIONER: Where are we at now, Madam
22 Registrar?

23 THE REGISTRAR: Next number is 189, Mr. Commissioner.

24 THE COMMISSIONER: Thank you.

25 **EXHIBIT 189: GPEB/BCLC Joint Executive**

1 Meeting - November 5, 2012

2 MS. HUGHES:

3 Q So, Mr. Vander Graaf, I think fair to say as
4 early as 2009 you had identified an issue with
5 suspicious cash coming into casinos, and you
6 proposed among other things -- I think you'll
7 agree two of your key ways of limiting it were
8 to limit the number of \$20 bills coming into
9 casinos and to require patrons to provide source
10 or origin of funds; is that fair?

11 A That's correct.

12 Q And is it also fair to say that you saw these
13 measures as a good practice in the industry?

14 A That's what it was, yes.

15 Q You saw that as doing due diligence?

16 A That's what I saw it as, yes.

17 Q Would it also be fair to say during your time in
18 the investigations division there was a
19 different approach being adopted by service
20 providers in terms of asking patrons to provide
21 source of funds requirements?

22 A I don't think they were.

23 Q Right. And would it be fair to say that service
24 providers saw that as a means of a sanction or a
25 punishment on patrons?

1 A Could be construed as that, yes.

2 Q A measure of a last resort rather than a good
3 business practice?

4 A That's correct.

5 Q And in your experience would you say that
6 approach was shared by BCLC at the time?

7 A I believe at that time, yes.

8 Q Now, turning to a question. You were asked by
9 counsel for Great Canadian casinos -- he put it
10 to you that the recommendations you were making
11 were not at any point in time accepted by GPEB,
12 and as I understood your evidence you agreed
13 with that proposition. I'd like to ask you
14 whether it's probably more accurate to say you
15 don't know what GPEB as an entity accepted or
16 not in terms of your recommendations, do you?

17 A That's very accurate. That's a better answer.

18 Q Okay. Thank you. And what I think to be fair,
19 you meant to say at least during your time there
20 you never saw your recommendations implemented;
21 is that right?

22 A That's correct.

23 Q Okay. The last think I'd like to ask you about,
24 Mr. Vander Graaf, is PGF accounts. You'll
25 recall that those were one of the tools that was

1 implemented following Mr. Kroeker's report in an
2 attempt to reduce the amount of cash in casinos;
3 is that right?

4 A That's correct.

5 Q As you understand it, there were certain
6 requirements for how funds could be deposited
7 into those accounts?

8 A That's correct.

9 Q And you provided input into the development of
10 the pilot program?

11 A Yes.

12 Q At BCLC for using these accounts?

13 A That's correct.

14 Q And your concerns were primarily to make sure
15 that suspicious funds or suspicious cash didn't
16 make its way into the accounts; is that right?

17 A That's correct.

18 Q So if I could ask you please to turn to
19 exhibit T of your affidavit. T as in Tom. What
20 you should have in front of you is a letter from
21 Mr. Morrison at BCLC to Mr. Sturko dated
22 February 16th, 2009?

23 A Yes.

24 Q And so this actually predates Mr. Kroeker's
25 review, doesn't it?

1 A Yes, it does.

2 Q Is that consistent with your recollection that
3 PGF accounts were already in the works, so to
4 speak, before the review?

5 A Yes, they were.

6 Q And so what we see in this document, and correct
7 me if I'm wrong about this, is there are certain
8 questions and the questions were posed by GPEB;
9 is that right?

10 A Yes, I believe by Derek Sturko.

11 Q Right. And then in the A or the answer that's
12 BCLC's response to the questions?

13 A That's correct.

14 Q And if you look at page 2 under question 4.

15 A Yes.

16 Q You see that Mr. Sturko is saying "we GPE." I
17 take it that's a reference to GPEB?

18 A Yes.

19 Q "... feel there are too many risks of
20 inappropriate funds entering sanctioned
21 patron gaming funds accounts."

22 And that's a reflection of the concern you had?

23 A That's correct.

24 Q And in response to that, Mr. Morrison writes
25 that -- and I'm in the response section now

1 about the third line down:

2 "The patron will be required to file a
3 Source of Funds Declaration each and every
4 time a deposit is placed on the account.
5 Part of this declaration is that the
6 patron must identify where the funds
7 originate from and that they are not from
8 any criminal money laundering or illegal
9 activity."

10 Do you see that?

11 A Yes, I do.

12 Q And so do you take that to be that BCLC was
13 proposing to implement source of funds
14 declarations for PGF accounts as early as 2009?

15 A They were, no question.

16 Q And was that in fact done, to the best of your
17 knowledge?

18 A I can't say that it was or it wasn't done.

19 Q And so as I take it, were you aware of any
20 reason why a similar source of funds declaration
21 could not have been implemented at the time for
22 all cash buy-ins?

23 A It should have been.

24 Q And I take it you would agree that having source
25 of funds requirements for PGF accounts in some

1 ways actually had the opposite of their intended
2 effect on reducing suspicious cash in casinos.
3 Isn't that right?

4 A That's correct.

5 Q Having a source of cash requirement on the PGF
6 account would actually drive patrons who use
7 cash facilities, for example, away from using
8 PGF accounts?

9 A You're correct.

10 Q And so in your view during your time at BCLC --
11 sorry, at GPEB and recognizing the specific
12 nature of the PGF accounts changed over time,
13 but during your time there and your experience,
14 were those accounts effective in reducing the
15 amount of suspicious cash in casinos?

16 A I think they started out slow, but I think they
17 could have been later on, but they didn't reduce
18 the suspected cash coming into the casinos.

19 Q Okay. And indeed -- I don't need to take you
20 back through documents that my friend
21 Ms. Latimer has already covered, but is it fair
22 to say in the reports of findings that your
23 division produced from 2011 through 2013 the
24 number of suspicious cash transactions and the
25 quantum or the volume, value of suspicious cash

1 in casinos continued to increase?

2 A Absolutely, yes.

3 Q So it was your view that in the form they
4 existed at that time, the PGF accounts had not
5 reduced the volume of suspicious cash in
6 casinos?

7 A That's correct.

8 MS. HUGHES: Okay. Thank you, Mr. Commissioner. I
9 have no further questions for this witness.

10 THE COMMISSIONER: Thank you, Ms. Hughes.

11 Ms. Tweedie, anything arising?

12 MS. TWEEDIE: Nothing arising, thank you.

13 THE COMMISSIONER: Thank you, Mr. Butcher.

14 MR. BUTCHER: Sorry, no.

15 THE COMMISSIONER: Thank you. Ms. Mainville?

16 MS. MAINVILLE: No, thank you, Mr. Commissioner.

17 THE COMMISSIONER: Mr. McFee? Mr. McFee? I will --

18 MR. McFEE: Sorry, Mr. Commissioner, I had to switch
19 microphones again. No, I have no questions.

20 Thank you.

21 THE COMMISSIONER: Thank you, Mr. McFee.

22 Ms. Bevan?

23 MS. BEVAN: Nothing arising. Thank you,

24 Mr. Commissioner.

25 THE COMMISSIONER: Mr. Skwarok?

1 MR. SMART: No, thank you.

2 THE COMMISSIONER: Mr. Smart?

3 MR. SKWAROK: I think Mr. Smart answered on my
4 behalf, and with all due respect to my learned
5 friend, I disagree. If I might ask a question,
6 sir.

7 THE COMMISSIONER: Yes, of course.

8 **EXAMINATION BY MR. SKWAROK (continuing):**

9 Q Ms. Hughes took you to exhibit H on page 102.
10 May I ask that you go to that page. It has the
11 number 102 on the top left page.

12 A Yes.

13 Q And halfway down this paragraph is the paragraph
14 headed "Forwarded to the General Manager
15 April 12th, 2010"?

16 A Yes.

17 Q Halfway down approximately is the sentence:
18 "The Report of Finding reveals that it's
19 believed these high-level players are
20 being given extreme latitude in violating
21 these procedures due to the fact that they
22 are extremely high-volume players."

23 A Yes.

24 Q "It's my opinion that the track record of
25 these players and the apparent lack of

1 compliance could/does/will bring the
2 integrity of gaming into question."

3 A M'mm-hmm.

4 Q And this report was sent to the General Manager
5 for consideration; correct?

6 A That's correct.

7 Q To the best of your knowledge, did the General
8 Manager make any findings of inappropriate
9 conduct on behalf of Great Canadian?

10 A I don't know for sure, but I don't believe he
11 did.

12 MR. SKWAROK: Thank you.

13 THE COMMISSIONER: Thank you. Mr. Skwarok, I won't
14 ask you to answer for Mr. Smart, but I take it,
15 Mr. Smart, you have no re-examination.

16 MR. SMART: Mr. Commissioner, I do have something
17 briefly.

18 THE COMMISSIONER: All right.

19 MR. SMART: I changed my mind. Thank you.

20 **EXAMINATION BY MR. SMART (continuing):**

21 Q Mr. Vander Graaf, Ms. Hughes asked you questions
22 about what BCLC could have done, and as I
23 understand your answers, they could have
24 directed service providers not to receive these
25 large cash transactions?

1 A I believe that -- I don't recall saying that,
2 but I could have said that.

3 Q Is that your belief?

4 A I believe they could have under standard
5 operating procedures.

6 Q Yes. And they could have directed service
7 providers to do source of funds -- require
8 source of funds?

9 A I believe they could have, yes.

10 Q And --

11 A That what I believed.

12 Q And your General Manager could have directed
13 BCLC to do those things if he thought that was
14 appropriate, couldn't he?

15 A Yes, he could have.

16 MR. SMART: That's all. Thank you.

17 THE COMMISSIONER: Thank you, Mr. Smart.

18 Ms. Latimer or -- I'm sorry, I just want to
19 make sure. Ms. Gardner, I beg your pardon, have
20 you any re-examination?

21 MS. GARDNER: I do not. Thank you, Mr. Commissioner.

22 THE COMMISSIONER: Ms. Latimer.

23 MS. LATIMER: Yes, just very briefly.

24 **EXAMINATION BY MS. LATIMER:**

25 Q Mr. Vander Graaf, my friend Ms. Mainville asked

1 you some questions, you'll recall, about a
2 document where comments were made on that
3 document by Mr. McCrea and Mr. Mazure?

4 A That's correct.

5 Q And you'll recall that I had asked you some
6 questions about a different version of that
7 document that showed your comments and
8 Mr. Schalk's comments?

9 A Correct.

10 Q And on both occasions you had in mind a
11 different version of the document. I've made an
12 effort and I hope I have found the version of
13 the document that you had in mind.

14 And Madam Registrar, could you please bring
15 up GPEB0188.001.

16 Sir, is this the version of the document
17 that you had in mind that has the comments of
18 Mr. McRae and Mr. Mazure, your comments and
19 Mr. Schalk's comments all contained in a single
20 document?

21 A That's correct. The red is the -- it's hard to
22 read. It's hard to read, but that's the
23 document.

24 MS. LATIMER: Okay. I'd ask that this please be
25 marked as the next numbered exhibit.

1 THE COMMISSIONER: Very well. We're at 190, I think.

2 THE REGISTRAR: Yes. Exhibit 190, Mr. Commissioner.

3 **EXHIBIT 190: Gaming Policy and Enforcement**

4 **Branch, Investigations and Regional Operations**

5 **Division - Report of Findings**

6 MS. LATIMER: I have no further questions.

7 THE COMMISSIONER: Thank you, Ms. Latimer.

8 Thank you, Mr. Vander Graaf. You are
9 excused from further testimony.

10 **(WITNESS EXCUSED)**

11 THE COMMISSIONER: I take it, Ms. Latimer, that we
12 are now left with just adjourning until Monday
13 morning at 9:30. Is that right?

14 MS. LATIMER: That's right.

15 THE COMMISSIONER: Thank you. We will do that.

16 THE REGISTRAR: This hearing is adjourned until
17 November 16, 2020, at 9:30 a.m. Thank you.

18 **(PROCEEDINGS ADJOURNED AT 1:21 P.M. TO NOVEMBER 16, 2020)**

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