

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

**COMMISSIONER AUSTIN F. CULLEN**

**INDEX OF PROCEEDINGS**

<b>Witness</b>	<b>Description</b>	<b>Page</b>
	Proceedings commenced at 9:30 a.m.	1
<b>Richard Fyfe (for the commission)</b>	Examination by Ms. Latimer	1
	Proceedings adjourned at 10:24 a.m.	44
	Proceedings reconvened at 10:38 a.m.	44
<b>Richard Fyfe (for the commission)</b>	Examination by Mr. Smart	45
	Examination by Mr. McFee	56
	Examination by Ms. Mainville	71
	Proceedings adjourned at 11:33 a.m.	85
	Proceedings reconvened at 11:42 a.m.	85
<b>Richard Fyfe (for the commission)</b>	Examination by Ms. Hughes	86
	Examination by Mr. McFee (continuing)	105
	Examination by Mr. Smart (continuing)	107
	Colloquy	109
	Proceedings adjourned at 12:14 p.m. to April 30, 2021	109

**INDEX OF EXHIBITS FOR IDENTIFICATION**

<b>Letter</b>	<b>Description</b>	<b>Page</b>
---------------	--------------------	-------------

No exhibits for identification marked.

## INDEX OF EXHIBITS

No.	Description	Page
940	Consists of two documents: 1. Letter from Richard Fyfe to Peter German, re Terms of Reference - Money Laundering Review - October 4, 2017; 2. Letter from Richard Fyfe to Peter German, re Terms of Reference - Money Laundering Review - Signed by Peter German on October 7, 2017	28
941	Email from Suzanne Rowley to Rob Kroeker and others, re Notes from Jim Lightbody's conversation with Richard Fyfe - January 18, 2018	35
942	Handwritten notes of Richard Fyfe - Jan 17, 2018 (redacted)	36
943	Consists of two documents: 1. Email from Jim Lightbody to Douglas Scott, re Request by Ministry of Finance - April 13, 2018; 2. Suspicious Transaction Reports and Table Performance - April 12, 2018	56
944	Consists of two documents: Both are handwritten notes of Richard Fyfe - July 31, 2017 (redacted)	60
945	Email chain, re Meeting with Minister - July 31, 2017	91
946	Handwritten notes of Richard Fyfe - August 2, 2017 (redacted)	95
947	Handwritten notes of Richard Fyfe - October 10, 2017 (redacted)	96
948	Handwritten notes of Richard Fyfe - December 20, 2017 (redacted)	98
949	Handwritten notes of Richard Fyfe - October 23, 2017 (redacted)	99
950	Email exchange between Rob Kroeker and Jim Lightbody, re MSB's and other initiatives - for the Task Force - October 19, 2017	102

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
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18  
19  
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23  
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**April 29, 2021**  
**(Via Videoconference)**

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

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

THE COMMISSIONER: Thank you, Madam Registrar.

Yes, Ms. Latimer.

MS. LATIMER: Yes, Mr. Commissioner. The next witness this morning is Deputy Attorney General Richard Fyfe, and I understand the witness would prefer to be affirmed, please.

THE COMMISSIONER: Thank you.

**RICHARD FYFE, a witness  
called for the  
commission, affirmed.**

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

THE WITNESS: Richard John Martin Fyfe, R-i-c-h-a-r-d F-y-f-e.

THE REGISTRAR: Thank you.

**EXAMINATION BY MS. LATIMER:**

Q Yes. Sir, can you hear me okay?

A I can hear you fine, thanks.

Q Okay. I wanted to begin this morning with some of your relevant professional experience. I

1                   understand you joined the legal services branch  
2                   in September 1990. Is that correct?

3           A       Yes.

4           Q       And you've held a variety of roles in government  
5                   since that time and from 2012 to the present  
6                   you've been the Deputy Attorney General of  
7                   British Columbia; correct?

8           A       That's right, yes.

9           Q       Following the formation of the provincial  
10                   government in 2017 you -- Deputy Minister to the  
11                   Premier Don Wright told you that you would be  
12                   continuing on as Deputy Attorney General; is  
13                   that correct?

14          A       Yes.

15          Q       And were you given some new responsibilities at  
16                   that time?

17          A       I was. I had a second phone call from Don  
18                   shortly after the first one when he told me that  
19                   I was also going to be responsible for gaming,  
20                   liquor and ICBC.

21          Q       Okay. Did you have some -- any previous  
22                   professional experience relating to the gaming  
23                   sector?

24          A       No, none.

25          Q       How did you go about becoming familiar with this

1 new responsibility?

2 A Well, there are a set of transition binders that  
3 are provided by the branch, and by -- in this  
4 case by BC Lottery Corporation, so the main  
5 role, main focus is to have a look at those,  
6 read through those and then also to get  
7 briefings from the Assistant Deputy Minister or  
8 in the case of BC Lottery Corporation from the  
9 CEO of BCLC.

10 Q Okay. Did you have discussions with Minister  
11 Eby at that time about what his concerns for  
12 this industry were?

13 A I don't recall having any discussions with him  
14 about his concerns, no.

15 Q Okay. Did you understand -- what were your sort  
16 of initial impressions of the industry?

17 A That it was very complex, that it was a very  
18 high revenue industry in the order of a billion  
19 dollars a year, that it was throughout the  
20 province, and that was my initial impressions.

21 Q Okay. Did you have any early impressions on the  
22 topic of suspicious cash in casinos?

23 A I didn't, no.

24 Q Okay. Did you understand as between GPEB and  
25 BCLC what the responsibilities were between

1                   those two agencies in addressing this issue?

2           A        I gradually came to understand what the  
3                   responsibilities were. I didn't understand them  
4                   initially. It took a while.

5           Q        Okay. Did you have an impression as to the  
6                   relative resourcing of those two agencies to  
7                   address this issue?

8           A        Not initially. Over time I became familiar with  
9                   some of the issues around resourcing and the  
10                  difference in relative resourcing, yes.

11          Q        What were those issues that you perceived?

12          A        The main issue I perceived was that BCLC was  
13                  well resourced and that GPEB, as with many  
14                  government ministries, was less well resourced.

15          Q        Okay. And was their relative level of  
16                  resourcing sort of reflective of their relative  
17                  responsibilities on this issue?

18          A        I don't know that I've had an opinion about  
19                  relative resourcing -- relative  
20                  responsibilities. I felt that from some of the  
21                  briefings that GPEB would be better off with  
22                  more resources and less reliant on BCLC to be  
23                  doing everything.

24          Q        Okay. Did you have any early impressions about  
25                  the sort of collaboration between those two

1 entities?

2 A Not initially. Over time a number of things  
3 that were said gave me the sense that they were  
4 not working as well together as they could.

5 Q Can you sort of give us an idea of what it was  
6 that gave you that impression?

7 A Yeah. Some of the discussions I had with BCLC,  
8 with Jim Lightbody, he suggested that he would  
9 like to be doing briefings, for example, with  
10 the minister without GPEB present, and as well I  
11 was aware of briefings and in some cases sat in  
12 on briefings with members of GPEB where they  
13 would express frustration with the working  
14 relationship between GPEB and BCLC.

15 Q Okay. Did you understand what the nature of the  
16 concern about that relationship was?

17 A Not completely. I thought that it was largely  
18 related to communication and who had what  
19 responsibility and who was doing what work.

20 Q Okay.

21 A In relation to regulation.

22 Q Did they have a clear understanding as between  
23 them about the respective spheres of  
24 responsibility?

25 A I think they probably had a clear understanding

1                   between themselves as to their respective  
2                   spheres of responsibility, yes. I think that  
3                   the sense I had was that BCLC was able to do  
4                   more because it was better resourced.

5           Q        Okay. Did you -- so did you have regular  
6                   communications with BCLC?

7           A        Yes, I did. Quite regular.

8           Q        How frequent were those, would you say?

9           A        Sometimes they were daily or every couple of  
10                   days. Certainly no less frequency than once a  
11                   week with the CEO Jim Lightbody.

12          Q        What were the sort of nature of those  
13                   discussions?

14          A        They were wide-ranging. They were always  
15                   administrative issues to talk about. In  
16                   addition there was at one point a discussion  
17                   around amending their OSA, their service  
18                   agreement with the service providers and the  
19                   consultation that they were doing around that.  
20                   In particular there was a desire to do that  
21                   fairly quickly because of some business needs  
22                   that Gateway had, and so there were a number of  
23                   discussions around that. There was updates on  
24                   the GameSense program. There was discussion  
25                   about -- in some cases, not very often, but in



1           some cases there was an update on revenue. I  
2           remember in October 2017, for example, a call  
3           with Jim Lightbody where he was talking about  
4           how much revenue they generated that month,  
5           which was just in the normal course of things.

6           Q     Okay. Did you communicate to BCLC anything in  
7           the nature of revenue expectations of  
8           government?

9           A     No, I didn't.

10          Q     Okay. Did you discuss issues related to  
11          suspicious cash or money laundering with  
12          Mr. Lightbody?

13          A     I did from time to time. Usually those  
14          discussions were followups to discussions that  
15          had taken place with the minister at a briefing,  
16          for example, or issues that might be raised by  
17          GPEB that I would then raise with him to just  
18          clarify.

19          Q     Do you remember what those issues were?

20          A     Around suspicious -- there was some issues  
21          around the reporting arrangements for those. At  
22          one point there was an issue around the iTrak  
23          system and there was a period where access to  
24          the iTrak system was perceived not to be  
25          available to GPEB, which I discussed with

1 Mr. Lightbody and got sorted out.

2 Q Okay. Were you discussing the volume or  
3 trajectory of suspicious cash coming into  
4 casinos?

5 A Not -- not to my recollection. I mean, there  
6 were presentations and some discussions about  
7 that, but it wasn't something that I was  
8 bringing up.

9 Q Okay. Did Mr. Lightbody ask for government  
10 assistance to address the issue of suspicious  
11 cash in casinos?

12 A That I don't recall whether he asked for  
13 government assistance. I don't recall him  
14 asking for government assistance on that  
15 specifically.

16 Q Okay. Did you have the sense from Mr. Lightbody  
17 that the issue was -- had been taken in hand by  
18 BC lotto corporation or did you have a sense of  
19 that?

20 A I had a sense that BCLC felt that it was in  
21 hand, yes.

22 Q Okay. Were you involved in the process of  
23 producing mandate letters for BC lotto  
24 corporation?

25 A I was. As the deputy, in my role my as deputy,

1                   so it would come through me on the way to the  
2                   minister and then ultimately to BCLC.

3           Q        Okay.  Could you just describe your observations  
4                   about the process for producing those mandate  
5                   letters?

6           A        There is through the Premier's office, cabinet  
7                   operations there's a form of mandate letter  
8                   that's typically used and that is provided to  
9                   us.  That then -- staff will look at that.  They  
10                  will identify specific accountabilities or  
11                  deliverables -- when I say "specific," not  
12                  highly detailed, but at a high level some of the  
13                  objectives.  Those will be built in as the Crown  
14                  corporation specific component of the mandate  
15                  letter.  That then goes through the minister.  
16                  Ultimately those go to cabinet and once they're  
17                  approved then they are sent to the head of the  
18                  organization.

19          Q        Okay.  Does the Crown agency have a role in  
20                   discussing the content of the mandate letter?

21          A        Typically they would have a role in discussing  
22                   it.  They won't dictate it, but they would  
23                   identify, for example, things that were  
24                   attainable or not attainable.  In some cases,  
25                   not with this Crown corporation, but with some

1                   we have needed to go back and modify mandate  
2                   letters to address areas where they've  
3                   identified after the fact.

4           Q       Okay. Are mandate letters intended to be sort  
5                   of quite prescriptive or is there a balance to  
6                   be struck in terms of the agency's independence?

7           A       Definitely a balance to be struck. And that's  
8                   usually if the requirements or the objectives go  
9                   too far in terms of being prescriptive, that's  
10                  when we will typically have a discussion and  
11                  revisit the mandate letter.

12          Q       Okay.

13          A       Doesn't happen very often.

14          Q       Okay. Did you also have regular communications  
15                  with the General Manager of GPEB or the  
16                  Assistant Deputy Minister and General Manager of  
17                  GPEB?

18          A       I did. Although they were less -- I would say  
19                  less frequent than the discussions I had with  
20                  BCLC.

21          Q       Okay. And that was Mr. Mazure at the time?

22          A       That's right.

23          Q       And why would those be less frequent than the  
24                  ones you were having with BCLC?

25          A       I don't know. I think BCLC was just -- because



1                   Indigenous Relations and Reconciliation at the  
2                   time and he was interested. And so then we went  
3                   through a process to arrange to have him  
4                   appointed.

5           Q       Was the idea sort of to share the load of what  
6                   was sort of a heavy portfolio for you? Is  
7                   that --

8           A       Exactly, yeah. The portfolio had gotten quite  
9                   heavy with ICBC being a big issue with the  
10                  federal government deciding to legalize cannabis  
11                  and so on. So there was a lot of work going on  
12                  right across the whole portfolio that was taking  
13                  a lot of time.

14          Q       Okay. What was if impact of that hiring  
15                   decision to your own engagement on the gaming  
16                   file?

17          A       It gave me someone that I had confidence in that  
18                   I could leave as the direct contact and the  
19                   direct followup on all of the work on that  
20                   portfolio and then Doug would keep me informed.  
21                   I would join as I could to make sure that I kept  
22                   up with what was going on as much as possible.  
23                   But I wasn't able to be as involved as I had  
24                   been previously.

25          Q       Okay. Did you learn from Mr. Scott or anyone at

1 GPEB that there had been a downward trend in  
2 both the dollar value and number of suspicious  
3 transactions in BC gaming facilities in or  
4 around 2016?

5 A At some point I had a general discussion, but I  
6 don't recall exactly when, with Doug about that.  
7 And from that my impression had been that  
8 focusing attention on this, because I gathered  
9 that there was attention focused on it, had the  
10 desired effect of discouraging as much of that  
11 activity.

12 Q Okay. Did you understand that GPEB was  
13 satisfied with that outcome or that they were  
14 still looking for more to be done?

15 A I understood that they were still looking for  
16 more to be done.

17 Q Okay. And what about BCLC? Did you understand  
18 whether they were still looking for those  
19 numbers to come down or whether they were  
20 satisfied with the outcome at that time?

21 A Well, I think that certainly initially my  
22 impression was that they were satisfied. I  
23 think it would be fair to say that they would  
24 always be looking to improve but that they  
25 didn't give me the impression that they felt

1                   that it was out of control.

2           Q       Okay. Did Mr. Mazure or Mr. Scott ever raise to  
3                   you the prospect of an administrative directive  
4                   focused on addressing the issue of suspicious  
5                   cash in casinos?

6           A       I don't recall a discussion over a ministerial  
7                   directive ever, no.

8           Q       Okay. In 2017 in October did Mr. Lightbody  
9                   advise you that BCLC believed there was a BCLC  
10                  employee leaking information to the media?

11          A       At some point in 2017 October, yes.

12          Q       What do you recall about that?

13          A       I had a number of conversations with  
14                  Mr. Lightbody, usually through our regular daily  
15                  or every other day calls, and in the course of  
16                  that he provided regular updates in terms of  
17                  what they were learning about it. And we would  
18                  discuss it. I would have some thoughts just  
19                  from sort of an employment perspective that I  
20                  would discuss with him. And I would ask him  
21                  questions like whether this was something that  
22                  fit within their whistle-blower policy.

23          Q       Did you understand what kind of information was  
24                  being leaked to the media?

25          A       Not initially, no.



1 Q Did you come to have an understanding about  
2 that?

3 A Over time I did. Because what I learned was  
4 that the information was being leaked to Sam  
5 Cooper and then was showing up in various media  
6 articles that he was writing. And so I  
7 understood from that what was being leaked. I  
8 also over time would hear from both GPEB and Jim  
9 Lightbody about what they were becoming aware  
10 was being leaked or out there.

11 Q And what was the nature of that information that  
12 was being leaked to the media?

13 A It was -- to the best of my recollection it was  
14 everything from what was called a Section 86  
15 Report to information that indicated the  
16 concerns that GPEB had about money laundering  
17 happening in casinos.

18 Q Okay. And did you discuss this issue about the  
19 leaking information with Minister Eby?

20 A Yes, I did.

21 Q And what was his reaction to that?

22 A Initial -- his initial reaction when it became  
23 apparent that there was a potential leak was to  
24 write a letter to both Jim Lightbody and John  
25 Mazure just setting out concerns about employees

1                   and confidentiality of information, and that  
2                   letter went to them as the head of each of their  
3                   organizations.

4           Q       Okay. You raised a question that had occurred  
5                   to you as to whether this person was a  
6                   whistle-blower and was that something that you  
7                   discussed with Minister Eby as well?

8           A       I actually don't recall discussing it with  
9                   Minister Eby, but I do recall discussing it with  
10                  Jim Lightbody, who I presume had some discussion  
11                  with the minister himself about -- or someone on  
12                  his staff had had a discussion about whether the  
13                  individual was a whistle-blower or not.

14          Q       And what was your concern there?

15          A       Well, I guess the -- I don't know that it was my  
16                  concern, but I think that concern was that we  
17                  were in the process of developing legislation  
18                  for whistle-blowers and that this could become  
19                  an issue in which someone who was disclosing  
20                  information, presumably as a whistle-blower or  
21                  possibly as a whistle-blower, ultimately was  
22                  being punished for that.

23          Q       The nature of the information, is it fair to  
24                  say, was highly confidential?

25          A       I think that's fair to say.

1 Q It included private information about patrons;  
2 is that correct?

3 A I understand that, yeah, some of the information  
4 was private information about patrons, yes.

5 Q And it was the disclosure of that information  
6 would have been contrary to the terms of  
7 employment of this individual?

8 A I believe so. I didn't go over the terms of  
9 employment, but I would expect it was, yes.

10 Q Okay. Was it brought to your attention that  
11 there was some discussion or contemplation of  
12 either disciplining or terminating this  
13 employee?

14 A As the events progressed, that was brought to my  
15 attention, yes.

16 Q Were you -- did you have any involvement in the  
17 decision whether or not to discipline or  
18 terminate this employee?

19 A Other than hearing from Jim what the process was  
20 that they were going through, the discussions  
21 that they had and the ultimate outcome, I didn't  
22 have any involvement.

23 Q Okay. Did Minister Eby to the best of your  
24 knowledge have any involvement in the decision  
25 whether to discipline or terminate this

1 employee?

2 A Not to the best of my knowledge, no.

3 Q Do you recall whether or not Dr. German was  
4 brought into the discussion about what to do  
5 about this employee?

6 A My recollection is that Dr. German interviewed  
7 the employee, not in relation to what to do  
8 about the employee but in order to ascertain  
9 what information the employee had.

10 Q Okay. Did Dr. German advise you as to what the  
11 outcome of that interview was?

12 A I recall he did provide some high-level summary.  
13 I think at one point he indicated that the  
14 individual had made something like  
15 20 recommendations for improvement, things like  
16 that, so I would have regular discussions with  
17 Dr. German as well and just hear about how his  
18 interviews and so on were going.

19 Q I take it he was in the course of conducting the  
20 work underlying his first report at this time.  
21 Is that correct?

22 A Yes, that's correct.

23 Q Okay. Do you recall any suggestion being made  
24 that Dr. German should be the one to determine  
25 whether to discipline or terminate this

1 employee?

2 A No, I don't recall that.

3 Q Okay. I understand that in or around  
4 October 23rd, 2017, there was a briefing of the  
5 minister at which you were present with  
6 representatives of BCLC. Do you recall that  
7 meeting?

8 A Yes, I do.

9 Q Could you tell the Commissioner what it is that  
10 you recall about that meeting.

11 A I believe that was the meeting that took  
12 place -- I would have to double-check. There  
13 was one that took place in -- sorry, this is  
14 October -- no. That was July. The October  
15 meeting was in Victoria, I believe, and it was a  
16 presentation by BCLC at their request.

17 Q Okay. Do you recall who was present at the  
18 meeting?

19 A I would have to check my notes to recall who was  
20 there.

21 Q Okay. Do you recall what topics were discussed?

22 A Again, I probably would want to check my notes  
23 to see what topics were discussed, but my  
24 general recollection, it was an update on a  
25 number of initiatives that BCLC was working on

1                   and things that they were doing in relation to  
2                   gaming.

3           Q        Okay. Was one topic discussed at this meeting  
4                   the coordination of communications to the public  
5                   on issues related to suspicious cash?

6           A        I think that's right, yes.

7           Q        And do you recall what prompted that discussion  
8                   of that issue?

9           A        To the best of my recollection it was because  
10                   there were -- with regular reports coming from  
11                   Sam Cooper and with FOI requests happening,  
12                   there was a great deal of information that was  
13                   becoming public, and the minister was frequently  
14                   being put in the position of responding to  
15                   questions and usually that was in real time, so  
16                   the normal process of discussing responses,  
17                   preparing briefing notes and so on was not  
18                   always being followed and that was putting  
19                   concerns with BCLC in terms of reputational  
20                   risk. I think there may also have been some  
21                   concerns with Great Canadian Gaming Corporation  
22                   because they were in the process of bidding for  
23                   casinos in Ontario, and there was a concern  
24                   probably coming back through them to BCLC about  
25                   the impact of what was going on in British

1 Columbia as it would potentially impact their  
2 application in Ontario.

3 Q Was the request from BCLC and perhaps Great  
4 Canadian that they would like to have a say  
5 before the minister commented publicly on these  
6 topics?

7 A I think the request was that they would like to  
8 have a more coordinated approach to responding  
9 or commenting on the topics.

10 Q Okay. Was there a change in approach following  
11 that issue being raised at that briefing  
12 meeting?

13 A I think there was to the extent that it was  
14 possible to do that. There was a greater level  
15 of coordination attempted.

16 Q Okay. Do you recall Mr. Kroeker presenting a  
17 link analysis at that meeting?

18 A I don't.

19 Q Do you recall the minister making a comment that  
20 were words to the effect of, what would I guy  
21 named Rudnicki know about Chinese money  
22 laundering?

23 A No.

24 Q Or words to similar effect?

25 A No, I don't.

1 Q Is that the kind of statement that you expect  
2 would stand out if you heard the minister make  
3 it?

4 A I think it would, yes.

5 Q Okay. Do you recall an issue discussed at that  
6 meeting concerning bank drafts?

7 A I vaguely do. I don't recall the specifics.

8 Q Okay. Does it refresh your memory if I suggest  
9 that there was a concern about unattributed bank  
10 drafts potentially being used as a vehicle too?

11 A It does. It does. And I recall a discussion.  
12 I can't say I recall it as being a discussion at  
13 that meeting, but I do recall that discussion,  
14 and I also recall an indication of some specific  
15 banks that were of concern.

16 Q Were you asked to find out more information  
17 about what was going on there?

18 A I don't recall being asked to find out more  
19 information about it, no.

20 Q Okay. You don't recall BCLC wanting to know who  
21 it was who was bringing these unattributed bank  
22 drafts into casinos?

23 A I wouldn't have had that information.

24 Q Okay. Did you have any communications with  
25 Deputy Solicitor General Mark Sieben about



1 finding out more information about the bank  
2 drafts?

3 A I think you're asking about the nine  
4 individuals, and if that's the case, I did have  
5 discussion with Mark Sieben about that.

6 Q Could you clarify what you mean about the nine  
7 individuals.

8 A At one meeting in October, I think it was that  
9 one, there was a discussion about nine  
10 individuals that BCLC had attempted to get names  
11 from the RCMP in order to either monitor them or  
12 ban them from casinos. And at one point in that  
13 meeting I was asked to see what I could do to  
14 assist them in getting those names. That led to  
15 a discussion that I had with Mark Sieben to find  
16 out whether there was anything I could do to get  
17 those names. I was unsuccessful and I  
18 subsequently communicated that to Jim Lightbody.

19 Q Okay. Do you recall what it was about those  
20 nine individuals that had made them of interest  
21 to BCLC?

22 A I don't recall that there was any detail about  
23 it. I thought that they were nine individuals  
24 who were either arrested or were going to be  
25 arrested, but I don't recall specifically.

1 Q Okay. You didn't -- you weren't able to obtain  
2 the names from Mr. Sieben; is that right?

3 A That's right.

4 Q And you communicated that back to Mr. Lightbody;  
5 correct?

6 A That's right, correct.

7 Q Did you communicate to Mr. Lightbody that there  
8 never had been nine names?

9 A I don't recall saying that there never had been  
10 nine names. I think what I said was I couldn't  
11 even confirm that there were nine names.

12 Q Okay. And do you know why you were unable to  
13 confirm that?

14 A I think it was because we have no ability to  
15 direct the police. The police, if they're in  
16 the middle of an investigation, are very careful  
17 about what information they would share, so I  
18 just took it that it was information that  
19 wouldn't be available to me and for whatever  
20 reason was not information that I was going to  
21 be in a position to either share or encourage  
22 them to share.

23 Q Okay. Did you understand whether there even was  
24 an existence of nine names or not?

25 A I did not.

1           Q     Okay. Was an offer made to you by Mr. Lightbody  
2                    or Mr. Smith that BCLC could abandon or shut  
3                    down the high limit table business if it was too  
4                    risky?

5           A     I remember a discussion about that, yes.

6           Q     What do you recall about that discussion?

7           A     That the discussion was that this was an option  
8                    that there was going to be a revenue impact if  
9                    they did that and that they were looking at it.

10          Q     Okay. What was your reaction to that?

11          A     I didn't really have a reaction personally.

12          Q     Did you communicate that offer to Minister Eby?

13          A     I believe I did, yes.

14          Q     Do you recall what his reaction to that was?

15          A     I think his reaction was that he would -- I  
16                    think this was during the time Peter German was  
17                    doing his review and I think his reaction was  
18                    that he would prefer to ensure that anything  
19                    that was coming in terms of changing to the  
20                    industry were discussed with Mr. German and --  
21                    Dr. German and incorporated either as  
22                    recommendations or at least considered as he was  
23                    preparing his report.

24          Q     Did you communicate that to BCLC?

25          A     I believe I did.

1           Q     Did you say words to the effect that Minister  
2                   Eby did not want to shut down this business but  
3                   did want to eliminate the criminal element?

4           A     Probably.

5           Q     Okay. Turning now to talk about your  
6                   involvement in sort of the early stages of what  
7                   became Dr. German's work. Can you tell the  
8                   Commissioner a little bit about that.

9           A     Okay. When you say "the early stages," are you  
10                  asking about actually retaining him or are you  
11                  talking about --

12          Q     Yeah, developing sort of the terms of reference  
13                  and leading into retaining him.

14          A     All right. So I was -- and this is mainly based  
15                  on going back through my notes and checking what  
16                  happened. But I was on vacation for much of  
17                  August. When I came back from vacation, James  
18                  Harvey, who was Assistant Deputy Minister who  
19                  was acting for me during my absence, gave me a  
20                  note just indicating that the minister wanted to  
21                  proceed with an independent review. I can't  
22                  recall whether there was already work underway  
23                  by John Mazure and his staff, but in any event,  
24                  I discussed with John the development of terms  
25                  of reference. There was a briefing note that

1                   was prepared and passed up through me to  
2                   Minister Eby, which proposed an approach to the  
3                   independent review and actually brought forward  
4                   a couple of names. My recollection is that  
5                   Minister Eby reviewed the note, approved the  
6                   approach, did not approve the names and asked us  
7                   to consider further names.

8                   He at some point suggested the name of a  
9                   retired Supreme Court judge to us. We checked  
10                  with him. He was not initially interested, then  
11                  not available, and then a further name was  
12                  suggested I believe by the minister, Peter  
13                  German, and so then it fell to me to discuss  
14                  Mr. German's availability with him. And once  
15                  that was okay, once he was available, we  
16                  finished developing the terms of reference, had  
17                  the minister review those, had Mr. German review  
18                  those and then incorporate them into a contract  
19                  with Mr. German to do the work.

20                MS. LATIMER: Okay. Madam Registrar, could I have a  
21                  document PG0561, please, placed before the  
22                  witness.

23                THE WITNESS: What tab is it? Big book? Small book.  
24                  Okay.

25                MS. LATIMER:

1 Q And, sir, do you recognize -- do you have that?

2 A I've got it, yes.

3 Q Okay. Do you recognize this as a letter from  
4 you to Mr. German and attaching terms of  
5 reference for approval dated October 4th, 2017?

6 A I do. And in fact this is with respect to an  
7 amended terms of reference.

8 MS. LATIMER: Right. And then, Madam Registrar,  
9 could I now have PG0563 placed before the  
10 witness, please?

11 Q And this is -- am I right this is the same  
12 letter now signed by Peter German. If you could  
13 scroll down, Madam Registrar.

14 A Yes.

15 Q And that's indicating agreement with those  
16 amended terms of reference?

17 A That's correct.

18 MS. LATIMER: Mr. Commissioner, may I have these two  
19 documents collectively marked as the next  
20 exhibit, please.

21 THE COMMISSIONER: Yes, very well, those will be 940.

22 THE REGISTRAR: Exhibit 940.

23 **EXHIBIT 940: Consists of two documents:**

24 **1. Letter from Richard Fyfe to Peter German, re**  
25 **Terms of Reference - Money Laundering Review -**

1                   **October 4, 2017; 2. Letter from Richard Fyfe to**  
2                   **Peter German, re Terms of Reference - Money**  
3                   **Laundering Review - Signed by Peter German on**  
4                   **October 7, 2017**

5                   MS. LATIMER:

6                   Q     Sir, did you understand the minister to have any  
7                   particular expectations in terms of the outcome  
8                   of Dr. German's review?

9                   A     No.

10                  MS. LATIMER: Madam Registrar, I don't need that  
11                  displayed any longer.

12                  Q     What did you understand was motivating the  
13                  minister's interest in having this review  
14                  conducted?

15                  A     My understanding was that it largely came out of  
16                  presentations that he had received from GPEB in  
17                  which they had showed him videos of large  
18                  amounts of cash being brought in in bags to a  
19                  casino. I believe it was River Rock. And a  
20                  presentation from a number of the staff at GPEB  
21                  talking about their concerns about money  
22                  laundering occurring.

23                  Q     Why not just have GPEB do the review?

24                  A     I don't know. I would say, though, that it was  
25                  not unusual for the minister to -- for any

1                   minister, but particularly this minister, to  
2                   move to an outside reviewer to provide  
3                   recommendations. He took a similar approach,  
4                   for example, with liquor policy.

5           Q        Okay. Was Dr. German given any directions as to  
6                   what findings or what recommendations he was to  
7                   make?

8           A        Certainly not to my knowledge, no.

9           Q        Did you perceive or were you told that Minister  
10                   Eby was pursuing any particular narrative on  
11                   this topic?

12          A        No, I wasn't.

13          Q        Did you perceive that Minister Eby was trying to  
14                   locate a problem within his own sphere of  
15                   influence so he could take credit to fix it?

16          A        No.

17          Q        After you received Dr. German's first report did  
18                   you have any involvement with reviewing that  
19                   report and implementing it?

20          A        I reviewed the report when it came in. I had  
21                   involvement early in some of the reviews that  
22                   take place, and then it was passed over to Doug  
23                   Scott and his team to focus on the approach to  
24                   implementation.

25          Q        Okay. Did you have any role in looking at sort



1 of feasibility of recommendations?

2 A I wouldn't say I had a role in it. I was  
3 involved in a number of discussions around  
4 feasibility of the recommendations.

5 Q Okay. Do you recall any of those discussions?

6 A One that stands out was in relation to a  
7 recommendation for an independent police force  
8 and discussion particularly with Doug Scott  
9 because of his experience with policing about  
10 the limitations of that approach and  
11 alternatives that would achieve the same  
12 objective.

13 Q When you were looking at alternatives to  
14 approaches that were recommended by Dr. German,  
15 how did that process work?

16 A Normally there would be a discussion about the  
17 alternatives. There would then be a followup  
18 discussion with Dr. German before anything moved  
19 forward to determine whether he would have  
20 concerns with the alternative approach. I think  
21 I characterized it as implementing the spirit of  
22 his recommendations as opposed to the letter of  
23 his recommendations in some cases where it was  
24 either not practical or not the preferred  
25 approach.

1 Q Okay. What was the point of -- what was the  
2 point of those discussions?

3 A The point of those discussions was really to  
4 plan what to do about the recommendations and  
5 what priorities to place on them, and as well to  
6 look at how we could go about implementing them  
7 because of budget considerations.

8 Q Okay. During the course of Dr. German's work  
9 and prior to production of his first report, did  
10 BCLC continue to make some proposals to enhance  
11 their anti-money laundering regime?

12 A I recall that they did, yes.

13 Q Do you recall in or around mid-January one such  
14 proposal concerning a cash cap to be set at  
15 about \$25,000?

16 A I do. I had a number of discussions with Jim  
17 Lightbody about that possibility.

18 Q Can you tell the Commissioner about those  
19 discussions.

20 A What I would -- what I recall is that the  
21 discussions arose as a possibility that over  
22 time the \$25,000 number was discussed. At some  
23 point a \$10,000 number was discussed. I passed  
24 on information either with or without Doug Scott  
25 to Minister Eby, and Minister Eby indicated to

1 me that he was concerned about new initiatives  
2 being implemented while Dr. German was in the  
3 process of preparing his recommendations. At  
4 one point I was asked to contact Jim Lightbody  
5 and just convey those concerns, and I did so.

6 MS. LATIMER: Okay. Can I have, Madam Registrar,  
7 please, document BCLC0006331 placed before the  
8 witness, please.

9 Q Sir, do you have -- are you looking at the  
10 screen or do you have a hard copy in front of  
11 you?

12 A I've got both. I'm looking at the screen, but  
13 I've got a hard copy as well.

14 Q Okay. This appears to be an email internal to  
15 BCLC, and you're not copied on it. I don't  
16 suggest you were, but it refers to a  
17 conversation with you, so I wanted to give you a  
18 chance to just review the email and comment on  
19 whether it's consistent with your recollection  
20 of the discussions you had about this cash cap.  
21 So if you see this is an email from Suzanne  
22 Rowley, and it's dated January 18th, 2018, and  
23 it says:

24 "Jim wanted me to send you the following  
25 notes from his conversation with Richard

1                   Fyfe, which took place at 5:00 p.m. on  
2                   Wednesday, January 17, 2018."

3                   It says:

4                   "When asked by Richard 'why now,' I  
5                   replied: BCLC recognizes that the  
6                   environment has changed and acceptance for  
7                   our risk-based approach has diminished.

8                   Last year we took a step forwards more --"  
9                   I think it means "towards a more prospective  
10                  approach."

11                  "-- when we required players to provide  
12                  more info on bank drafts. Also P.  
13                  German's first reco on source of funds for  
14                  \$10,000 or more. The MNP report  
15                  recommended GPEB consider a cap on cash  
16                  brought into casinos. We've been waiting  
17                  for their decision, but in the meantime  
18                  our team was looking at the impact and  
19                  implementation feasibility so we can  
20                  advise our regulator."

21                  And he then sets out various assumptions at  
22                  different levels, \$25,000 and \$10,000, and the  
23                  analysis that was performed, and then at the  
24                  bottom that analysis leads him to conclude that  
25                  the \$25,000 cash cap was workable. Is that

1                   consistent with the discussion or conversation  
2                   that you were describing to the Commissioner?

3           A        I would say it's largely consistent.  I actually  
4                   have my own notes of that meeting, and they're  
5                   at MR0188.0018 and 0019.  So it's possible to  
6                   compare my notes with Jim's record.

7           MS. LATIMER:  Mr. Commissioner, maybe I'll just begin  
8                   by asking that this be marked as the next  
9                   exhibit, please.

10          THE COMMISSIONER:  All right.  That will be 941.

11          THE REGISTRAR:  Exhibit 941.

12                   **EXHIBIT 941:  Email from Suzanne Rowley to Rob**  
13                   **Kroeker and others, re Notes from Jim**  
14                   **Lightbody's conversation with Richard Fyfe -**  
15                   **January 18, 2018**

16          MS. LATIMER:

17          Q        And, sorry, I didn't catch the document number,  
18                   sir, that you were providing.

19          A        It is MR0188.0018 and 0019.

20          MS. LATIMER:  Madam Registrar, I'm sorry, I didn't  
21                   ask you to bring this up, but I see you have,  
22                   and so if we could go, please, to page 18 of  
23                   this document.

24          Q        And is this -- are these your notes, sir, that  
25                   you're referring to at the bottom of this page?

1 A Yes, they are.

2 Q And over to the next page?

3 A That's right.

4 MS. LATIMER: Mr. Commissioner, I'd ask that that be  
5 marked as the next numbered exhibit, please.

6 THE COMMISSIONER: 942.

7 THE REGISTRAR: Exhibit 942.

8 **EXHIBIT 942: Handwritten notes of Richard**  
9 **Fyfe - Jan 17, 2018 (redacted)**

10 MS. LATIMER:

11 Q Okay. And so my next question is when you  
12 communicated this to the minister what was his  
13 reaction to this suggestion?

14 A The suggestion of the cash cap?

15 Q Yes.

16 A It was as I had indicated earlier, that his  
17 concern was that there should be coordination in  
18 terms of the approach and that given that  
19 Dr. German was in the process of doing that, he  
20 wanted BCLC to consult with Dr. German before  
21 taking any action on this proposal.

22 MS. LATIMER: Okay. Madam Registrar, I don't need  
23 that document displayed any longer.

24 Q Did you perceive that Minister Eby was angry --  
25 angered by this suggestion?

1           A     That was my perception. I've gotten to know him  
2                    a little better. This was early on in our  
3                    working relationship, and so I perceived it as  
4                    anger. I think I understand later that it  
5                    probably was something below anger, but he was  
6                    certainly clear that he wanted me to communicate  
7                    to Mr. Lightbody the concerns that he had.

8           Q     Did you communicate to Mr. Lightbody that  
9                    Minister Eby was furious?

10          A     I may have. I don't recall using that language,  
11                   but I certainly would have said something to the  
12                   effect that he wasn't happy.

13          Q     And did you understand what the basis for his  
14                   unhappiness was?

15          A     The basis was that the changes at a time when  
16                   there was a recommendation coming out would  
17                   cause a number of issues. He subsequently  
18                   recorded those, and the record was consistent  
19                   with my understanding, and that was in his email  
20                   to Jim Lightbody of January the 26th.

21          Q     What do you recall about that?

22          A     About, sorry, the letter -- the email or the  
23                   concerns?

24          Q     The concerns.

25          A     Well, the concerns particularly were that the

1 changes could be something that were  
2 inconsistent with the report that Mr. German was  
3 preparing, so he could come up with different  
4 recommendations, that the proposal may go  
5 further than was necessary to address the money  
6 laundering issue and that it could have an  
7 impact on police investigations that were  
8 ongoing. So those were the concerns that I  
9 primarily understood and I think those were set  
10 out in the minister's letter.

11 Q Okay. I think that letter has already been  
12 entered through the minister, so I don't propose  
13 to bring that up at this time. But did you ask  
14 Mr. Lightbody to reconsider the timing of this  
15 proposal?

16 A I believe I did, yes.

17 Q Did you say that Minister Eby did not like that  
18 they were doing this ahead of Peter German's  
19 recommendations and didn't want BCLC getting  
20 ahead of him being able to announce things?

21 A The focus wasn't on getting ahead of him being  
22 able to announce things. It was on changes that  
23 were not consistent with the recommendations  
24 that he was developing, given that he was doing  
25 a comprehensive review.



1 Q Okay. And did you communicate that you had  
2 discussed this with Dr. German and didn't want  
3 to make such a recommendation because Dr. German  
4 didn't want to and didn't think it was necessary  
5 or feasible?

6 A I don't recall that. I recall asking them to  
7 discuss -- Jim to discuss the proposal with  
8 Dr. German.

9 Q Okay. Did you have a sense of whether it was  
10 sort of normal for the minister to be engaged in  
11 this level of detailed review of BCLC's  
12 anti-money laundering ideas or proposals for  
13 change?

14 A Are you talking about this \$10,000 cap  
15 specifically?

16 Q Yes.

17 A No, I didn't think it was unusual.

18 Q Okay. That was consistent with the minister's  
19 role in guiding policy from your perspective?

20 A His role in guiding policy?

21 Q Yes. Or setting policy?

22 A Oh, I think the minister was interested in  
23 anything that would have a public communications  
24 issue and what the impact would be on the  
25 outcome and on how he would be able to deal with

1                   it publicly.

2           Q       Okay. Did you at any time tell BCLC that they  
3                   were not to take any anti-money laundering  
4                   actions until the minister said they could?

5           A       No. I would not say that.

6           Q       Okay. Was another proposal that was brought to  
7                   you by BCLC for consideration a decision to  
8                   derisk money service businesses?

9           A       Yeah, I remember there were discussions with Jim  
10                  Lightbody about that as well.

11          Q       What do you recall about that particular  
12                  proposal?

13          A       All I recall is that I would have conveyed that  
14                  to the minister or his MA, ministerial  
15                  assistant, and didn't hear a lot more about it.

16          Q       Do you recall the minister having any particular  
17                  reaction to that proposal?

18          A       No, but I do note in his email of January the  
19                  28th he talks generally about initiatives prior  
20                  to Mr. German and the task that Mr. German had.  
21                  So I take it that all of that was covered by his  
22                  note.

23          Q       Okay. We heard evidence from Mr. Smith, Bud  
24                  Smith, that he had received a call from the  
25                  Deputy Attorney General and that the gist of it

1                   was look, you've being around government before,  
2                   you know how it operates; the minister wants to  
3                   be able to do this all at once in the same  
4                   meeting event when he lays out how the  
5                   government is going to handle Dr. German's  
6                   report and what they're going to do and the  
7                   minister thinks it's inappropriate that you  
8                   would be issuing press releases in advance of  
9                   that. Do you recall a call like that with  
10                  Mr. Smith?

11                 A     I don't.

12                 Q     Does that sound like the kind of message you  
13                        would have been giving to Mr. Smith?

14                 A     It could have been, sure.

15                 Q     Do you recall Mr. Smith agreeing that they would  
16                        take action on anti-money laundering but not put  
17                        out any press releases in response to this  
18                        concern?

19                 A     I don't recall that. I can't say I didn't,  
20                        but -- yeah.

21                 Q     Was the concern here about the anti-money  
22                        laundering measures in particular, or was the  
23                        concern about announcing those before the  
24                        minister had an opportunity to announce the  
25                        German report?

1           A     I think the concern was about confusion for the  
2                   public in terms of what changes were happening  
3                   and when they were happening.

4           Q     Okay. Did you have any particular involvement  
5                   in the lead-up to or response to the second  
6                   German report?

7           A     I had some involvement at the outset in getting  
8                   it moving, but for the most part I left that  
9                   with Doug Scott.

10          Q     Okay. I wanted to talk to you now about the  
11                  Ernst & Young River Rock cheque audit. I  
12                  understand you learned that BCLC had retained  
13                  Ernst % Young to conduct this cheque audit.  
14                  Correct?

15          A     Yes.

16          Q     And did you read that report?

17          A     Did I read the report? Yes.

18          Q     What do you recall about it, or what was your  
19                  impression of it?

20          A     My impression of it was that it indicated that  
21                  the possibility or the frequency of people  
22                  bringing cash into casinos and receiving cheques  
23                  improperly instead of cash for things that were  
24                  not winnings was less prevalent than suspected.

25          Q     Do you recall what the minister's reaction was

1 to the outcome of that audit?

2 A I don't recall his reaction to it.

3 Q Were you involved in any discussions about  
4 whether this audit should be made public?

5 A I don't recall being involved in discussions  
6 about that, no.

7 Q Okay. Did Mr. Scott or anyone else ever say in  
8 your presence that the findings of this report  
9 were problematic for government because they  
10 tended to undercut German's report?

11 A I don't remember anything along those lines, no.

12 Q Okay. The last topic I wanted to cover with you  
13 in my questioning was an assertion that was made  
14 during the election campaign that the current  
15 government would create a multiagency task force  
16 to fight tax fraud and money laundering in the  
17 BC real estate market, and I'm hoping you can  
18 provide a bit of an update on what has become of  
19 this multiagency task force.

20 A I'm afraid I can't. I don't really know where  
21 it's at.

22 Q Do you know whether this proposal for a  
23 multiagency task force is one that's been given  
24 at the cabinet level?

25 A Off the top of my head, I don't know, no.

1           Q     Okay. Do you know whether any decision has been  
2                    made as to whether to pursue a multiagency task  
3                    force?

4           A     I don't, no.

5           MS. LATIMER: Okay. Mr. Commissioner, I think I'm at  
6                    the end of my questions, and I suggest it might  
7                    be an appropriate time for a short break and  
8                    that I can confer with my colleagues just before  
9                    putting a pin in that.

10          THE COMMISSIONER: All right. Thank you,  
11                    Ms. Latimer. We'll take 10 minutes.

12          THE REGISTRAR: Sorry, Mr. Commissioner. I just want  
13                    to have some clarification about exhibit 942.  
14                    Should we just mark the two pages 18 and 19 or  
15                    should we mark the whole document as an exhibit?

16          MS. LATIMER: I think just pages 18 and 19, please,  
17                    Madam Registrar.

18          THE REGISTRAR: Thank you. This hearing is adjourned  
19                    for a 15-minute recess until 10:39 a.m.

20                    **(WITNESS STOOD DOWN)**

21                    **(PROCEEDINGS ADJOURNED AT 10:24 A.M.)**

22                    **(PROCEEDINGS RECONVENED AT 10:38 A.M.)**

23                                    **RICHARD FYFE, a witness**  
24                                    **for the commission,**  
25                                    **recalled.**

1

2

THE REGISTRAR: Thank you for waiting. The hear

3

something resumed. Mr. Commissioner.

4

THE COMMISSIONER: Thank you, Madam Registrar.

5

Yes, Ms. Latimer.

6

MS. LATIMER: Yes, Mr. Commissioner. I have no

7

further questions for this witness. Thank you.

8

THE COMMISSIONER: Thank you, Ms. Latimer. I'll now

9

turn to Mr. Smart on behalf of the BC Lottery

10

Corporation, who has been allocated 30 minutes.

11

MR. SMART: Thank you, Mr. Commissioner. I'll be

12

less time than that.

13

**EXAMINATION BY MR. SMART:**

14

Q Mr. Fyfe, we've got a copy of a will-say or

15

statement. You've reviewed that, obviously.

16

Sir, you're on mute, Mr. Fyfe.

17

A Apologies. Yes, I have.

18

Q Good. I just wanted to ask you to start with a

19

few questions of what you've stated. If you'll

20

look at paragraph 9 and 10 of your will-say.

21

And you write at paragraph 9:

22

"Over time Mr. Fyfe came to agree with the

23

view that while the gaming industry in

24

British Columbia has begun as a small

25

charity-based sector, it had grown

1 significantly over time, but the  
2 infrastructure required to regulate and  
3 support the industry had not grown and  
4 evolved alongside it."

5 Could you amplify that a little bit what you  
6 meant by that.

7 A Yes. That, my impression was that when gaming  
8 started in British Columbia it was not necessary  
9 to have an overly complex regime to manage it,  
10 but when it had become a billion dollar industry  
11 over time, it was necessary to step back and  
12 look at the structure, the regulation, the roles  
13 and responsibilities and particularly, as the  
14 issue of money laundering came up, to ensure  
15 that the right regime, legislative regime,  
16 regulatory regime and responsibilities were in  
17 place.

18 Q All right. Thank you. And then in paragraph 10  
19 you say:

20 "The primary area where Mr. Fyfe perceived  
21 a lack of adequate supportive  
22 infrastructure was in the lack of role  
23 clarity between BCLC and GPEB. It was  
24 evident that GPEB was less well resourced  
25 than BCLC and while GPEB's regulatory role



1                   should have included responsibility for  
2                   money laundering, BCLC was leading on this  
3                   issue."

4                   Can I just get you to expand what you meant by  
5                   "leading on this issue"?

6           A       This was I think back to my point that BCLC was  
7                   very well resourced, could do studies, could  
8                   provide reports and so on, on what was needed.  
9                   GPEB it seemed was in the position of being  
10                  aware of money laundering occurring but being --  
11                  having limited ability to do anything about it.  
12                  That was primarily generated from the  
13                  presentations that I was seeing coming from GPEB  
14                  as opposed to BCLC. GPEB's presentation seemed  
15                  to involve the videos that we've heard about and  
16                  concerns that they were expressing and a sense  
17                  of a lack of control or a lack of ability to do  
18                  anything about the concerns they were seeing.  
19                  Whereas the presentations that I was seeing from  
20                  BCLC were this is what we're doing, this is how  
21                  we've structured it and so on. And the  
22                  perception I had was that there was a role for  
23                  GPEB in relation to that as being part of  
24                  government that was not being fulfilled.

25           Q       Okay. And you note -- I'll just summarize this.

1                   You note in your will-say that there was a lot  
2                   of discussion from GPEB about their concerns  
3                   about these cash transactions and money  
4                   laundering but not much in the way of solutions.  
5                   What did you mean by that?

6           A        I think that was based on what I was seeing from  
7                   the presentations or hearing from people about  
8                   the presentations, that the sense that GPEB had  
9                   was that they were aware of this, but that there  
10                  was -- either that they were not able to get  
11                  attention from people to do something about it  
12                  or they could not get resources to do something  
13                  about it or they couldn't get the authority,  
14                  either legislative or regulatory, to take  
15                  action, the action that they thought was  
16                  necessary.

17          Q        The Commissioner had heard some evidence,  
18                   Mr. Fyfe, that GPEB has -- their investigation  
19                   unit enforcement -- maybe it's called an  
20                   enforcement unit now, it's been expanded. The  
21                   intention is when casinos open again to actually  
22                   have investigators go into the casinos, be there  
23                   during the operating hours when the casinos  
24                   open, ask questions in relation to source of  
25                   funds and potentially even seize if they have

1                   sufficient evidence to believe that it may be  
2                   proceeds of crime. Did you have any involvement  
3                   in that expanded role of GPEB?

4           A        I was aware of it. I didn't really have a role  
5                   in the expanded -- or involvement in the  
6                   expanded role. That was -- I think you've heard  
7                   evidence earlier there was an ADM committee on  
8                   anti-money laundering that had been established.  
9                   That was the -- sorry, it was a DM committee,  
10                  and that DM committee was essentially charged  
11                  with working through implementation of the  
12                  recommendations that had come from Dr. German.

13          Q        Yes. You mentioned GPEB, Gaming Policy and  
14                   Enforcement Branch, showing videos. Did you  
15                   know when those videos, what period of time they  
16                   were from?

17          A        I didn't know what period of time they were  
18                   filmed in at the time, but I heard later, I  
19                   believe, that they were early videos as opposed  
20                   to real time videos.

21          Q        Okay. And in terms of real time, you were  
22                   provided some information as to the drop, the  
23                   reduction in large suspicious cash transactions  
24                   and Suspicious Transaction Reports, you were  
25                   provided information about that?

1           A     I believe I was provided information about that.  
2                     And I do recall having discussions with Doug  
3                     Scott about it.

4           Q     I'm just going to show you, if I may ask to have  
5                     brought up on the screen.  It's an email to you  
6                     and attachment.  It's BCLC006482 and 83.  Have  
7                     you found that in your binder, Mr. Fyfe?

8           A     Sorry, it's in the small one -- okay, thank you.  
9                     Yes.

10          Q     So you can see that this is an email from Jim  
11                     Lightbody to Mr. Scott, and you're copied on it.

12                     "Attached is a report that provides  
13                     context and background to help Ministry of  
14                     Finance's questions around the effect of  
15                     lower STR numbers and dollar value on  
16                     table drop revenue (before player  
17                     winnings)."

18                     And "table drop," do you understand that,  
19                     Mr. Fyfe, to be the amount of money that is  
20                     converted into chips to be used to gamble?

21          A     Well, I understand it to be what is in the  
22                     parentheses right after the word "table drop,"  
23                     which is "revenue before player winnings."

24          Q     Okay.  And so this is from April 13th, 2018,  
25                     then I'll take you to the attachment, which is



1                   players to determine the origin of their  
2                   cash and chips. If a player was unable to  
3                   prove source of funds or BCLC suspected or  
4                   received information that the source of  
5                   funds originated from underground banking  
6                   operations or suspected proceeds of crime,  
7                   the player was immediately placed on  
8                   sourced-cash conditions and would only be  
9                   allowed to buy in if they could provide  
10                  the service provider cash cage with an  
11                  original receipt sourcing the funds."

12                 And it sets out then the kinds of receipts they  
13                 were looking for. And at the very bottom:

14                         "In January 10, 2018, implemented source  
15                         of funds declaration for cash deposits of  
16                         \$10,000 or more as per Peter German's  
17                         interim recommendation to BCLC."

18                 Then let me take you to page 3, please. And  
19                 that -- what we can see is there on a month to  
20                 month basis from January 15th -- or January 2015  
21                 to February 2018 -- and I'll take you to July.  
22                 You can see that in July that the total dollar  
23                 value of STRs was over 27 million, which  
24                 represented 11.3 percent of total revenue, that  
25                 being the high water mark. And I want to ask

1                   you, what we've heard, Mr. Fyfe, is that that  
2                   was -- at that time the RCMP Financial Serious  
3                   Organized Crime unit was conducting an  
4                   investigation that became known as E-Pirate.  
5                   Were you aware in July of the police  
6                   investigation?

7           A        Sorry, you're asking if I was aware in July of  
8                   2015?

9           Q        Yes.

10          A        No.

11          Q        What we can see is and what evidence we've heard  
12                   is that the police provided names of certain  
13                   individuals who were receiving cash from what  
14                   appeared to be organized -- I'm sorry, players  
15                   who were receiving cash and playing with it and  
16                   the cash was coming apparently from organized  
17                   crime and BCLC started putting those players on  
18                   sourced-cash conditions. And we can see how  
19                   over time the value of these Suspicious  
20                   Transaction Reports dropped. We can see by July  
21                   of 2016 that it dropped to 4.6 million, and then  
22                   by December of 2018 it had dropped to  
23                   2.5 million. This is information that you were  
24                   provided and were aware of, the significant  
25                   reduction in both the value of the STRs and the

1                   number of STRs?

2           A        Sorry, you're asking me if I was provided with  
3                   this information?

4           Q        Well, you've got a copy of it.

5           A        Right.

6           Q        You were aware of that?

7           A        Having gotten a copy I would have been aware of  
8                   it, yes.

9           Q        And you've told the Commissioner that your sense  
10                   was that BCLC was satisfied or reasonably  
11                   satisfied with the efforts that they were making  
12                   to address suspicious cash transactions?

13          A        That was my impression, yes. Reasonably  
14                   satisfied.

15          Q        That they were continuing to try to make further  
16                   progress?

17          A        Yes.

18          Q        And, for example, in October, Bud Smith, the  
19                   chair of the board, offered to eliminate  
20                   high-limit betting games at casinos?

21          A        Okay.

22          Q        I think you've given evidence about that.

23          A        I think I agreed that there was a call with Bud  
24                   Smith and that was what the suggestion was, yes.

25          Q        And in January they were recommending or



1 suggesting that they actually put a cash cap  
2 of --

3 A Yes.

4 Q -- \$25,000. So efforts were continuing, weren't  
5 they?

6 A Certainly efforts or proposals were continuing,  
7 I would agree with that, yes.

8 Q Yes. And if I can take you back to page 3 --  
9 I'm sorry, page 2. Madam Registrar, if we can  
10 scroll up. That sort of graphically  
11 demonstrates the -- at the top graph in what is  
12 sort of a red colour is the total value of the  
13 STRs, and we can see in the middle of 2015 it's  
14 peaked and it's dropping significantly. And it  
15 continues to drop after Minister Eby initiates  
16 Peter German's recommendation of the \$10,000  
17 sourced-cash condition, and we can see it  
18 continues to drop. And the blue at the top  
19 graph is the number of STRs, and that continues  
20 to drop. And the bottom graph we can -- it  
21 repeats the value of the STRs, and it also has  
22 the average value. So it's fair to say that by  
23 between the middle of 2015 and by the time of  
24 early 2018 there's a very significant reduction  
25 both in the value of the Suspicious Transaction

1 Reports and the number of them. That's a fair  
2 summary?

3 A I think that's a fair summary, yes.

4 MR. SMART: Right. I'm going to -- I don't think  
5 that's been marked, Mr. Commissioner. I wonder  
6 if the email -- request that the email and the  
7 attachment to it be marked as the next exhibit.

8 THE COMMISSIONER: Yes, very well, Mr. Smart. Madam  
9 Registrar, where are we at?

10 THE REGISTRAR: 943, Mr. Commissioner.

11 THE COMMISSIONER: Thank you.

12 **EXHIBIT 943: Consists of two documents:**

13 **1. Email from Jim Lightbody to Douglas Scott, re**  
14 **Request by Ministry of Finance - April 13, 2018;**

15 **2. Suspicious Transaction Reports and Table**  
16 **Performance - April 12, 2018**

17 MR. SMART: Those are my questions, Mr. Fyfe. Thank  
18 you.

19 THE COMMISSIONER: Thank you, Mr. Smart.

20 I'll turn now to Mr. McFee on behalf Jim  
21 Lightbody, who has been allocated 25 minutes.

22 **EXAMINATION BY MR. McFEE:**

23 Q Good morning, Mr. Fyfe. Can you hear me fine?

24 A I can hear you fine. Thank you.

25 Q Great. Just a couple things I want to clear up.

1                   In terms of when you were first given -- I'm not  
2                   sure it was welcome news, but the news that you  
3                   were going to be responsible or have under your  
4                   wing gaming and ICBC and liquor, which is  
5                   obviously quite a task, I gather that you had  
6                   some initial briefings.

7           A        I had some initial briefings. They were fairly  
8                   high level. As I mentioned earlier, I had  
9                   already a vacation booked which went from about  
10                  August the 4th or 5th until close to the end of  
11                  August, and so there was a two-week period  
12                  before I left when I had an opportunity to get  
13                  some briefings. Part of the problem with the  
14                  normal briefing process was that during that  
15                  time ICBC also became very active, and so much  
16                  of my focus was on dealing with some of the  
17                  issues with that.

18          Q        There was an initial briefing, as I understand  
19                   it -- and tell me if this matches with your  
20                   recollection -- with the minister and others and  
21                   BCLC representatives in Kamloops on July 31st,  
22                   2017?

23          A        Yes, and I was there for that one as well, yes.

24          Q        And some notes of that have been produced, and  
25                   it's MR0211 just recently produced. Are those

1                   your notes?

2           A        I believe they are.  I'm just going to check the  
3                   number, but ...

4           MR. McFEE:  Madam Registrar, if those could be  
5                   brought --

6           THE WITNESS:  Yeah, the one page that was recently  
7                   produced, yes, yes.

8           MR. McFEE:

9           Q        I just wanted to clear that up because they came  
10                   and didn't -- there was no authorship attributed  
11                   to it.  But those are your notes.  Those are  
12                   your notes of that initial briefing in Kamloops  
13                   of July 31st, 2017?

14          A        That's right.  What happened was that in the  
15                   scanning process, and I didn't notice this until  
16                   I was going through a review of the notes, the  
17                   scan which is in the main package, I think it's  
18                   the 186 package, didn't include page 2, it only  
19                   included page 1.  So I brought that to counsel's  
20                   attention and then they provided page 1.

21          Q        Okay.  Thank you.

22          A        Of those notes.

23          Q        And it seems that it was your habit to list the  
24                   participants of meetings that you attended?

25          A        I always tried to.  In reviewing my notes I

1                   noticed how often I didn't manage to or didn't  
2                   do it completely, but yes that was my practice.

3           Q       And in the top right-hand corner it would appear  
4                   the meeting started at about 7:30 a.m. Do I  
5                   interpret that --

6           A       That's correct, yes.

7           Q       And then you list participants, and there's  
8                   John. Is that John Mazure?

9           A       I believe that's John Mazure, that's right.

10          Q       And Rob Kroeker?

11          A       Yes.

12          Q       And Jim. Is that my client, Jim Lightbody?

13          A       That would be Jim Lightbody.

14          Q       Okay. And Amanda. That's Amanda Hobson?

15          A       Yes.

16          Q       The BCLC VP of finance?

17          A       That's correct.

18          Q       And then we go down and we have got Stephen as I  
19                   read it. Was that a ministerial assistant, or  
20                   who was that?

21          A       Yes, that is Stephen Howard. He was the initial  
22                   ministerial assistant.

23          Q       And on the right of Stephen it's Sharon. So I  
24                   read that correct?

25          A       It appears to be Sharon. I don't recall that

1 name, but that's what my cryptic writing seems  
2 to say.

3 Q And then there's Minister Eby?

4 A Yes.

5 Q And so those are contemporaneous notes that you  
6 took --

7 A They were.

8 Q -- that accurately record to the best of your  
9 knowledge who was attending that meeting?

10 A To the best of my knowledge and ability, yes.

11 MR. McFEE: Okay. Mr. Commissioner, might we have  
12 those marked as the next exhibit, please.

13 THE COMMISSIONER: Yes. Very well. In a will be  
14 944.

15 THE REGISTRAR: Exhibit 944.

16 **EXHIBIT 944: Consists of two documents: Both**  
17 **are handwritten notes of Richard Fyfe - July 31,**  
18 **2017 (redacted)**

19 MR. McFEE:

20 Q As I understand your evidence, this was quite a  
21 high-level presentation to orient you and the  
22 minister about BCLC's role in the gaming  
23 industry.

24 A Yes. That was my understanding of the purpose  
25 of the meeting.

1 Q And then if I can just turn to your relationship  
2 with my client, Jim Lightbody. As you've  
3 described in your evidence you had very frequent  
4 contact with him, as I understand it.

5 A Yes, that's correct.

6 Q And did you find Mr. Lightbody to be readily  
7 available to you to discuss matters arising from  
8 BCLC affairs?

9 A Yes.

10 Q And did you find him to be collegial?

11 A Very.

12 Q And did you find him to be receptive to dialogue  
13 and willing to have discussions about matters  
14 arising within the gaming industry?

15 A Yes, I did.

16 Q And did those topics that he seemed to be  
17 receptive to engage in a dialogue include BCLC's  
18 AML regime and its efforts to decrease the risk  
19 of illicit proceeds entering BC casinos?

20 A Among other things, yes.

21 Q So fair to say that you enjoyed a good and  
22 fruitful working relationship with  
23 Mr. Lightbody?

24 A Yes, that's fair to say.

25 Q And in terms of the evidence you gave in answer

1                   to Ms. Latimer's questions in the one aspect  
2                   about BCLC requesting ministerial briefings  
3                   without GPEB present, as I understand it, and  
4                   correct me if I'm wrong, that only occurred on  
5                   one occasion that Mr. Lightbody asked for a  
6                   briefing without GPEB. Does that match with  
7                   your recollection?

8           A        I believe there may have been more than one  
9                   occasion. There weren't many, but there was  
10                  definitely one and there may have been more than  
11                  one.

12          Q        Do you recall an occasion where Mr. Lightbody  
13                   suggested to you that GPEB shouldn't be at a  
14                   ministerial briefing but then the next day  
15                   retracted that and said in the spirit of a  
16                   collegial and cooperative relationship  
17                   Mr. Mazure should attend the meeting?

18          A        Do you have a date for that?

19          Q        I don't, actually. But those are my  
20                   instructions.

21          A        Oh, okay.

22          Q        Do you recall something like that?

23          A        I don't recall that. I can't say that it didn't  
24                   happen, but I don't recall it.

25          Q        But to sort of sum this up, most times when



1           there was ministerial briefings that BCLC was  
2           present and GPEB was also present and it was  
3           only on very few occasions to your recollections  
4           that BCLC appeared on its own?

5           A     There were a mixture. For example October 10th  
6           there was a presentation that John was not a  
7           part of or a reference to that.

8           Q     Okay. And what year was that, October 10th?

9           A     Sorry, October the 10th, 2017. It's actually --  
10          you will see it in my notes of a discussion with  
11          Jim Lightbody at MR0187.0019.

12          Q     Any other instances that you're aware of?

13          A     Not off the top of my head, no.

14          Q     And do your notes indicate what that meeting in  
15          October 2017 concerned?

16          A     That was a discussion with Jim. And I don't --  
17          my notes won't actually indicate. It's just a  
18          note that says "John Mazure not part of  
19          presentation." So that may be -- you asked me  
20          earlier about occasions when there was a desire  
21          to do a briefing without GPEB present, and that  
22          may have been one of those occasions when Jim  
23          Lightbody was just requesting that.

24          Q     Okay. Let's switch topics a little bit. In  
25          your evidence you referenced that one of the

1                    topics that Mr. Lightbody discussed with you was  
2                    a desire to update the operating service  
3                    agreements with service providers?

4                    A     Yes.

5                    Q     And in the context of those discussions, did you  
6                    understand that BCLC's -- or one of BCLC's goals  
7                    in seeking those updates to the operators'  
8                    services agreements was to increase the  
9                    commissions to service providers for low-limit  
10                    table games while at the same time freezing the  
11                    commissions for high-limit table games?

12                    A     I don't recall freezing specifically, but I do  
13                    recall the objective of greater support for  
14                    low-limit games, and certainly a discussion of  
15                    the support for some of the more rural or  
16                    nonurban gaming operators who would typically  
17                    need that support in order to make that  
18                    available.

19                    Q     But do you recall that Mr. Lightbody also  
20                    explained to you that increasing the commissions  
21                    for low limit table games was part of a  
22                    continuing initiative that was being spearheaded  
23                    by Mr. Lightbody to grow the business from  
24                    casual, light and medium players and move away  
25                    from reliance on revenue from high limit games

1 and players?

2 A I don't recall that specific language, but in  
3 terms of the sense I had of the purpose of the  
4 initiative, yes.

5 Q Do you recall in terms of the purpose of the  
6 initiative was to try and change the patron mix  
7 so that there was a greater attraction to  
8 casual, low-limit and medium-limit players?

9 A I actually -- my recollection was that it was  
10 largely focused on supporting casinos that were  
11 having difficulty keeping low-limit games active  
12 without a better percentage of the revenue, and  
13 the concern that Jim seemed to have was that  
14 there was a gravitation if you didn't adjust the  
15 OSA towards higher limit gaming and that was not  
16 desirable for the industry.

17 Q And as you testified, Mr. Lightbody was also  
18 asking the minister and the government to assist  
19 in ensuring greater coordination and cooperation  
20 between participants in the gaming industry?

21 A We had a number of discussions where that came  
22 up, yes.

23 Q And did you understand that effort to achieve  
24 greater coordination in the gaming industry to  
25 include a request that the ministry proactively

1 share more information with BCLC?

2 A I believe that was actually in some of my notes,  
3 and I do recall -- having reviewed my notes, I  
4 do recall that, yes.

5 Q And do you recall that Mr. Lightbody also  
6 requested -- and I think you alluded to this in  
7 your evidence -- that BCLC be an opportunity --  
8 be afforded an opportunity to make presentations  
9 to the minister before the minister commented  
10 publicly on matters that involved the gaming  
11 industry?

12 A Yes.

13 Q And in that context you recall that in the fall  
14 of 2017 BCLC proactively sent briefing materials  
15 in the form of briefing notes and information  
16 notes to the ministry for review my Minister Eby  
17 setting out BCLC's perspective on each media  
18 report that was coming out in the fall of 2017?

19 A I recall briefing notes going to Minister Eby  
20 from BCLC in terms of the specific content and  
21 whether it was for each media communication, I  
22 can't say without going back and reviewing my  
23 notes, but I wouldn't disagree that that was  
24 probably the case.

25 Q And do you recall discussing with Mr. Lightbody

1                   his concern that despite BCLC's efforts to  
2                   provide briefing notes to the minister he was --  
3                   the minister appeared not to understand BCLC's  
4                   perspective on matters in terms of some of the  
5                   public statements he was making in the fall of  
6                   2017 and early 2018?

7           A        I think I understood a general frustration from  
8                   Mr. Lightbody on that, but I don't recall that  
9                   specifically.

10          Q        Do you recall in February 2019, so to put it in  
11                   context, this is in the aftermath of the release  
12                   of Dr. German's first report in the summer of  
13                   2018 that Mr. Lightbody on a call with you and  
14                   Mr. Scott and Mr. Harder expressed how difficult  
15                   Minister Eby's public statements were becoming  
16                   in terms of the morale impact they were having  
17                   on BCLC staff?

18          A        You said in 2019.

19          Q        Yes.

20          A        Is that right? No, I don't recall that in 2019,  
21                   but I do recall -- just because I can't say the  
22                   date specifically -- but I do recall a  
23                   discussion at one point in which Mr. Lightbody  
24                   brought up concerns about impact on morale.

25          Q        Concerns about impact on morale arising from the

1                   minister's public statements, to be specific?

2           A       That I can't recall, I'm sorry, without checking  
3                   notes.

4           Q       Well, let's see if we with trigger your  
5                   recollection. Do you recall Mr. Lightbody  
6                   raising with you his concern that working at  
7                   BCLC was becoming more stressful for many of his  
8                   staff because of what his staff were perceiving  
9                   was a lack of support from the minister?

10          A       I recall something vaguely along those lines,  
11                   yes.

12          Q       And did you convey that concern to the minister?

13          A       I can't recall. I tended to convey everything  
14                   that I had discussed with Mr. Lightbody to the  
15                   minister at our regular briefings.

16          Q       I just want to turn for a moment to BCLC's  
17                   efforts to continue to enhance its AML regime  
18                   during the course of Dr. German's review, and  
19                   you've described in quite some detail the  
20                   \$25,000 cash cap proposal. Do you recall when  
21                   you conveyed to Mr. Lightbody that the minister  
22                   wanted BCLC to consult with Dr. German before  
23                   moving ahead with any AML proposals that  
24                   Mr. Lightbody responded to you, stating that in  
25                   effect he had no problem with consulting with

1                   Dr. German but pointing out to you that  
2                   Dr. German had told Mr. Lightbody and BCLC --  
3                   BCLC's senior executive at the outset of his  
4                   review that Dr. German didn't want his review to  
5                   impede or get in the way of BCLC continuing to  
6                   enhance their AML regime?

7           A        Sorry, you're asking me if I recall BCLC or Jim  
8                   Lightbody saying that or Dr. German saying that?

9           Q        No, I'm --

10          A        I'm not sure I follow your question.

11          Q        I'm sorry. I'm asking you if you recall  
12                   Mr. Lightbody saying that in reaction to your  
13                   advice to him that BCLC should speak with  
14                   Dr. German before considering implementing any  
15                   further AML measures?

16          A        Yes, I do.

17          Q        Now, I'd just like to clear up a couple of  
18                   things that arose in answer to your questions  
19                   from Ms. Latimer. There was a discussion about  
20                   bank drafts and it seemed to get morphed into  
21                   questions into also the nine individuals, but as  
22                   I understand it, and clarify it for me if I'm  
23                   wrong, the nine individuals, or the request for  
24                   the names of nine individuals better put, arose  
25                   from nine individuals that were arrested as a

1 result of a JIGIT investigation and BCLC asked  
2 for those names. Do I have that correct?

3 A I think you have corrected that with my  
4 understanding of what they were asking for.

5 Q And was it your understanding that the request  
6 with respect to bank drafts was separate and  
7 apart from that, that BCLC --

8 A Yes.

9 Q -- in particular Mr. Lightbody, asked for  
10 examples of unattributed bank drafts, bank  
11 drafts that didn't have names on them so that  
12 BCLC could investigate that and that was a  
13 separate issue. Am I understanding that  
14 correctly?

15 A I think that's correct. There was a discussion  
16 on October the 13th, 2017, with Jim Lightbody in  
17 which he referenced "JIGIT nine arrests, June,  
18 money laundering, illegal gaming, BC casinos."  
19 So that was one reference, and that can be found  
20 at MR0187.0022. And then there was a request on  
21 October 20, 2017, and my notes are incorrect --  
22 I wrote December 2017 by mistake -- in which the  
23 question of names came up as well. And that was  
24 a conversation with Jim Lightbody. That's at  
25 MR0187.0030, in which Jim said in terms of key



1 asks, and my notes just say:

2 "Need to know them in order to prohibit."

3 Q Right.

4 A So those are a couple of references to the  
5 discussion about names.

6 Q But my point is, and just to be clear, there  
7 were separate requests that were made to you,  
8 request for names of the nine individuals that  
9 were arrested and then a separate request for  
10 examples of unattributed bank drafts that didn't  
11 have names on them?

12 A Right. And I'm not sure that the request for  
13 unattributed bank drafts was to me directly as  
14 opposed to the ministry, perhaps at a meeting  
15 that I was at. I don't recall that one  
16 specifically.

17 MR. McFEE: Thank you very much, Mr. Fyfe. Those are  
18 my questions for you.

19 THE COMMISSIONER: Thank you, Mr. McFee.

20 I'll now call on Ms. Mainville on behalf of  
21 Robert Kroeker, who has been allocated  
22 25 minutes.

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

24 **EXAMINATION BY MS. MAINVILLE:**

25 Q Good morning, Mr. Fyfe.

1           A     Good morning.

2           Q     I actually don't have very many questions  
3                   subsequent to Mr. McFee and Mr. Smart's  
4                   examination, but if we could just bring back up  
5                   exhibit 944, your notes of the July 31st, 2017  
6                   briefing. I don't believe Mr. McFee took you to  
7                   this portion. You see where you have "Rob  
8                   Kroeker" and his title?

9           A     Yes.

10          Q     A lengthy title, I guess. I just want to  
11                   clarify the notes below that. Do I take it from  
12                   the note "goals/objectives" and then "key  
13                   initiatives" and then "money laundering" do I  
14                   understand you recall Mr. Kroeker basically  
15                   briefing the attendees on BCLC's key anti-money  
16                   laundering initiatives at that time?

17          A     That's correct. I think that what you see below  
18                   Mr. Kroeker's name, "goals/objectives" and the  
19                   notes that I've got there, at the beginning of  
20                   the presentation there was just a general  
21                   overview of what we should expect to be hearing,  
22                   and so I was just jotting down what we were  
23                   being told. Now, that one-page document of  
24                   course is a -- it's the page that comes before  
25                   one of the pages in the material that was

1                   previously provided. I'm just looking for it.  
2                   And if you were to go to the page of the  
3                   presentation, which is MR0186.0011, then you  
4                   will see in the middle of that page a note that  
5                   says "anti-money laundering program" with Rob  
6                   Kroeker's name in parentheses, and then notes of  
7                   the presentation which continues down to the  
8                   last three lines of the page talk about a  
9                   \$690,000 penalty, so there was a section in  
10                  there in which I made notes of what I captured  
11                  from that presentation.

12                Q    Okay. I get it. And I actually hadn't seen  
13                   those other set of notes. It must have been  
14                   overlooked. But -- so I'll have a look  
15                   afterwards, but I understand just based on this  
16                   sort of road map of what the briefing would be  
17                   about, under "money laundering," as I read it,  
18                   that says "litigation"?

19                A    Correct.

20                Q    And I take it just from the timing of this  
21                   briefing and knowing that the litigation that  
22                   BCLC had with FINTRAC which ended by way of  
23                   consent order on August 6th, 2017, so very  
24                   shortly after this briefing, that you were  
25                   briefed on the resolution of that matter?

1           A     That's correct.  And that's what -- if you were  
2                     to look at MR0186.0011, the bottom three lines  
3                     of that page and I believe over into potentially  
4                     the following page record my notes from that  
5                     part of the presentation.

6           Q     And I take it he would have indicated something  
7                     along the lines that the penalty that had been  
8                     levied against BCLC was to be set aside?

9           A     Not set aside.  He indicated "the \$690,000  
10                    penalty FINTRAC audits every two years, appealed  
11                    to federal court" and then:

12                         "Reduced to \$619,000.  Settled with  
13                         admission to technical deficiencies BCLC.  
14                         Private audit every two years off cycle."

15                    So he indicated that the penalty had been  
16                    reduced, not eliminated.

17          Q     Okay.  Well, I think -- and perhaps this is just  
18                    a matter of refreshing your memory.  I think  
19                    FINTRAC had reduced the penalty, but at the end  
20                    of the day it was entirely set aside by the  
21                    order.  But, again, I take it you agree with me  
22                    if the order sets it aside it sets it aside  
23                    entirely?

24          A     Oh, I wouldn't disagree with that.  I'm just  
25                    referring to what was discussed at the meeting

1                   on the 31st of July.

2           Q       Okay. And so that's your best recollection on  
3                   that topic?

4           A       My best recollection of what was discussed on  
5                   that date.

6           Q       And then under "litigation" I believe it says  
7                   "upcoming report decision."

8           A       Yes.

9           Q       Do you know what that was in reference to?

10          A       "Upcoming report decision" I believe is --  
11                  again, just the notes around the FINTRAC audit  
12                  exit interview. I actually don't know  
13                  completely, but I'm just looking at, again, my  
14                  notes on page MR01186.0012, and it seems to me  
15                  that it was just the flow of the presentation,  
16                  the things that we were to expect to see. So  
17                  the notes captured the order that it was  
18                  presented in and that's my best guess as to what  
19                  that means.

20          Q       Okay. And so -- but the bottom line is even  
21                  though this was a high level briefing on all  
22                  aspects of BCLC's functions, there was a  
23                  discussion at this briefing of BCLC's efforts  
24                  and initiatives on the anti-money laundering  
25                  front?

1           A       There was a presentation on it, yes.

2           MS. MAINVILLE: We can take this down. Thank you,  
3                    Madam Registrar.

4           Q       You indicated that you received -- in respect of  
5                    Ross Alderson that you received a summary of  
6                    what he told Dr. German, and I take it this  
7                    would have been prior to the release of  
8                    Dr. German's report, so either at the end of  
9                    2017 or early 2018.

10          A       Yes, that's correct.

11          MS. MAINVILLE: And, Mr. Commissioner, I'm going to  
12                    ask that a document be brought up. I haven't  
13                    sought leave because I didn't anticipate  
14                    Mr. Fyfe's evidence on this, that it really -- I  
15                    would be putting it to him simply to know  
16                    whether it was sent to him or not, so whether he  
17                    recognizes a document or not. So if I may do  
18                    that just to allow anyone else to object, it  
19                    would be what's now exhibit 835, which are notes  
20                    sent from Mr. Alderson to Dr. German.

21          THE COMMISSIONER: All right. Ms. Hughes, do you  
22                    have any objection to that?

23          MS. HUGHES: I don't have any objection to the  
24                    document being put on the screen and the witness  
25                    being asked whether he's ever seen it before.

1 THE COMMISSIONER: All right.

2 MS. MAINVILLE: Thank you. So 835, Madam Registrar.

3 Q So I just wonder -- I don't know what form this  
4 summary took, but these are -- this is a  
5 document that was submitted by Mr. Alderson to  
6 Dr. German and I just wonder if it's something  
7 you recall seeing at all. It's seven pages. If  
8 you need to scroll through it at all to refresh  
9 your memory, that's fine.

10 A I can say that it does not look familiar to me.  
11 So I can't say definitively that I never saw it,  
12 but it certainly is not a document that I recall  
13 seeing.

14 Q Okay. Do you recall that Mr. Alderson's  
15 complaints or the focus of his complaints around  
16 that point in time were largely directed at GPEB  
17 and law enforcement?

18 A I understood that -- yes, his decision to  
19 release this information was apparently driven  
20 by frustration with concerns that he had not  
21 being addressed.

22 Q And not being addressed, do you recall that he  
23 had quite a number of complaints about the  
24 absence of involvement by law enforcement and  
25 also lack of action by GPEB?

1           A     I'm sorry. I don't recall the specifics of what  
2                    his complaints were beyond a sense that there  
3                    was -- that action that he felt needed to be  
4                    taken was not being taken.

5           Q     And do you recall, though, that certainly he  
6                    wasn't merely focused on BCLC by any stretch?

7           A     Oh, I think that's correct, yes.

8           MS. MAINVILLE: We can take this down, Madam  
9                    Registrar.

10          Q     And in terms of a summary of what he had told  
11                    Dr. German, were there other summaries that you  
12                    received from Dr. German's interviews?

13          MS. HUGHES: One moment, Mr. Commissioner. Perhaps  
14                    my client can clarify as I took there to be a  
15                    premise in her question that the witness had  
16                    received Mr. Alderson's summary and his evidence  
17                    was he had not seen that document before. So  
18                    perhaps she could rephrase.

19          MS. MAINVILLE: Sure. No, no, and sorry, I wasn't  
20                    referencing this particular document, but in his  
21                    evidence in answer to questions from Ms. Latimer  
22                    I understood him to say he obtained a summary.

23          Q     Maybe I can first clarify, was it a written  
24                    summary --

25          A     Thank you. That's what I've just been looking.



1                   It was not a written summary. It was in one of  
2                   the phone calls that I would have with  
3                   Dr. German just to get an update on the  
4                   interviews that he had conducted, and I believe  
5                   that during one of those -- I was just looking  
6                   to see if I could find some notes on it, but  
7                   during one of those I recall him referencing the  
8                   fact that he had interviewed Mr. Alderson, and I  
9                   thought that my notes had indicated that he'd  
10                  actually received 20 recommendations from  
11                  Mr. Alderson. So that was the extent of my  
12                  understanding of that discussion.

13                Q     Okay. And so Dr. German would update you on the  
14                  interviews and information he was gathering as  
15                  it went along?

16                A     Yes. Both information that he was gathering and  
17                  where he planned to go. For example, he made a  
18                  trip to Nevada to talk to officials there and in  
19                  conjunction with that, he asked me for a letter  
20                  of introduction to be able to provide to the  
21                  state Attorney General to introduce him. He  
22                  travelled to Macao to speak to people there. So  
23                  he would just provide an indication of what his  
24                  upcoming plans were and then afterwards a  
25                  general indication of what he heard.

1           Q     Okay.  And so I take it, then, you understood  
2                   prior to him submitting his final report that he  
3                   was of the view that a cash cap was not  
4                   necessary or advisable.

5           A     That was my understanding, yes.

6           Q     And did you understand that to be his general  
7                   view when BCLC presented its cash cap proposal  
8                   to government?

9           A     Not initially when it was presented, but after  
10                  the discussion that Mr. Lightbody and perhaps  
11                  his team had with Mr. German, then I understood  
12                  that Mr. German's view was that a risk-based  
13                  approach was more appropriate than a  
14                  prescriptive approach.

15          Q     And so you didn't have that understanding prior  
16                  to directing Mr. Lightbody to communicate with  
17                  Dr. German about the proposal?

18          A     I would say I didn't direct him to.  I asked him  
19                  to.  And I did not have -- and the answer to  
20                  your question is no.

21          Q     At that point in time you did not know what  
22                  Dr. German's view was on that?

23          A     That's correct.

24          Q     Okay.  And just finally, you indicated to  
25                  Ms. Latimer that you didn't see the minister's

1 level of involvement in BCLC's AML proposals as  
2 unusual, and she asked you about whether it was,  
3 you know, generally in the context of providing  
4 general policy guidance, I think, was her  
5 question. Do you recall that?

6 A I do.

7 Q And are you aware of the provision in the *Gaming*  
8 *Control Act*, which is section 6, about how the  
9 minister may issue written directives to the  
10 lottery corporation on matters of general  
11 policy?

12 A I'm generally aware of that, yes.

13 Q And that those general policy directives are to  
14 be published and made available for public  
15 inspection?

16 A Right.

17 Q And I believe you had indicated to commission  
18 counsel in an earlier interview and in what's  
19 part of your -- what we've called your will-say,  
20 that you understand the importance of --

21 A Independence.

22 Q Independence, yes.

23 A Yes.

24 Q Of the Crown -- of a Crown corporation from  
25 government; yes?

1           A     Yes.

2           Q     So in terms of the usual nature or not of these  
3                 interventions, could you just speak to how that  
4                 sort of fits together from your perspective in  
5                 terms of the interactions that took place on  
6                 BCLC's AML proposals?

7           A     I think what you're asking me is to compare what  
8                 was happening to what the statute provides in  
9                 terms of written directives.

10          Q     Right.

11          A     And I guess my answer to that would be that  
12                 there is a significantly greater level of  
13                 interaction and discussion that occurs between  
14                 the ministry, including the minister, and BC  
15                 Lottery Corporation and GPEB and other Crown  
16                 agencies than is recorded or reflected in the  
17                 strict formal directive approach on policy  
18                 issues.  And that particular -- in particular,  
19                 areas of concern which might result in, for  
20                 example, media questions being directed to the  
21                 minister would be things that the minister would  
22                 want to have a discussion with the Crown agency  
23                 about.

24          Q     And in terms of, you know, you've talked about  
25                 the sort of need to field these media inquiries.

1                   Would there not be occasionally a preferred  
2                   approach of referring those media inquiries  
3                   directly to either the lottery corporation or  
4                   GPEB as appropriate for comment?

5           A       In some cases, yes.  However, for example,  
6                   there's a process of what's generally called a  
7                   scrum, which occurs during the time the  
8                   legislature is sitting in which ministers are  
9                   captured on the way from the legislature back to  
10                  their office and interviewed on various  
11                  questions.  So my perception is that it's not  
12                  always possible to simply refer questions to  
13                  another agency, and that there are times when a  
14                  minister finds themselves in a position of  
15                  needing to know about something, understand it  
16                  and be able to answer those questions.

17          Q       Do you recall, though, that Minister Eby was  
18                   giving many radio interviews on the subject of  
19                   money laundering in casinos?

20          A       I do.

21          Q       And those, I assume, would be prescheduled,  
22                   or ...

23          A       For the most part.  Although the scheduling can  
24                   sometimes be as little as 30 minutes or so.

25          Q       Okay.  And my last question:  would you agree at

1           least in hindsight -- well, let me put it this  
2           way: if a minister requests something of a  
3           public servant, would you agree that most would  
4           feel the need to comply and acquiesce to that  
5           request?

6           A     As a general statement I would agree. I think  
7           it's -- it was notable that this minister when  
8           he first came into office, provided an article  
9           to all his staff about airplane crashes that  
10          were the result of people simply blindly  
11          following orders of the pilot and asked everyone  
12          to ensure that if they felt that there was a  
13          disagreement about something that they speak up.

14          Q     I take it that would have been distributed  
15          within the ministry.

16          A     Correct.

17          Q     Right. Not to the lottery corporation,  
18          presumably?

19          A     No, not to the lottery corporation.

20          MS. MAINVILLE: Thank you for your time, Mr. Fyfe.

21          THE COMMISSIONER: Thank you, Ms. Mainville.

22                     I'll turn now to Mr. Rauch-Davis on behalf  
23                     of Transparency International -- sorry,  
24                     Ms. Latimer, did you have --

25          MS. LATIMER: Well, I was just wondering if it might

1                   be a convenient time to take a short break.

2           THE COMMISSIONER: All right. We'll do that. How  
3                   much time do you need? 10 minutes?

4           MS. LATIMER: 10 minutes, please.

5           THE COMMISSIONER: All right. Thank you.

6           THE REGISTRAR: This hearing is adjourned for a  
7                   10-minute recess until 11:43 a.m.

8                   **(WITNESS STOOD DOWN)**

9                   **(PROCEEDINGS ADJOURNED AT 11:33 A.M.)**

10                  **(PROCEEDINGS RECONVENED AT 11:42 A.M.)**

11                                   **RICHARD FYFE, a witness**  
12                                   **for the commission,**  
13                                   **recalled.**

14           THE REGISTRAR: Thank you for waiting. The hearing  
15                   is resumed. Mr. Commissioner.

16           THE COMMISSIONER: Thank you, Madam Registrar.

17                   I'll now call on Mr. Rauch-Davis on behalf  
18                   of Transparency International Coalition, who has  
19                   been allocated 10 minutes

20           MR. RAUCH-DAVIS: Thank you, Mr. Commissioner. I  
21                   have no questions for this witness.

22           THE COMMISSIONER: Thank you, Mr. Rauch-Davis.

23                   Now turn to Ms. Hughes on behalf of the  
24                   Province, who has been allocated 30 minutes

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

1                   **EXAMINATION BY MS. HUGHES:**

2                   Q     Mr. Fyfe, when you first assumed responsibility  
3                             for new portfolios within the AG in 2017, could  
4                             you please tell Mr. Commissioner what -- which  
5                             of those portfolios were most active.

6                   A     Initially the most active portfolio was ICBC,  
7                             and that continued probably as a very active  
8                             portfolio throughout the time that it was with  
9                             this ministry. Gaming began to be active upon  
10                            my return from vacation in late August 2017, and  
11                            I would say never got to the same level of  
12                            activity as ICBC. And then cannabis  
13                            legalization became very active because the  
14                            federal government had announced legalization  
15                            and had a specific deadline and that we needed  
16                            develop provincial legislation for that. And in  
17                            addition to that, there were numerous  
18                            legislative initiatives that came through early  
19                            on. If you recall there was the referendum on  
20                            the election process, there was legislation on  
21                            capping contributions, and there was what's  
22                            known as the *PIDA* legislation, *Public Interest*  
23                            *Disclosure Act* legislation, as well as many  
24                            others. So I recall when we first had the  
25                            portfolio, looking at the confidence and supply



1                   agreement, looking at the NDP platform and  
2                   realizing that just about everything that was  
3                   identified was with this ministry.

4           MS. HUGHES: Thank you. Madam Registrar, could you  
5           please bring up exhibit 944. And this is  
6           MR0211. It's the loose page of notes that was  
7           marked during Mr. Kroeker's counsel's  
8           examination. Thank you.

9           Q     Mr. Fyfe, this document was put to you and  
10           Ms. Mainville asked you some questions about it.  
11           First off, you were taken to what appears to be  
12           the name Sharon. And could I ask you perhaps if  
13           that might be a reference to Susan Dolinski,  
14           whose name we see opposite side of the page?

15           A     It's possible. When I look at it as well, there  
16           was an Assistant Deputy Minister that I had  
17           involved with a lot of the work and her name was  
18           Shauna Brouwer. I suspect that's Shauna Brouwer  
19           and Susan Dolinski on the left-hand side of that  
20           line, I believe these were the introductions as  
21           to positions, so I can't say whether Susan was  
22           at the meeting or not, but certainly it shows  
23           that she was described as having that role.

24           MS. HUGHES: Okay. Thank you. And you -- in  
25           answering questions from Ms. Mainville, you also

1                   referred to certain other pages of your notes  
2                   which were not marked as an exhibit, and so I  
3                   would ask at this point, Mr. Commissioner, if we  
4                   could perhaps either mark separately or add  
5                   collectively to exhibit 944, pages MR0186.0011  
6                   through to 0014.

7                   THE COMMISSIONER: All right. I think perhaps it  
8                   makes more sense to incorporate those two pages  
9                   into exhibit 944.

10                  MS. HUGHES: Yes, I think that's right.

11                  Q     And so, Mr. Fyfe, if you could please turn to  
12                   MR0186.0011.

13                  THE REGISTRAR: Should I bring it up on the screen,  
14                   Ms. Hughes?

15                  MS. HUGHES: Yes, please, Madam Registrar.

16                  THE WITNESS: Okay. I have it.

17                  MS. HUGHES:

18                  Q     Just to identify for the record, these are the  
19                   continuation of the notes you took during the  
20                   July 31st, 2017 briefing at BCLC's facilities in  
21                   Kamloops?

22                  A     Yes, that's correct.

23                  MS. HUGHES: All right. Thank you, Madam Registrar.  
24                   If you could now bring up, Madam Registrar,  
25                   BCLC0016973.

1           Q     Mr. Fyfe, it's a loose document in front of you.  
2                     It's an email, internal emails produced by  
3                     British Columbia Lottery Corporation. Do you  
4                     have the document?

5           A     Yes.

6           Q     And so, Mr. Fyfe, if I could please have you  
7                     look at the email in the middle of the page,  
8                     Monday, July 31st, 2017, at 3:41 p.m. from  
9                     Mr. Lightbody to his senior executive, if you  
10                    see in the first paragraph Mr. Lightbody reports  
11                    on who attended the meeting and he notes that  
12                    John Mazure attended.

13          A     Yes.

14          Q     Is that consistent with your recollection of who  
15                    attended the meeting, that John Mazure was  
16                    there?

17          A     It's consistent with my recollection based on my  
18                    notes.

19          Q     Okay. And you'll also see in the next line,  
20                    Mr. Lightbody reports that the meeting went from  
21                    7:30 till 10 a.m. Is that consistent with your  
22                    recollection?

23          A     Yes, it is.

24          Q     He goes on to note that "the minister was well  
25                    prepared, having read the 14 briefing notes" --

1 THE COMMISSIONER: I'm sorry to interrupt,  
2 Ms. Hughes. Mr. Fyfe, I think, is feeding off  
3 of your speaker or your microphone. And it's  
4 very, very difficult to hear him.

5 MS. HUGHES: Yes, it looks like you're muted,  
6 Mr. Fyfe.

7 THE COMMISSIONER: He has muted himself or is muted,  
8 so I think it's better if he becomes unmuted at  
9 least when he responds to your questions.

10 THE WITNESS: Okay. I was muted. And then when I'm  
11 responding to the questions, I'm just pushing  
12 the space bar to unmute. I thought it would be  
13 better if I was muted when the questions were  
14 coming up, but I can unmute.

15 THE COMMISSIONER: No, that's fine. I think either  
16 way, as long as you're unmuted when you're  
17 responding to the questions.

18 THE WITNESS: It might -- what might help is if  
19 Ms. Hughes mutes as well and just holds the  
20 space bar when she's talking.

21 MS. HUGHES: Certainly, we'll go along that route  
22 there.

23 THE COMMISSIONER: All right. Thank you.

24 MS. HUGHES:

25 Q So, Mr. Fyfe, I'll just repeat my question.



1 MS. HUGHES: Next, Madam Registrar, I'd like you to  
2 please pull up exhibit 916. And I should note,  
3 Mr. Commissioner, this is not a document for  
4 which I had given notice. The need to refer to  
5 it arises out of the line of cross-examination  
6 pursued by Ms. Mainville as to certain  
7 information that was conveyed to her in that  
8 briefing, and so I would seek leave, please, to  
9 refer this witness to this document.

10 THE COMMISSIONER: All right. Unless there any  
11 objections that seems fine to me.

12 Ms. Mainville, do you have any issue with that?

13 MS. MAINVILLE: No, but, sorry, I didn't understand  
14 which document.

15 MS. HUGHES: It doesn't appear to be on the screen  
16 yet. It's exhibit 916. There we are.

17 MS. MAINVILLE: No, that's fine.

18 THE COMMISSIONER: Thank you.

19 MS. HUGHES:

20 Q Thank you. Mr. Fyfe, what you should see in  
21 front of you is a BCLC briefing note dated  
22 July 27, 2017, titled -- or the issue was  
23 "BCLC - Anti-Money Laundering and Countering  
24 Terrorist Financing Program." Do you see that?

25 A I see that.

1 Q And do you recognize this as one of the briefing  
2 notes that was provided in advance of the  
3 July 31st briefing?

4 A I don't recognize it as that, but given the  
5 date, I would agree that it most likely was.

6 Q And, Mr. Fyfe, if you could please turn to  
7 page 3 of the document. And in -- if you could  
8 look, please, to the second -- sorry, the first  
9 full paragraph. We see reference to in the  
10 middle of the paragraph FINTRAC's most recent  
11 audit being completed with no deficiencies  
12 found, and then a notation about a deficiency in  
13 relation to training which has been addressed.  
14 Do you see that reference in the middle of the  
15 paragraph?

16 A Yes, I see it.

17 Q Is that consistent with your recollection of  
18 those topics being discussed at the briefing?

19 A Yes, it is.

20 Q And if you can move to the next two paragraphs,  
21 Mr. Fyfe, you'll see there a discussion of 2010  
22 FINTRAC having alleged a number of reporting  
23 deficiencies arising from the implementation of  
24 an automated batch reporting system and then  
25 what follows is the discussion of the

1 administrative monetary penalty that had been  
2 assessed?

3 A Yes.

4 Q And is what's set out in those two paragraphs of  
5 the briefing note consistent with your  
6 recollection of the information that was  
7 conveyed during the July 31st briefing?

8 A It is consistent. The only difference is that I  
9 actually had notes of the amounts in my -- in my  
10 notes that are not referenced here, the 690,000  
11 and the 619,000.

12 MS. HUGHES: Thank you. Madam Registrar, we can take  
13 that document down now.

14 Q Now, Mr. Fyfe, you were also asked questions by  
15 counsel for BCLC about -- sorry, counsel for  
16 Mr. Lightbody about various discussions you had  
17 with him, and you referred counsel to certain  
18 pages of your notes that did not end up being  
19 marked as exhibits, and so I think perhaps in  
20 order to ensure the record is clear we should go  
21 back and have some of those documents marked.  
22 And so if you could please first turn to MR0187  
23 starting at page 1. This is in tab 24 of the  
24 documents you have in front of you.

25 A You said starting at page 1?



1 Q Yes.

2 A Okay.

3 Q And so do you recognize the document in front of  
4 you as notes you took on -- looks like  
5 August 2nd, 2017, of a call with Bud Smith and  
6 then over the page are further notes you took on  
7 that date?

8 A Yes.

9 Q And then we see as well on that same day you --  
10 it appears you attended a meeting or a briefing  
11 with the GPEB's John Mazure and Len Meilleur?

12 A Yes.

13 MS. HUGHES: All right. Mr. Commissioner, if I could  
14 please have pages 1 and 2 of MR0187 marked as  
15 the next exhibit.

16 THE COMMISSIONER: Very well. 945.

17 THE REGISTRAR: Exhibit 946, Mr. Commissioner.

18 THE COMMISSIONER: Thank you. I'm sorry.

19 **EXHIBIT 946: Handwritten notes of Richard**  
20 **Fyfe - August 2, 2017 (redacted)**

21 MS. HUGHES:

22 Q If I could ask you now, please, Mr. Fyfe, to  
23 turn to MR0187.0019. I believe you referred to  
24 this page in your earlier testimony and  
25 indicated that the date for these notes should

1                   be October 10th, 2017. Is that right?

2           A        That's correct, yes.

3           Q        And if you could please turn to the bottom and  
4                   read for Mr. Commissioner the notes you made  
5                   under number 3 and 4.

6           A        Under number 3 the note says:

7                                "Brief AG/RF clearly on 'truth as we know  
8                                it' AML regime."

9           A        And note 4 says:

10                                "John Mazure not part of presentation."

11          Q        And I take it those notes accurately reflect  
12                   information or statements made by Mr. Lightbody  
13                   during that call.

14          A        To the best of my ability, yes.

15          MS. HUGHES: Thank you, Mr. Commissioner. If we may  
16                   please have this marked as the next exhibit.

17          THE COMMISSIONER: Very well. 947.

18          THE REGISTRAR: Exhibit 947.

19                                **EXHIBIT 947: Handwritten notes of Richard**  
20                                **Fyfe - October 10, 2017 (redacted)**

21          MS. HUGHES:

22          Q        You also, Mr. Fyfe, in your evidence referred to  
23                   different instances in which names of nine  
24                   individuals were discussed with BCLC. And so if  
25                   I could ask you, please, to turn to page 30 of

1 MR0187.

2 A Yes.

3 Q And I believe you indicated in your evidence the  
4 correct date for this should be 20 October 2017.  
5 Is that right?

6 A That's correct.

7 Q And in the middle of the page is the reference  
8 you made. If you could perhaps read the writing  
9 under "key asks" point number 1 for  
10 Mr. Commissioner.

11 A Under "key asks" point number 1, there is a  
12 quote first of all which says:

13 "Need to know them in order to prohibit."

14 And then the word "how" with a question mark.

15 And then point number 1 says:

16 "Direct GPEB to provide identity of any  
17 individuals."

18 Q And I take it those were notations of statements  
19 that were made by Mr. Lightbody during that  
20 call.

21 A Yes, that's correct.

22 MS. HUGHES: Thank you. May I please have that page  
23 marked as the next exhibit, Mr. Commissioner.

24 THE COMMISSIONER: Yes. 948.

25 THE REGISTRAR: Exhibit 948.

1                   **EXHIBIT 948: Handwritten notes of Richard**  
2                   **Fyfe - December 20, 2017 (redacted)**

3                   MS. HUGHES:

4                   Q     If you could please now turn, Mr. Fyfe, to  
5                   page 33 of that document.

6                   A     Yes.

7                   Q     And I take it these are notes of a 23 October  
8                   2017 presentation from BCLC.

9                   A     Those are my notes of that presentation, yes.

10                  Q     And could you please read for Mr. Commissioner  
11                  what you wrote in the -- looks like the sort of  
12                  second paragraph of your notes.

13                  A     This is a paragraph that reads:

14                                 "Re need to know who the nine arrested are  
15                                 so can ban from casinos."

16                  And then in parentheses after that:

17                                 "RCMP have told JIGIT not to share  
18                                 names)".

19                  Q     I take it again, Mr. Fyfe, those notes to the  
20                  best of your recollection reflect statements  
21                  that were made during that BCLC presentation.

22                  A     Yes, correct.

23                  Q     Do you recall who made those statements?

24                  A     I believe it was Mr. Lightbody, but it may have  
25                  been a combination of Mr. Lightbody and

1 Mr. Smith.

2 MS. HUGHES: All right. May I please have that page  
3 marked as the next exhibit, Mr. Commissioner.

4 THE COMMISSIONER: 949.

5 THE REGISTRAR: Exhibit 949.

6 **EXHIBIT 949: Handwritten notes of Richard**  
7 **Fyfe - October 23, 2017 (redacted)**

8 MS. HUGHES: Thank you, Madam Registrar. We can take  
9 the document off the screen.

10 Q Now, Mr. Fyfe, you recall attending a briefing  
11 on -- with GPEB on August 2nd, 2017, but I  
12 believe your evidence was that you then were out  
13 of the office for some time towards the end of  
14 that month. Is that right?

15 A Yes, that's correct.

16 Q And so you do not recall attending a subsequent  
17 briefing with GPEB on August 23rd, 2017?

18 A No, I don't.

19 Q When you returned to the office after your  
20 vacation in late August or early September 2017,  
21 can you tell Mr. Commissioner whether there was  
22 any change in the priority being accorded to or  
23 attention paid to the gaming portfolio?

24 A I can recall Minister Eby referring to the  
25 concerns that he had had as a result of a

1                   briefing he'd had by GPEB.

2           Q       Shifting gears slightly, Mr. Fyfe. You recall  
3                   being asked questions about certain proposals  
4                   that BCLC wanted to bring forward in early 2018  
5                   as to changes in the approach and including a  
6                   cash cap. And you referred in answering some of  
7                   those questions to an email. And if I could ask  
8                   you to turn to, please, tab 24 in your binder.

9           MS. HUGHES: And, Madam Registrar, if you could  
10                   please bring up exhibit 911. Thank you. If you  
11                   could go to page 2, please.

12          Q       I just wanted, Mr. Fyfe, to give you the  
13                   opportunity to confirm for Mr. Commissioner if  
14                   this is the email that you were referring to in  
15                   your earlier evidence.

16          A       Yes, it is.

17          MS. HUGHES: Thank you, Madam Registrar. We can take  
18                   that document off the screen. But if you could  
19                   please now bring up BCLC6349.

20          Q       Mr. Fyfe, you'll find that at tab 9 of your  
21                   binder.

22          A       Yes.

23          Q       All right. You are not included in this email  
24                   chain, but I'd like to ask if the contents  
25                   accord with your recollection. You'll see

1                   towards the middle to bottom of the page  
2                   Mr. Lightbody reports to Mr. Kroeker about a  
3                   conversation he had with you, and this is -- the  
4                   email is dated October 19th, 2017. Do you see  
5                   that?

6                   A     Yes, I see it.

7                   MS. HUGHES: Madam Registrar, if you could scroll  
8                   down, please. Thank you.

9                   Q     And Mr. Lightbody reports to Mr. Kroeker that he  
10                  spoke with you and asked about:

11                                 "... how we can work with and leverage  
12                                 Peter German to bring new initiatives to  
13                                 our AML regime in an expedient fashion.  
14                                 He agreed that we can work actively with  
15                                 German to advise on our new initiatives  
16                                 and that is consistent with the minister's  
17                                 direction."

18                  Do you see that?

19                  A     Yes, I see it.

20                  Q     Do you recall conveying that information to  
21                  Mr. Lightbody in or around October 19th, 2017?

22                  A     That would be consistent with the discussions  
23                  that I was having with him, yes.

24                  Q     And I take it when you look at what you had told  
25                  Mr. Lightbody in October, you'll agree that's

1                   largely consistent with the same message the  
2                   minister provided in January of 2018 in the  
3                   email we just looked at?

4           A        Yes, I agree.

5           MS. HUGHES: Thank you. Mr. Commissioner, if we  
6                   could please have BCLC0006349 marked as the next  
7                   exhibit.

8           THE COMMISSIONER: So that will be 950.

9           THE REGISTRAR: Exhibit 950.

10                   **EXHIBIT 950: Email exchange between Rob Kroeker**  
11                   **and Jim Lightbody, re MSB's and other**  
12                   **initiatives - for the Task Force - October 19,**  
13                   **2017**

14           MS. HUGHES: Madam Registrar, could you please now  
15                   bring up exhibit 943.

16           Q        Mr. Fyfe, this is at tab 14 and 15 of your  
17                   binder.

18           MS. HUGHES: Thank you, Madam Registrar, the email  
19                   will suffice.

20           Q        Mr. Fyfe, it's in the small binder. You have  
21                   at. It's at tab 14. You've got the email  
22                   there.

23           A        Okay.

24           Q        And you were asked questions about this email  
25                   and the information that was provided which is



1 at tab 15 by Mr. Smart, and I just wanted to  
2 situate this email in time. If you look at the  
3 date on the email, this is sent to you -- well,  
4 it's actually sent to Mr. Scott and CC'd to you  
5 on April 13th of 2018. Do you see that?

6 A Yes, I see that.

7 Q And so by this point in time Dr. German has  
8 already been retained; is that right?

9 A Yes.

10 Q And this information also comes after his  
11 interim recommendation has been implemented in  
12 January of 2018?

13 A Yes, that's correct.

14 Q And you recall by this point in time a draft of  
15 Dr. German's report had been provided?

16 A Yes, I believe so, yes.

17 Q And do you recall whether that draft had also by  
18 this point in time, April 13th, been provided to  
19 BCLC for review and comment?

20 A Yes, I believe it had.

21 MS. HUGHES: Thank you, Madam Registrar. We can take  
22 that exhibit down.

23 If I could just have a moment, please,  
24 Mr. Commissioner. No need to adjourn. I'd just  
25 like to review my notes briefly.

1 THE COMMISSIONER: Yes, very well.

2 MS. HUGHES: Thank you.

3 Q Mr. Fyfe, you'll recall in your questions with  
4 commission counsel they asked about your  
5 impression of the minister's reaction to BCLC  
6 wanting to implement a cash cap of January 2018,  
7 and your evidence was that you recalled him  
8 being angry about that. You recall giving that  
9 evidence this morning?

10 A Yes. I think I said my perception was that he  
11 was angry. If not, that's what I should have  
12 said.

13 Q Fair enough. My question for you is this: do  
14 you recall if your perception of his anger was  
15 directed at the fact that the process he had set  
16 up with Dr. German wasn't being followed or was  
17 it with the substance of the proposal that was  
18 being made?

19 A My recollection is that it was with the process,  
20 that he was wanting the process to involve the  
21 discussion with Dr. German.

22 MS. HUGHES: Thank you, Mr. Commissioner. I have no  
23 further questions for Mr. Fyfe.

24 THE COMMISSIONER: Thank you, Ms. Hughes.

25 Anything arising, Ms. Mainville?

1 MS. MAINVILLE: No, thank you.

2 THE COMMISSIONER: Mr. McFee?

3 MR. McFEE: Yes, Mr. Commissioner. I'd just like to  
4 clarify matters arising from two of these newly  
5 marked exhibits that weren't referenced in the  
6 witness statement.

7 And if we could -- Madam Registrar, if you  
8 could just bring up exhibit 947 again, please.

9 MS. HUGHES: Perhaps if we could provide the page  
10 number, Mr. McFee. I don't know that the  
11 witness marked the exhibit numbers on the copies  
12 he has in front of him.

13 MR. McFEE: Well, maybe you could help me with that,  
14 Ms. Hughes, because I didn't make a note of the  
15 page number.

16 MS. HUGHES: Nor did I.

17 THE REGISTRAR: Exhibit 947 is page 19.

18 MR. McFEE: Thank you. If you could just scroll down  
19 on that, please, Madam Registrar, a bit.

20 **EXAMINATION BY MR. McFEE (continuing):**

21 Q I wasn't clear about the date of this, Mr. Fyfe.  
22 Could you help us with the date of this note.

23 A So when I noticed there was no date I went back  
24 to my original notes and found that the date at  
25 the top of the page was October the 10th, 2017.

1 I think it was just covered up by the redaction  
2 at the top of the page.

3 Q Okay. Thank you. And what Ms. Hughes referred  
4 you to were items 3 and 4 at the bottom of the  
5 page. And this, as I understand it, was BCLC's  
6 request for a briefing with the minister to  
7 clarify matters with respect to the AML regime.  
8 Did I understand that correctly?

9 A Yes, that's correct.

10 Q And item 4 is John Mazure not to be present.  
11 But then if we could take you over --

12 MR. McFEE: Or if I could ask Madam Registrar to go  
13 to exhibit 949, please, which were your notes.

14 THE REGISTRAR: Yes, 949 is page 33.

15 MR. McFEE: Thank you.

16 Q And these are your notes, I take it, of the  
17 actual presentation that was arranged as a  
18 result of that request.

19 A Yes.

20 Q And consistent with your past practice that you  
21 testified to, if you go on the right-hand side  
22 in terms of participants, was Mr. Mazure present  
23 for that presentation?

24 A Yes, my notes indicate that he was.

25 Q Okay. So the initial statement John Mazure not

1 to be present, that didn't in fact materialize.

2 In fact Mr. Mazure was present for that AML  
3 presentation given by BCLC; correct?

4 A That's -- yes, that's what appears from my  
5 notes, yes.

6 Q So does that refresh your recollection about the  
7 questions I was asking you earlier about there  
8 was Mr. Lightbody initially made a request that  
9 Mr. Mazure not be present at a briefing but  
10 subsequently contacted you back and said that --  
11 withdrew that request and in the spirit of  
12 cooperation Mr. Mazure should be present?

13 A I think that's a fair summary, yes.

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

15 THE COMMISSIONER: Thank you, Mr. McFee.

16 Mr. Smart?

17 MR. SMART: Yes.

18 **EXAMINATION BY MR. SMART (continuing):**

19 Q I just want to clear up something. And it's in  
20 relation to exhibit 948 and it's MR087. And I  
21 want to start at page 29. So MR0870029. I just  
22 want to try to understand the sequence of the  
23 dates. You can see that's October 19th, and  
24 then if you go over to the next page to 30,  
25 which we marked as exhibit 948, it's got

1                   20 December, and you've explained that that was  
2                   wishful thinking; you're hoping it was near  
3                   Christmas break and it was actually  
4                   October 20th. And then the next page, 31, is  
5                   October 19th again. And is it just that pages  
6                   were removed and then scanned and got out of  
7                   order? Is that what's happened here?

8           A       No, again, I went back and checked my notes when  
9                   I saw that because it looked wrong to me and in  
10                  fact my original notes show the date should have  
11                  been October the 20th. I think what happened  
12                  was that I have a date stamp, as you can see. I  
13                  had not advanced the date stamp, so the date is  
14                  wrong on that page.

15          Q       So page 31 should be October 20th as well?

16          A       Yes, that's correct.

17          MR. SMART: All right. Thank you, Mr. Fyfe. That's  
18                  all.

19          THE COMMISSIONER: Thank you, Mr. Smart.

20                         Ms. Latimer?

21          MS. LATIMER: No, thank you, Mr. Commissioner.

22          THE COMMISSIONER: Well, thank you very much for  
23                  taking the time to relate your experiences,  
24                  Mr. Fyfe. It's been very helpful to hear about  
25                  the intricacies and the complexity of government

1 interaction with respect to this matter, and I'm  
2 grateful to you for the time you've taken.  
3 You're excused from further testimony now.

4 **(WITNESS EXCUSED)**

5 THE COMMISSIONER: And, Ms. Latimer, I think we will  
6 adjourn until tomorrow morning at 9:30 unless  
7 there's something else that can or should be  
8 dealt with.

9 MS. LATIMER: No, thank you.

10 THE COMMISSIONER: Thank you.

11 THE REGISTRAR: This hearing is now adjourned until  
12 April 30th, 2021, at 9:30 a.m. Thank you.

13 **(PROCEEDINGS ADJOURNED AT 12:14 P.M. TO APRIL 30, 2021)**

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