

**PROCEEDINGS AT HEARING
OF
FEBRUARY 8, 2021**

COMMISSIONER AUSTIN F. CULLEN

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February 8, 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, Mr. McGowan.

MR. MCGOWAN: Yes, Mr. Commissioner. This morning we have Mr. Scott prepared to give evidence.

**DOUGLAS SCOTT, 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: I'm sorry, I lost your audio. But my --

THE REGISTRAR: Yes.

THE WITNESS: Yes. Full name is Douglas Shaw Scott.

And you wanted me to spell first, last names?

THE REGISTRAR: Yes.

THE WITNESS: Okay. D-o-u-g-l-a-s S-c-o-t-t.

THE REGISTRAR: Thank you.

THE COMMISSIONER: Yes, Mr. McGowan.

MR. MCGOWAN: Thank you.

EXAMINATION BY MR. MCGOWAN:

1 Q Good morning. Mr. Scott, can you hear me okay?

2 A I can, Mr. McGowan. Good morning.

3 Q Okay. If at any point the audio starts to lag
4 or you're having difficulty hearing me, just let
5 us know and we'll take a break and fix that.

6 A Okay.

7 Q Okay. You joined government in 2011?

8 A That's correct.

9 Q And from 2011 till 2013 you were the Assistant
10 Deputy Minister and General Manager of the
11 Gaming Policy Enforcement Branch?

12 A I was.

13 Q And in 2018 you again had some involvement with
14 gaming as the Associate Deputy Minister with
15 responsibility for the Gaming Policy Enforcement
16 Branch and BCLC?

17 A That's correct.

18 Q And in November 2020 you took on your current
19 position as Deputy Minister of the Crown
20 Agencies Secretariat within the Ministry of
21 Finance with responsibility for, among other
22 agencies, the British Columbia Lottery
23 Corporation?

24 A That's correct, yes.

25 MR. MCGOWAN: Madam Registrar, judging by

1 Mr. Scott -- the timing of his responses, I
2 think we're dealing with a reasonably
3 significant delay. I don't know if anyone else
4 is experiencing that.

5 Mr. Commissioner, are you hearing a gap
6 between my question and the answer?

7 THE COMMISSIONER: Yes, I am, Mr. McGowan. I think
8 it should be fixed, if we can fix it.

9 MR. MCGOWAN: I'm going to suggest we stand down for
10 five minutes. And, Ms. Matters and Madam
11 Registrar, perhaps you could -- I'll stay on as
12 well, but perhaps you could work with Mr. Scott
13 and see if we can get this organized.

14 IT SUPPORT: Of course.

15 THE REGISTRAR: The hearing is stood down for five
16 minutes until 9:37 a.m.

17 **(WITNESS STOOD DOWN)**

18 **(PROCEEDINGS ADJOURNED AT 9:32 A.M.)**

19 **(PROCEEDINGS RECONVENED AT 9:40 A.M.)**

20 **DOUGLAS SCOTT, a witness**
21 **for the commission,**
22 **recalled.**

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

25 THE COMMISSIONER: Thank you. Yes, Mr. McGowan.

1 MR. MCGOWAN: Yes. I believe we have addressed the
2 technical issue, Mr. Commissioner.

3 THE COMMISSIONER: All the hamsters are running in
4 the same direction?

5 MR. MCGOWAN: I think they are now.

6 THE COMMISSIONER: All right. Thank you.

7 **EXAMINATION BY MR. MCGOWAN (continuing):**

8 Q Yes, Mr. Scott. We'd established that you
9 joined the Gaming Policy and Enforcement Branch
10 in June of 2011. Who was the outgoing General
11 Manager?

12 A Derek Sturko.

13 Q Okay. And did Mr. Sturko provide you with a
14 briefing prior to or upon your approval?

15 A He did, yes.

16 Q Okay. And what did he tell you about the issue,
17 if anything, related to suspicious cash coming
18 into British Columbia casinos?

19 A I'm sorry, I can't recall if he made any comment
20 about suspicious cash. I can't actually recall
21 details of that meeting. I know the meeting
22 took place.

23 Q Okay. And did you also have a meeting with
24 Ms. Wanamaker upon to your arrival and perhaps a
25 briefing from her to bring you up to speed?

1 A I met with Ms. Wanamaker as my Deputy, but she
2 didn't give me a briefing. She left that to
3 Derek Sturko.

4 Q Okay. Fair enough. In your affidavit you
5 identify that you were reporting to
6 Ms. Wanamaker for a period of time and that was
7 initially in the Ministry of Public Safety and
8 Solicitor General, but the portfolio
9 subsequently moved over to the Ministry of
10 Energy, Mines and Natural Gas?

11 A That's correct.

12 Q It seems perhaps like an awkward fit to have
13 gaming in the Ministry of Mining and Energy.
14 Can you offer any insights into why it was
15 situated there?

16 A Yes. The -- my branch was -- given as a
17 responsibility to Minister Coleman, who at the
18 time was the minister responsible for energy and
19 mines and natural gas.

20 Q Okay. And then subsequently the portfolio moved
21 to the Ministry of Finance at which point you
22 were reporting to Ms. Wenezenki-Yolland?

23 A That's correct, yes.

24 Q Now, in your affidavit you identify that to your
25 observation Ms. Wenezenki-Yolland took a greater

1 interest in the day-to-day operations of GPEB as
2 compared to Ms. Wanamaker. I wonder if you can
3 elaborate on what you meant by that.

4 A Certainly. Ms. Wanamaker, we had regular
5 meetings, but -- they started initially
6 reasonably frequently. I'm not exactly sure
7 what the timelines -- but then later they were
8 quite far apart. A month and beyond at times.
9 Ms. Wenezenki-Yolland, we met more frequently
10 and more often.

11 Now, I was only working with
12 Ms. Wenezenki-Yolland for three months, so I
13 don't know that it's terribly unusual that we
14 spent more time together as she was becoming
15 more familiar with the file. However, that was
16 my experience, that we did have many more
17 briefings and more detailed generally.

18 Q Okay. And how long had you been with GPEB
19 before you came to understand that there was a
20 high degree of concern, on the part of some of
21 your investigators at least, about the
22 substantial sums of cash that were being used to
23 buy in at British Columbia casinos?

24 A I would feel that it was days, not weeks. I
25 would characterize it as almost immediate that

1 it was a primary concern.

2 Q Okay. And who raised that concern to you
3 initially, if you recall?

4 A I don't recall our initial meeting but it almost
5 certainly would have been Larry Vander Graaf,
6 who I worked with directly.

7 Q Okay. The -- Mr. Kroeker's report was released
8 around the time you joined GPEB?

9 A Yes.

10 Q Do you recall if you had it before you took the
11 position or if it came into your hands once you
12 got to GPEB?

13 A Oh, yes, I did not have it until I arrived at
14 GPEB.

15 Q Okay. And from the time of your arrival or
16 shortly thereafter, I gather from your affidavit
17 there was an ongoing dialogue through
18 correspondence with executives at BCLC about the
19 implementation of the recommendations from that
20 report?

21 A Yes. I'm sorry, what time period are you
22 speaking of, counsel?

23 Q Well, your early time and through your time with
24 the Gaming Policy Enforcement Branch.

25 A Yeah.

1 Q Were you corresponding with executives at BCLC
2 about the implementation of recommendations from
3 that report?

4 A Yes, definitely post-release. What was making
5 we hesitate was just before release my
6 recollection is it was more internal within GPEB
7 and then post-release very active with BCLC.
8 Yes.

9 Q Yes. And release was approximately two months
10 after you joined.

11 A Yes. In August. I believe it was in August,
12 yes.

13 Q And did you also have meetings or telephone
14 conversations with representatives from BCLC
15 regarding the implementation of the report?

16 A Yes, we would have. Yes.

17 Q Okay. And who were your dealings with primarily
18 in that regard?

19 A Primarily it would be with Michael Graydon, the
20 CEO. Also Terry Towns at that stage was
21 actively involved in the meetings.

22 Q Okay. Mr. Kroeker observed in his report that
23 BCLC viewed gaming losses on the part of a
24 patron as evidence that money laundering was not
25 occurring, and he further observed that that

1 interpretation was not consistent with that of
2 law enforcement or the regulator, I assume being
3 GPEB. And he recommended that BCLC better align
4 its corporate view and staff training on what
5 constitutes money laundering with that of
6 enforcement agencies. You're familiar with that
7 recommendation?

8 A Yes, I recall that recommendation.

9 Q To your observation did the executives at the
10 British Columbia Lottery Corporation embrace
11 that recommendation?

12 A I would say yes. I have no recollection that
13 would lead me to believe that they necessarily
14 thought otherwise.

15 Q Okay. I do take it from your affidavit that you
16 felt that you and senior executives at BCLC had
17 a different opinion about the likely source of
18 the majority of cash being used to buy in at
19 British Columbia casinos. Have I characterized
20 your evidence correctly in that regard?

21 A I think that would be a correct
22 characterization.

23 Q How early in your tenure with GPEB did you form
24 that view?

25 A Formed the view that I had of what was happening

1 in terms of this -- the cash coming in?

2 Q Yeah, informed your view as to what you thought
3 was happening and identify that it was a
4 different view than that held by BCLC
5 executives.

6 A Oh, okay. Yes, I would say that my view evolved
7 somewhat, but I would say early on. Certainly I
8 would say around the time of the release of the
9 Kroeker Report I was forming my opinion, I
10 think, substantially. In terms of the different
11 views on it, that became more and more clear to
12 me as we began working with BCLC and I became
13 more familiar with their perspective.

14 Q And was that -- when you say "working with
15 BCLC," was that working to implement the
16 recommendations from the Kroeker Report and
17 develop strategies to combat the issue of cash
18 in casinos?

19 A That's correct, yes.

20 Q I'm going to ask you a little bit more about
21 that, but I wanted to first ask you about the
22 evidence you've given in your affidavit about
23 strategic planning. I gather shortly after you
24 joined GPEB the organization engaged in a
25 strategic planning session.

1 A That's correct.

2 Q Was that an internal session or were there
3 representations from other agencies?

4 A I believe the one you're referencing was an
5 internal one which took place in November of
6 2011.

7 Q Yes. And was one of the reasons that session
8 was held to identify the branch's priorities?

9 A That's correct.

10 Q Okay. And I gather from your affidavit that
11 through this process money laundering was
12 identified as one of the primary strategic
13 priorities for GPEB?

14 A It was. It was characterized [indiscernible]
15 strategic plan. It -- I believe wrongdoing --
16 combatting wrongdoing is the title and then
17 money laundering falls underneath that. Money
18 laundering, in my view, was the priority.
19 Having discussions with Larry Vander Graaf, he
20 felt it was important that it was broader and
21 included minors as well, which I accepted.

22 Q Okay. Prior to this strategic planning session,
23 where had money laundering ranked on the
24 hierarchy of priorities within GPEB?

25 A I can't say that I know that properly. I

1 apologize.

2 Q Okay. Did it remain at the top of the priority
3 list until your departure in 2013?

4 A It was absolutely at the top and in fact in the
5 second year of my tenure, the second one, the
6 second sort of major strategic priority which
7 was responsible gaming was actually taken off
8 because we'd achieved our objectives in the
9 first year. And so it was solely really focused
10 on money laundering in my second year of my
11 tenure.

12 Q Okay. Shortly after your arrival you led the
13 establishment of a cross-divisional working
14 group?

15 A That's correct.

16 Q And who were the members of that group?

17 A I have the list here, but by -- would you like
18 it by memory or --

19 Q Well, let me -- was it an internal group again,
20 or did it involve representatives from other
21 agencies?

22 A X-DWG an internal group but connected to the
23 industry -- BCLC and the industry and police
24 through Bill McCrea, our chair.

25 Q Okay. And you had representatives from various

1 departments of GPEB participate in this group?

2 A Yes. Yes.

3 Q Was the group focused on the issue of cash in
4 casinos or was its mandate broad?

5 A It was -- its mandate was money laundering
6 primarily focused on casinos. It was also used
7 to facilitate the sort of efficient
8 implementation of Mr. Kroeker's report --
9 summary report on AML, but it was intended to
10 create and drive forward an overarching strategy
11 for anti-money laundering.

12 MR. MCGOWAN: Okay. Thank you. If we would pull up,
13 please, exhibit 13 to Mr. Scott's affidavit.

14 Q And, Mr. Scott, do you have a copy of your
15 affidavit?

16 A I do, yes.

17 Q Okay. I'm happy for you to look at your copy or
18 the screen, whichever is most convenient for
19 you.

20 A Okay.

21 Q If we could pull up just the first page of that.
22 So this is a document dated October 25th, 2011,
23 "Gaming Policy and Enforcement Branch -
24 Anti-Money Laundering Cross Divisional Working
25 Group - Strategy For Stopping Money Laundering

1 in BC Casinos." Do I gather from the title that
2 this was a strategy that was developed by the
3 cross-divisional working group to combat money
4 laundering?

5 A That's correct. It was the initial stages of
6 that strategy.

7 Q Okay.

8 A It involved -- it was -- this was more at the
9 early stages, the brainstorming stages and
10 selecting of most promising options.

11 Q Okay. I wanted to ask you about a couple of
12 strategies that are identified here and see if
13 you can assist the Commissioner in what became
14 of them. I'm looking halfway down the page
15 under the heading "Policy/Directives. Number 1:

16 "Establish a maximum amount of small
17 denomination bills for casino buy-in by a
18 single patron."

19 I gather what's being spoken to there is
20 essentially a cash cap.

21 A Yes. It would be -- it could be a cash cap. I
22 would say it might be -- it's related to the
23 denominations that you see there, so it wouldn't
24 be that they can't bring in any amount of money,
25 it's just in the denominations.

1 Q And there was a real focus, at least on the part
2 of Mr. Vander Graaf and Mr. Schalk, on the
3 \$20 bill at that time?

4 A Yes.

5 Q What became of this proposed strategy?

6 A The -- I don't recall what iterations it took
7 because there were -- my understanding is there
8 was working groups that would work on these
9 various proposals. And I haven't seen
10 documentation to refresh my memory of the
11 evolution of those working groups. However,
12 this option, if you will, was not advanced as
13 the initial part of the strategy. Rather it was
14 in my mind contemplated if the first part of the
15 strategy was not successful.

16 Q Okay. Moving down to number 4:

17 "Develop a policy that addresses the
18 mandatory use of EFT, or non-cash, buy-in
19 under [specific] circumstances."

20 And first of all, EFT stands for electronic fund
21 transfer?

22 A That's right.

23 Q Was this strategy implemented during your time
24 at GPEB?

25 A This strategy I would say would be consistent

1 with -- more along the lines of a cash cap, if
2 you will. And it was not implemented during my
3 time, but it was the type of thing that would be
4 considered, again, if our initial strategy was
5 not successful meeting our objectives.

6 Q Okay. And looking now under the heading
7 "Compliance/Interdiction/Enforcement Process."
8 Number 3:

9 "Establish on-site enforcement -
10 compliance presence (interviews for LCT)
11 (pro-active interdiction)."

12 Was this -- well, let's break it down a little
13 be the. Was an onsite enforcement presence
14 developed in response to this suggestion?

15 A It was. It was part of the initial strategy.
16 It was reflected in phase 3, but phase 3 was not
17 implemented during my time. It was set to be
18 implemented at the end of December of 2013 after
19 my departure in September of 2013.

20 Q Okay. And similarly was proactive interdiction
21 by way of interviewing patrons similarly not
22 implemented during your time?

23 A Yes. And it was also similarly contemplated
24 as -- in part 3 of the strategy.

25 Q Okay. So with respect to -- thank you. So at

1 least with respect to the three proposals that
2 I've identified, they were proposals that were
3 on the mind and considered but deferred until at
4 least after your departure?

5 A That's correct.

6 Q Okay. Did the cross-divisional working group
7 continue throughout your time with GPEB?

8 A It did.

9 Q You mentioned Mr. Vander Graaf and Schalk in
10 your affidavit, they were members of the group?

11 A Yes, they were.

12 Q And I gather from the evidence they've given and
13 from your affidavit that they were through this
14 group and otherwise regularly raising with you
15 concerns about the volume and nature of cash --
16 suspicious cash being used to buy in at British
17 Columbia casinos?

18 A Yes, that's fair.

19 Q And they created documents titled "Reports of
20 Findings" which were in some instances forwarded
21 to you?

22 A That's correct.

23 Q You referenced a couple of those in your
24 affidavit?

25 A Yes.

1 Q And rather than going to them, I just want to
2 ask you a couple of questions and see if we can
3 do this perhaps in a summary fashion.

4 Mr. Vander Graaf and Mr. Schalk
5 periodically created these reports?

6 A That's correct.

7 Q And they sometimes focused on a particular
8 individual or event but also were sometimes more
9 a general update on the issues related to cash
10 in casinos and their thoughts on that?

11 A Yes. I only have a recollection of the one that
12 is referenced in the affidavit on the
13 individual.

14 Q Okay.

15 A I've seen more that were more broad in nature.

16 Q And I'm going to suggest there was a certain
17 consistency to the messaging in these documents,
18 and I'll see if you're reading is the same as
19 mine. There was a consistency in raising
20 concerns about suspicious cash and the fact that
21 the quantity was growing?

22 A Yes, I would agree.

23 Q And concern expressed about the increasing value
24 of buy-ins? Particularly in \$20 bills.

25 A Are -- I'm sorry, I just want to be precise.

1 Are you speaking in terms of the quantum for
2 each individual buy-in or the combination of
3 buy-ins?

4 Q The combination of buy-ins.

5 A Yes. Yes.

6 Q And there was -- in these reports the author
7 expressed their views that this represented the
8 laundering of funds through casinos?

9 A Yes.

10 Q And they were expressing their views
11 consistently but the cash alternative measures
12 implemented by BCLC were not slowing the amount
13 of cash entering casinos?

14 A Yes. That came later in sort of time for me.
15 That came as -- once we had begun implementing
16 them and then we did a review of the efficacy
17 that Bill McCrea led, and they did express that
18 at that time, yes.

19 Q And there were at times recommendations that a
20 cap on cash be implemented?

21 A Yes, there were.

22 Q And there was also expression of a view that
23 there should be a focus on a source of funds
24 specifically as opposed to just the source of
25 wealth of the players?

1 A Yes, there was. And it's something that I
2 agreed with.

3 Q Yes. And ultimately something you took up to
4 advocate for.

5 A Yes.

6 Q Okay. And we'll come to that shortly.

7 With respect to each of these messages that
8 I've set out that were consistently communicated
9 in these reports of findings, did you accept
10 what Mr. Vander Graaf and Mr. Schalk were
11 telling you as accurate?

12 A I did, yes.

13 Q Okay. I'd like to ask you a few questions about
14 the Gaming Policy and Enforcement Branch's AML
15 strategy.

16 MR. MCGOWAN: And maybe just to start, I'm going to
17 ask that we turn up paragraph 39 of Mr. Scott's
18 affidavit.

19 THE WITNESS: Mr. McGowan, I don't know if it's
20 appropriate at this time but I'll just ask. The
21 strategy and the vast majority of all my actions
22 in relation to AML were reflective of how I
23 viewed the context of the time, and there's sort
24 of a handful of contextual drivers, if you will,
25 that drove my thinking. And if it's

1 The second is that BCLC had responsibility
2 and control over the operational response to
3 AML. And while, before my time, investigations
4 had expressed a number of concerns, it was BCLC
5 in the role as manage and conduct that made the
6 operational decisions on how to handle the cash
7 coming in. And so as you'll see later -- I
8 thought it was important that GPEB assert itself
9 in this role as possible.

10 The third is the relationship between BCLC
11 and GPEB, most specifically between
12 investigations division and BCLC, which was not
13 operating at a high-functioning level, and in my
14 view impaired our ability to effectively respond
15 to money laundering, the risk of money
16 laundering.

17 The fourth is the volume of cash coming in
18 was enormous. My recollection is it was more
19 than \$6 billion a year that was coming in. I
20 understood at the time that this was as a result
21 of a government policy that had been established
22 early on, and that government policy was based
23 on a responsible gambling perspective. The view
24 being that people should have to leave a casino
25 in order to get more money before gambling to

1 prevent overspending. But what had happened
2 over 10 years is that the harms profile, if you
3 will, changed dramatically because the money
4 coming in went from millions at the inception of
5 commercial casinos to, as I said, over
6 6 billion. And that was a key issue that we had
7 to deal with.

8 The fifth influencer in this context for me
9 was the imperfect information on which we had to
10 base our decisions. STRs were imperfect, but
11 they were the best evidence we had, and there
12 was suggestions of a cash culture within casinos
13 and within the local community, cash coming in
14 from overseas, that confused our ability to have
15 a clear visibility on the nature of our problem.

16 And finally, the sixth one was the summary
17 review authored by Mr. Kroeker was identified --
18 pardon me, it was accepted in full by government
19 and it was therefore my responsibility as a
20 first priority to implement that report. So
21 those six sort of contextual influences were --
22 how would I best say it -- were what was on my
23 mind as I considered the various options and
24 developed the strategy for how to deal with
25 anti-money laundering.

1 Q Okay. In your identification of these
2 influences, is this an analysis you'd conducted
3 at the time in your role as General Manager or
4 is this an analysis you've arrived at upon
5 reflection more recently?

6 A It is -- no, it's absolutely the things that I
7 identified at the time. I did not organize them
8 in this fashion before this. I did that in
9 order to hopefully make it helpful for the
10 commission. But all of those six things were
11 absolutely what I was considering as we went
12 forward with this strategy.

13 Q Okay. Thank you. I'm just going to ask you
14 about paragraph 39. And it's, I think,
15 something you identified as your first
16 influence.

17 "Initially, my impression of the BCLC and
18 service provider (casinos) AML activity
19 was that it was limited to only meeting
20 legal obligations (specifically, reporting
21 suspicious and large cash transactions to
22 FINTRAC). In the absence of effective law
23 enforcement and prosecution capability to
24 investigate money laundering and use of
25 proceeds of crime in BC casinos, reporting

1 alone was, in my view, of virtually no
2 use."

3 So let if me ask you, in your time as General
4 Manager of GPEB did you ever view what you
5 understood to be a law enforcement or
6 prosecution response to the issue of proceeds of
7 crime entering casinos?

8 A I'm sorry, did I ever consider it? I don't --

9 Q No, did you ever observe what you under -- did
10 you ever observe a law enforcement or
11 prosecution response to this issue in your time?

12 A No.

13 Q What steps did you personally take to instigate
14 such a response?

15 A A law enforcement response?

16 Q A law enforcement or prosecution response.

17 A Yeah, personally I did not undertake any. That
18 was the investigations group. Larry Vander
19 Graaf liaised with police and provided police
20 information during my tenure.

21 Q And those -- that liaising wasn't resulting in
22 action?

23 A No. To the best of my knowledge it was not.

24 Q Did you consider reaching out through your
25 Associate or Assistant Deputy Minister or Deputy

1 Minister to see if you could get the Minister
2 engaged to prompt some action?

3 A I did not.

4 Q Okay. Why not?

5 A I had just left the RCMP. I was in an economic
6 crime portfolio as an inspector in the
7 integrated market enforcement group in Calgary.
8 I'd also had quite extensive experience in the
9 Vancouver commercial crime section for a number
10 of years. And I left there with my belief that
11 there was no capacity in the RCMP, specifically
12 in financial crimes or proceeds of crime, in
13 order -- that would garner the attention -- that
14 we'd be able to garner the attention to have an
15 investigation done.

16 Q You, I gather, had formed the view that at least
17 tens of millions of dollars was being laundered
18 through British Columbia casinos annually?

19 A I didn't have in my mind a specific quantum. I,
20 as I had said earlier, felt that the STRs were a
21 very imperfect number, so I did not associate an
22 STR to -- directly to a quantum for money
23 laundering. But in totality I felt that it
24 indicated to me that there was proceeds of crime
25 entering the casinos.

1 Q Okay. And you didn't feel this was an issue
2 that was of sufficient concern that it would be
3 elevated on the priority list of the RCMP even
4 with the prompting of a minister, perhaps?

5 A I did not believe it would be. And, again, as I
6 said, based on my past experience but not only
7 that. Before I was there they had a dedicated
8 unit focused on investigating, amongst other
9 things, you know, wrongdoing in casinos --
10 IIGET. I believe it was named -- and it was
11 disbanded. I am not sure -- I think it was two
12 years before I arrived or something in that
13 range.

14 So my belief, my combined belief, if you
15 will, was having been there and seen what the
16 resource situation was and having known that it
17 had previously been tried by the RCMP in
18 E Division and was disbanded, I didn't think
19 there was a significant likelihood of getting
20 their attention. And so quite frankly, we, as I
21 think people know, operate on very tight
22 resources, and I didn't think that was the
23 proper allocation of effort to try and encourage
24 the police to investigate.

25 Q Okay. Did you understand that IIGET had

1 involvement in attempting to deal with the issue
2 of suspicious cash entering casinos?

3 A I don't have strong knowledge of IIGET.

4 Q Fair enough. If we could turn up paragraph 40,
5 please. The next page. Thank you.

6 This, sir, is the area of your affidavit
7 where you outline GPEB's three-phase AML
8 strategy?

9 A Yes.

10 Q Who developed the strategy?

11 A The X-DWG did collaboratively.

12 Q And was that in 2011?

13 A Yes, it was, but it was an iterative process
14 also that would have rolled into 2012.

15 Q Okay. And did you approve the strategy?

16 A Yes.

17 Q Okay. At phase -- do I gather correctly that it
18 was a three-phase approach with the phases not
19 overlapping but being consecutive in nature?

20 A No. I would consider them to be overlapping,
21 and I believe I put that in the affidavit.

22 Q Okay.

23 A Because, you know, all of phase 1, for example,
24 with the service providers' intervention, the
25 expectation was it would continue on

1 essentially, you know, in perpetuity. Now
2 strategies always change -- I think we
3 appreciate that -- as they go forward, but the
4 intention is that they would be more overlapping
5 rather than a start and end to each phase.

6 Q So I gather correctly that phase 3 was going to
7 be held off to see if phase 1 and 2 -- see how
8 effective phase 1 and 2 were?

9 A Yes. Because phase 3 was -- is the portion
10 where GPEB intervenes directly, and phase 3 is
11 intended to drive that -- a couple of key things
12 in the context. One being that BCLC had control
13 over the operational response to money
14 laundering, and so the overall strategy itself
15 asserts GPEB. It's the mechanism by which I
16 intended to assert GPEB's influence over the
17 money laundering response at the strategic
18 level. And so it was understood at this time
19 that BCLC still had responsibility and would
20 aggressively address the suspicious cash that
21 was coming in at the time while GPEB was working
22 on this overall strategic response. And so by
23 so doing we were able to sort of engage
24 ourselves and influence A ML where before we
25 were absent other than to express concerns.

1 What phase 3 contemplates is engaging
2 directly, virtually taking over the operational
3 response that BCLC up to that point had been
4 responsible for. So if it was unnecessary, if
5 the STRs had been driven down to levels that,
6 you know, we could consider reasonable, then in
7 my view we wouldn't need to go to phase 3
8 because phase 3 was a significant cultural shift
9 and involved reconsideration of responsibilities
10 as had been traditionally outlined over the
11 10 years of the *Gaming Control Act*.

12 Q Okay. So phase 1 was cash alternatives. Did
13 you understand these to be voluntary
14 alternatives?

15 A Yes. In phase 1 --

16 Q I mean on the part of the patron was voluntary.

17 A Yes, participation of the patron was definitely
18 voluntary. Yes, that's correct.

19 Q Were you concerned that purely voluntary
20 programs might not be effective in addressing
21 the problem if there were, as your investigators
22 suspected, individuals who were motivated to get
23 their cash into BC casinos?

24 A No, I wouldn't describe it as concerned because
25 my objective -- and I'm using the word "my" of

1 course because I'm providing my evidence and I
2 want to be careful not to provide anyone else's,
3 but I don't want to give the impression that I
4 was doing this on my own. This was a bit team
5 with a lot of people -- so I think you know
6 that -- doing hard work.

7 Q Yes.

8 A But my view of this was the cash alternatives
9 were an important baseline because we had an
10 industry that was a hundred percent cash by
11 mandate of government and we had \$6 billion
12 coming in, as I had mentioned. That was a key
13 issue that we were dealing with. And it's very
14 challenging, in my view. My view at the time,
15 it would be very challenging to identify or
16 discriminate between AML or -- or pardon me, not
17 AML, but suspicious cash or proceeds of crime
18 coming in and the vast majority of cash that was
19 coming in was legitimate.

20 So in my view it was a key foundational
21 piece to give legitimate players the option to
22 go to what I viewed would be much more
23 convenient ways to buy in. In order to clear
24 your cash out and make less -- the more
25 suspicious cash sort of rise to the fore, if you

1 will. So it was never intended -- cash
2 alternatives were never intended to -- or never
3 expected, I should say, not "intended." It was
4 never expected that they would be used by the
5 money launderer.

6 So it didn't surprise me at all that it
7 didn't change the amount of suspicious cash
8 coming in. Rather it was intended to set the
9 baseline for moving legitimate players into a
10 more convenient to get the cash level down
11 because the high level of our risk, as I
12 mentioned before, was just the volume of cash
13 coming in.

14 Q Right. In the last sentence of this phase 1
15 description you identify that GPEB was to
16 continue to gather more information on the
17 nature of cash entering casinos and analyze
18 these funds. How was GPEB going to gather that
19 information?

20 A As they did -- as the reports that you
21 referenced earlier. Not just those reports,
22 though. They monitored the -- I think they're
23 called SCTs -- that came into GPEB, which were
24 essentially STRs. So they monitored those and
25 do those evaluations and bring those forward.

1 We often would have a briefing at our X-DWG, for
2 example, of what the situation was.

3 Q Wouldn't one obvious way to gather further
4 information about the nature or source of the
5 cash be to ask the patrons?

6 A Absolutely. Absolutely. And that's a key
7 aspect of discussions that I had personally
8 between -- it runs throughout, but with BCLC I
9 had those discussions, and it was my intention
10 that phase 3 would be not just that, but that
11 would be an absolutely key part to phase 3 if we
12 did -- if we intervened directly.

13 Q Why wait to phase 3? Why not just instruct your
14 investigators to go down and ask the patrons
15 where the money's from?

16 A I was advised -- well, BCLC was opposed to that.
17 It was their purview and their view to deal with
18 the patrons. But also investigations gave me
19 the same advice. I discussed that with Larry
20 Vander Graaf, put it very similarly to the way
21 that you put it. I described it as a reverse
22 onus. And so why don't we go down and talk to
23 these people and if they can't satisfy us that
24 the cash -- to your earlier point, not just the
25 wealth but that they can't satisfy us that the

1 cash came from a legitimate source, that we just
2 refuse it. So I called that -- I describe that
3 as sort of a reverse onus.

4 So to your question, yeah, perhaps -- did I
5 answer your question? Sorry.

6 Q I don't know. I mean, if you'd identified it as
7 a reverse onus and identified that the obvious
8 question was where are these bags of \$20 bills
9 coming from, why would you just -- why didn't
10 you just instruct your investigators to get down
11 to the casinos and park themselves there and ask
12 patrons bringing 50- and \$100,000 in 20s where
13 it came from?

14 A I was told my Larry Vander Graaf that they
15 didn't have the authority to do that, and they
16 didn't have the equipment to do that as well.
17 He referenced that they were not equipped for
18 dealing with those types of individuals.

19 Q Did you believe they had the authority to ask
20 those questions, private investigators?

21 A I believed -- I questioned the advice I was
22 getting. I wouldn't go so far as to say I
23 absolutely believed that they had the authority,
24 but what I didn't understand was why they're not
25 able to ask a question. It wasn't conducting a

1 money laundering investigation, in my view; it
2 was simply being a gatekeeper and interjecting.

3 So that discussion was an ongoing one in my
4 mind when I -- my intention was to resolve that
5 before we entered into phase 3. That and the
6 legal issue, as I was told, that it was outside
7 of their legal authorities.

8 Q Okay. And did you come to any resolution on
9 that issue before you moved on from your
10 position with GPEB?

11 A I did not.

12 Q Okay. Phase 2 is titled "Operator
13 Intervention." And this speaks, I gather from
14 your affidavit -- reading your affidavit, to:

15 "... BCLC and service providers becoming
16 more actively engaged in the promotion of
17 cash alternatives with high-volume
18 patrons, using a customer relationship
19 management approach."

20 So do I take it that phase 2, the primary
21 responsibility for implementing phase 2 was left
22 with the -- with BCLC and the service provider?

23 A Yes.

24 Q And phase 3 speaks to regulator intervention.

25 And this phase was not contemplated to begin for

1 this discussion around even cash caps or dealing
2 with the issues in a -- with more a regulatory
3 response, and so that would also occur in
4 phase 3 if the direct interventions were
5 unsuccessful by GPEB.

6 But I -- as I mentioned, I had two primary
7 things I had to get in place before that. One
8 was the legal framework to have clarity that it
9 was possible and make whatever changes would be
10 required. I was not sure whether they would be
11 by regulation or perhaps by statute. And I had
12 to address the concerns of investigations that
13 were expressed to me that they didn't feel that
14 that was their role.

15 Q Okay. By the time this plan was developed, your
16 investigators had been -- expressed to you the
17 view that a lot of these big cash buy-ins were
18 proceeds of crime?

19 A Yes, that was their view. Yes.

20 Q And you'd accepted that view?

21 A Yes. I did. As I -- the only caveat I would
22 put around that is I didn't know what portion of
23 the cash buy-ins were and what weren't. I
24 didn't by immediate default say anything that's
25 really large, for example, be suspicious. I --

1 especially in the early days. I accepted the
2 arguments of BCLC that there were a lot of
3 wealthy people out there. I couldn't appreciate
4 it myself. That kind of wealth is
5 extraordinary, but I appreciated the argument
6 that it did exist.

7 And so I wouldn't say that I felt every
8 transaction was certainly money laundering, but
9 in totality I believed that a portion of it was
10 proceeds of crime coming into casinos.

11 Q Okay. Well, in the face of that conclusion, did
12 you not feel it important to direct decisive
13 action on the part of the regulator immediately
14 as opposed to deferring any direct engagement on
15 the part of the regulator for two years?

16 A At the time I thought the pacing was
17 appropriate. I should actually -- at the time I
18 was new to government and I was shocked how long
19 things took to be sure. And so the first part
20 as we worked through cash alternatives took
21 much, much longer than I had imagined it would.
22 But I also knew that it takes time for the
23 industry to adjust. This is a multibillion
24 dollar industry that's built on a certain
25 policy, and we were trying to change that policy

1 and turn a ship. So it was not, in my view,
2 completely unreasonable to give time for the
3 industry to make that adjustment.

4 For example, I think in the documentation
5 it references enhanced due diligence that was to
6 be implemented by FINTRAC. FINTRAC announced it
7 in 2013 and it was to be implemented a year
8 later, I believe, in 2014, if I'm not mistaken.
9 So that was not an unusual practice to give an
10 industry time to react.

11 At this time in my mind the expectation was
12 BCLC at the operational level was directly
13 engaging in preventing the cash from coming in.
14 It was their responsibility. They made it clear
15 to me that it was their view that it was their
16 responsibility. And so I understood that they
17 would and should be doing that at that time as
18 well.

19 So I don't want to leave the impression with
20 you that we were just absent and letting things
21 happen while we built our strategy. Rather we
22 were building the strategy while we had
23 prevention measures in -- while BCLC led those
24 measurement -- measures.

25 Q Wouldn't mandating use of cash alternatives over

1 a certain dollar value from the outset have
2 immediately addressed the concern while still
3 leaving a viable option for anyone with
4 legitimate funds to game?

5 A I'm sorry, could I just back up to your previous
6 question because I think it's important for me
7 to acknowledge what you were saying. Is in
8 retrospect -- so at the time I was frustrating
9 with the speed, but I felt the pacing was
10 correct and I'm not in that world anymore, so I
11 can't recall all the things, all the pressures
12 that were happening. But it is fair to say --
13 and I've given a lot of reflection to this --
14 that in retrospect, when I look back, I think
15 that I should have accelerated or at least done
16 the underpinnings for accelerating phase 3.

17 So I mentioned that essentially I needed to
18 do -- make a culture change with investigations
19 and I needed to deal with the legal issues. I
20 hadn't in earnest started that. In September
21 I'd started to work with Larry, and I believe
22 there are some emails that indicate he's asking
23 his team about that role, but I hadn't started
24 the legal part in earnest, and so in retrospect,
25 I acknowledge that I think I could have

1 complex. And, you know, my experience in public
2 policy, now 10 years -- then it wasn't very
3 much, but I was trained in this issue -- it's,
4 in my view, an obligation of the civil service
5 to consider all of the stakeholders that would
6 be impacted by a public policy.

7 And at the time my understanding was that
8 the issue we were dealing with, though the
9 numbers were enormous and extremely distasteful
10 to me, they were at the outset somewhere in the
11 range of -- I think less than 1 percent of
12 buy-ins. And we had a policy -- we had a BCLC
13 response. We had a policy of cash in, cash out
14 that prevented the money from being converted to
15 cheques. So someone comes in with certain
16 denominations; they leave with the same
17 denominations. So they don't receive a cheque.
18 So placement was not happening.

19 So with all those things in place, I felt
20 that the application of a cash cap was too blunt
21 an instrument because we had very specific
22 suspicious cash coming in, and it would impact
23 all the other stakeholders related to gaming
24 unnecessarily because there was other options
25 before doing a cash cap. That was my view at

1 the time.

2 Q Was GPEB's response to this issue tampered by
3 concerns about potential impact on revenue?

4 A Well, the short answer is yes, but I think it's
5 important that I explain what that means because
6 it's really what I just said. Because revenue
7 is -- it appears like it's a bad thing when we
8 say "revenue." But revenue is revenue coming in
9 for the public good and I had to think of those
10 stakeholders that would be impacted. So you
11 have charities. You have the taxpayers. You
12 have an industry that's been built on a certain
13 rule, which was cash only rule. You have
14 10,000 employees. So there are many
15 stakeholders that, in my view, it was my
16 obligation to consider, and the response needed
17 to be proportional.

18 So I don't want to go too far astray, but
19 in my view this is the classic consideration
20 that public policy requires is you have a
21 continuum of options. You can go to an extreme
22 on either side, and it has impacts on the harms
23 to various stakeholders. And the goal of public
24 policy in the public interest is to the manage
25 those harms effectively. So if you're building

1 roads, you could build roads that would ensure
2 no one would die on the roads, but it would be
3 so expensive you couldn't build hospitals and
4 schools.

5 So I'm taking it to an extreme, but -- and
6 not to be challenging, Mr. McGowan, but I'm just
7 trying to show the considerations that I'm
8 trying to navigate to make sure that the public
9 policy that we enacted is in the public interest
10 considering the balance of all the harms to the
11 various stakeholders in the industry.

12 Q And thank you for sharing that. I think it's
13 important for the Commissioner to have the
14 context in which you made your decisions and I'm
15 happy for you to explain any of your answers in
16 the way that you think is important. So please
17 don't hesitate to do that and don't worry about
18 the length of your answers. It's all very
19 helpful.

20 A Thank you.

21 Q You had spoken about reversing the onus, and I
22 think we can all accept that there were
23 legitimate players buying in with cash because
24 of the history and the fact that it had been a
25 large cash-based regime, but I think a lot of

1 people have difficulty conjuring up a legitimate
2 explanation for \$100,000 or \$200,000 in a
3 grocery bag in \$20 bills at 11 o'clock at night.
4 And you've spoken of a reverse onus.

5 Why from the outset didn't you at the very
6 least with respect to large cash buy-ins in the
7 50- and 100- and 200,000 range require some
8 establishment of a legitimate source?

9 A Yeah -- no, I appreciate the question. At that
10 time when I was in that place it was fully the
11 purview of BCLC at that time. Larry Vander
12 Graaf had made his concerns clear. I also did
13 and at differing times adamantly argued for that
14 kind of reverse onus type of approach.

15 But, you know, I'll be honest. Hearing you
16 say it again and I thought about it in
17 retrospect, could I have driven it harder for
18 BCLC; could I have approached it differently,
19 you know, escalated it differently? I think
20 perhaps I could have. But at the time I thought
21 that that was the purview of BCLC. And we were
22 strongly arguing for that. I felt like we were
23 engaging in AML where we weren't before with the
24 strategy, and in engaging we had BCLC sort of on
25 a track away from reporting to action. Some

1 sort of reporting to prevention. And in
2 retrospect perhaps I should have driven harder
3 on that issue with BCLC in the day.

4 Q Yeah. You talk about BCLC and maybe the service
5 providers, but certainly BCLC in your view
6 needing to go beyond simply reporting.

7 A Yes.

8 Q In the time you were with GPEB did you ever
9 understand a service provider to have refused a
10 buy-in regardless of how suspicious or did you
11 ever understand BCLC had instructed a service
12 provider to refuse a buy-in?

13 A Not -- I don't -- just -- if you would just give
14 me a moment. I don't believe so. It certainly
15 wasn't so notable that it jumped to my mind.

16 I'll just elaborate very, very quickly.
17 The mindset when I arrived was very clearly
18 reporting. Our job is to report. If we meet
19 the expectations of FINTRAC, we have done our
20 job. So it's back to that professional model
21 that we discussed earlier. And it was our
22 intention to move that, so move to action. And
23 that was one of the what I thought was really
24 key benefits of the strategy is with BCLC and
25 the service providers agreeing to the strategy;

1 it's agreeing to action. And now, you see, what
2 BCLC was doing was not completely irrational
3 because they're held to account by FINTRAC. As
4 you know, they got a financial penalty from
5 FINTRAC. So their risk, if you look at the risk
6 they were dealing with, was in failing to
7 report. Their risk wasn't failing to prevent.
8 That wasn't a risk for them at that time.

9 So one of the key aspects of the strategy is
10 to bring them in. They make a commitment to
11 action. That commitment is reflected in a
12 mandate letter from a minister, for example, and
13 then it's in a service plan and now they're held
14 to account. So now it's you fail to implement
15 phase 2 in a way that's satisfactory to GPEB,
16 those sort of things. So now we have something
17 that -- we've created a risk for them.

18 I'm giving the impression that BCLC is a
19 bunch of terrible people. I don't want to give
20 that impression. But they're responding to
21 their context. And so I think it was a key
22 aspect of this strategy to get them to commit to
23 action and then be accountable for it.

24 MR. MCGOWAN: Okay. If we could turn up
25 paragraphs 43 and 44 of Mr. Scott's affidavit,

1 please.

2 Q And in paragraph 43, sir, you're speaking of a
3 fall 2011 meeting you had with Mr. Graydon and
4 Mr. Baker?

5 A Yes. And there was -- well, one other CEO there
6 at the time, a CEO from Gateway whose name I
7 can't recall. I apologize.

8 Q Okay. And if you could remind the Commissioner
9 who Mr. Baker is, please?

10 A Mr. Baker is the -- or was at the time the Chief
11 Executive Officer of Great Canadian Gaming
12 Corporation.

13 Q Okay. And you say in paragraph 44:

14 "The key message I conveyed in this
15 meeting and in subsequent discussions was
16 that if BCLC and the industry were unable
17 to stop the flow of suspicious cash into
18 casinos, GPEB would directly intervene."

19 A Yes.

20 Q And is what you're speaking to there phase 1 and
21 phase 2 need to be successful or were moving to
22 phase 3? Is that the message you're conveying?

23 A Yes.

24 Q Okay.

25 A Yes.

1 MR. MCGOWAN: And if we could just turn over to page
2 51 at the top of page -- paragraph 51 at the top
3 of page 12, please.

4 Q And you're speaking here, sir, about BCLC's
5 comments on a progress review, but I think also
6 about the different world view, as you describe
7 it, of the two organizations. So I'll just read
8 this paragraph:

9 "BCLC's comments on the draft Progress
10 Review were consistent with statements
11 made to me by Mr. Desmarais and
12 Mr. Graydon in various calls or meetings
13 we had to discuss AML issues while I was
14 GM of GPEB and are illustrative of what I
15 would describe as BCLC and GPEB's
16 differing 'world views' regarding AML
17 issues. Generally speaking, during my
18 time as GM, I often heard BCLC
19 representatives express that proof or
20 confirmation from law enforcement was
21 required before what was happening in
22 terms of the amount of suspicious cash
23 being brought into BC casinos could be
24 characterized as money laundering or the
25 proceeds of crime."

1 And is what you're communicating here was an
2 observation that perhaps BCLC was failing to
3 appreciate how serious the risk was or how
4 serious the amount of proceeds that were making
5 their way into British Columbia casinos?

6 A That is generally how I felt. I think it's --
7 but it's also a -- I felt like -- that BCLC in
8 my tenure went through sort of these two phases.
9 The first phase was it's not our job; we're
10 going to report. Our job is to report and it's
11 the police's job to investigate. And then it
12 shifted with Mr. Desmarais coming in to more
13 seriously taking -- and along, I hope, with the
14 strategy to take action.

15 But then in that action -- taking action
16 phase this shifted from it's our job to report
17 only to we have to have proof; there has to be
18 proof before sort of we act. And that's why a
19 key element that I introduced -- I'm not sure --
20 it would have been probably 2018 is we were
21 getting hung up on this issue. It's not proof,
22 so if it's a crime, you can't prove it. As I
23 mentioned before, I knew that no one could prove
24 it. It wouldn't be proven for years.

25 So I introduced the idea of the perception

1 of money laundering is just as bad as money
2 laundering. And what I was -- the analogy that
3 I would make is, you know, if you declare you
4 have -- we in the public service, we have to say
5 whether we have a conflict of interest or a
6 perceived conflict of interest. So I was moving
7 to the perception aspect and saying that the
8 perception is still an integrity of gaming
9 issue, just the perception of someone walking in
10 with a duffel bag of cash is. And so we have to
11 deal with it just the same way as we have to
12 with -- if we were able to prove it.

13 And the reason for that is I had to get rid
14 of that whole discussion because, in my view, it
15 was a distraction. It was not relevant whether
16 we could prove it or not. We had evidence. It
17 was reasonable to suspect that it was coming in,
18 and so we had an obligation to stop it. And I'm
19 sorry, I have talked too long on that one. But
20 that was --

21 Q No, that's fine. And your view -- your
22 understanding, at least the view you'd formed,
23 was that Mr. Desmarais and Mr. Graydon felt that
24 in order to act they would require proof from
25 law enforcement?

1 A That was my impression, yes.

2 Q And your impression was also that law
3 enforcement wasn't investigating?

4 A Yes, absolutely. But it was fair I should add
5 that I understood Brad Desmarais had created
6 contacts with law enforcement that could advise
7 on an intelligence basis and not necessarily a
8 sort of beyond reasonable doubt basis. So I
9 think it's important to acknowledge that.

10 Q Did you consider whether given these difference
11 in world view the primary responsibility for
12 taking action against money laundering in the
13 first two years of the phase should have been
14 left with BCLC or whether it may have been more
15 appropriate to situate it squarely in the hands
16 of the Gaming Policy and Enforcement Branch who
17 was the regulator charged with protecting the
18 integrity of gaming?

19 A At the time I certainly would have -- at the
20 time I thought it belonged with GPEB, and I was
21 surprised that it didn't. So the methods I've
22 described with the strategy was how I tried to
23 assert GPEB into the role. I did not, however,
24 directly move straight to trying to, for
25 example, as we're doing now, change the statute

1 and the regulations, et cetera. I didn't make
2 that move.

3 The reason I didn't make that move is
4 twofold, I would expect. First is I didn't have
5 command of -- I was new to government. I didn't
6 necessarily have command of what the mechanisms
7 would have been to accomplish that. And thirdly
8 [sic], I knew -- or I believed at the time I
9 would have had to have built a very strong case
10 about the need to do that because this had been
11 the way it had been operating for over 10 years,
12 since the inception of the act. And I didn't
13 feel prepared to do that. And I felt the
14 other -- as I mentioned, prioritizing what I
15 thought was most important, most quickly.

16 Again, like item 6, the Kroeker Report was
17 mandated; government said, you must get this
18 done. And that's my job, is to execute the will
19 of government. And so they had made that clear
20 as a priority. So I had to do that at the same
21 time, which rolled into the strategy.

22 So that's the reason I didn't directly
23 tackle the issue of statutory responsibility, if
24 you will.

25 Q Okay. I'd like to ask you a couple questions

1 about paragraph 73 of your affidavit. You say:
2 "Later, through my dealings with Brad
3 Desmarais, I continued to encourage BCLC
4 to begin interviewing patrons to assist in
5 identifying the source of funds. In
6 response, Mr. Desmarais told me that BCLC
7 knew their customers, had done due
8 diligence on them and confirmed they had
9 the wealth to play at the levels they
10 were. During this time I was concerned
11 that inquiring about a patron's source of
12 wealth did not fully address the issue as,
13 based on my past experience in the RCMP, I
14 shared Mr. Vander Graaf's view that these
15 players were likely buying street cash and
16 so I wanted BCLC to make source of funds
17 part of BCLC's due diligence process.
18 Mr. Desmarais expressed his view that a
19 lot of the cash reported in STRs was
20 legitimate, and that only a small
21 proportion was proceeds of crime.
22 Mr. Desmarais also expressed the view that
23 that patrons were transporting physical
24 cash from China. While I respected
25 Mr. Desmarais and his experience, this

1 explanation did not seem logical to me."

2 I'd like to ask you just a couple of questions
3 about that paragraph, sir. You say that you
4 were engaging BCLC to interview patrons to
5 assist in identifying the source of funds. Did
6 you understand that ever to have commenced or
7 taken place during your time with GPEB?

8 A During my time, I don't believe it did.

9 Q Okay. Did -- this seems like something you
10 thought was pretty important in terms of
11 tackling the issue.

12 A Yes, it was very important. And I hate to make
13 caveats. I just -- it's important to me -- I
14 did put it later in the affidavit. I have a
15 great deal of respect for Mr. Desmarais, and he
16 came with great credentials. But we did have
17 this disagreement. We had a number of meetings.
18 I remember one specifically where he outlined
19 his plan which involved an intel unit that had
20 capability with open source, et cetera, to --
21 again, it's about identifying the bad people,
22 the organized crime, and it appeared to me to be
23 a very expensive undertaking. And at that time,
24 you know, as an ex-police officer I liked the
25 idea of the plan but I said to Mr. Desmarais,

1 why don't we just go interview them, just go
2 talk to them and satisfy yourselves that the
3 cash is legitimate. So that was one specific
4 occasion I recall, but there were others.

5 Q Right. So if you're repeatedly encouraging this
6 and it's not happening, did it ever reach a
7 point in your mind where you felt it appropriate
8 to elevate it and see if you could get somebody
9 superior to you in government to direct BCLC to
10 take this step?

11 A The shorter answer is no. What was in my mind
12 was phase 3 coming. And that's when we'd take
13 action.

14 Q Okay. You say that Mr. Desmarais's view about
15 patrons transporting physical cash from China
16 did not seem logical to you. Was Mr. Desmarais
17 to your understanding speaking about the
18 \$20 bills that were being used to buy in?

19 A Yes, that was my perception, but I don't have a
20 recollection of him specifically saying \$20,
21 that's what's left in my mind.

22 Q Okay. Why did that seem illogical to you?

23 A Well, just the weight. That's exactly what was
24 in my mind. I imagined the weight of this money
25 coming over from China in an airplane. And I'm

1 not an expert. I've, in my past, done a search
2 of an airplane bay for counterfeit, which weighs
3 a similar amount. It's heavy. And so it just
4 seemed to me that it would be high risk to try
5 and transport money like that. It didn't make
6 sense to me. But, you know, again, I did --
7 Brad had -- pardon me, Mr. Desmarais had a lot
8 of experience in this area, but it just didn't
9 make sense to me.

10 Q Is what you were suggesting at the time with
11 respect to source of funds inquiries or the
12 reverse onus, you must establish a source before
13 buying in with it, was that essentially what was
14 put in place following Dr. German's interim
15 recommendation in 2018? Were you proposing back
16 in 2012 essentially what was put in place six
17 years later?

18 A Yes, yes. And also partially reflected. I
19 would say it's a combination of the cash
20 conditioning that started in -- I think '15 or
21 '16 and German. But yes, more accurately it was
22 source of cash. But I really had in my mind,
23 like, a sit-down interview of -- with the really
24 high-value players where -- more than just a
25 cash declaration, if you will, you know, and a

1 discussion or proof writing down where -- the
2 sourced. I envisioned an interview with a
3 trained investigator for those high-value
4 people. So it's a little different, but it's
5 similar.

6 Q What do you think would have happened if your
7 proposal about reversing the onus on cash had
8 have been taken up in 2012?

9 A No, I think it would have ended the issue. I
10 think the combination of cash conditioning and
11 Mr. German's recommendations make it clear that
12 if that was done, I think it would have been
13 over. I mean, we would have had to continue to
14 improve and the money launders would have tried
15 to find different ways and we would have been
16 looking at bank drafts, but I think the cash
17 issue would have been resolved.

18 Q Okay. Why didn't you seek a ministerial
19 directive? Maybe I should ask you first of all
20 if you did, but I think I understand that you
21 didn't.

22 A No, you're correct. I didn't seek a ministerial
23 directive, and it's really for the reasons I
24 described before. I had, in my view, phase 3
25 coming, and in phase 3 we were going to do it

1 ourselves. And I just felt that the challenge
2 would be to be persuasive enough to say that
3 this was necessary.

4 Q Did you -- in your mind was GPEB, BCLC's
5 regulator?

6 A Halfway.

7 Q What do you mean by that?

8 A What I mean by that is that -- well, first of
9 all, we had the ability to give them directives,
10 and I actually note in my affidavit in
11 preparation that, you know, I say that we
12 didn't, but what I -- there's a word missing
13 there. We didn't unilaterally have the ability
14 to give a directive to BCLC because it required
15 ministerial approval. And I apologize I've lost
16 my train of thought, so if you could --

17 Q No, that's fine. I think you're responding to
18 the issue of whether you -- GPEB is BCLC's
19 regulator.

20 A Oh, yes. Thank you. And so because -- AML is a
21 great example. We didn't have -- you know, I
22 would have done the strategy anyway because I
23 really believe it required the engagement of
24 everyone to solve the problem, but we needed to
25 do those kind of things to assert our influence.

1 We couldn't just walk in and assert it. So
2 that's why I say halfway.

3 You can see in the act that it tempers our
4 authority over BCLC. We are allowed to audit
5 them. We do audit -- or pardon me, we did audit
6 them during my time. So we definitely acted in
7 a -- as a regulator in some fashion. We
8 approved games, we approved policy, but we
9 didn't have the full authority, in my view, of a
10 regulator over BCLC.

11 Q Okay. I gather from your evidence was that
12 absent approval of the minister, you couldn't
13 direct BCLC to take steps such as requiring
14 establishment of source of funds or capping
15 cash?

16 A No. We would approve it, but we couldn't
17 require it.

18 Q You've shared in your affidavit and through your
19 evidence today some views you have about what
20 steps could have been taken or should have been
21 taken by others. I'd like to ask you about what
22 it was that your investigators were doing.

23 We've heard evidence from a couple of
24 investigators who were in GPEB for significant
25 periods of time, and at least one of them shared

1 with the Commissioner that he spent most of his
2 time reviewing reports from BCLC and service
3 providers and reporting on their contents to his
4 managers. Did you understand that to be a
5 significant portion of what your investigators
6 were doing?

7 A On -- from the AML perspective? Yes, that's not
8 inconsistent with what I thought they were
9 doing. They had responsibilities beyond AML,
10 and I believed and expected and I reviewed some
11 investigative files, for example, on things that
12 they were doing elsewhere, cheat at play and
13 thefts and other things.

14 Q Okay. Can you advise the Commissioner what, if
15 any, action -- and I'm not talking about
16 reviewing the reporting; I'm talking about
17 action your investigators took during your time
18 to combat suspicious cash and potential money
19 laundering in British Columbia casinos?

20 A I don't believe they took any unilateral action.
21 I believe they assisted police at times that
22 were conducting some sort of investigation or
23 perhaps intelligence probes. I'm not sure what
24 the nature of the police work was, but I believe
25 they assisted police with matters related to

1 money laundering.

2 Q Okay. When you say assisted police with matters
3 involving money laundering, I thought I'd
4 understood your view to be -- your understanding
5 to be that police weren't investigating.

6 A No, I don't think they were in any meaningful
7 way, but they -- for example, they may be
8 working on another file, and it transits through
9 gaming, for example. And then they may enlist
10 the assistance of investigations for that
11 purpose through the casino, if you will. I
12 wasn't aware during my tenure of any
13 investigation of money laundering within the
14 casino.

15 Q Okay. We've heard some evidence, and I just
16 wanted to ask you in a general way about it. Do
17 you recall ever hearing anyone with BCLC raise
18 privacy concerns as a barrier to asking patrons
19 about the source of the cash they were buying in
20 with?

21 A I don't recall that, no.

22 MR. MCGOWAN: Okay. Mr. Commissioner, I have -- I'm
23 not done with the affidavit yet, but occurs to
24 me I don't believe I've asked it to be marked.

25 Q So I'll just ask you, Mr. Scott, you, in an

1 effort to assist the commission in giving your
2 evidence, prepared an affidavit which discusses
3 in some detail your time with GPEB and outlines
4 your observations and activities during that
5 time?

6 A Yes.

7 MR. MCGOWAN: Mr. Commissioner, if the affidavit
8 could be marked at this point as the next
9 exhibit, please.

10 THE COMMISSIONER: Yes, very well. That will be
11 marked the next exhibit.

12 THE REGISTRAR: Exhibit 557, Mr. Commissioner.

13 THE COMMISSIONER: Thank you.

14 **EXHIBIT 557: Affidavit #1 of Douglas Scott**
15 **affirmed on February 3, 2021**

16 MR. MCGOWAN:

17 Q Yes. Mr. Scott, I'd like to ask you about the
18 extent to which you were reporting these issues
19 to your superiors.

20 A M'mm-hmm.

21 Q You have told us about reports that came to you
22 from Mr. Vander Graaf and others and discussions
23 you've had with GPEB, but I'd like to -- or
24 pardon me, BCLC. But I'd like to ask you now
25 about the extent to which you were elevating

1 these issues.

2 During the early part of your tenure and in
3 fact for most of your tenure you were reporting
4 directly to Ms. Wanamaker?

5 A That's correct.

6 Q What did you tell Ms. Wanamaker about the issue
7 of cash and money laundering in casinos?

8 A Initially our first discussions were around
9 Mr. Kroeker's report. I let Ms. -- advised
10 Ms. Wanamaker that I didn't -- that we would
11 implement the report but I didn't think it would
12 work, I wouldn't be enough, and we needed to
13 develop a strategy in order to solve the
14 problem. And she said, go build the strategy.

15 I then would have routine meetings with her
16 every month or two months, and I would provide
17 her an update on a variety of things. There
18 were many things, of course, as you would know,
19 going on with the branch. And then I advised
20 her on the progress with the strategy. I -- it
21 was routine discussion to talk about the
22 suspicious cash. And I must say I don't have a
23 specific recollection, but it would have been
24 natural for me to mention that the cash was
25 increasing and that we had concerns and that we

1 were going to continue, you know, on with the
2 strategy to deal with those concerns.

3 Q I guess I'm trying to see if you can help the
4 Commissioner understand the degree of alarm you
5 were raising. Did -- was the nature of your
6 communications, as you've just outlined, cash is
7 increasing; it's concerning; we're addressing
8 it? Or did you get to the point ever of
9 communicating to Ms. Wanamaker that you believe
10 millions upon millions of dollars in proceeds of
11 crime were entering British Columbia casinos?

12 A I would say that it was well known the scale or
13 the quantum. I wouldn't say that I emphasized
14 it the way you describe. And that could have
15 been -- I wasn't -- if the question is was I
16 really adamant, I actually felt that we were
17 going to solve the problem. It did not occur to
18 me -- or I didn't have any belief that this was
19 going to be an issue that lasted for any really
20 significant period of time. I was extremely
21 confident with the strategy and I believed that
22 it was going to be resolved or we'd resolve it
23 in phrase 3. So I would have presented it to
24 her in a more matter of fact way, I think, if
25 I'm answering your question more directly.

1 Q Okay. Did you communicate to Ms. Wanamaker that
2 your investigators believed and you accepted
3 that British Columbia casinos were being used to
4 facilitate the laundering of proceeds of crime?

5 A Yes, she was aware that I believed that proceeds
6 of crime -- yes, that proceeds of crime was
7 entering the casinos. Absolutely.

8 Q Okay. And did you communicate to her the
9 understanding or belief that that was part of a
10 money laundering scheme?

11 A A money laundering scheme? I'm sorry, would you
12 mind clarifying.

13 Q Your investigators had communicated to you their
14 belief that patrons were buying in with
15 essentially street cash and paying back the
16 person who loaned it in some other fashion thus
17 for the lender accomplishing laundering?

18 A Yes. I don't know that I -- I almost certainly
19 would have articulated it. It was my belief
20 that street cash was part of the issue. I
21 don't -- I can't say whether I described it as
22 elaborately with how the street cash is then
23 subsequently -- how the debt is then repaid, if
24 you will.

25 Q Okay. Did Ms. Wanamaker to your observation

1 accept your assessment of what was happening?

2 A Yes.

3 Q Did she push back against it?

4 A No, she did not. She expected me to solve the
5 problem.

6 Q Okay. Ms. Wenezenki-Yolland, were your
7 interactions with her of a similar nature?

8 A Yes.

9 Q Did you clearly communicate the concern about
10 proceeds of crime entering casinos?

11 A Yes. About the status of where we were, for
12 example, and -- yes.

13 Q Yes. Your tenure with her was short, but what
14 was her response?

15 A It was -- I don't have a vivid recollection of
16 her response, so it's hard for me to say exactly
17 what it would be. I'm nervous about assigning a
18 response to her.

19 Q Did she to your observation accept what you were
20 telling her about proceeds entering casinos?

21 A Yes. She didn't challenge me.

22 Q Okay. Did you ever have interaction directly
23 with Minister Coleman on the issue?

24 A I don't have a specific recollection of it,
25 though I would have briefed him on the strategy,

1 if you will. The strategy appeared in a
2 direction letter, for example. I believe it was
3 from Minister Coleman. I'm quite sure it was.
4 And I briefed him on it. But -- yes. Carry on.

5 Q And in briefing him on the strategy would you
6 have explained that the strategy was developed
7 because of a belief that proceeds of crime were
8 entering casinos and that there was a real money
9 laundering concern?

10 A Yes. I think he -- yeah -- no, I think that
11 that -- I shouldn't say I think. That was
12 clear. That's why we were doing the strategy.
13 And the Kroeker Report had been written, and I
14 think government appreciated that we had a
15 problem that we had to address.

16 Q Did Minister Coleman ever seek an update from
17 you on the development of the issue and the
18 success of the attempts to combat it?

19 A Not to my recollection.

20 Q Okay. If we could -- well, maybe I'll just ask
21 you finally about Minister de Jong. Did you
22 ever have -- did you ever brief him on the
23 issues related to cash entering casinos and
24 attempts to combat that?

25 A Again, similar to Mr. Coleman, I don't have a

1 specific recollection, but I would have
2 naturally done so in the course of transitional
3 briefings, for example.

4 Q Do you feel that you communicated to the
5 ministers the degree of concern that you had
6 about this issue?

7 A I would say that my approach would have been
8 very matter of fact, that we were -- the issue
9 was understood. The government understood there
10 was an issue. I would have approached them in a
11 matter of fact way and said, this is how we're
12 going to deal with it. I did not adamantly
13 discuss the STRs or anything like that. I
14 wouldn't -- I articulate what we're doing and
15 why we're doing it, and I would be -- I would be
16 measured in how I presented it. I wouldn't have
17 gone beyond that.

18 Q Okay. Did you express to Minister Coleman and
19 Minister de Jong confidence that you would --
20 could address the problem?

21 A Yes.

22 Q Okay. By the time Mr. De Jong came along, you'd
23 been attempting to address the problem for a
24 couple of years, I gather, without the success
25 you'd hoped for?

1 A The pace was slower than I had hoped for sure.
2 But at this time we were entering into phase 2,
3 and phase 2 was the period where I expected to
4 see -- I didn't expect to see a big drop as much
5 in the -- by just establishing the alternatives
6 to cash. Phase 2 is when BCLC was going to
7 conduct, so I expected to see significant
8 changes at that point. That's what I believed
9 was going to happen when I was briefing Minister
10 de Jong, which I think started in June of 2013.

11 Q Right. In June of 2013 you'd been with the
12 branch for two years, and year over year the
13 quantity -- the value of suspicious cash
14 transactions had increased enormously; is that
15 fair?

16 A Yeah. No, I think that's fair. I think in
17 that -- I was really concerned in that -- in the
18 second year they went up significantly.

19 Q Did you tell that to Minister de Jong?

20 A I don't recall if I did.

21 Q Okay. I'd like to just turn to a couple of
22 documents and ask you about the manner in which
23 your superiors were being briefed.

24 MR. MCGOWAN: If we could pull up exhibit 31 to
25 Mr. Scott's affidavit, please.

1 THE REGISTRAR: Sorry, Mr. McGowan, did you say
2 exhibit ...

3 MR. MCGOWAN: 31.

4 THE REGISTRAR: Thank you.

5 MR. MCGOWAN:

6 Q Yeah, just the second -- it's the second bullet
7 point under there that I'd like to ask you
8 about, please, sir. And maybe just to situate
9 this. This is an anti-money laundering strategy
10 update dated February 23rd, 2012, addressed to
11 Minister Coleman? Is that correct, Mr. Scott?

12 A Yes, I'm sorry. Yes. I was reading the
13 document. My apologies.

14 Q No, that's fine. Take -- and I'll give you a
15 chance to read it, as much time as you need.

16 What was the purpose of this document?

17 A This was -- this is an information note which
18 the purpose would be just to inform the minister
19 of any, you know, government activity that
20 didn't require a decision on his behalf.

21 Q And was this being forwarded, if not entirely
22 drafted by you, essentially forwarded from you
23 to the minister?

24 A Yeah. I would not have drafted this, but
25 actually as I look at it, it says "suggested

1 response," so this would be an issues note or --
2 that would be drafted from a communications
3 perspective, I believe.

4 Q Okay. And was it at least in part to update the
5 minister on the issue of money laundering and
6 the anti-money laundering strategy?

7 A Yes, in part. As I said, it was -- this is
8 issues which would be related to communications,
9 but definitely, yes. That would be included.

10 Q So I'm just going to read out bullet 2:

11 "In B.C., the Gaming Policy and
12 Enforcement Branch and the B.C. Lottery
13 Corporation remain vigilant about money
14 laundering activity in gaming facilities
15 and, in cooperation with the RCMP and
16 local police, continue to deter and report
17 such activity."

18 So the first part I want to ask you about is the
19 suggestion in this paragraph that the British
20 Columbia Lottery Corporation was remaining
21 vigilant about money laundering.

22 February of 2012 did you believe that the
23 British Columbia Lottery Corporation was
24 remaining vigilant about money laundering?

25 A I think that at that stage of where we were,

1 they were -- again, we're in this stage where
2 they're fulfilling their obligations. We had
3 ambitions for them to go farther, but they
4 were -- you know, like I said, they were filling
5 their obligations to -- at that point in time.
6 They --

7 Q They were fulfilling their --

8 A Go ahead.

9 Q No, please, go ahead. Finish your answer.

10 A No, no, it's okay. I think the word "vigilant"
11 is a word that gives the impression that it's
12 beyond perhaps what -- beyond what's expected.
13 And I think it's fair to say that that's not
14 completely consistent with where I was, but I
15 did think that BCLC was, like, working forward
16 at the -- on the issue as where we were in that
17 point in time.

18 Q And I mean, to your reading of this, does this
19 sort of send the message to the minister, we've
20 got this; it's under control; everybody's
21 diligently responding to the issue?

22 A Yeah, I think that's fair. And I thought that
23 that's where we were. I thought we were on the
24 trajectory that we do have this and it's under
25 control.

1 Q But weren't you also in a phase where you
2 understood BCLC to have a different world view
3 and one which was causing them not to adopt
4 approaches that you were encouraging?

5 A No, absolutely. That's true too. But, again,
6 in my mind at the time we had a clear plan to go
7 forward on how we would move that industry from
8 point A to point B, an industry that had been
9 operating in the same manner for 10 years and
10 had a lot of inertia with the -- so in my mind
11 at the time I did believe that we had the plan
12 that was going to solve the problem.

13 Q Okay. You talk in this bullet point about
14 working in cooperation with the RCMP and local
15 police to continue to deter and report such
16 activity. Did you understand the RCMP or local
17 police to be doing anything to deter money
18 laundering in British Columbia casinos in this
19 time period?

20 A The -- again, this note would have been
21 developed by staff, and I did believe at the
22 time that there was communications between BCLC
23 and the RCMP and the police of local
24 jurisdictions as well with our GPEB
25 investigative group. So I wouldn't have read

1 that at the time and thought it was an
2 unreasonable statement to make.

3 Q And I think in most people's view of things
4 deterrence coming through enforcement. Was
5 there -- and you've told us there wasn't any
6 enforcement happening to your understanding.
7 Was there something else that the RCMP or local
8 police were doing to deter money laundering in
9 BC casinos that you were aware of?

10 A That the local police were doing?

11 Q Or the RCMP.

12 A The -- I think in the deterrence part for me --
13 again, I'm going back many years, but my mind
14 goes to the banning of high-risk patrons and
15 those sorts of things. That's what I would
16 think. But as I say, it's back a number of
17 years, so I'm not sure. I don't have the same
18 knowledge today that I had at that time.

19 Q Yeah, fair enough. I appreciate we're asking
20 you about events that took place many years ago,
21 so thank you for making your best efforts to
22 recall them.

23 MR. MCGOWAN: If we could turn up, Madam Registrar,
24 exhibit 27. And I'm going to ask you to turn,
25 please, to page 21 of this document. The page

1 numbers are in the bottom right corner of the
2 pages.

3 Q And if it helps you, sir, we can go back to the
4 front page or you can flip there in your
5 affidavit. I just want to see if you can
6 confirm this is a PowerPoint presentation that
7 you or members of your branch presented to
8 Minister de Jong to orient him on the gaming
9 portfolio which he had taken conduct of in 2013.

10 A Yeah, that's my belief. Yes.

11 Q And were you at the meeting where this was
12 presented?

13 A Yes, I was.

14 Q If we could just look through -- if you can just
15 in your own copy flip through page 21 and 22.
16 Were these -- was this a portion of the
17 presentation related to money laundering that
18 was communicated to Minister de Jong?

19 A Yes, I believe so.

20 Q Okay. So the first bullet point says:

21 "Facility-based gaming generated
22 \$1.6 billion in gross revenue (net win) in
23 FY 12/13. It remains primarily a
24 cash-based business in BC; however, GPEB
25 and BCLC have taken significant measures

1 to reduce this reliance on cash."

2 It doesn't appear in the presentation. Do you
3 have any recollection of going beyond an
4 acknowledgement that it's a cash-based business
5 and addressing with Minister de Jong concerns
6 that cash -- a significant portion of it might
7 be proceeds of crime?

8 A I don't have specific knowledge of my
9 presentation to the minister. However, looking
10 at the slides, the following slides, slide 22.

11 Q Yes.

12 A The centre bullet, where I'm discussing the
13 performance review of May 2013. I am quite
14 confident that I cannot recall it -- but I'm
15 quite confident that that bullet I would
16 describe the report, and in that report, a key
17 element of the report is that the suspicious
18 cash transactions are going up and that they are
19 not solely -- they're not attributable to the
20 changes that had been made in standards in
21 training for STRs, which was one of the
22 suggestions. So yes, that would be a natural
23 key point that I would have made for that bullet.

24 Q Okay. Thank you. Did you ever have pressure
25 extended to you from any superior to not take

1 any action on the basis that it may impact
2 revenue?

3 A Absolutely not.

4 Q AML measures. Pardon me.

5 A Pardon me?

6 Q And I'm speaking of AML measures.

7 A So pressure to not do something?

8 Q Yes.

9 A No. No. I never felt that on any occasion.

10 Q In your discussions with Ms. Wanamaker and
11 Ms. Wenezenki-Yolland and the two ministers who
12 you reported to, was there ever a discussion
13 where the potential impact of the measures you
14 were taking on revenue was discussed?

15 A Yes. I recall one where I was discussing the
16 AML strategy once we had developed it more
17 fulsomely with Ms. Wanamaker. And I let her
18 know that if this portion was unsuccessful, and
19 specifically I was referencing stage 3 and the
20 reverse onus that we've discussed previously,
21 that if that was unsuccessful we would have to
22 look at things such as cash caps.

23 Q And did you discuss with her that that -- your
24 view as to whether that would impact revenue?

25 A Oh, it was implied.

1 Q Okay. And what was her response to that, that
2 acknowledgement about the impact on revenue?

3 A Her response -- my recollection of it was that
4 it was an acknowledgement, okay. Basically, it
5 was okay. But there was a sense that, you know,
6 you had to have your case. You had to have your
7 case for it. Which I understood to be true that
8 government would -- there would be a process by
9 which I would be doing that with government, and
10 it would be evaluated.

11 So she was very comfortable -- in my view
12 she was comfortable with what I told her. She
13 made no effort to say you can't do that, for
14 example, but she said, you're going to have to
15 make the case for that. And part of making the
16 case was to have tried other reasonable options
17 that would not have had that same impact.

18 Q Okay. And was that something she encouraged was
19 attempting less disruptive actions first?

20 A I don't know if I'd describe it as encouraged.
21 That's what I had felt was the right approach,
22 and I presented that strategy to her and she
23 accepted it. I don't know if I'd characterize
24 it as encouraged.

25 MR. MCGOWAN: All right. If we could turn up

1 paragraph 64 of Mr. Scott's affidavit, please.

2 Thank you.

3 Q I'm just going to read partway through. You're
4 discussing in this affidavit powers that you
5 believe GPEB had and did not have. And you say
6 in the affidavit:

7 "Specifically, I would have had liked to
8 have had the authority to issue directives
9 to BCLC on operational matters ..."

10 And so I guess my question is if you had had
11 that authority, what directives would you have
12 issued and when?

13 A Yeah, at this point I wouldn't have. I was
14 comfortable because I had the ability to issue
15 you directives. I just would have had to go
16 through the minister to do so. But I was
17 comfortable at this point with the strategy and
18 where we were heading, and I didn't feel the
19 need to issue directives, as we discussed,
20 around cash caps or similar type activity.

21 What I mean by this paragraph is I wanted
22 to have the ability to do that unilaterally if I
23 needed to. But at the time I didn't feel I
24 needed to.

25 Q Okay. You were an Associate Deputy Minister

1 commencing in 2018 with responsibility for both
2 GPEB and BCLC; is that right?

3 A It is right. I just -- just for clarification,
4 my responsibility for BCLC was as the Associate
5 Deputy Minister. There's of course a CEO and a
6 board of directors and a chair that have control
7 and conduct of the corporation. But yes, it was
8 part of my portfolio.

9 Q Did you form a view as to whether situating both
10 of those portfolios in the same ministry raised
11 the possibility of a conflict of interest or a
12 conflict that might better be addressed by
13 having them situated in different ministries?

14 A Yes, I had.

15 Q Okay. What was your view on that?

16 A My view was that it would be appropriate to have
17 the two organizations in different ministries.
18 That was the stated intent for us to do that,
19 and we were working towards that goal.

20 Q Okay. And why was it your view that they should
21 be in different ministries?

22 A I believe that it's helpful to have two
23 ministers. If you will, the -- if there is a
24 conflict between the regulator and the
25 corporation that that conflict would come, say,

1 perhaps to the cabinet as opposed to a single
2 minister to resolve.

3 Q Okay.

4 A And for that reason, I thought that it would be
5 more appropriate.

6 Q Okay. You're currently a member of the Deputy
7 Minister's committee focused on AML?

8 A I am.

9 Q I'd like to ask you just a few questions about
10 that. How long have you been a member of that
11 committee?

12 A Since its inception. And ... I apologize. I'm
13 getting a little tired. I'm not sure exactly --

14 Q I think it came into existence shortly after
15 Mr. German's report was --

16 A Yeah, yeah. Definitely. Definitely. But I
17 don't know the date.

18 Q And initially with a mandate to address
19 recommendations made in his first *Dirty Money*
20 report?

21 A That's correct.

22 Q And subsequently with an expanded mandate to
23 implement recommendations from both of his
24 reports and address the issue of AML -- address
25 the province's approach to AML more generally?

1 A Yes, I'd say that. And it included Maureen
2 Maloney's report commissioned out of finance as
3 well. That's right. It went from gaming to
4 sort of the -- province wide.

5 Q Who are the current members of the committee?

6 A The current members are myself and Mark Sieben,
7 who's the Deputy Solicitor General. And it
8 is -- it was Lori Wanamaker's replacement, the
9 Deputy of Finance, but I believe that is
10 changing. So that's in flux right now.

11 Q Okay. And is Ms. Harris still assisting the
12 committee?

13 A Ms. Harris is on a temporary assignment --

14 Q Okay.

15 A -- in another area.

16 Q Okay. And has she been replaced by somebody
17 else to take over her responsibilities?

18 A She has, yes.

19 Q Okay. One of the possibilities that the
20 committee had been exploring was the creation of
21 a financial intelligence and investigation unit
22 in British Columbia to combat money laundering?

23 A Yes.

24 Q Mr. Sieben gave some evidence to the
25 Commissioner about that earlier in our process.

1 Has your committee formed a view as to whether a
2 dedicated -- a unit dedicated combatting AML is
3 best created and coordinated at the provincial
4 level over the federal level?

5 A We've taken the research to a certain level
6 that -- sorry. Pardon me. Better at the
7 federal or provincial? I think that the
8 committee views that there's a role for both
9 levels of government.

10 Q Okay. Was the contemplation of creating at the
11 provincial level a dedicate -- a police force
12 dedicated to combatting AML -- or a police unit
13 dedicated to combatting AML partly prompted by a
14 recognition that there wasn't a similar unit --

15 A Yes.

16 Q -- at the federal level?

17 A Yes.

18 Q Okay. And in developing this unit or thinking
19 about it, have you been coordinating or
20 communicating with other provinces?

21 A Yes. The committee -- I haven't personally, but
22 the secretariat has through Megan Harris's --

23 Q And has that communication been directed to
24 exploring the possibility of a coordinated
25 approach with other provinces?

1 A Yes, there's been some coordinated approach
2 discussions along with the RCMP. Yes.

3 Q Okay. And have you -- what are the nature of
4 the discussions you've had with the RCMP about a
5 coordinated approach?

6 A The RCMP has established a group that will bring
7 industry together with law enforcement together
8 with regulators. The intention -- and I'm not
9 fully briefed on this, so I apologize for that,
10 but the intention is to be able to develop and
11 share intelligence and be able to use that to
12 inform a response.

13 Q Does that group have a name?

14 A It does, but I ...

15 Q Project Athena?

16 A CIFA, I think.

17 Q Okay.

18 A It's a sort of next generation Project Athena.
19 It's called CIFA. It's permanently funded now
20 and it's sort of expanding its capabilities.

21 Q Is CIFA an acronym?

22 A Yeah.

23 Q It's fine if you don't --

24 A I apologize. I don't know what the acronym is.

25 Q We're dealing with a lot of acronyms here. I

1 can't remember them all.

2 A Okay. Thank you.

3 Q I take it you're aware that in December Minister
4 Blair announced a hundred million dollars in
5 federal funding for the creation of anti-money
6 laundering units in four provinces, including
7 British Columbia?

8 A Yes.

9 Q Was information shared with the Deputy Ministers
10 committee about this development prior to the
11 announcement?

12 A No.

13 Q To your knowledge was there anything
14 communicated about this to the provincial
15 government prior to the announcement?

16 A I don't have knowledge of that. I don't have
17 knowledge of that.

18 Q Okay. You're a Deputy Minister working on the
19 Deputy Ministers committee. Did it come as a
20 surprise to you, this announcement, in the
21 context of you having heard nothing about this
22 development?

23 A It was a surprise in that I didn't anticipate or
24 I didn't know that it was happening, but I did
25 have a sense that the federal government was

1 looking at things. So I wouldn't describe it as
2 a shock, but I wasn't aware of it.

3 Q What impact, if any, has that announcement had
4 on the committee's thinking regarding a
5 provincially based intelligence and
6 investigation unit focused on targeting money
7 laundering?

8 A It hasn't had an effect at this point. It will
9 be integrated in, I'm sure, when, you know, with
10 the unit, but it hasn't -- that hasn't been --
11 that hasn't been worked through yet with the
12 secretariat.

13 Q Okay. Since the announcement, has the committee
14 received any further information beyond what was
15 communicated to the media about the composition,
16 structure, mandate or work of the unit?

17 A No.

18 Q Do you know if anything's been communicated to
19 government about those matters?

20 A I don't know, but I -- I don't know, but I don't
21 believe so because I would have had expected it
22 would come to the AML group.

23 Q Okay. To your knowledge was there any
24 engagement with provincial government about the
25 creation of these units prior to the

1 announcement?

2 A To my knowledge, no. Well, I'm sorry, I should
3 correct that. I apologize. I do think it's
4 possible that Megan Harris was engaged in not
5 the -- that specific announcement per se, but in
6 CIFA, for example, I know she was definitely
7 engaged in the development of CIFA.

8 Q Thank you.

9 MR. MCGOWAN: Mr. Commissioner, I'm going to suggest
10 this would be an appropriate time for the break.
11 I am very near or perhaps at the end of my
12 questions for Mr. Scott.

13 THE COMMISSIONER: Yes. Thank you, Mr. McGowan.
14 We'll take 15 minutes.

15 THE REGISTRAR: The hearing is adjourned for a
16 15-minute recess until 11:48 a.m.

17 **(WITNESS STOOD DOWN)**

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

19 **(PROCEEDINGS RECONVENED AT 11:47 A.M.)**

20 THE REGISTRAR: Thank you for waiting. The hearing
21 is resumed. Mr. Commissioner.

22 THE COMMISSIONER: Thank you, Madam Registrar.

23 **DOUGLAS SCOTT, a witness**
24 **for the commission,**
25 **recalled.**

1 THE COMMISSIONER: Yes, Mr. McGowan.

2 MR. MCGOWAN: Yes, I have concluded my examination of
3 Mr. Scott. Mr. Scott, thank you for answering
4 my questions.

5 THE WITNESS: Thank you, Mr. McGowan.

6 THE COMMISSIONER: Thank you. I'll call, then, on
7 Ms. Gardner on behalf of Canada, who's been
8 allocated five minutes.

9 MS. GARDNER: Thank you, Mr. Commissioner. Based on
10 the evidence that's come out during Mr. Scott's
11 direct evidence, we have no questions at this
12 time.

13 THE COMMISSIONER: Thank you, Ms. Gardner.

14 Mr. Smart on behalf of BC Lottery
15 Corporation has been allocated 25 minutes.

16 **EXAMINATION BY MR. SMART:**

17 Q Mr. Scott, you came into this position, as
18 you've told the Commissioner, in 2011. Fair to
19 say that this was -- these large cash
20 transactions were an escalating problem, that is
21 there was an increasing number of them over your
22 time in your position as Assistant Deputy
23 Minister?

24 A That's correct.

25 Q Yeah. And they involved what appeared to be

1 wealthy Chinese gamblers who were betting large
2 sums of money and largely losing it?

3 A I think that that's correct based on my
4 understanding.

5 Q I think we can all agree hindsight is usually
6 20/20.

7 A I would agree.

8 Q Yes. So looking back at the time that you were
9 in the position, what would you do differently
10 today knowing what you know?

11 A I would have accelerated the preparation, at a
12 minimum, and maybe the implementation of
13 phase 3.

14 Q Yes. You also might have gone to the minister
15 and sought a direction from him?

16 A I would not have done that until I had
17 implemented phase 3. For the reasons I think I
18 expressed to Mr. McGowan.

19 Q Would you have imposed a cash cap?

20 A At that time I would not have imposed a cash
21 cap.

22 Q Okay. And the reason is is because you want to
23 take -- to proceed in a methodical way, trying
24 different approaches to see what might work?

25 A I would agree with a methodical way. I would

1 say that we had a strategy that I was confident
2 in, and my intention was to execute the
3 strategy. If the strategy was unsuccessful,
4 then to your point, yes, look at other options.

5 Q Because all of this is again going back to what
6 you spoke about earlier of the public policy,
7 trying to balance the public good that comes
8 from revenue with trying to minimize the social
9 harms it can result from gaming?

10 A Definitely, yeah.

11 Q You spoke earlier of contextual drivers, and you
12 said one of them was the absence of police and
13 prosecution?

14 A Yes.

15 Q Okay. You mentioned imperfect information to
16 base decisions? What did you mean by that? If
17 you could expand on that.

18 A The STRs themselves have a level of imperfection
19 to them because of the nature of how they're
20 gathered. And we have, as I had mentioned,
21 various theories about what was happening, but
22 we didn't have clear evidence to show any of
23 those theories to be definitively what we were
24 facing.

25 Q You mentioned Mr. Desmarais, and I think you've

1 Q And I want to just take you to page 3 first.

2 A I don't have it here.

3 Q Can you see that all right, Mr. Scott?

4 A Yeah. I'll just do it from the screen. Yes, I
5 can. Thank you, Mr. Smart.

6 Q The third -- these are what we've called
7 recommendations from Mr. Kroeker. And the third
8 is:

9 "BCLC holds the view that gaming losses on
10 the part of a patron provide evidence that
11 the patron is not involved in money
12 laundering or other related criminal
13 activity. This interpretation of money
14 laundering is not consistent with that of
15 law enforcement or regulatory authorities.
16 BCLC should better align its corporate
17 view and staff training on what
18 constitutes money laundering with that
19 of enforcement agencies and the provisions
20 of the relevant statutes."

21 I've asked you about this because Mr. Kroeker
22 was asked -- was suggesting that BCLC should
23 better align its views that gaming losses
24 provide evidence that a patron is not involved
25 in money laundering or other related criminal

1 activity. Mr. Kroeker wasn't saying that
2 large -- BCLC should accept that large
3 suspicious cash transactions does demonstrate
4 money laundering. Do you understand the reverse
5 of that?

6 A Yes, I do. I think Mr. Kroeker's intention with
7 that -- I assume Mr. Kroeker would be best
8 positioned to answer what his intention was.

9 Q You don't interpret that as saying large cash
10 transactions equates to -- it means it is money
11 laundering?

12 A No, I do not equate that when I read it.

13 Q And I ask you that because you refer to -- in
14 your affidavit to a letter from Mr. Schalk in
15 December of 2012 to Mr. Hodgkin. He gives a
16 different interpretation of that, doesn't he?

17 A I'm not sure that he does. Could you refer me
18 to the specific -- or I'll have to pull up the
19 document.

20 MR. SMART: Sure. It is GPEB, Madam Registrar, 0181.
21 And to the second page, please, Madam Registrar.

22 Q And you'll see that in this letter to
23 Mr. Hodgkin, the third paragraph:

24 "Mr. Kroeker's report made several
25 recommendations regarding suspicious

1 currency transactions in casinos,
2 including that BCLC accept law
3 enforcement's professional opinion that
4 this activity is money laundering."

5 That doesn't accurately capture what Mr. Kroeker
6 said in his report, does it?

7 A Mr. Smart, if you wouldn't mind just giving me a
8 moment to read.

9 Q Yes, please.

10 A Thank you. I'm sorry. I'm not clear on which
11 activities we're speaking about in this
12 paragraph, what he's referencing immediately
13 above.

14 Q I'm suggesting that Mr. Schalk's statement or
15 letter to BCLC that Kroeker's report made
16 several recommendations regarding suspicious
17 currency transactions in casinos, including that
18 they accept law enforcement's professional
19 opinion that this activity is money laundering.
20 Mr. Kroeker didn't say that, did he?

21 A If it's interpreted that -- the interpretation
22 is that all suspicious currency transactions is
23 money laundering?

24 Q Yes.

25 A Yeah.

1 Q He didn't say that.

2 A I don't believe Mr. Kroeker said that in his
3 report.

4 Q No. And that was one of the -- Mr. Graydon then
5 got this letter and responded to you and you
6 exchanged an email with him, and that was -- he
7 was critical of Mr. Schalk's letter, wasn't he?

8 A He was.

9 Q Yes. And you apologized for the letter;
10 correct?

11 A I did apologize for the letter. The purpose of
12 my apology was not the content so much as the
13 tone and where we were collaborating on the AML
14 strategy together. So it was the timing and the
15 tone of the letter that concerned me.

16 Q Yes. And in fact you had directed GPEB
17 investigators to let you do the communicating
18 with BCLC rather than them in terms of official
19 written correspondence?

20 A That's not entirely accurate. What I had
21 directed was that I had an opportunity to review
22 it before it went forward, so I did not intend
23 to prevent the communication. I did want to,
24 though, look at documentation for tone to ensure
25 that we were building a collaborative -- the

1 collaborative relationship I was looking for to
2 execute the strategy. But just to be clear, I
3 didn't want to take over the correspondence, if
4 you will, and put it under my signature.

5 Q In any event, Mr. Schalk didn't follow your
6 request, did he?

7 A No, he did not.

8 Q Okay. And in your response to Mr. Graydon, you
9 said -- you refer to it in your affidavit, that
10 BCLC -- and I'll just be exact -- "has
11 undertaken everything that we've asked and
12 agreed to as part of our comprehensive AML
13 strategy." That's what you communicated?

14 A That's correct.

15 Q Yes. And that's in January of 2013. And that
16 was accurate?

17 A That was accurate -- that was -- was that the
18 date, January of '13? Yes. That was accurate.
19 We were in phase 1 of the strategy at that
20 point, and BCLC had undertaken a great deal of
21 work on the cash alternatives.

22 Q Okay. You refer to some evidence given by a
23 former investigator, Mr. Barber. You referred
24 to that in your affidavit?

25 A Yes, I do.

1 Q Yes. And your memory of that exchange that he
2 describes is different from his.

3 A Yes. I don't actually have a memory of that
4 exchange.

5 Q All right.

6 A [Indiscernible].

7 Q Sorry, go ahead.

8 A Go ahead. I'm sorry. I don't have anything to
9 add.

10 Q I guess my point is that it's been now -- since
11 you started that job it's been 10 years.

12 A In June it will be 10 years, yes.

13 Q Yes. And memory is not perfect, is it?

14 A Mine certainly is not.

15 Q No. But you know from your police experience
16 that memory can be affected by any number of
17 factors, including the passage of time?

18 A Yes, I agree.

19 Q And that's one of the reasons as a police
20 officer you usually made notes or reports to
21 document events that happened?

22 A Yes.

23 Q Right. You've testified that you asked BCLC to
24 conduct source -- as I understand it, source of
25 fund interviews. You did that back in your time

1 when you were Assistant Deputy Minister?

2 A That's correct.

3 Q Do you have -- are there any documents that
4 reflect that communication --

5 A I did not take notes of my discussions with --
6 in particular I was referring to my discussions
7 with Brad Desmarais at the time.

8 Q Okay. Did you have -- so that would be 2013?

9 A Yes, that would be.

10 Q Yeah. We've heard evidence, I think, he started
11 February of 2013. Are there any documents that
12 support -- aside from -- you don't have notes
13 but are there any documents that support that
14 communication?

15 A In terms of that direction, no. That was -- it
16 wasn't direction, pardon me. That was a
17 misstatement. No, those were verbal
18 discussions.

19 Q You've also testified that -- if I understand
20 it, that BCLC opposed having GPEB interview
21 patrons about source of funds?

22 A Yes. When I discussed that, the phase 3, that
23 was the reaction primarily of Michael Graydon
24 when we were discussing it.

25 Q Okay. Do you have any documents that support

1 that memory?

2 A I do not. That was just a discussion with
3 Michael Graydon. That's all.

4 Q And no notes?

5 A No notes. I wasn't my practice to take notes
6 for a business. I would take note if I had a
7 task to do following it, but it wasn't like my
8 previous days as a law enforcement law officer
9 where I would anticipate being in court. Rather
10 my focus was to get things done. So I didn't
11 take notes of all my meetings.

12 MR. SMART: Madam Registrar, if we could go back to
13 exhibit 141. I got sidetracked a little bit. I
14 wanted to go to Mr. Kroeker's reporting
15 obligations at page 10 of the document.

16 Q Do you have -- let me know when you have that
17 before you, Mr. Scott.

18 A Yes, I have the Kroeker Report.

19 Q Mr. Kroeker --

20 A Page 10, did you say?

21 Q Yes, page 10 under "Reporting Obligations."

22 A Yes.

23 Q And you've given evidence that you wanted BCLC
24 to do more than report. But this review done on
25 behalf of the government, what Mr. Kroeker said

1 was:

2 "BCLC's obligation is primarily a duty to
3 report. These reporting obligations do
4 not extend to a duty to investigate and
5 confirm the exact provenance of cash used
6 to buy-in. Detailed inquiries and
7 investigation into legitimate or
8 illegitimate sources of cash appropriately
9 fall to various law enforcement and
10 regulatory authorities."

11 BCLC was doing what was stated by Mr. Kroeker in
12 his report, weren't they?

13 A Yes. Yes, they were.

14 Q And down to the third paragraph in the middle --
15 second sentence, rather, Mr. Kroeker wrote:

16 "Conclusions and statements as to the
17 ultimate legitimacy of cash should only be
18 made where there is detailed, independent
19 information verifying the source of the
20 funds and should only be made by the
21 enforcement agencies with a mandate to
22 conduct these types of inquiries."

23 That was essentially the message that BCLC was
24 giving you too, wasn't it?

25 A It was the message that BCLC was giving to me,

1 and as I described, I thought it was important
2 that we realize where we were. We talked about
3 the fact that the -- effectively the law
4 enforcement prosecution was not there. In my
5 view it was our problem to solve, and that's why
6 we created the strategy in order to do that.

7 Q Did you -- I mean, this report is -- was done on
8 behalf of the government. It was to be the
9 blueprint for the -- at least the foreseeable
10 future on how anti-money laundering processes
11 were to be implemented. There was these
12 recommendations that were being followed. Did
13 you go to government and say, incidentally this
14 is all a waste of time because this -- BCLC's
15 obligation to report isn't going to go anywhere?

16 A I didn't think it was a waste of time. What I
17 did do was go to government, more specifically
18 the Deputy Minister that I reported to, and I
19 said that I thought that the Kroeker Report --
20 there was, you know, one primary concern I had
21 with the Kroeker Report, but I felt it was a
22 good start, there was good recommendations
23 there, but I didn't think it would work. And
24 when I say "work," I didn't think it would stop
25 the suspicious cash transactions from coming in

1 at the rates they were coming in, and we had to
2 go farther, which was why we created -- moved to
3 the strategy.

4 Q Well, the top paragraph I read:

5 "Detailed inquiries and investigation into
6 legitimate or illegitimate sources of cash
7 appropriately fall to various law
8 enforcement and regulatory authorities."

9 And of course GPEB is a regulatory authority,
10 isn't it?

11 A It is a regulatory authority, yes.

12 Q And, Mr. Scott, I'm not trying to be overly
13 critical. Hindsight, as I've said, is 20/20.
14 But I'm -- what I want to emphasize here is that
15 really GPEB investigators are Special Constables
16 under the *Police Act*, as you know.

17 A Yes.

18 Q Does it make good sense for them to go in and
19 speak to patrons if we're trying to determine
20 the sources of cash? Aren't they the right
21 agency to be doing that?

22 A I believe that a critical piece here is that the
23 role is not to -- maybe I should step back.

24 The thinking at the time was -- and it
25 evolved -- was that we had to prove that the

1 money was illegitimate, proceeds of crime. And
2 what I felt strongly is we did not have to prove
3 that, that the perception that it was was
4 adequate for us to take action. I believe that,
5 as I mentioned, that notion of the reverse onus,
6 that those interviews could well be conducted by
7 BCLC employees on their -- I'm not sure of the
8 term, but their investigative team. But I agree
9 that I had wanted to establish the capability of
10 GPEB to also play that role, which I had
11 intended to do later in my tenure in phase 3.

12 Q But if BCLC was following Mr. Kroeker's report,
13 they would read that "detailed inquiries and
14 investigation into legitimate or illegitimate
15 sources of cash appropriately fall to various
16 law enforcement and regulatory authorities";
17 correct?

18 A Yes. No, I agree that that's what they were
19 following. My argument of the day was that --
20 and it relates to this notion of two world
21 views, is that I didn't believe that we were in
22 the world where we needed proof. We weren't --
23 we were no longer law enforcement officers; we
24 were no longer going to charge people for this.
25 What we were charged with is keeping the money

1 out. And I felt that it was not necessary to
2 concern ourselves with proof in order to keep
3 the money out.

4 Q But it wasn't keeping the money out; it was
5 keeping the proceeds of crime out, wasn't it?

6 A Yes. Thank you for that clarification. Yes.

7 Q Yes. Well, I'm sure that's what you meant. But
8 isn't that the dilemma is you had these enormous
9 amounts of cash, these suspicious -- large
10 suspicious cash transactions coming into
11 casinos, generally from very wealthy people that
12 had the means to obtain that amount of money and
13 lose it, and you couldn't determine with any
14 particular transaction whether it was proceeds
15 or not. Isn't that a fair summary of the
16 difficulty?

17 A Yes, that's a fair summary of the challenge we
18 had, yes.

19 Q And so one way of trying to separate
20 illegitimate -- one way of trying to gather more
21 information to make decisions about what should
22 be accepted or not accepted was to interview the
23 patron. They may give you a false answer. It
24 may lead nowhere, but it would be a start, and
25 if they told you gee, I got it from a money

1 service business up the road, to go up the road
2 and interview the owner of that establishment.
3 That would at least be a start, wouldn't it?

4 A Yes.

5 Q Okay. We've heard -- we heard earlier from a
6 former RCMP officer, I think maybe he has the
7 position you had back in 2011, but Cary Skrine.
8 He told the commission that the plan that he's
9 hoping to implement is we'll actually have GPEB
10 investigators go right -- go into casinos, go
11 into casinos not just 9:00 to 5:00 but during
12 busy hours, interview patrons bringing in cash
13 and potentially, if there's sufficient evidence
14 supporting, they might even seize the proceeds
15 of -- cash. Are you aware of those -- maybe you
16 were part of the decision to implement those
17 changes.

18 A No, that's -- that falls to Sam MacLeod who's
19 the General Manager, but I was aware of the work
20 on this -- that kind of approach.

21 Q Yes. And so looking back in hindsight, knowing
22 what we know today, that probably would have
23 been a pretty good approach to implement back
24 during the time you were the Assistant Deputy
25 Minister. I'm not being critical, but looking

1 course, in that interaction that was a sort of
2 customer service, but direct interaction, that
3 if there was suspicions it could have been
4 transferred within BCLC for other action. But I
5 think that that's a fair characterization, if
6 you don't mind sort of my refinements there.

7 Q Yes. You discuss Mr. Schalk and Mr. Vander
8 Graaf in your affidavit, and you recognize that
9 they are -- were experienced investigators, had
10 years of experience as police, but maybe were a
11 little too blunt in their view into what I'll
12 call other stakeholders?

13 A Yes, I would say that was my assessment.

14 Q Yes. In some ways that -- you felt that GPEB
15 should work together with BCLC in trying to
16 jointly deal with money laundering and proceeds
17 of crime?

18 A I did. Quite strongly.

19 Q And these senior investigators in your
20 investigations section didn't have the same
21 view, did they?

22 A No. I would say that that -- they felt it was
23 more of a regulator regulated relationship
24 rather than a partnership, and I respect that
25 view, and there are times where the regulator

1 has to navigate those relationships in different
2 ways. Sometime as a regulator -- well, it's all
3 times as a regulator, but the regulator has to
4 have, in my view, the flexibility to transition
5 between issues that require a partnership and
6 then issues that require just direct regulation.

7 Q Mr. Vander Graaf wanted this cash cap on \$20
8 bills. You felt that was too much of -- I think
9 the expression of blunt instrument and a more
10 nuanced approach had to be arrived at to deal
11 with the concerns of proceeds of crime coming
12 into casinos. That's fair?

13 A Yes.

14 Q Okay. You've -- I've asked you questions about
15 Mr. Desmarais, and you both had concerns about
16 large cash transactions coming into casinos, but
17 you had different perspectives on the likelihood
18 that they were proceeds?

19 A That was my understanding and impression, yes.
20 Yeah.

21 Q Yeah. You thought it was likely Mr. Desmarais
22 was less sure; is that fair?

23 A Yes, I think that's fair.

24 MR. SMART: Okay. And you -- all right. I've used
25 up my time, so I'm just going to -- I think I'll

1 just -- let me just see if I've got one quick
2 question to ask you. I think I'll take
3 Mr. McGowan's -- I won't call it a direction;
4 I'll call it a request and cease my questions.
5 Thank you, Mr. Scott.

6 MR. MCGOWAN: And. Mr. Commissioner, it is a
7 request, but -- and certainly not a directive,
8 so if Mr. Smart has further ground he feels it's
9 important for him to cover, I would invite him
10 to ask you.

11 MR. SMART: I think others are going to ask questions
12 of Mr. McGowan that will probably touch on what
13 I've -- ask questions, so I'll stop there.
14 Thank you.

15 THE COMMISSIONER: All right. Thank you, Mr. Smart.
16 I'll call now on Ms. Harmer on behalf of
17 Great Canadian Gaming Corporation, who has been
18 allocated 10 minutes.

19 MS. HARMER: Thank you, Mr. Commissioner. Great
20 Canadian does not have any questions at this
21 time for this witness.

22 THE COMMISSIONER: All right. Thank you. I'll now
23 call on Mr. McFee on behalf of James Lightbody,
24 who has been allocated 20 minutes.

25 MR. MCFEE: Thank you, Mr. Commissioner.

1 **EXAMINATION BY MR. McFEE:**

2 Q Mr. Scott, as I understood your evidence, it was
3 you that really spearheaded the initiation of
4 this cross-divisional working group to develop
5 GPEB's AML strategy in response to the Kroeker
6 Report?

7 A Yes. I wanted us to have this type of approach.
8 This type of approach had been used prior to my
9 approval for -- E-Poker I think was the issue
10 that they took on. So it's important that I
11 acknowledge that the team already had that sort
12 of platform. But I did spearhead that we needed
13 to do a cross-divisional working group for
14 anti-money laundering.

15 Q And you described in your answers to
16 Mr. McGowan's questions there were brainstorming
17 sessions of sorts that started to consider
18 various options and proposals?

19 A Yes.

20 Q And Mr. McGowan took you to exhibit 13 to your
21 affidavit?

22 MR. McFEE: And, Madam Registrar, if I could ask if
23 that could be put up, please. It's exhibit 13,
24 please. Yes.

25 Q And it's dated October 25, 2011. And as I

1 understood your evidence, this was part of the
2 brainstorming strategy?

3 A It was part of that first phase where -- yeah,
4 and I think that's noted in this, that -- I
5 think that's fair, yes, part of the
6 brainstorming.

7 Q But then as I understood your evidence, after
8 this process there were working groups
9 established within GPEB to drill down more
10 deeply into these proposals before a plan was
11 arrived at?

12 A Yes, I think that would be -- that would be
13 accurate.

14 Q And as Mr. McGowan pointed out, if you go to the
15 second page of that document where you've got
16 "Policies/Directives," one of the proposals put
17 forward was to establish a maximum amount of
18 small denomination bills for casino buy-in by a
19 single patron. Do you expect that that was put
20 forward by Mr. Vander Graaf?

21 A It most likely was. Joe Schalk was also part of
22 the team as was Derek Dickson. So all three are
23 from investigations, so that would be something
24 that would be of interest to them.

25 Q And as we've seen in terms of the three-phase

1 plan that you describe in your affidavit, that
2 proposal didn't find its way into the plan that
3 GPEB decided to pursue; correct?

4 A It is to a certain extent, but not -- you're
5 quite right, it's not documented in the front.
6 It's understood that in phase 3, you know, our
7 intended focus as it evolved was for the direct
8 interviews, but it was understood that if that
9 was not successful in meeting our objectives
10 that we would be looking at other options
11 similar to the one that's identified there.

12 Q Okay. When you say you would be looking at
13 other options would that effectively be a
14 phase 4?

15 A No, no. No, I -- no. Pardon me. Because
16 within phase 3 the key aspect is that GPEB would
17 be engaged at that operational level and take --
18 drive the issue to conclusion, drive the STRs
19 down. So if one option such as the direct
20 intervention was not meeting our requirements, I
21 think there is in some drafts a clear statement
22 that it could include a regulatory action, and
23 that's what would be referred to as regulatory
24 action.

25 Q Well, would you need the approval of the

1 Minister to establish a maximum amount of small
2 denomination bills for a casino buy-in by a
3 single patron?

4 A Yes, I would need -- I would have expected that
5 I would have needed the approval of -- yes.
6 Because it would have had implications for
7 government, so I would have required approvals.

8 Q And just to close the circle, you never sought
9 such an approval during your tenure as the ADM?

10 A I did not.

11 Q And moreover, while this plan was being
12 developed, I take it from your evidence you were
13 not in favour of a prescriptive approach, rather
14 you favoured a more targeted approach?

15 A That's correct.

16 Q And in terms of a more targeted approach, the
17 targeting would be focusing on high-risk
18 patrons; correct?

19 A Yes. I would add high value patrons too because
20 I think that it's -- there's different ways of
21 assigning risk, and one way may be perceived
22 that it's -- criminal connections, for example,
23 that people are linked to organized crime in
24 some manner or a loan shark. I would consider
25 large cash transactions also to be something

1 that I would be interested in doing those
2 interventions for.

3 Q But to be clear, that's following a risk-based
4 approach targeting high-risk patrons who are
5 identified through the various means and
6 variables that you've just described.

7 A The only -- I'd say yes, the only modification
8 I'd add is not just high-risk individuals as in
9 we had linking to organized crime, but high
10 risk -- I would say high-risk activity or a risk
11 that the cash -- the nature in which the cash is
12 coming in gives the indication that it could be
13 street cash, for example. So it was not
14 exclusively focused on the individual, but could
15 be focused on the cash, which was important.

16 Q Right. But what you were contemplating was a
17 risk-based approach to AML?

18 A Yes.

19 MR. McFEE: Okay. Madam Registrar, if we could take
20 that exhibit down and if I could -- we could go
21 to paragraph 40 of Mr. Scott's affidavit,
22 please.

23 Q And this is where you describe for the
24 commission the three phases which you indicated
25 were overlapping?

1 A Yes.

2 Q Now, I just want to focus on phase 3, which is
3 40(c), the regulator intervention commencing
4 December of 2013. That was to include GPEB
5 conducting interviews. Now, to be clear, what
6 you were contemplating was members of GPEB's
7 investigation unit conducting patron interviews?

8 A I was.

9 Q And at the time were the members of GPEB's
10 investigation division in terms of the
11 investigators all former police officers?

12 A I believe so. The vast majority were for
13 certain. I don't know if all were.

14 Q And in formulating this proposal, did you
15 consider that -- with this previous training as
16 police officers it made them particularly
17 well-suited to interview casino patrons?

18 A Yes.

19 Q Now, in your affidavit you indicate that in
20 mid-2012 you had received information from your
21 investigation division that large amounts of
22 suspicious cash continued to be brought into
23 casinos?

24 A Yes. Correct.

25 Q And particularly River Rock; correct?

1 A Yes. Could you -- I apologize. Could you
2 direct me to where you're looking in my
3 affidavit.

4 Q I'm actually at -- I'm sorry, I should have done
5 that.

6 MR. McFEE: I'm at paragraph 46, please, Madam
7 Registrar.

8 THE WITNESS: Okay, yes. Thank you.

9 MR. McFEE:

10 Q And if you go about three lines from the bottom,
11 you say -- four lines from the bottom, you say:

12 "Receiving from Investigations that the
13 number of suspicious transaction reports
14 (STRs) was increasing rapidly, I decided
15 to accelerate that review and tasked
16 Mr. McCrea with preparing a report for
17 GPEB on the [efficiency] of GPEB and
18 BCLC's AML efforts to date."

19 So at least at this point in mid-2012 you
20 decided to accelerate at least a review of GPEB
21 and BCLC's efforts on the AML file for that
22 date?

23 A Yes, I did. Yes. I wanted -- because of the
24 information that was provided by investigations,
25 I wanted to ensure that we were comfortable with

1 the direction.

2 Q And Mr. McCrea's analysis is found at exhibit 20
3 to your affidavit.

4 MR. McFEE: If I could ask Madam Registrar if we
5 could go to that, please.

6 Q You should have a May 9, 2013 email from
7 Mr. McCrea to you and others. Do you have that?

8 A Yes.

9 Q And if you go over to -- it's the page 73 in the
10 top right-hand corner, please. I think it's
11 four pages in. It's "Anti-Money Laundering in
12 BC, Measuring Performance Process." Do you have
13 that?

14 A Yes.

15 Q And do you recall receiving and reviewing that
16 report at the time?

17 A Yes.

18 Q And this is the report that you tasked
19 Mr. McCrea with where you -- up to date in a
20 more timely fashion with respect to how this AML
21 program [indiscernible] out; is that fair?

22 A Yes.

23 MR. McFEE: If I could ask you to go to page 85 in
24 the top right-hand corner, please. Madam
25 Registrar, if you could go to page 85. Thank

1 you.

2 Q It's "Analysis." And it's -- you see "2012/13
3 Enhancements" at the top?

4 A Yes.

5 Q It says:

6 "The enhancements documented in this
7 report came into effect [in] April [of]
8 2012. In order for service providers to
9 put these into operation they had to
10 develop policies and procedures to comply
11 with BCLC requirements."

12 So just to be clear, you recognize that there
13 was going to be a transition period for the
14 service providers and industry to adapt to these
15 new cash alternatives?

16 A Yes. I absolutely understood that.

17 Q And if you go to the third paragraph you'll see
18 the first sentence. It's:

19 "The results over three quarters of
20 [fiscal year] 2012/13 are encouraging."

21 Do you see that?

22 A Yes, I do.

23 Q And then the last paragraph under that title, so
24 the fourth paragraph in the page, it says:

25 "In total the cash managed through

1 alternative means, versus bringing it in
2 from outside of gaming facilities¹ has
3 been over \$900 million in the first three
4 quarters of the year. Ten percent of this
5 is from new initiatives. When annualized,
6 the total of funds obtained within gaming
7 facilities represents over 70% of the
8 gross revenue. This is encouraging."

9 So when you saw that, did you take it that it
10 seemed that phase 1 of the -- GPEB's AML plan
11 was unrolling in a reasonably satisfactory
12 fashion?

13 A Yes, I did. I thought the expectations for that
14 period were being met. There were some specific
15 areas that were moving slower than expected, but
16 generally I would agree with that statement.

17 Q And having 70 percent of the funds coming into
18 the casinos from effectively inside the facility
19 as opposed to outside was certainly a positive
20 signal in terms of addressing potential proceeds
21 of crime coming into casinos?

22 A Yes, it's -- it appears to be a good number. I
23 don't know what it was before, which would be
24 important for comparison purposes, and -- but
25 yes, on the face of it it's a fairly good

1 number.

2 Q Now, I want to go back to the role of GPEB
3 investigators for a moment.

4 MR. McFEE: And, Madam Registrar, we're finished with
5 that exhibit. So that could come down. Thank
6 you.

7 Q To be clear, you felt that interviewing casino
8 patrons was properly within the mandate and role
9 of the GPEB investigation division?

10 A I'm sorry, could you say -- that I felt -- I
11 apologize.

12 Q Did you feel that interviewing casino patrons
13 was properly within the mandate and role of the
14 GPEB investigation division?

15 A I felt that it should have been. I was advised
16 at the time that it wasn't within their mandate.
17 It was within the manage and conduct mandate of
18 BCLC.

19 Q Okay. Did that advice come from Mr. Vander
20 Graaf?

21 A It came from Mr. Vander Graaf. I also believe
22 it came from policy, but I must be cautious.
23 I'm not certain of that. Though I did have
24 intention of seeking legal opinion on that. But
25 I did not seek that legal opinion before I left.

1 Q But in this time frame as you're contemplating
2 moving forward phase 3, so in the latter part of
3 your tenure as the ADM, did you receive pushback
4 from Mr. Vander Graaf who took the position that
5 interviewing casino patrons wasn't properly
6 within the role of GPEB investigators, period?

7 A Yes, I -- he did. I don't know if I'd
8 characterize it as pushback, but we did have the
9 discussion, and I understood his view to be that
10 it wasn't their role. Yes.

11 Q But did it go further than that? Did you
12 understand Mr. Vander Graaf's position to be
13 that GPEB investigators weren't equipped to do
14 interviews of casino patrons and there was
15 concerns about safety protocols?

16 A Yes, I think that was -- I don't think. Yes,
17 that was part of it. I don't think it was the
18 entirety of it, but there was mention that they
19 weren't properly equipped to do that work.

20 Q Okay. And this is the same time frame that, as
21 I understand your evidence, you're urging
22 Mr. Desmarais to have BCLC investigators do
23 casino patron interviews; correct?

24 A Yes. I think that the distinction there is
25 important to make. I think that -- and this was

1 part of the discussion with Larry Vander Graaf
2 as well, was whether the purpose of the
3 interviews was simply to determine whether the
4 funds would be accepted or not versus conducting
5 an investigation into -- into the organized
6 crime group or the -- as proceeds of crime
7 investigation. And I think that was one of the
8 challenges that Larry and I were working
9 through.

10 So what I proposed to BCLC -- I apologize.
11 I'll just finish this. I won't be long. What I
12 was suggesting to BCLC specifically in
13 discussions with Brad Desmarais was, I thought,
14 a low risk activity. I did not think that it
15 would put any investigators in BCLC in harm's
16 way.

17 Q Well, following your reverse onus approach,
18 which was to have the patron establish the
19 source of funds, if GPEB investigators were
20 conducting those interviews, it would be
21 similarly low risk, wouldn't it?

22 A Yes, that was my view, and that was part of my
23 discussion with Larry Vander Graaf at the time.

24 Q And were BCLC investigators any -- who didn't
25 have Special Constable status under the *Police*

1 Act any better equipped to do those interviews
2 than GPEB investigators?

3 A No, I don't think they were better equipped.
4 They were mandated, if you will, or they had
5 conduct of the process at the time, as we've
6 discussed.

7 Q Now, when you left GPEB in September of 2013,
8 had any steps been put in place to implement
9 phase 3 of GPEB's AML strategy?

10 A Only a very small step. I had begun those
11 discussions with Larry Vander Graaf about their
12 role and how that could be implemented. I
13 believe he had discussions with his team around
14 that issue, to inform our discussion, but I had
15 not yet initiated a legal opinion which also was
16 my intention to do.

17 Q Okay. But on a very practical level had any
18 steps been taken to develop an interview
19 protocol?

20 A No.

21 Q And I take it, then, that no interview form or
22 checklist had been developed?

23 A No, nothing like that. We had not advanced it
24 at that point.

25 Q Okay. But the target made for implementation of

1 phase 3 was -- what? Three months away,
2 December of 2013; correct?

3 A Yes.

4 Q And just to be clear, you did not at any time
5 seek ministerial approval to allow you to issue
6 a direction to BCLC to interview patrons?

7 A That's correct. Oh, sorry. I wouldn't -- I
8 don't think that -- I'm sorry, I didn't
9 appreciate that. I don't think a ministerial
10 direction to a group taken operational activity
11 would have been a mechanism that would have been
12 used. Like, normally the ministerial direction
13 would have involved something like the cash caps
14 discussions that we've been having or some other
15 fashion. It's challenging for a ministerial
16 directive to say, we want you to conduct, you
17 know, targeted interviews. That's really an
18 operational matter that would be hard to
19 articulate in a direction.

20 Q But let me -- more appropriately, then, you
21 didn't seek the minister's approval to allow you
22 to issue an operational directive like that;
23 correct?

24 A No, I'm sorry. I don't know that that's the
25 approach that I would have used. Because the

1 directives need to be quite prescriptive, and
2 what we were discussing is not a prescriptive
3 approach. It's sort of an operational -- I'm
4 sorry, I'm struggling with the words, but it's
5 just an operational SOP, this way that you
6 operate.

7 Q As Mr. McGowan said, there's lots of acronyms in
8 this proceeding. What's an SOP?

9 A Yeah. My apologies. Standard operating
10 procedure. Like, it's not something that we
11 would impose. Normally we would issue a
12 directive and then BCLC would determine how best
13 to implement the directive, so yeah.

14 Q So when you were preparing to leave GPEB in
15 September of 2011, did you have a transitional
16 meeting with your successor, Mr. Mazure?

17 A I did, yes. We had many meetings.

18 Q And were there transitional materials that you
19 gave to him in written form describing where
20 things were at and what needed to be done within
21 your portfolio?

22 A The branches would have given him the
23 transitional materials. Mr. Mazure and I had a
24 meeting, and it was more informal than that. We
25 just went through issues that I thought were of

1 importance and gave him the opportunity to ask
2 any questions.

3 Q And given where the AML file ranked in
4 priorities, undoubtedly you would have discussed
5 the three-phase AML plan with Mr. Mazure in that
6 session?

7 A Yes.

8 Q And did you explain to Mr. Mazure to the best of
9 your recollection that phase 3 contemplated GPEB
10 undertaking direct regulatory action in terms of
11 GPEB investigators conducting interviews of
12 patrons who brought in suspicious cash?

13 A I'm afraid I don't have a direct memory of it to
14 that sort of detail, so I'm not able to tell you
15 exactly how I articulated the strategy and where
16 it was.

17 Q You recall, though, describing the three phases
18 of the AML plan?

19 A I don't actually recall details of that meeting.
20 I recall us sitting down. I recall us having
21 the meeting, but I don't recall details of how I
22 presented materials to him. It was a more
23 informal discussion. It wasn't based on a deck
24 or any documentation to organize our discussion.

25 Q And you remained with government but in a

1 different ministry after you left GPEB?

2 A That's correct.

3 Q And you would have been available for Mr. Mazure
4 to contact you and seek any clarification that
5 may be needed with respect to what was now his
6 division and formerly yours?

7 A Yes.

8 Q Do you recall Mr. Mazure ever contacting you and
9 asking you, this phase 3 of the AML plan, what
10 the heck is regulator intervention?

11 A No, he didn't. However, he had, you know,
12 supporting him Bill McCrea, who was one of the
13 chief architects of that plan, as well as
14 investigations and the entire X-DWG to brief him
15 on the history and the direction.

16 Q And at least from your perspective, you'd -- you
17 expected that Mr. McCrea well understood that
18 phase 3 contemplated moving to GPEB conducting
19 interviews of patrons if suspicious cash wasn't
20 curtailed significantly by phase 1 and phase 2?

21 A I expected -- it was my belief that he would
22 have been briefed on that through the team, but
23 I was not part of those briefings, so I can't be
24 sure.

25 MR. McFEE: Okay. Those are my questions for you.

1 Thank you.

2 THE WITNESS: Thank you very much.

3 THE COMMISSIONER: Thank you, Mr. McFee.

4 I'll now call on Ms. Henein for Mr. Kroeker,
5 who has been allocated 30 minutes.

6 MS. HENEIN: Thank you, Mr. Commissioner.

7 **EXAMINATION BY MS. HENEIN:**

8 Q Can you hear me, Mr. Scott?

9 A I can. Thank you.

10 Q Great. I just want to understand from 2011 to
11 2013 you were the General Manager of GPEB;
12 right?

13 A That's correct.

14 Q And as a result of that position I gather
15 Mr. Vander Graaf would have been reporting to
16 you?

17 A Yes.

18 Q All right. And in 2011 when Mr. Kroeker was
19 preparing the report for the government you've
20 told us that as General Manager of GPEB you were
21 not supportive of a cash cap being introduced;
22 right?

23 A That's correct.

24 Q All right. So if Mr. Vander Graaf testified
25 that his view was it was something that should

1 be included in the report, that was not your
2 view as General Manager of GPEB; right?

3 A That's correct.

4 Q Okay. And I understand that based on your
5 affidavit you believed at that time that
6 focusing on individuals was a better approach to
7 AML and proceeds rather than blanket
8 restrictions on cash?

9 A That's correct, yes.

10 Q And in fact in 2015 when Mr. Kroeker was now at
11 BCLC in compliance, I understand that you told
12 commission counsel that the cash conditions
13 program that BCLC had implemented in 2015, which
14 was consistent with the targeted approach you
15 had envisioned in 2011, was in fact effective?

16 A Yes, I believe it was.

17 Q All right.

18 A Just to be clear, that's my discussion with
19 commission counsel this year.

20 Q Correct.

21 A Yes.

22 Q Right.

23 A Yes.

24 Q And the cash conditions program is, again, a
25 targeted program, which is different than what

1 German recommended in 2018; right?

2 A Yes. I must say that I am not an expert -- I
3 don't have detailed knowledge on the cash
4 conditioning. I know the principles, but I
5 don't know details of its application.

6 Q All right. But you know it's targeted?

7 A Yes -- no, I appreciate the principles of it,
8 yes.

9 Q All right. And you know that in your view, at
10 least, you told commission counsel you thought
11 it was successful?

12 A Yes. I think -- I believe it was successful. I
13 believe, like, all these things, you execute and
14 then you continually improve. And so I would
15 say at that point in time I think it was
16 successful, yes.

17 Q And am I right that your view, going back again
18 to the time you were General Manager, was that
19 proceeds of crime coming into the casinos was in
20 fact a very small percentage?

21 A In relation to the total buy-in?

22 Q Yes.

23 A I did believe it to be small. I think it's very
24 important that I say I also thought it was
25 important. It wasn't that the fact that it was

1 small that made by me think we didn't need to
2 take action. I thought it was very important.
3 What informed me about the fact that it was
4 small relative to the 6 billion or so that I
5 understood was coming in was that informed what
6 the appropriate response would be as opposed to
7 whether there should be an aggressive response.

8 Q Right. So you understood that it was 1 percent
9 or less in fact of the overall --

10 A The net winnings at the beginning, yes.

11 Q Right.

12 A But it was increasing.

13 Q All right. And so that's why you would conduct
14 your response or you would tailor your response
15 to the threat; right?

16 A Yes.

17 Q All right. As General Manager of GPEB, I gather
18 that you also believed that cash alternatives
19 were an appropriate and important component to
20 the AML strategy.

21 A Yes, I did.

22 Q Okay. Now, one of the things that you were
23 doing when you came in as General Manager was
24 implementing the Kroeker Report recommendations;
25 right?

1 A That's correct, yes.

2 Q And one of the recommendations that was made was
3 that there be a cross-agency working group;
4 right?

5 A Yes.

6 Q All right. And that is not something that you
7 implemented?

8 A Oh, I'm sorry. I'm not sure that that is true.
9 Do we have -- could you direct me to -- we do
10 have in the materials initial report-outs about
11 what we had done, and I'm wondering if we can
12 refer to that. Or are you familiar --

13 Q Well, I've got your affidavit that you, at
14 paragraph 27, you say that you implemented a
15 cross-divisional working group.

16 A Yes.

17 Q In other words, an internal cross-divisional
18 group, various divisions of GPEB would work
19 together as a task force. My question to you is
20 did you in -- from 2011 to 2013 implement a
21 cross-agency working group? In other words
22 GPEB, RCMP and other agencies --

23 A Yes.

24 Q -- that would be involved with AML?

25 A So I didn't, but we linked -- Bill McCrea was

1 part of that group, so the group that had --
2 exactly as you described. It was BCLC, service
3 providers and I do believe that the police were
4 involved in that as well.

5 Q You don't recall?

6 A I just want to be cautious so that I give the
7 commission the best evidence. So I'm not
8 certain, but I do believe.

9 Q All right. Were you involved in any way in that
10 group over the course of two years?

11 A I did not participate in that group. Bill
12 McCrea was our representative on that group and
13 he brought the information back to our
14 cross-divisional working group.

15 Q Okay. Because one of the things you said is
16 that you had concerns that the police didn't
17 have the necessary resources to engage in
18 criminal investigations. Is that based on
19 information that Mr. McCrea provided to you?

20 A No. That was based on two things. First it was
21 based on the fact that I had directly left the
22 RCMP for this position, so I had knowledge of
23 the capacity generally of economic crime,
24 proceeds of crime-type units in relation to the
25 work load and how that translated into the

1 requirement for prioritization. Additionally
2 when I came to the position as General Manager
3 of GPEB, I was aware that there had been an
4 E Division, so BC RCMP unit dedicated to gaming
5 that had been disbanded.

6 So I took from those two things that it was
7 highly unlikely that the RCMP would prioritize
8 money laundering in casinos. That was my
9 belief.

10 Q Well, money laundering would be part of -- or
11 often, as you know as a former police officer,
12 would be part of larger criminal organization
13 activity; right?

14 A That's correct.

15 Q All right. And so did you believe that the
16 police were not investigating criminal
17 organizations?

18 A No, I believe that they were. What I believed
19 was that -- and they may well, as I mentioned
20 earlier, transit through casinos as part of an
21 investigation outside of that. So I certainly
22 believe that was a possibility. I didn't
23 believe that it was likely that they would take
24 on an investigation based on money laundering at
25 casinos.

1 Q Did you make that direct request?

2 A I did not.

3 Q Did you think that would -- looking back now,
4 again using hindsight, that would have been a
5 prudent thing to do to determine whether or not
6 they would actually effect an investigation?

7 A What I would say -- I said I did not because I
8 did not. But the investigations group, Larry
9 Vander Graaf and Joe Schalk, had a very good
10 working relationship with the proceeds of crime
11 unit and they were in quite regular discussions.
12 So if an investigation was to occur, it would
13 have occurred there with Mr. Vander Graaf and
14 Schalk providing information as appropriate.

15 Q Okay. But I just want to go back to my
16 question. You as General Manager of GPEB --

17 A Yes.

18 Q -- identifying that one of the problems is that
19 the police don't have the capacity to
20 investigate money laundering activity, did you
21 personally have a sit-down with anybody to
22 canvass that issue directly?

23 A Anyone being in the police force or --

24 Q Yes. Yes.

25 A No, I did not.

1 Q Okay. One of the things that the Kroeker Report
2 recommended was to integrate GPEB on a
3 compliance continuum. In other words, that
4 registration, audit, enforcement, investigation
5 would be integrated. Do you recall that
6 recommendation?

7 A I do, yes.

8 Q And we've heard evidence that GPEB's policy
9 decision -- division was not integrated with
10 these other components, certainly up to and
11 including 2012. Is that consistent with your
12 understanding as well?

13 A That policy wasn't?

14 Q Yeah.

15 A Yes, that would be consistent with my
16 understanding, yes.

17 Q And am I right that as you told commission
18 counsel in your will-say, in fact GPEB
19 investigations as well viewed themselves as an
20 island unto themselves?

21 A They did when I arrived. I believe there was a
22 significant shift over that period of time and
23 when I left it was quite different with our
24 engagement and the strategy.

25 Q All right. And so you actively tried to have an

1 integrated approach?

2 A Oh, yes. Absolutely. Yes.

3 Q Now, I just want to understand some of the
4 answers that you gave to commission counsel and
5 to Mr. Lightbody's counsel as well regarding
6 this issue around source of funds and what you
7 as a regulator thought you could or could not
8 do; okay?

9 A M'mm-hmm.

10 Q Now, you accept that AML was, using your words,
11 one of the top priorities of GPEB?

12 A Yes.

13 Q And you are a regulator; right?

14 A Yes.

15 Q All right. And GPEB stands for Gaming Policy
16 and Enforcement?

17 A Yes.

18 Q In terms of the enforcement branch, how many
19 investigators did you have working at GPEB?

20 A The investigations unit I believe is about 30.

21 Q Is there another unit that had more
22 investigators?

23 A Well, registration -- no, I would say
24 investigations. But registration, I believe,
25 had one or two. They might have had Special

1 Provincial Constable status, but I'm not certain
2 about that. So I'd say investigations unit at
3 30.

4 Q 30 people. And 30 investigators that were
5 largely trained police officers?

6 A Yes.

7 Q All right. And the 30 investigators that were
8 publicly funded and trained former police
9 officers, as I understand your evidence today,
10 largely reviewed transaction reports?

11 A I don't know that that's quite a fair
12 characterization. They -- certainly for the
13 anti-money laundering portion of their
14 activities, that would be true. But they did
15 have a wide mandate for wrongdoings in casinos
16 that was beyond money laundering.

17 Q Right. But you've already told us that money
18 laundering was priority number one; right?

19 A Yes.

20 Q All right. So presumably with 30 trained --
21 30-odd trained police officers on the public
22 dime, one of their priorities would have been to
23 be actively involved in AML investigations of
24 some nature; right?

25 A Because -- no, I would say because of the

1 context with BCLC's conduct of -- well, their
2 conduct and manage mandate and their role meant
3 that they had primary responsibility, they had
4 statutory responsibility to FINTRAC to report.
5 And when I arrived the view was that they had
6 primary responsibility for dealing with the
7 suspicious transactions that were coming in. So
8 when we made it a priority, my first effort, as
9 I articulated earlier, was to create the
10 strategy to help us start asserting ourselves,
11 at least at the strategic level, for money
12 laundering and then potentially in the future at
13 the more operationally level. And so that was
14 the focus of our efforts for that strategic
15 priority.

16 Q Well, you don't get a -- over the course of two
17 years that you're there, you don't get a legal
18 opinion, as I understand your evidence, to see
19 whether or not your investigators can go in and
20 conduct source of funds investigations; right?

21 A That's true.

22 Q All right. So I'm not talking about money
23 laundering investigations because we've heard
24 evidence about that. I'm talking about source
25 of funds investigation. And in fact it's not

1 until 2019 that GPEB investigators become
2 involved in that activity; right?

3 A Right. That's correct.

4 Q And based on your evidence, it was your belief
5 that BCLC had primary responsibility, but even
6 if you had secondary or tertiary responsibility,
7 you know you had 30 trained police officers at
8 your disposal who could have conducted source of
9 funds inquiries; right?

10 A They couldn't have at that point. The advice
11 that I was given is that they couldn't have.

12 Q That's the advice of Mr. Vander Graaf?

13 A That's the advice of Mr. Vander Graaf, yes. And
14 his [indiscernible] --

15 Q Did you seek a legal opinion?

16 A I'm sorry?

17 Q Did you seek a legal opinion? Mr. Vander Graaf
18 was a former police officer. Did you seek a
19 legal opinion from someone to ask whether it
20 made sense that a regulator's investigators
21 could not investigate something as innocuous as
22 source of funds?

23 A I did not seek a legal opinion at that point in
24 time, no. That's correct.

25 Q Or at any point in time from 2012 to --

1 A No [indiscernible]. As I had testified earlier,
2 it was my intention to deal with both of those
3 two options -- or pardon me, both of those two
4 issues. One was the legal opinion and the other
5 was working with investigations to address their
6 concerns about that activity.

7 Q But you never do that?

8 A Pardon me?

9 Q You never do that over the --

10 A No, I left GPEB before I did that. Yes, that's
11 correct.

12 Q Okay. Let me be more precise in my questions.
13 Between 2011 and 2013 over the course of two
14 years you never seek that opinion?

15 A That's correct.

16 Q All right. And had you sought that opinion and
17 discovered that your investigators, the 30
18 investigators that were at GPEB's disposal,
19 could facilitate source of funds investigations
20 or inquiries, you could have, for example,
21 initiated a pilot project; right?

22 A Yes. I would have respected BCLC's role, but I
23 would have definitely had a discussion about how
24 we [indiscernible]. That's true.

25 Q All right. In terms of the other things that

1 you could have done, am I right that at no point
2 in time did you seek to issue or obtain
3 ministerial approval for any directive between
4 2011 to 2013?

5 A That's correct.

6 Q All right. And am I right that you do not
7 between 2011 to 2013 issue any sort of policy to
8 BCLC, any policy statements about how to conduct
9 source of funds inquiries, what sort of
10 expectations or training you would expect,
11 anything of that nature?

12 A No. Because I didn't think that it was
13 necessary at the time.

14 Q You thought they were doing a good job?

15 A I thought that it was -- we were working
16 together on a strategy. We were working -- we
17 were discussing where we were going, and I
18 didn't feel the need to apply that. Saying I
19 thought they were doing a good job, I thought
20 that there was places we needed to take the
21 regime forward, but I felt like we were working
22 together in order to do that.

23 Q Right. You were comfortable and confident with
24 BCLC's response?

25 A I was -- I don't know if that's correct. I felt

1 that there was -- as I said before, there was a
2 disagreement in terms of approach. I respected
3 BCLC's responsibility and ownership of the -- of
4 the issue. I respected the people at BCLC that
5 I was working with. But I did have a
6 disagreement on the approach, so I hope that's
7 helpful because it's not accurate to say that I
8 was completely comfortable.

9 Q All right. If you had concerns of a sufficient
10 magnitude, presumably you would have sought to
11 utilize any one of your regulatory authorities;
12 right?

13 A If I didn't think that we were going to get
14 there as a collaborative effort?

15 Q Yes.

16 A That is correct.

17 Q Right. So you did not even feel the need in
18 that time period to issue a policy statement;
19 right?

20 A No.

21 Q You were happy with the communication and
22 collaborative process that was -- you felt you
23 were moving forward; right?

24 A I felt we were moving forward.

25 Q All right.

1 A Yes.

2 Q I want to ask you a little bit about
3 Mr. German's recommendations and your
4 involvement with that report; okay? You were at
5 the ministry at the time that the
6 recommendations were released; right?

7 A That's correct.

8 Q Okay. And one of the recommendations that
9 Dr. German made was that a dedicated policing
10 unit be established at casinos. Do you recall
11 that?

12 A I do.

13 Q And was that put in place?

14 A It has not been put in place, no.

15 Q So -- just so I understand it, as far back as
16 2011 you were of the view that one of the
17 problems in combatting money laundering in
18 British Columbia is the absence of police
19 resources; right?

20 A That's correct.

21 Q And all the way up to as recently as the German
22 Report when a designated policing unit, so
23 several years later now, that same issue is
24 raised and it's recommended that a dedicated
25 unit be implemented. To your knowledge there

1 have been no steps to implement it?

2 A I wouldn't characterize it that way. There's
3 been work done at the ministry to develop plans
4 and an outline of how that could potentially
5 work. What has been done since then is that
6 work is in place and we are waiting to get some
7 guidance from this commission because it's a
8 very significant investment to make and we want
9 to ensure that it is in alignment with what this
10 commission views after its extensive review of the
11 issue whether it's appropriate or not to move
12 that forward.

13 Q Okay. You are aware, I take it, that in 2018
14 BCLC was in the process of implementing a series
15 of new AML strategies; right?

16 A I'm sorry, could you take me to the time period
17 again. I apologize.

18 Q 2018.

19 A 2018. Okay. Yes. Go ahead.

20 Q And you were aware in fact that BCLC wanted to
21 implement a \$25,000 cash cap in early 2018?

22 A Yes.

23 Q All right. And I take it you're aware that
24 Minister Eby instructed BCLC not to implement
25 the changes to the A ML regime?

1 A I'm aware of an email that Minister Eby sent.
2 I'm, sorry, at this moment not sure if the cash
3 cap was part of that, but there were other
4 elements that were part of it, yes.

5 Q And the Minister instructed BCLC not to
6 implement AML regimes that they had prepared to
7 implement and roll out; right?

8 A I don't know if that's characterized correctly.
9 Could we go to that? Because there was an email
10 that the Minister sent to Mr. Lightbody to that
11 effect. So I'd like to refer to the email, if I
12 could.

13 Q Well, before we refer to the email, because
14 we're running short of time, what I want to know
15 is your knowledge. Do you have any personal
16 knowledge of Minister Eby saying that he did not
17 want any AML changes implemented pending the
18 German Report. Do you have personal knowledge
19 of that?

20 A My personal knowledge is that -- I'm going to
21 break it up to ensure that I'm accurate. So for
22 the cash cap, my knowledge is that we requested
23 that Jim Lightbody consult with Peter German --
24 that would have been in January where the report
25 was coming out, we expected, in approximately

1 government?

2 A No, I wasn't aware he was upset.

3 Q All right.

4 A Or it caused a serious problem. My recollection
5 at the time was that the view was that we wanted
6 to ensure that it was in alignment with what
7 Peter German was doing.

8 Q Okay. And so if we've heard evidence from
9 individuals relaying conversations they had with
10 Mr. Fyfe expressing Minister Eby's anger about
11 what BCLC was doing, that's not consistent with
12 your recollection?

13 A I was part of a phone call between Richard Fyfe
14 and Jim Lightbody where the issue of the cap was
15 discussed. I think I was two days on the job.
16 It was very, very rapid from my time on the job.
17 So at that meeting what was articulated to
18 Mr. Lightbody was that we wanted him to go and
19 consult with Peter German on that recommendation
20 before implementation. If Peter German was to
21 support it, then it would have had our support
22 as well.

23 Q And until you had Peter German's view you were
24 not prepared to support the cash cap?

25 A No. We wanted to have -- we were looking to

1 Peter German to provide us guidance on the way
2 forward. We knew his report was imminent. We
3 didn't think it was prudent to do something that
4 might be out of alignment with his report, and
5 so that's why we made the request that he
6 contact Peter German.

7 Q And ultimately Peter German recommends no cash
8 cap; right?

9 A That's my understanding, yes.

10 Q So imposing a cash cap would be BCLC being more
11 restrictive, in fact, more conservative on AML
12 than German's report?

13 A I don't know if we can say in totality more
14 conservative than --

15 Q I'm talking about the cash cap.

16 A If you narrow to the cash cap, it would be more
17 conservative. Peter German recommended not to
18 use a cash cap.

19 Q Right. Did you personally have conversations
20 with Dr. German about his recommendations?

21 A I did not. Well, it depends at what time
22 period. So after the report was released, our
23 team and the AML secretary that supported it had
24 discussions with Peter German. I don't actually
25 think I had any direct discussions, though Megan

1 Harris and others on the secretariat did have a
2 number of discussions with him on implementation
3 of the recommendations.

4 Q Were you aware of concerns in the ministry and
5 did you have any concerns that Dr. German's
6 report was making recommendations that were
7 unworkable or that was not based on quantified
8 evidence?

9 A I know that we had concerns about the dedicated
10 police force, as an example, of the expense of
11 the dedicated police force, whether it was
12 appropriate to have one restricted exclusively
13 to the gaming industry or whether such a force
14 should be more broadly applied throughout the
15 economy. That was one that we definitely
16 discussed. Other recommendations of concern
17 don't jump out to me at this time, but that one
18 we definitely had discussions about.

19 Q Let me ask my question again. Did you have
20 concerns or are you aware of anybody in
21 government having concerns that Dr. German's
22 report is based on innuendos but little
23 quantified evidence?

24 A Based on innuendos but little quantified
25 evidence. I will speak to my own opinion

1 because I don't -- my opinion was that the
2 report was not a quantitative report; it was
3 qualitative. It was based on interviews that
4 Peter conducted throughout the industry. So it
5 was, in my view, not a quantitative report.

6 Q When you say "not quantitative" can I just be
7 clear. When we're talking about interviews you
8 mean it was anecdotal; it was not based on
9 actual assessments?

10 A It was not based on quantitative analysis.

11 Q And what does that mean?

12 A Applying knowledge. Pardon me?

13 Q What does that mean?

14 A What that means is that I didn't see in the
15 report analysis of, for example, the STR
16 activity, as one example. It was based
17 primarily, as I understood it, on interviews of
18 people in the industry and what they had
19 experienced during that time period.

20 Q In other words -- just so we're not dancing
21 around this. So it wasn't based on data; right?
22 It wasn't based on numbers.

23 A No.

24 Q It wasn't based on STR reports. It was based on
25 interviews and reports of what people thought.

1 It was anecdotal.

2 A I am not trying to dance around the issue. I'm
3 trying to answer your questions. It was based
4 on interviews and what people thought.

5 Anecdotal, I don't know if that's the right
6 term. It might be.

7 Q It was not based on data?

8 A It was not based on data -- largely based on
9 data. I agree with that.

10 Q Okay. And I take it other people in government
11 shared that concern that it was not a
12 data-driven report?

13 A That was an issue that was discussed, yes, the
14 data. Yes.

15 Q Do you recall who in government was concerned
16 about that?

17 A The -- we had discussions with -- Lori Wanamaker
18 and myself had discussions about the report, and
19 more high level discussions with Don Wright as
20 well.

21 Q What about Minister Eby? Was he concerned that
22 it was not based on data?

23 A I did not discuss the report in any detail with
24 Minister Eby.

25 Q But presumably he saw it?

1 A Mr. Eby saw the report. Yes, certainly.

2 Q Okay. Now, the last thing I wanted to ask you
3 about just as a couple of minutes is you recall
4 that Minister Eby had claimed that people would
5 be going into casinos and coming out with
6 cheques, that that was the way money laundering
7 was occurring in British Columbia. Do you
8 recall that?

9 A I never heard him say that. I did see that in a
10 report that was part of the materials that were
11 provided to me for this cross-examination, but I
12 can't speak to whether that is a correct
13 quotation or not. And I wasn't -- I haven't
14 been with him during those sort of interviews
15 where he said that.

16 Q All right. Well, I'm just going to quote what
17 he's reported as saying in front of the House of
18 Commons committee, and you can tell me whether
19 you recall this being accurate or consistent
20 with what you understand he said.

21 "The gambler walks the illicit cash into
22 the casino, buys chips, gambles and on
23 leaving, either cashes out, receiving a
24 cheque, or carries the chips out the
25 casino."

1 Is that consistent what you recall Minister Eby
2 telling the House of Commons?

3 A I did not monitor his statement to the House of
4 Commons.

5 Q All right. Do you recall that the BCLC had
6 obtained a report dealing with River Rock from
7 E&Y -- what was referred to as the E&Y Report?

8 A Yes, I do.

9 Q And that is a report that was based on data, not
10 interviews with people?

11 A Yes, I would say that's true.

12 Q All right. And that data-driven report from E&Y
13 concluded that contrary to Minister Eby's
14 assertion, there was no evidence that people
15 were bringing illicit cash into the casino and
16 leaving with cheques or chips outside of the
17 casino, that that had not been identified at
18 River Rock. Do you recall that being the
19 conclusion of E&Y?

20 MR. MCGOWAN: Mr. Commissioner, I'm just going to
21 interject. I'm unclear from my learned friend's
22 question whether she's suggesting that the E&Y
23 Report referred to Minister's Eby's statements.
24 It sounded like that to me from her question.

25 MS. HENEIN: No. No, I'm sorry, it did not

1 specifically refer to Minister Eby's statement.

2 Q It came to the conclusion that there was not
3 cash for cheques occurring at River Rock. Do
4 you --

5 A Yes.

6 Q -- recall that? All right.

7 A I do recall that, yes.

8 Q All right. And were you a part of the group who
9 concluded that that E&Y report should be
10 provided to the ministry under qualified
11 privilege?

12 A I was to an extent. And let me explain how I
13 was. I attended a board meeting by phone. I
14 believe this is the point in which we're talking
15 about. There was two board meetings. The
16 second one I attended by phone. At that board
17 meeting -- well, I have to confess. What I was
18 doing at the time was I was lightly monitoring
19 it. I had other files that I was working on at
20 the time, and so I wasn't actively
21 participating. There was a point where in my
22 recollection Peter Kappel called on me and said,
23 should we transfer the report over under
24 privilege, presumably like common interest
25 privilege. So I said at that time that that

1 makes sense.

2 And as I've noted in my affidavit, the
3 reason I did that was in the moment I just
4 thought it would be unwise to waive a privilege.
5 I'm saying this in the affidavit, so I'm
6 repeating myself. I apologize. But I'm not
7 legally trained and it didn't -- I just never
8 would waive a privilege without seeking counsel
9 from our legal services branch. So I did say to
10 transfer it over in that fashion and to that
11 extent yes, I was involved in that.

12 Q But you're aware that the government allowed
13 BCLC to post the E&Y report on its website?

14 A Yes.

15 Q All right. And were you involved at all in
16 making the determination that Minister Eby would
17 not reference that report or bring it to the
18 public's attention in his April 1st press
19 conference? Do you know -- were you involved in
20 that determination or decision?

21 A I don't think -- could you just repeat that
22 first part of it.

23 Q Sure. We know that Minister Eby chose not to
24 reference the E&Y report in an April 1st news
25 release, which came to the conclusion that,

1 based on data, this idea of money for cheques
2 just wasn't found out by E&Y.

3 Were you part of the group that made that
4 determination not to reference it and bring it
5 to the public's attention?

6 A No, I was not. That's normally done by the
7 communications group that would be responsible
8 for those sorts of decisions.

9 Q All right. So you can't explain to us why the
10 data-driven E&Y report does not get referenced by
11 the Minister but the non-data-driven report of
12 Dr. German figures ever so prominently for
13 Minister Eby?

14 A No, I can't speak to why he didn't announce it
15 or make it part of his announcement at the time.
16 Presumably it was maybe unrelated, but I don't
17 have knowledge of it.

18 MS. HENEIN: All right. Thank you. Those are my
19 questions.

20 THE COMMISSIONER: Thank you, Ms. Henein.

21 I'll now call on Mr. Butcher on behalf of
22 Mr. Desmarais, who has been allocated
23 10 minutes.

24 MR. BUTCHER: Thank you, Mr. Commissioner.

25 **EXAMINATION BY MR. BUTCHER:**

1 Q Thank you, Mr. Scott, for the comments about
2 your regard for Mr. Desmarais's experience and
3 expertise. You have told us that there were
4 some differences between you, but I take it that
5 they were differences of degree, differences of
6 approach and differences of timing. Is that
7 fair?

8 A Differences of approach. I would say definitely
9 differences of approach. Degree, I don't know,
10 I find hard to define. And timing perhaps as
11 well. At the time that we were discussing it I
12 was thinking immediately, and Mr. Desmarais
13 might have been having it in his plan for later,
14 which could well be the case. And so in that
15 case you'd be correct on timing.

16 Q You would agree that you were both reasonable,
17 well-intentioned, well-informed people?

18 A Absolutely.

19 Q Different perceptions on the same problem?

20 A Yes, I absolutely would be. I do believe
21 Mr. Desmarais has the best intentions. I don't
22 question his motivations.

23 Q And you certainly had the same objective, same
24 ultimate objective of protecting the integrity
25 of gaming?

1 A That's true.

2 Q I want to take you quickly to exhibit 26 to your
3 affidavit. That's --

4 A Of my affidavit, okay.

5 Q Yeah. Page 169.

6 A Okay. Just one moment.

7 THE REGISTRAR: Mr. Butcher, do you need me to bring
8 it up on the screen?

9 THE WITNESS: I have it here. I do have it. Thank
10 you.

11 MR. BUTCHER:

12 Q This document is called an issue note. Who is
13 this document written by; who is it written for?

14 A I have to say I am uncertain who it's written
15 for. An issue note would commonly be prepared
16 for either the Minister or the Deputy Minister.
17 Often, certainly nowadays, the notes say
18 specifically who they're prepared for. I see on
19 this note it doesn't. It's not done
20 specifically. So --

21 Q So is it intended for public release?

22 A No, this would be an internal government
23 document. Yes.

24 Q Internal for someone at the very higher ends of
25 government, Deputy Minister or Minister level?

1 A Yes.

2 Q And the message that's being conveyed by this
3 document on April the 30th, 2013, is that BCLC
4 has a comprehensive anti-money laundering
5 program in place and is committed to continuous
6 improvement and cooperation with GPEB and other
7 stakeholders?

8 A Yes.

9 Q So that's the message that's going up to the
10 Deputy Minister or Minister?

11 A Yes.

12 Q From within your branch?

13 A Even that, that's what's unusual. I don't see a
14 note that says -- maybe just, if I could ...
15 I'm just looking. I apologize. I'm getting a
16 little bit tired. I want to reference it in
17 my ...

18 Q Who else would be writing it if it wasn't from
19 someone within your branch?

20 A Issues notes could also be written by the Crown
21 corporation as well and come through the branch
22 up to government.

23 Q But it's on your ministry's letterhead, isn't
24 it?

25 A Oh, thank you. I apologize. Yeah, it's

1 Government of British Columbia. So yes, I
2 apologize, I would say it's coming from our
3 branch.

4 Q To get to the bottom of that, this is the
5 message your branch is delivering to senior
6 members of government in April 2013?

7 A Yes.

8 Q Now, I've listened to your evidence today and
9 read your affidavit, and I need some help with
10 two different themes that have come up. The
11 first is that you thought implementing reverse
12 onuses was appropriate and important. Correct?

13 A Yes.

14 Q When did you first come to that belief?

15 A It's -- it will be difficult for me to assign a
16 time. It was an evolution of our thinking.
17 What happened during this process was getting
18 the sense that street cash could figure
19 prominently in the STRs that we were seeing, and
20 so that was really the reason that we thought we
21 should be shifting and focusing on the cash as
22 opposed to the player and the wealth of the
23 player. So it's just during that period.

24 I know for certain it was clearly in my
25 mind when Mr. Desmarais and I had those

1 discussions when he came in. But when before
2 that, it's difficult for me to say how --

3 Q You had already been in the job for about two
4 years when --

5 A Yeah, so it presented itself by the time we were
6 doing the strategy actually, now that I'm
7 thinking. So it would have probably been by
8 late 2011/2012 because it presents itself in the
9 strategy in early 2012, I believe.

10 Q So that was a thought that you had long before
11 Mr. Desmarais was working at BCLC?

12 A Yes, that's fair. That's fair. Yes.

13 Q The second theme that I've detected in your
14 evidence is a need to proceed cautiously, that
15 this is not a situation that lends itself well
16 to an immediate remedy?

17 A I'd like to qualify that. I think that there's
18 a distinction in my mind between responding to
19 the operational threat, the immediate threat of
20 the cash coming in in terms of dealing with the
21 STR of the day, the person bringing the cash in
22 on the day. I think there's a very important
23 distinction to be made between that and a broad
24 policy application such as caps that we've
25 discussed many times.

1 And in broad policy, as I've said before,
2 it's the obligation of the government, the civil
3 service serving government, to think of what the
4 implications are for all stakeholders, what the
5 balance of the harms and the balance of the
6 benefits are of that broad policy. And so in
7 that respect I would proceed cautiously. But on
8 an operational level with the cash coming in at
9 the casinos, I would view it differently and
10 think that it could lend itself to more
11 aggressive action.

12 Q You told us that there were public policy
13 reasons and that there were -- this need to
14 anticipate predictable or -- and unpredictable
15 consequences. Going to a reverse onus situation
16 with cash would have been a very substantial
17 policy change, wouldn't it?

18 A I don't believe so. Because what was envisioned
19 with that is simply interviews of key players,
20 high-value players or high-risk players, so it
21 wouldn't transform necessarily the policy. It
22 could -- or transform the industry in any way
23 the way a cap would. It could, however, place
24 demands on BCLC and I didn't have visibility
25 into their capabilities to do that. And so --

1 and Mr. Desmarais and I didn't discuss that part
2 of it. So it may have taken time to implement.
3 I don't want to suggest that it wouldn't be at
4 all onerous, but I don't think it would have a
5 profound impact.

6 Q Let's -- I want to turn now to a few questions
7 about the investigation branch in GPEB. You
8 have said in your affidavit that there was --
9 when you arrived at GPEB in 2011 there was
10 friction between GPEB investigations and other
11 GPEB groups; correct?

12 A That's correct.

13 Q There was friction with GPEB investigations and
14 with BCLC?

15 A That's correct.

16 Q And you've described Mr. Vander Graaf in your
17 affidavit and Mr. Schalk as being overaggressive
18 and said that some of those people considered
19 him -- some people considered him to be a bully?

20 A That's correct. I also said in that same thing
21 that they had the best of intentions, in my
22 view. They're good people and they're
23 passionate about what they were concerned about.

24 Q You, in exhibit 32 to your affidavit, had to
25 apologize for Mr. Schalk's tone.

1 A Yes. I acknowledge your first statement that
2 they can be at times viewed as bullies and they
3 can be viewed as aggressive. That's definitely
4 part of my evidence. I just wanted to balance
5 that with my following statement.

6 Q Did you observe them being bullies? Was that
7 your opinion?

8 A No, that was relayed to me by others. I had
9 very good, in my opinion relations with them.
10 So I didn't observe, but it was reported to me.

11 Q So Ms. Henein established that there were 30
12 GPEB investigators; correct?

13 A Yes.

14 Q Thereabouts.

15 A At least. Could be 31, 32.

16 Q As I understand it, with respect to money
17 laundering their role was restricted to
18 examining reports and writing reports about the
19 reports they examined.

20 A Yes.

21 Q And sometimes they were even cutting and pasting
22 from the reports they received into the reports
23 they were sending?

24 A I don't have knowledge of that.

25 Q They were working 9:00 to 5:00?

1 A Yes, I believe that. Yes, I would think so.

2 Q So --

3 A George and -- oh, pardon me. Larry Vander Graaf
4 and Joe Schalk in particular, I do know that the
5 group would go out and do various initiatives
6 that would be outside of regular working hours.

7 Q And what sort of initiatives would they be? It
8 wouldn't be talking to patrons, would it?

9 A Well, their work extends beyond casinos, so I
10 know that they have done --

11 Q I'm only interested in casinos, Mr. Scott.

12 A Yes, well --

13 Q It didn't involve anybody being interviewed in
14 casinos by these folks?

15 A I'm sorry, we --

16 MS. HUGHES: Mr. Commissioner, it's Jacqueline
17 Hughes. I'd appreciate it if the witness could
18 be given the opportunity to finish his answer.

19 THE COMMISSIONER: Yeah, I think that's fair.

20 THE WITNESS: I'm sorry. Go ahead. Could you repeat
21 the question.

22 MR. BUTCHER: I've now forgotten the question.

23 Q They were not going to interview people in
24 casinos, were they, when they were out from the
25 office?

1 A No. They did not interview patrons in casinos.

2 Q So I'm curious -- if we can go to paragraph 73
3 and 74 of your affidavit. You say this in
4 paragraph 74:

5 "My conversations with Mr. Desmarais ...
6 were very direct but professional. I was
7 adamant in telling him that BCLC should be
8 interviewing patrons about their source of
9 funds immediately, rather wait [sic] to
10 build an intelligence unit over time, as I
11 understood was his plan. I suggested that
12 BCLC should reverse the onus and require
13 proof of the source of funds. I did not
14 believe that BCLC needed to prove any
15 wrongdoing to refuse cash."

16 I've read that correctly?

17 A Yes.

18 Q Now, I've got a number of questions about that.
19 Do you remember when you first met
20 Mr. Desmarais?

21 A You mean first met him or first met him in my
22 capacity as General Manager?

23 Q First met him in your capacity as General
24 Manager.

25 A It would have been shortly after his

1 appointment, and I believe we met -- my
2 recollection is we met in my office. I don't
3 know if it was the first meeting, but I feel as
4 if it was.

5 Q And do you remember when that was?

6 A I don't have -- it would have been shortly after
7 his appointment, so I'm not sure.

8 Q So you can't place that appointment in time
9 yourself?

10 A I could -- I would have to look it up to find
11 out when Mr. Desmarais was appointed.

12 Q Now, I'm told that you met with him between
13 three and five times and that each of those
14 meetings was something in the order of 30 to
15 60 minutes. Would that be in accordance with
16 your memory?

17 A Yeah, that -- I think so. I would have said
18 more like five, but yeah, that could be right.

19 Q If you thought that interviewing patrons was so
20 important that it needed to be done immediately,
21 why haven't you asked for this to be done before
22 Mr. Desmarais arrived in February 2013?

23 A We were having discussions of this sort of thing
24 regularly. I don't --

25 Q Sorry, I'm going to interrupt. Who's "we"?

1 A I had been having discussions with people at
2 BCLC. I would say predominantly that would be
3 Mike Graydon, where we would have a discussion
4 similar to this. So I don't want to suggest
5 that it was only with Brad Desmarais that we had
6 discussions about this option.

7 Q And why didn't you ask Mr. Vander Graaf to do
8 the same thing? He was a person under your
9 direction.

10 A Yes, he was a person under my direction. My
11 understanding at the time was that the -- well,
12 I guess there's two components to it. One is
13 that the view was it was not -- they didn't have
14 the authority. That the investigations group
15 within GPEB didn't have the authority. The
16 other thing was that it was for all the time I
17 believe leading up to my time, 10 years or so,
18 it had been within the purview of BCLC. And I
19 respected BCLC's role and didn't want to
20 necessarily interfere with that. I did in the
21 strategy -- I'm sorry, I see you're shaking your
22 head. But I'll just finish the --

23 Q Go ahead.

24 A I'll just finish this. In the strategy we did
25 contemplate the third phase where we would have

1 become directly involved in the operational
2 piece. But as we also noted in the strategy, we
3 didn't know that we would need to get there. It
4 would depend on whether we were successful
5 getting the STRs down.

6 Q So firstly, there's no written record of any
7 communication between yourself and Mr. Desmarais
8 or anybody else at BCLC about the request that
9 you've set out in paragraph 74, is there?

10 A No. And I haven't held it out as such. It's
11 just -- it was conversations.

12 Q And why were you saying they should do it
13 immediately but -- and GPEB could do it, but we
14 wouldn't do it for another year or two?

15 A I didn't believe at the time GPEB could do it.
16 The advice I had was that GPEB was not in a
17 position to do it.

18 Q And Ms. Henein went through that with you. That
19 advice came from Vander Graaf, not from a
20 lawyer?

21 A Yes, that's correct.

22 Q You've got access to Attorney General lawyers
23 for free?

24 A Oh, they don't seem very free to me. I'm sorry,
25 I don't mean to be flippant, but there's bills

1 associated to legal advice within the provincial
2 government. It gets assigned to the budget.

3 Q Okay. But you've got access to the Attorney
4 General's counsel?

5 A Yes.

6 MR. MCGOWAN: Mr. Commissioner, I'm just going to
7 interrupt to inquire how much longer

8 Mr. Butcher thinks he's going to be. He's --

9 MR. BUTCHER: About three minutes.

10 MR. MCGOWAN: Thank you.

11 THE COMMISSIONER: Sorry, I think you're overtalking.
12 I didn't hear that, Mr. Butcher.

13 MR. MCGOWAN: Yes. No, I was just noting that
14 Mr. Butcher is over his time, although he did
15 request a relatively modest allocation, and I
16 was inquiring how much longer he thought he'd
17 be, given that he's over.

18 MR. BUTCHER: It's what they call in other places I
19 go a Butcher three minutes, sometimes a little
20 longer.

21 THE COMMISSIONER: All right, Mr. Butcher. Carry on.

22 MR. BUTCHER:

23 Q That opinion would have been very easily
24 obtained; correct?

25 A Yes, that's fair to say.

1 Q I'm interested now in some of your thoughts on
2 what might be required to properly investigate
3 money laundering in casinos given your
4 background in policing and the fact you've been
5 in and out of this particular branch a couple of
6 times in your career. IMET, where you were when
7 you retired from the RCMP, was an integrated
8 unit; correct?

9 A Yes, it was.

10 Q And just so it's clear for the record, that's
11 the Integrated Market Enforcement Team?

12 A That's correct.

13 Q And you had lawyers and accountants working in
14 your team?

15 A Yes, we did. Actually in the team that I had we
16 had a DOJ lawyer, but I believe we outsourced
17 accountants.

18 Q You had forensic accountants available to you?

19 A We had forensic accountants available, yes.

20 Q Were the lawyers and accountants critical parts
21 of the investigative process?

22 A Yes.

23 Q IMET is RCMP led; correct?

24 A Yes, it is.

25 Q I take it you would accept that a proper

1 investigative unit would require investment in a
2 wide variety of human resources, people with
3 different ranges of skills?

4 A Yes, I'd agree.

5 Q Different professional people?

6 A Yes.

7 Q There are some investigative bodies now, like
8 the British Columbia Independent Investigation
9 Office and ASIRT in Alberta, that are led by
10 civilians, not by police officers. Would you
11 agree that that might be an appropriate
12 consideration for government to make when
13 looking at how to resource a new unit?

14 A Are you referring in a go-forward -- from a
15 go-forward perspective?

16 Q Yes, a go-forward basis.

17 A Yes, I would have no concerns about
18 investigators from other backgrounds. I don't
19 believe policing is necessarily a requirement.

20 Q How about for leading the investigative unit?

21 A No problem at all for me. I don't believe it
22 requires policing experience to lead a unit such
23 as that.

24 Q Now, I got the sense that you might have been
25 frustrated when you were at IMET because of the

1 lack of capacity of the police to investigate
2 the crimes you were investigating.

3 A I don't know if I'd characterize it as
4 frustrated. The reality is that these
5 investigations are extraordinarily expensive.
6 It's the structure that we've created in our
7 society, frankly, in our legal framework.
8 They're very, very expensive investigations to
9 undertake. Any government has to allocate
10 resources as well as they can. The RCMP was
11 allocated resources. Those resources were
12 subdivided to the commercial and economic crime,
13 and those were the resources that we had at the
14 day that we were provided by -- not to be too
15 corny about it, but that's what society provided
16 us. That's the priority of society.

17 So I wouldn't describe -- I wasn't
18 frustrated. I was just cognizant. It was a
19 reality for me.

20 Q And when you arrived at GPEB you were aware that
21 the same capacity issues applied in the new
22 environment you were in?

23 A At the same police capacity, do you mean, in
24 E-division?

25 Q Yes.

1 A Yes. I believed it to be true, yes.

2 Q And you never sought any provincial approval for
3 any funding of additional police resources
4 during the time that you were the General
5 Manager of GPEB; is that correct?

6 A That's correct. I would add that I don't think
7 that that would be my role to do that. There's
8 the role of the Deputy Solicitor General and the
9 Solicitor General Ministry determine those
10 things.

11 Q It's the sort of thing you could have had input
12 into. You could have raised that subject.

13 A In terms of -- I'm sorry, clarify in terms of --
14 that we need more investigative ability to be
15 able to do this in gaming, for example?

16 Q Yes.

17 A I wouldn't have raised it because, in my view,
18 at that time I knew the resource capabilities of
19 the RCMP, I knew the priorities that they were
20 working on and I don't think if they allocated
21 more resources to commercial crime at that time
22 or proceeds of crime that our gaming facility
23 challenges would have risen to the level that
24 they would have actually been investigated.

25 Q Not significant enough a problem for the RCMP to

1 investigate. That's what you --

2 A That was my belief.

3 MR. BUTCHER: Thank you, those are my questions.

4 MR. MCGOWAN: Mr. Commissioner, the witness has been
5 going for some time now. I'm going to suggest
6 just a brief adjustment before Ms. Hughes.

7 THE COMMISSIONER: Yes, I think that makes sense.

8 We'll take 10 minutes.

9 THE REGISTRAR: The hearing adjourned for 10 minutes
10 until 2:00 p.m.

11 **(WITNESS STOOD DOWN)**

12 **(PROCEEDINGS ADJOURNED AT 1:50 P.M.)**

13 **(PROCEEDINGS RECONVENED AT 2:00 P.M.)**

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

16 THE COMMISSIONER: Yes, thank you, Madam Registrar.

17 **DOUGLAS SCOTT, a witness**
18 **for the commission,**
19 **recalled.**

20 THE COMMISSIONER: I'll now call on Ms. Hughes on
21 behalf of the Province, who has been allocated
22 30 minutes.

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

24 **EXAMINATION BY MS. HUGHES:**

25 Q Mr. Scott, I have -- I don't expect to need the

1 full 30 minutes, but I do have a few brief
2 questions for you. First, I understand that
3 there is a portion of one paragraph of your
4 affidavit, paragraph 30, that you would like to
5 clarify for Mr. Commissioner; is that right?

6 A I think so. Let me just pull paragraph 30. Oh,
7 yes. Thank you. In the paragraph 30 at the
8 last line it goes on to say:

9 "... Investigation Division and would
10 provide the X-DWG with copies of ... their
11 Reports of Findings, for example those
12 that I understand are found at Exhibits L
13 and O of Mr. Vander Graaf's
14 Affidavit #1 ..."

15 In further preparation I noticed exhibit L would
16 not have been an exhibit that I would have
17 forwarded to X-DWG. It was targeted -- or
18 pardon me, it was in relation to an individual,
19 and that information was passed on to police.
20 So I would not have passed that information on.

21 Exhibit O is more indicative of information
22 that would be passed on. Those report that are
23 more general in nature at a broader sort of
24 statistical level, if you will.

25 Q Thank you, Mr. Scott. Now, in your evidence

1 today at various points in time you touched on
2 the relationship between BCLC and GPEB during
3 your time as General Manager. So we're talking
4 about the 2011 to 2013 time frame. And you
5 mentioned that the relationship shifted over
6 time. Perhaps if you could please tell
7 Mr. Commissioner a bit more about how you would
8 characterize BCLC's attitude towards GPEB during
9 your time as General Manager.

10 A Certainly. I would say when I first arrived, as
11 I noted, the focus of BCLC was their duty to
12 report, and it was focused primarily exclusively
13 on that. And the investigations unit had been
14 concerned for some time about suspicious funds
15 coming into casinos. My sense at the time was
16 that those concerns were sort of dismissed and
17 there was a certain level of -- I don't know
18 how -- what the right way to express it was, but
19 there was a sort of view that GPEB was not at
20 the same level as BCLC in terms of level of
21 sophistication, for example. And so because of
22 that there was -- they tended to ignore the
23 input from GPEB at the beginning.

24 That did, in my view, begin to shift as we
25 went forward and started to work on the

1 strategy. And we went forward and started to
2 work more together where it was, in my view, a
3 much more collaborative relationship and much
4 more equal footing, whereas before it could be
5 argued there was sort of an organizational
6 arrogance that I perceived at the beginning.

7 Q And then I'd like to take you now, Mr. Scott, to
8 December 2012 and January 2013. You'll recall
9 that Mr. McFee on behalf of Mr. Lightbody asked
10 you some questions about a letter that
11 Mr. Schalk sent to Mr. Hodgkin in December of
12 2012, and then your subsequent discussions with
13 Mr. Graydon in January of 2013. Do you recall
14 that line of questioning?

15 A I do, yes.

16 Q Yes. And I understand your evidence was that
17 your -- the concern you expressed to Mr. Graydon
18 was one as to the tone of the letter, not so
19 much the substantive content. Did I accurately
20 characterize your evidence?

21 A That's right, yes.

22 Q Did you tell Mr. Graydon that you were shocked
23 by the letter's inaccuracies and assumptions?
24 Do you recall saying that to him?

25 A I don't recall saying that, no.

1 Q And did you tell Mr. Graydon that you don't --
2 you didn't even know why the letter was sent or
3 words to that effect?

4 A No. No. Because the letters back and forth
5 to -- between the two organizations did exist.
6 I knew that. What I asked is to see them before
7 they went. So it was clear why it was sent. It
8 was sent to identify the issues that
9 investigations was feeling in terms of what they
10 were seeing with the increased level of cash
11 coming into the casinos, and I think that was
12 evident. And I know that the substantive parts
13 of the letter in terms of the facts that the
14 cash was coming in, I supported as facts. I
15 didn't challenge those assertions.

16 Q And so what did you mean, then, when you wrote
17 back to Mr. Graydon and said "BCLC has
18 undertaken everything that we have asked and
19 agreed as part of the comprehensive AML
20 strategy"?

21 A What I was trying to reflect and acknowledge was
22 that we were working well together as a team.
23 We were in phase 1 at that time, and they --
24 BCLC and GPEB were working very well together in
25 terms of establishing cash alternatives and

1 working together through phase 1.

2 So I was very pleased with how things were
3 going at that point in time and I wanted to
4 ensure Mr. Graydon that he was aware of that,
5 that I thought things were going well.

6 Q Did you intend to convey that there was nothing
7 further at all that BCLC could do to address the
8 amount of cash that was coming into casinos at
9 that time?

10 A No, no. There's much more to do.

11 Q And then turning, then, Mr. Scott, to some
12 evidence about -- that you gave earlier in
13 response to questions from Ms. Henein about a
14 January 2018 BCLC board meeting and a February
15 2018 ministerial briefing, you've had -- and I
16 understand you've had the opportunity to review
17 those portions of Mr. Kroeker's affidavit that
18 deal with these issues and relate to you?

19 A Yes.

20 Q And you'll recall that he discusses those two
21 meetings at which the -- what we've been
22 colloquially been referring to as the EY Report
23 has been discussed?

24 A Yes.

25 Q And did you attend both -- well, you gave

1 evidence earlier today that you attended the
2 board meeting by phone. And did you attend the
3 subsequent briefing?

4 A I attended the briefing, yes, between the
5 Minister and the EY accountants.

6 Q And having looked at Mr. Kroeker's evidence, in
7 your recollection is his evidence consistent
8 with what was said at those meetings?

9 A I'm sorry, I'm drawing a little bit of a blank,
10 but my memory serves that he said, for example,
11 that there was not a decision made on release,
12 for example. And if that's the case, I -- there
13 was -- well, there was a decision in that
14 Mr. Lightbody asked the Minister about release
15 and the Minister said, release it as you
16 normally would in your normal course of
17 business. Something to that effect.

18 Q All right. And to be fair, you've had a chance
19 to review Mr. Kroeker's notes of what he recalls
20 was discussed at those meetings, and to the best
21 of your recollection, are -- do the notes accord
22 with what you recall being discussed at the
23 meeting, to briefing?

24 A I'm sorry, I don't have -- let me just ... I
25 apologize. I don't have the notes of the

1 briefing, I don't believe, here. Sorry,
2 Ms. Hughes, I don't have the notes of the
3 briefing. And my brain is -- I'm not able to
4 pull it out.

5 Q It's a long day.

6 A Sorry.

7 Q Not a problem. Not a problem. We'll move on to
8 the next question I wanted to ask you. Now,
9 you'll recall also that Ms. Henein asked you
10 questions about a proposal in 2018 that BCLC had
11 to implement a cash cap. Do you recall giving
12 evidence about that this morning?

13 A Yes, I do.

14 Q Yes. And you were asked questions about what
15 other people may have said or what other
16 people's reactions were to that proposal.
17 Perhaps you could tell Mr. Commissioner what was
18 your reaction at the time to BCLC's proposal for
19 a \$25,000 cash cap?

20 A Yeah, my reaction -- and as I said, I was very
21 new, but I was frustrated by it, actually,
22 because I felt like it was clear that we were
23 moving with German, and I felt like -- that the
24 recommendation came quickly. I didn't -- I
25 hadn't seen analysis on it in advance, though.

1 I recognized that BCLC would have done some
2 analysis, but it just seemed very much out of
3 step with where we were heading as we were all
4 anticipating the German Report to come out in
5 three months. And I thought the natural thing
6 to do would be to check with Peter German before
7 advancing that.

8 Q Now, you're also aware, Mr. Scott, that
9 Mr. Kroeker's given evidence that in May 2019 he
10 received what he characterized as a strange
11 request from you for information about a
12 specific player?

13 A Yes, I'm aware of that.

14 Q Do you recall making a request of that nature to
15 Mr. Kroeker in May of 2019?

16 A No, I do not.

17 Q If you had wanted information about a specific
18 player, would it have been your practice to go
19 to Mr. Kroeker for that information?

20 A No. My practice would have been to go to Jim
21 Lightbody, the CEO.

22 Q And finally, Mr. Scott, you were asked questions
23 about GPEB's investigations force, and I believe
24 Ms. Henein put it to you that you had
25 30 officers available to you. To be fair, would

1 it be more accurate to characterize those staff
2 not as police officers but as GPEB
3 investigators?

4 A Yes, that's fair. Yes.

5 Q Certainly some of them may have been former
6 police officers, but at this point in time they
7 are operating as GPEB investigators within the
8 confines of whatever powers that role carries;
9 is that right?

10 A Yes, that's accurate.

11 MS. HUGHES: Thank you, Mr. Commissioner. I have no
12 further questions for this witness.

13 THE COMMISSIONER: Thank you, Ms. Hughes.

14 Anything arising from that, Mr. Butcher.

15 MR. BUTCHER: No, thank you.

16 THE COMMISSIONER: Ms. Henein?

17 MS. MAINVILLE: Yes, Mr. Commissioner. And I
18 apologize, Ms. Henein had to step out for a
19 call, but I do have a question -- or a couple
20 questions arising.

21 THE COMMISSIONER: Yes, okay, Ms. Mainville. Thank
22 you.

23 MS. MAINVILLE: Madam Registrar, could we bring up
24 BCLC4233.

25 **EXAMINATION BY MS. MAINVILLE:**

1 Q You've heard -- just now Mr. Scott, in answer to
2 a question from Ms. Hughes you indicated you did
3 not recall requesting any information about a
4 specific player on behalf of Minister Eby?

5 A No. Just to be -- to clarify, I had not -- I
6 have no recollection of requesting information
7 of Mr. Kroeker. What I said was that my normal
8 practice would be to make any requests through
9 the CEO, Jim Lightbody.

10 Q And you did, in fact; correct?

11 A I did, in fact. And yes, you have an email here
12 that shows an inquiry that I made on behalf of
13 the Minister's office.

14 Q Correct. And if we go down, this request came
15 from Minister Eby; correct?

16 A It came from Minister Eby's office, yes.

17 Q And you recall that this information was
18 ultimately submitted to the Attorney General's
19 office?

20 A No, I don't recall that. I'm not sure that
21 information did come back through BCLC to the
22 Minister's office. I do know that there was
23 subsequent emails to this on the same chain
24 where Jim returns to me and asks what the timing
25 is of the briefing, and I respond to the effect

1 that I don't know the timing yet. And I
2 clarify -- make more clear my comment here. You
3 can see that I say:

4 "When you have some background, could we
5 discuss what's appropriate for the
6 Minister at this briefing."

7 My subsequent email responding to Jim's inquiry
8 about timing for the briefing, I made it more
9 clear what I said is I want to see the
10 information before it goes to the Minister so I
11 can determine what's appropriate for the
12 Minister to see and what isn't. I don't have
13 any material -- having received anything from
14 Mr. Lightbody.

15 Q Would you have deemed it inappropriate to
16 provide information about a specific citizen of
17 British Columbia to the Minister?

18 A I can't say in a blanket statement. It really
19 depends on the context, and that's why I wanted
20 to see -- as you can see, the initial inquiry
21 from the Minister's office is -- lacks detail,
22 so I wasn't aware of what the nature was.
23 That's why I wanted to satisfy myself by seeing
24 the information to ensure that it was
25 appropriate for the Minister. That's not to say

1 that the Minister is asking for something that's
2 inappropriate. I think it's important to be
3 clear on that. Because the Minister's made a
4 broad inquiry, it would be my job to ensure that
5 the information he receives is appropriate. And
6 he would expect me to do so. And so that's why
7 I would want the information to come through me
8 first.

9 Q And you don't recall having been involved
10 subsequent to that?

11 A No, I do not.

12 Q And you have also just indicated to
13 Ms. Hughes -- well, in response to a question
14 from Ms. Hughes that you were very frustrated by
15 BCLC's cash cap proposal. Do I take it that
16 that view was shared by others in the Attorney
17 General's office?

18 MS. HUGHES: Mr. Commissioner. It's Jacqueline
19 Hughes. First, that's a mischaracterization of
20 the evidence that Mr. Scott gave. He didn't add
21 adjectives; he said he was frustrated. But
22 second, the witness isn't in a position to speak
23 to what other people may or may not have
24 understood unless those views were communicated
25 directly to him.

1 THE COMMISSIONER: All right. I think you're right
2 about the first point. He did say "frustrated,"
3 not "very frustrated."

4 The second point I think can be the subject
5 of a clarifying question, Ms. Mainville.

6 MS. MAINVILLE: Certainly. And my apologies, the
7 note I took down was "very frustrated," but if
8 it's "frustrated," that's fair.

9 Q And I am of course simply asking about your own
10 direct knowledge of things that were
11 communicated to you or that you witnessed
12 yourself. So on that basis, were others within
13 the office of the Attorney General frustrated by
14 BCLC's cash cap proposal?

15 A I definitely felt that way. I'm trying to think
16 of my interactions with Richard Fyfe. I had no
17 interactions with anyone else really on this
18 matter. I don't recall if Richard Fyfe agreed
19 with me or also reflected any frustration. I
20 can't recall that.

21 Q Were you --

22 MS. MAINVILLE: And sorry, Madam Registrar, we can
23 take this document down.

24 Q Were you privy to any information regarding
25 communications with Mr. German on this issue of

1 whether to recommend a cash cap or not?

2 MS. HUGHES: Mr. Commissioner, I don't have a problem
3 with my friend's question. I'm merely repeating
4 and relying on the protections of Section 29 of
5 the *Public Inquiry Act*, and I expect that my
6 friend is not intending to illicit any evidence
7 that would be covered by solicitor-client
8 privilege or public interest immunity or cabinet
9 privilege.

10 THE COMMISSIONER: Yes. All right. Thank you for
11 that.

12 THE WITNESS: I'm sorry, would you mind repeating the
13 question.

14 MS. MAINVILLE:

15 Q Are you aware -- are you aware, are you privy to
16 any information that someone in the office of
17 the Attorney General -- of anyone having a
18 conversation with Dr. German about whether or
19 not to recommend a cash cap?

20 A Oh, I'm not aware of that, no.

21 Q Do you have any knowledge of how Dr. German's
22 recommendation against a cash cap comes to be?

23 MS. HUGHES: Mr. Commissioner, I'm content for the
24 witness to answer so long as my friend rephrases
25 the question to his direct knowledge. The

1 witness can only speak to what he personally
2 knows.

3 MS. MAINVILLE: Thank you. To me it's implied
4 because he's the witness.

5 Q But to your knowledge are you aware of any -- of
6 the -- and I've forgotten the way I phrased the
7 question, to be honest. But are you privy to
8 the reason or any reason why Dr. German
9 ultimately recommends against a cash cap?

10 A I don't know Dr. German's rationale against the
11 cash cap.

12 Q And I'm just trying to understand why you would
13 be frustrated by this proposal. And you phrase
14 it as, because we were moving forward with
15 German. And so was it your -- first of all, was
16 it your understanding that Dr. German at that
17 point in time was going to not recommend a cash
18 cap?

19 A Well, no. I had -- I actually had no idea what
20 Dr. German was going to recommend. What I did
21 know was that we were expecting his report
22 imminently, and we were looking to him for
23 guidance for how to move forward. And so a cash
24 cap seemed like -- what's the right term? I'm
25 sorry. I'm also getting tired. But it was too

1 early. We simply -- it was very straightforward
2 from our perspective. We just wanted
3 Mr. Lightbody to check in with Mr. German to see
4 if it was consistent with his report or where he
5 was heading with his report.

6 Q Were you aware that Dr. German had initially
7 conveyed to BCLC that they should proceed with
8 whatever AML changes they deemed were
9 appropriate to implement?

10 A I don't think I was then, but I was shortly
11 after that, I believe.

12 Q In what context?

13 A I believe Jim Lightbody expressed that to me at
14 some point, yeah.

15 Q Okay. Do you have any information about why
16 Dr. German appears to have changed his view on
17 that?

18 A I don't. I think that -- I don't know the
19 nature of Dr. German's direction to BCLC and Jim
20 Lightbody. It could be a wide range of things.
21 He could have referenced that in terms of their
22 activities with direct action with cash coming
23 in or he could have meant it more broadly for
24 policy. I don't know what Dr. German's
25 intention was, so it may be that it was

1 consistent with his original statements because
2 I don't know what they were. I'm not able to
3 comment on that.

4 Q And just last a question. Did you understand
5 that -- from Minister Eby that he wanted to be
6 able to make announcements credited to
7 Dr. German's record or recommendations on AML?

8 A No. In terms of -- sorry, the question is a
9 little bit [indiscernible]. In terms of related
10 to the cash caps and things?

11 Q Or any AML measures. That that was behind the
12 reasoning for referring --

13 A Oh, behind the reasoning. Absolutely not. No.
14 No.

15 Q You were not personally aware of them?

16 A No.

17 MS. MAINVILLE: Okay. Those are my questions. Thank
18 you.

19 THE COMMISSIONER: All right. Thank you,
20 Ms. Mainville.

21 I'll now turn to Mr. McFee. Anything
22 arising?

23 MR. McFEE: Nothing arising. Thank you,
24 Mr. Commissioner.

25 THE COMMISSIONER: Thank you. Mr. Smart -- I'm

1 sorry. Ms. Harmer, you had nothing --

2 MS. HARMER: I still have nothing. Thank you.

3 THE COMMISSIONER: All right. Thank you. So,
4 Mr. Smart.

5 MR. SMART: Just on one matter, Mr. Commissioner.

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

7 Q In relation to questioning patrons on source of
8 funds -- sorry. In relation, Mr. Scott, to
9 questioning patrons at casinos on source of
10 funds, you testified that GPEB had somewhere in
11 the range of 30 investigators?

12 A That's correct. Yes.

13 Q Do you know how many investigators in that
14 period of time BCLC had?

15 A I'm actually not aware.

16 Q If I suggested five, would you disagree with that?

17 A I'm not able to disagree with you because I
18 don't know, but five would surprise me. But --
19 I thought it was much more than that, but that
20 would be informative. As I said before, I
21 didn't -- I'm happy to discuss the operational
22 impacts of something like that, but I was not
23 aware that it was that small, if in fact it was,
24 yes.

25 MR. SMART: All right. Thank you, Mr. Scott.

1 THE COMMISSIONER: Thank you, Ms. Smart.

2 Mr. McGowan?

3 MR. MCGOWAN: Nothing arising, Mr. Commissioner.

4 THE COMMISSIONER: Thank you. Thank you, Mr. Scott.

5 I appreciate the time you've taken to share your
6 experiences and insights with us of your
7 involvement over the last decade or so. You're
8 now excused from further testimony.

9 MS. MAINVILLE: Mr. Commissioner, I apologize. I
10 forget to mark as an exhibit the email I put to
11 Mr. Scott.

12 THE COMMISSIONER: Yes. Thank you for reminding me.
13 That will be marked as the next exhibit.

14 THE REGISTRAR: Yes, that will be exhibit 558,
15 Mr. Commissioner.

16 THE COMMISSIONER: Thank you.

17 **EXHIBIT 558: Emails re Briefing Request - BCLC**
18 **matter - May 6, 2019**

19 **(WITNESS EXCUSED)**

20 THE COMMISSIONER: We'll adjourn now until tomorrow
21 morning at 9:30.

22 THE REGISTRAR: The hearing is adjourned until
23 February 9th, 2021, at 9:30 a.m. Thank you.

24 **(PROCEEDINGS ADJOURNED AT 2:25 P.M. TO FEBRUARY 9, 2021)**

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