

**PROCEEDINGS AT HEARING
OF
JANUARY 20, 2021**

COMMISSIONER AUSTIN F. CULLEN

INDEX OF PROCEEDINGS

Witness	Description	Page
	Proceedings commenced at 9:30 a.m.	1
	Colloquy	1
Anna Gabriele (for the commission)	Examination by Mr. Isaac	2
	Proceedings adjourned at 11:08 a.m.	83
	Proceedings reconvened at 11:22 a.m.	83
Michael Bowman (for the commission)	Examination by Mr. Isaac	84
	Examination by Ms. Magonet	147
	Examination by Mr. Rauch-Davis	156
	Examination by Ms. Yates	164
	Examination by Mr. Isaac (continuing)	167
	Proceedings adjourned at 1:16 p.m. to January 21, 2021	170

INDEX OF EXHIBITS FOR IDENTIFICATION

Letter	Description	Page
	No exhibits for identification marked.	

INDEX OF EXHIBITS

No.	Description	Page
459	Email from Alexandra Andreu re Project Athena casino patrons list Oct 2018 – January 9, 2019 (redacted)	22
460	Email from Melanie Paddon re Project Athena June 2018 – August 14, 2018 (redacted)	23

461	Combined Forces Special Enforcement Unit British Columbia – Project Athena Stakeholders Meeting Agenda – January 23, 2019 (redacted)	25
462	Email from Ben Robinson re Project Athena Update – January 24th, 2019 (redacted)	30
463	Email from Melanie Paddon re Project Athena, Jan 2019 – March 21, 2019 (redacted)	37
464	TD – Project Athena A Public/Private Partnership presentation - Undated (redacted)	52
465	Email from Anna Gabriele re Project Athena – May 17, 2019	62
466	Email from Kevin Doherty re Project Athena – June 21, 2019 (redacted)	66
467	Email from Amy Hellen re Project Athena advisory role – November 7, 2019	68
468	Message from Anna Gabriele and Kevin Doherty re TD involvement with Project Athena – July 11, 2019	69
469	Project Athena Meeting Minutes – July 24, 2019	74
470	Email from Dermot Hickey re Project Athena, customer review – November 28, 2019 (redacted)	78
471	Email from Dermot Hickey re Project Athena, customer review – November 28, 2019 (redacted)	83
472	Email from Melanie Paddon re Project Athena bank drafts for July 2018 – September 27, 2018	95
473	Caitlin Riddolls Interview - October 21, 2020	133
474	Letter to Michael Bowman re Misuse of Bank Drafts, TDs Response – March 20, 2020	145
475	Letter from Michael Bowman re Misuse of Bank Drafts, TDs Response – June 15, 2020	146
476	Project Athena Stakeholders Meeting minutes – October 24th, 2018	149
477	Email from Kevin Doherty re Project Athena – May 13, 2019	152
478	Michael Bowman Interview - October 22, 2020	167

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

January 20, 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. Isaac.

MR. ISAAC: Thank you, Mr. Commissioner. Before we call the next witness I seek a direction that two documents we may refer to in the evidence today not be live-streamed or posted on the website as exhibits so as to provide an opportunity for certain entities to potentially bring an application or applications with respect to those records. I would ask that such entities have until noon on Friday to bring an application in writing, and that the two records which I will identify not be posted until then and pending any application brought.

The records at issue are CAN17 and that was marked as exhibit 458 yesterday, and the second document is CAN23.

And just to sort of clarify, I think the timeline we seek would be any applications be provided by noon Pacific time for any written

1 applications.

2 THE COMMISSIONER: All right. I'll make that

3 direction then. Thank you, Mr. Isaac.

4 MR. ISAAC: Mr. Commissioner, the next witness is

5 Anna Gabriele and she will affirm.

6 **ANNA GABRIELE, a witness**

7 **called for the**

8 **commission, affirmed.**

9 THE REGISTRAR: Please state your full name and spell

10 your first name and last name for the record.

11 THE WITNESS: Sure. Anna Gabriele. A-n-n-a, Anna.

12 Last name Gabriele, G-a-b-r-i-e-l-e.

13 **EXAMINATION BY MR. ISAAC:**

14 Q Can you hear and see me okay, Ms. Gabriele?

15 A Yes, Nicholas.

16 Q I'll begin by asking you some background
17 questions about your role with TD Bank, and then
18 we'll turn to ask some questions about your
19 knowledge and involvement with Project Athena on
20 behalf of TD; okay?

21 You are currently an AML manager with
22 TD Bank; is that right?

23 A Yes. Correct.

24 Q And you've held that position since 2010?

25 A Correct.

1 Q And that's a position within TD's financial
2 intelligence unit, or FIU; is that right?

3 A Correct.

4 Q And is that part of TD's global anti-money
5 laundering group?

6 A It is.

7 Q Okay. And through 2018 and up to October 31st,
8 2019, you managed a specific team within the
9 financial intelligence unit called the special
10 investigations unit, or SIU; is that correct?

11 A Yes.

12 Q Can you just explain for the Commissioner
13 briefly what the SIU is and what it does.

14 A Sure. Under my leadership the special
15 investigations unit consisted of a team of
16 investigators that would conduct investigations
17 and reviews on complex cases that came into our
18 team. And other various work flows from other
19 lines of businesses within TD for potential
20 high-risk customers, they would complete reviews
21 and at the end of their review determine an
22 outcome.

23 Q And roughly how many investigators were you
24 managing as part of that SIU team?

25 A I believe at the time we had seven

1 investigators.

2 Q And who did you report to as your sort of direct
3 manager while you were the leader of the SIU?

4 And I should clarify, the period I'm interested
5 in particular is sort of around November 2018 to
6 when you no longer were the leader of that team
7 in October/November 2019.

8 A Sure. It was John Hamers.

9 Q And he's a senior manager in the FIU; is that
10 right?

11 A Correct. He was a senior manager up until -- I
12 believe it was August, and then I turned and
13 reported into Kevin Doherty.

14 Q Okay. And I just want to -- before we get into
15 the sort of substantive portion of things, I
16 just want to identify a couple of the other
17 individuals that we may see as appearing in the
18 documents and where they -- so you -- sorry, the
19 other individual that you mentioned other than
20 John Hamers was who?

21 A Kevin Doherty.

22 Q Okay. And was he also a senior manager in the
23 FIU?

24 A He is the assistant vice president within the
25 FIU.

1 Q Okay. And Michael Cowley, what is his role?

2 A Michael Cowley is a senior manager within the
3 FIU.

4 Q And what about Amy Hellen?

5 A Amy Hellen was our VP head of AML operations.

6 Q So the global head of AML at that time; is that
7 right?

8 A Correct.

9 Q Okay. And was Caitlin Riddolls someone that you
10 reported to or worked with during that time?

11 A I did not report to Caitlin. Caitlin was an
12 executive within our advisory team.

13 Q Okay. And what about Michael Bowman, the global
14 CAMLO at the time? Is that someone that you
15 reported to?

16 A Not directly.

17 Q Okay. Thank you. So I'm going to turn now to
18 ask about your involvement in Project Athena on
19 behalf of TD. When did you first become
20 involved in Project Athena on behalf of TD?

21 A It was in and around November of 2018.

22 Q Okay. And was that at the request of your
23 managers at the time within the FIU?

24 A Yes.

25 Q Prior to your becoming involved in Project

1 Athena in November 2018 was it your
2 understanding that another person at TD, a
3 gentleman by the name of Pierre McConnell from
4 the global security investigations team, had
5 been involved with the project up to that point?

6 A Yes, that was my understanding.

7 Q Okay. And is that -- I appreciate there is a
8 lot of acronyms that get used, was the global
9 security investigations team, the GSI team, that
10 Mr. McConnell was part of, was that part of the
11 AML group or was that a separate group?

12 A It's a separate group outside of AML.

13 Q Okay. And when you became involved in Project
14 Athena in November 2018, did you have an
15 understanding that the project had been going on
16 already for some time since sort of early 2018
17 and that Mr. McConnell had been attending
18 Project Athena meetings on behalf of TD since
19 early 2018?

20 A Yeah. So at the time I knew that Pierre was
21 attending meetings. I'm not sure of the
22 timeline as when Project Athena started. But
23 that's what I knew.

24 Q Okay. And when you became involved, did
25 Mr. McConnell give you a briefing and provide

1 you with information to sort of help you get up
2 to speed about what the project was about?

3 A Yes. So we had had a couple of meetings in the
4 month of November and the discussion at that
5 time was that information was going to be coming
6 in through Pierre and it would come into my
7 team, and we would complete reviews at that
8 time.

9 Q Okay. That's -- perhaps we could understand
10 that a little bit more. When you say
11 information was going to come in, what did you
12 understand was the nature of the information
13 that was going to be coming in?

14 A Yeah. So at the time I understood it to be
15 related to TD bank drafts and the BC casinos.

16 Q And was it your understanding that the
17 information that was being provided by Project
18 Athena was identified sort of specific TD bank
19 drafts that had been flagged by the project as
20 potentially involved in money laundering in
21 BC casinos?

22 A So during my initial conversations with Pierre
23 discussions were with respect to bank drafts
24 being negotiated throughout BC casinos, and it
25 was later on as my involvement became more that

1 I got a better understanding.

2 Q Okay. And when approximately did you gain that
3 better understanding of what the nature of the
4 information was that would be provided by
5 Project Athena?

6 A Oh, it was probably during the first meeting I
7 attended in January and then furthermore in
8 April.

9 Q And did you understand at the time when you
10 first became involved that Mr. McConnell had
11 been receiving this information for some time
12 already?

13 A I understood, yes, that he had been receiving
14 information, and what I know is from March 2018.

15 Q Okay. And did he forward that information on to
16 you? The information that he had received from
17 Project Athena, did he provide that information
18 on to you?

19 A Yes. Throughout the month of December I did
20 receive several emails with information that he
21 had been receiving.

22 Q And to your understanding when did he begin
23 receiving that information?

24 A That I'm not a hundred percent sure of when he
25 received the information.

1 Q Okay. I expect we may look at a document that
2 may assist, Ms. Gabriele, and if there is -- you
3 know, if you don't know, please let me know, and
4 I think it may be a little bit clearer.

5 But was it your understanding when you
6 became involved in November 2018 and afterwards
7 that at that time all of the other sort of big
8 six banks were participating in the project at
9 the time as well?

10 A I wouldn't say that I had that knowledge in
11 November. I had a better understanding of that
12 when I attended the January meeting.

13 Q Okay. And at that January meeting it was at
14 that time you understood that all of the other
15 big six banks were participating in the project?

16 A It was my understanding in attending that
17 meeting that yes, the other financial
18 institutions were also involved with Project
19 Athena.

20 Q Okay. So I'd like to turn -- and, you know, I
21 appreciate you were sort of getting up to speed
22 with the project in this period of -- you sort
23 of described November up to a meeting that you
24 attended in January. As you became involved
25 what did you understand were the key asks made

1 of the financial institutions, including TD,
2 that were participating in Project Athena?

3 A Yeah. So I understood two key asks. The first
4 one was to obtain the information that was being
5 sent into the financial institutions, including
6 myself with TD, and completing reviews with that
7 information and determining outcomes, just like
8 a case work that we would have internally. And
9 the second ask was with respect to making a
10 change to TD bank drafts.

11 Q Okay. And to your knowledge -- and I want to
12 explore both of those two key asks a little bit
13 further, but to your knowledge were those the
14 same asks for all of the financial institutions
15 that were participating in the project at that
16 time?

17 A To my understanding, yes.

18 Q Okay. So focusing on the first ask, which you'd
19 said was to sort of use the information. So am
20 I correct -- and please do correct me if I'm
21 wrong on this. Was the ask that the information
22 that was being provided that the financial
23 institution receiving that was asked to take
24 action by using that information to initiate or
25 inform their own investigations? Is that

1 accurate?

2 A Yes, that's accurate.

3 Q Okay. And did you understand -- and perhaps
4 we'll continue on that -- that based on those
5 investigations was it sort of the contemplated
6 information flow as part of Project Athena that
7 those might result in STRs, if warranted, by
8 those investigations that might be filed?

9 A Yes, that would be part of our regular process,
10 so that would definitely be one of the outcomes.

11 Q Okay. And did you understand that the hope was
12 that eventually that might -- those STRs might
13 result in disclosure back to the RCMP and sort
14 of completing the circle, if you will. Is that
15 an accurate summary?

16 A It is through disclosures from FINTRAC directly.

17 Q And so when you refer to an end-to-end review or
18 an investigation, is that what you're -- you're
19 talking about using the information to actually
20 conduct an investigation on the clients or the
21 transactions that have been identified. Is that
22 accurate?

23 A Yes, it is. The end-to-end review would be a
24 full review of the customer that resulted in an
25 outcome with the potential filing of an STR, if

1 identified.

2 Q Okay. And to your knowledge when you became
3 involved in the project in November, and let's
4 extend that up to sort of January when you say
5 you attended that meeting, had TD conducted any
6 of that sort of analysis or investigative use on
7 the information it had received up to that
8 point, so up to the -- you know, let's say up
9 until the January meeting that you attended to
10 your knowledge?

11 A To my knowledge I'm not sure of any work that
12 Pierre may have conducted. The only piece of
13 research that I had done was with an initial
14 list of nine customers that Pierre had sent to
15 me in the beginning. And he had asked for some
16 information, and I did that for him and sent it
17 back.

18 Q Okay. And the nature of that was to confirm
19 whether or not those individuals were customers
20 of TD; is that right?

21 A Correct.

22 Q Okay. And beyond that, though, you were not
23 aware and based on the work that you did
24 eventually undertake, you were not aware of any
25 indication that any sort of investigative work

1 beyond that had been -- had preceded your
2 involvement; is that fair?

3 A Correct.

4 Q Okay. Thank you. So just before we leave, I
5 know that you had mentioned the second of the
6 two key asks, which was to -- I think you said
7 to take action. Perhaps I'll summarize it in
8 the way at least that I heard it. But to take
9 action potentially to address the anonymity of
10 bank drafts; is that right?

11 A That's correct.

12 Q Okay. And can you explain, was this the -- to
13 your knowledge, was this the vulnerability that
14 Project Athena had identified as potentially
15 being exploited by the individuals and the
16 typology that the project had identified?

17 A I would say that the specific ask was to make a
18 change to bank drafts to specifically include
19 the purchaser's name on bank drafts.

20 Q What was your understanding about why that --
21 what that ask -- why that ask may have been made
22 and how it related to the typology and the
23 issues that had been identified through Project
24 Athena?

25 A Yes. My understanding was that it would remove

1 the anonymity and it would detail the purchaser
2 as well as the payee which should be the same.

3 Q And did you understand from both what you
4 learned from Mr. McConnell as well as from
5 Project Athena meetings and materials that it
6 was that anonymity that was potentially being
7 exploited and that's what the project was
8 seeking to address?

9 A Yes, that was one of the asks.

10 Q Okay. And appreciating -- based on your
11 knowledge, Ms. Gabriele, what was your
12 understanding of the typology or the issue that
13 Project Athena was seeking to address?

14 A My understanding was with respect to bank drafts
15 that were being negotiated through the various
16 BC casinos and remove that layer of anonymity
17 when their customers were presenting bank drafts
18 for, I guess, cashing or negotiation.

19 Q And did you have an understanding through your
20 participation in the project of what was being
21 suspected of occurring using the bank drafts in
22 BC casinos and what, if any, potential
23 connection there may have been to money
24 laundering?

25 A Yes, those were part of the discussions at the

1 meeting.

2 Q Okay. Can you explain, you know, to your
3 understanding a little bit more about that,
4 about what was discussed and what the underlying
5 issue was?

6 A The underlying issue to my knowledge was
7 individuals that were presenting these bank
8 drafts and not knowing the true source of these
9 funds.

10 Q I'd like to turn to look at the information that
11 TD had been receiving through Project Athena.
12 And before we look at some specific examples,
13 would it be accurate to say that what we will
14 see are essentially sort of monthly updates that
15 identify specific bank drafts that the RCMP had
16 flagged based on criteria which they believed
17 indicated potential use in money laundering?

18 A Yes. Correct.

19 Q Okay.

20 MR. ISAAC: Madam Registrar, if we could bring up --
21 the first document is TD344, please.

22 Q Do you see that on your screen Ms. Gabriele?

23 A I do.

24 Q Okay. If we could please go down to page 4 of
25 this document. So what we are looking at here

1 is a email from Melanie Paddon to Pierre
2 McConnell. And just pausing -- the date is
3 December 3rd, 2018.

4 And just pausing there. Was Melanie Paddon
5 one of the people that you liaised with from
6 Project Athena? You understood she was one of
7 the RCMP representatives?

8 A Yes.

9 Q Okay. And Pierre McConnell, we spoke --
10 identified him earlier. He was the individual
11 from the GSI who had been involved prior to you
12 coming on the scene; is that right?

13 A Correct.

14 Q Okay. And you'll see here -- so this copy is
15 redacted, but in the version that you received
16 all of the blanked-out information was present;
17 is that right?

18 A Correct.

19 Q And I'm not going to ask you to tell us -- you
20 know, to say through your testimony all of the
21 things that are blanked out, but I just want to
22 make sure that you had the complete picture when
23 this was received.

24 So just going through the type of
25 information. Was this -- we'll go through this,

1 but was this sort of a standard -- more or less
2 a standard format of the type of information
3 that the RCMP were providing to Project Athena?

4 A Yes, that appears to be the same type of format.

5 Q Okay. So we see in the line here there's a
6 reference to:

7 "The total bank drafts purchased from all
8 financial institutions that were tendered
9 at the casinos totalled [X]."

10 And then the next sentence is:

11 "Of those bank drafts in October [X] were
12 issued by TD."

13 So part of the information that was being
14 provided was the total number of bank drafts
15 that were being tendered at BC casinos as well
16 as the specific number of those that were from
17 TD Bank; is that right?

18 A Yes. Correct.

19 Q Okay. And then in the portion below there's a
20 further identification of patrons and bank
21 drafts that met certain criteria that the RCMP
22 had identified as suspicions of involvement in
23 money laundering and underground banking. Is
24 that your understanding?

25 A Yes.

1 Q And those include use at multiple banks or the
2 volume -- sorry, the size of the bank drafts and
3 various other indicia. And then what we see
4 below that is the detailed list of all of those
5 bank drafts and casino patrons that had tendered
6 the TD specific drafts that were identified. Is
7 that accurate?

8 A Yes, it is.

9 Q Okay. So - and we'll see here, this -- it
10 appears there's a reference here to the month.
11 So my understand is that these were provided on
12 a, you know, per month. Is that your
13 understanding as well?

14 A Yes, it is.

15 Q Okay. And when Mr. McConnell forwarded these
16 materials to you, was it your understanding that
17 the data that he had went back to March 2018?

18 A Yes.

19 Q Okay. And it may be helpful actually if we go
20 up to page 2, the bottom of page 2 of this.
21 You'll see Mr. McConnell there writes this is
22 January -- sorry, if we could scroll down a
23 little bit, please.

24 You'll see there there's Pierre McConnell,
25 Tuesday, December 4th. You'll see it says

1 "Part Three." Was it December 4th that
2 Mr. McConnell forwarded all of the information
3 he'd received up to that point to you?

4 A Yes, I believe so.

5 Q Okay. And then if we scroll up a little bit
6 more. On January 8th Mr. McConnell writes to
7 you saying whether or not you've had a chance to
8 examine the info that he had sent. Do you see
9 that?

10 A I do.

11 Q And I think your response at the time we'll see
12 above, I won't read it out, but was that you
13 hadn't had an opportunity to do so yet at that
14 time. Is that accurate?

15 A It is.

16 Q Okay. And then if we scroll up to the first
17 page, please. So -- and we scroll down to the
18 bottom of this page. You'll see there's an
19 email from Mr. McConnell on January 9th where he
20 says he sent you three part emails with the
21 complete attachments for your review. He also
22 says "I'm asking for your update" as there's
23 another Project Athena meeting scheduled for
24 January 23rd. Do you see that?

25 A Yes, I do.

1 Q Right. And then he goes on to say:

2 "I am happy to be the face of TD on this
3 but it would be entirely appropriate for
4 the AML Group to take the lead as Project
5 Athena is in fact your area of
6 responsibility, and attending this meeting
7 would likely allow you to understand
8 firsthand the full AML scope of this
9 project. Please advise, thanks again."

10 Do you see that?

11 A Yeah.

12 Q Okay. And just above there there's an email
13 from a Pierre Jireada, who's a listed as the
14 associate vice president of that GSI group to
15 Michael Cowley. Can you remind the Commissioner
16 what Mr. Cowley -- what his role was at this
17 time?

18 A He is one of the senior managers within the
19 financial intelligence unit.

20 Q Okay. And then if we scroll up, so he says:

21 "Just want to --"

22 To Michael Cowley, this is Mr. Jireada:

23 "Just want to ensure you have visibility
24 on this and we are pushing for your teams
25 to take a lead role. Thanks."

1 And then if we look at the very top, there's
2 correspondence between Michael Cowley and
3 someone by the name of Alexandra Andreu. Do you
4 see that?

5 A I do.

6 Q And what was Ms. Andreu's role, please?

7 A At the time she was the assistant vice president
8 within the financial intelligence unit.

9 Q And her response back to Mr. Cowley is:

10 "I agree and will speak with John."

11 Do you know who she may have been referring to
12 when she says she'll speak with John?

13 A John was the -- that would be the John Hamers.

14 Q Okay.

15 A Which is another senior manager and was my boss
16 at the time.

17 Q Okay. And I think you'd said that you
18 understood that this information that
19 Mr. McConnell had received and then he forwarded
20 on to you went back to March 2018. Do you know
21 when Mr. McConnell first started receiving that
22 information for Project Athena?

23 A I do not.

24 Q Okay. Well, let's look at one more example

25 because I don't -- it didn't -- in fairness I

1 don't think it -- although the date was
2 March 2018, I don't believe the information
3 actually started to be received in March 2018.

4 MR. ISAAC: So if we could look at -- we can bring
5 this document down -- TD71, please.

6 Q Okay. And what we're looking at here -- sorry.

7 MR. ISAAC: Mr. Commissioner, before I forget, if we
8 could mark, please, that last document as the
9 next exhibit.

10 THE COMMISSIONER: Yes. Very well. That will be
11 459.

12 THE REGISTRAR: 459.

13 **EXHIBIT 459: Email from Alexandra Andreu re**
14 **Project Athena casino patrons list Oct 2018 -**
15 **January 9, 2019 (redacted)**

16 MR. ISAAC:

17 Q So what we're looking at here, Ms. Gabriele, is
18 an August 14th, 2018 email. Again from
19 Ms. Paddon done to Mr. McConnell. Do you see
20 that?

21 A I do.

22 Q And I won't take you through it. You'll agree
23 with me it's sort of the -- it's the same type
24 of information that we saw earlier; is that
25 right?

1 A Correct.

2 Q Okay. And this is the -- appears to be the data
3 relating to June 2018. Do you see that?

4 A I do.

5 Q Okay. And if we scroll down, please, to the
6 text at the bottom of this first page, you'll
7 see Ms. Paddon writes in the last sentence:

8 "As per my last e-mail dated June 27,
9 2018, I am requesting that you check to
10 ensure that these patrons have bank
11 accounts with TD. I haven't as of yet
12 heard back from TD on the March/April/May
13 list."

14 And I'm going to suggest to you that it appears
15 as though Mr. McConnell began receiving the
16 information for Project Athena in or around
17 June 2018. Is that -- do you have any reason to
18 think otherwise, or do you know?

19 A I'm not able to confirm that. I don't know when
20 he started to receive the information.

21 MR. ISAAC: Okay. If we could please mark that as
22 the next exhibit.

23 THE COMMISSIONER: 460.

24 THE REGISTRAR: Exhibit 460.

25 **EXHIBIT 460: Email from Melanie Paddon re**

1 **Project Athena June 2018 - August 14, 2018**

2 **(redacted)**

3 MR. ISAAC:

4 Q So as of December 4th, 2018, you at this point
5 had all of the intelligence sort of information
6 we've seen from March 2018 up to that point of
7 that transition to you; is that fair?

8 A The information that Pierre had, yes, that's
9 fair.

10 Q I'd like to turn to ask you, Ms. Gabriele, about
11 the January 23rd, 2019 Project Athena meeting
12 that you said you attended. Did you attend that
13 meeting alone or did someone else -- anyone else
14 come with you from TD?

15 A That meeting Michael Cowley attended with me.

16 Q Okay. And did you attend that meeting in
17 person?

18 A Yes.

19 MR. ISAAC: Okay. If we could please bring up point
20 CAN10, please.

21 Q Do you see that document, Ms. Gabriele?

22 A I do.

23 Q Okay. Do you recognize that as the agenda that
24 was circulated for the January 23rd meeting?

25 A Yes.

1 MR. ISAAC: Okay. If we could please mark that as
2 the next exhibit.

3 THE COMMISSIONER: 461.

4 THE REGISTRAR: Exhibit 461.

5 **EXHIBIT 461: Combined Forces Special**
6 **Enforcement Unit British Columbia - Project**
7 **Athena Stakeholders Meeting Agenda - January 23,**
8 **2019 (redacted)**

9 MR. ISAAC:

10 Q If we go down to -- if you look at the fifth
11 item on the agenda. And you'll see that
12 there's -- before we go there, actually, you'll
13 see that another name that's mentioned is Ben
14 Robinson. Was that another member of the RCMP
15 that you corresponded with or interacted with as
16 a representative of Project Athena?

17 A Interactions were based on RSVPs, but more so
18 with Mel.

19 Q The item I'm looking at is number 5, you'll see
20 there is an agenda item there called
21 "implementation of change to bank drafts." Do
22 you see that?

23 A I do.

24 Q Okay. And the presenter or sort of identified
25 there is David Salzano from HSBC. Do you recall

1 that presentation and what it addressed?

2 A I believe it was HSBC's approach to the
3 implementation of bank drafts.

4 Q Okay. And what was --

5 A If my memory serves me correct.

6 Q It's okay. And do you recall -- when you say
7 the approach to -- their approach to the bank
8 drafts, do you recall generally based on what
9 you remember what that approach was or at least
10 what, if anything, that they were doing to
11 address this -- the bank drafts anonymity
12 question?

13 A I believe they had pursued and proceeded to
14 implement the change to put the purchaser's name
15 on their bank drafts.

16 Q Okay. And do you recall anything else from that
17 presentation in terms of how they did that or
18 whether or not it was a difficult or easy
19 process or any other details?

20 A I can't recall. I'll be honest with you. That
21 January meeting was the first meeting that I had
22 tended and I was just absorbing all of the
23 information that was being provided.

24 Q That's fair. I can imagine, as you -- I think
25 you indicated, you were getting up to speed on

1 the project at this time. Is that -- that's
2 fair?

3 A That's fair to say, correct.

4 Q The other item I'd like to ask is that there's
5 a -- it's number 6. The bullet item number 6.
6 It's an update from RBC in relation to their
7 findings presented by two representatives from
8 RBC. And I believe -- I don't intend to take
9 you through it now, but a presentation, a
10 slideshow may have accompanied that item. Do
11 you recall that?

12 A I do. I do recall a presentation being
13 presented at that meeting.

14 Q Without going into the details, to the
15 nitty-gritty, but can you describe generally
16 what you understood from that presentation and
17 whether or not you understood that --
18 specifically that RBC was already using the
19 intelligence that it was receiving for Project
20 Athena to conduct its own sort of end-to-end
21 analyses?

22 A Yes. I believe during that presentation they
23 did provide information on conducting reviews.

24 Q Okay. And was it your understanding based on
25 that that they were using the information that

1 Athena was providing at that point?

2 A Yes, that was my understanding from that.

3 MR. ISAAC: Okay. And we no longer need this
4 document, Madam Registrar.

5 THE COMMISSIONER: Did you want -- has that been
6 marked?

7 MR. ISAAC: I believe so. I think that's document --
8 exhibit 461.

9 THE COMMISSIONER: All right. Thank you.

10 MR. ISAAC:

11 Q Following that meeting that you attended --

12 MR. ISAAC: If we could bring up CAN11, please.

13 Q You see that document, Ms. Gabriele?

14 A Yes, I do.

15 Q And this is an email from Ben Robinson to a
16 number of people. The subject is "Project
17 Athena Update." It's dated Thursday,
18 January 24th, 2019. And do you recall receiving
19 this email?

20 A Yes, I did.

21 Q Okay. And if we go down in the document you'll
22 see the sort of third paragraph, Mr. Robinson
23 says:

24 "As a result of the meeting --"

25 That's the meeting that you attend January 24th.

1 "-- there are a number of takeaways for
2 action."

3 Do you see that?

4 A I do.

5 Q Okay. And then if we look at number 4 on that
6 list it is:

7 "Implementation of change to bank drafts
8 to include the purchaser's name."

9 And then below that:

10 "Coordination for action: All financial
11 institutions."

12 Do you see that?

13 A I do.

14 Q Okay. And do you recall, following this, having
15 any further discussions in and around that time
16 back on your end about this ask, about the
17 change of the bank drafts to the purchaser's
18 name -- to include the purchaser's name?

19 A Yes. This particular topic came up later in
20 conversations with my management team.

21 Q Okay. And can you give a -- when did that
22 occur?

23 A I had had a meeting in May of 2019 with our new
24 leadership team at that time.

25 Q Okay. And I think we will get to that meeting.

1 But prior to that had you had any discussions
2 about this issue in particular, the requested
3 change to the bank drafts to remove the
4 anonymity?

5 A Not this particular topic.

6 MR. ISAAC: Okay. If we could mark this document,
7 please, as the next exhibit.

8 THE COMMISSIONER: 462.

9 THE REGISTRAR: Exhibit 462.

10 **EXHIBIT 462: Email from Ben Robinson re Project**
11 **Athena Update - January 24th, 2019 (redacted)**

12 MR. ISAAC:

13 Q At this point -- at the end of January 2019,
14 Ms. Gabriele, we saw that at this point you and
15 your SIU team had all of the information that
16 Mr. McConnell had received and the RCMP was
17 providing going back to March 2018 and you have
18 now attended this meeting along with Mr. Cowley.
19 Were you aware at this point in late January the
20 volume of bank drafts that were coming from TD
21 at this point, and both the total volume but
22 also how that compared to the other banks that
23 were participating in the project?

24 A So I think in the time of January I didn't have
25 that full scope. However, later on I did get

1 some information analyzed within my team to go
2 ahead and do some work on the information that
3 we had from March 2018 to January 2019. And
4 with respect to how we compared to the other
5 financial institutions, I didn't have that level
6 of oversight.

7 Q Okay. And you said that you first became aware
8 of that, I think, in -- based on analysis that
9 you conducted at the end of April 2019?

10 A Correct.

11 Q Okay. And at that time when you conducted that
12 analysis, did that confirm for you that TD was
13 not just a source of the drafts that Project
14 Athena was identifying but was the largest
15 source of the bank drafts that RCMP were
16 flagging through Project Athena? Was that
17 something that was confirmed through that
18 analysis for you?

19 A Yes, it was a high volume of bank drafts that
20 were coming from TD.

21 Q Would it be fair to say based on the information
22 that we saw, those emails that we saw, and
23 you'll recall that they had -- from the data
24 going back to March 2018 throughout, they had
25 the total number of bank drafts and then they

1 had the specific number of those bank drafts
2 that were from TD; right?

3 A Correct.

4 Q Okay. Would it be fair to say based on that
5 that TD had the information that it needed to
6 sort of add up the numbers and make that
7 determination about what the total volume was
8 and how that compared to the total that the
9 project was identifying overall prior to April,
10 but what hadn't happened at that point prior to
11 that preliminary analysis you conducted was the
12 sort of -- the totals hadn't been added up. Is
13 that fair?

14 A That is a fair statement.

15 Q Okay. So following this January 23rd meeting
16 that you attended, you had an internal TD
17 meeting with your managers -- well, John Hamers,
18 Mike Cowley as well as Alexandra Andreu; is that
19 right?

20 A That's correct.

21 Q Okay. And what was the -- so that was with the
22 sort of two senior AML managers and FIU and as
23 well as the associate vice president for
24 global -- in global AML; is that accurate?

25 A It is.

1 Q Okay. What can you tell the Commissioner about
2 what the purpose of that meeting was, please?

3 A Yeah. The purpose of that meeting was to bring
4 my management team up to speed on the project
5 and the details that I was able to obtain in
6 attending that January meeting. And just bring
7 them up to speed on the project and the asks and
8 determine next steps.

9 Q Okay. And so at that meeting with Ms. Andreu
10 did you identify the two key asks that we
11 referred to earlier? The sort of two asks of
12 Project Athena, is that something that you
13 presented and discussed at the meeting?

14 A Yes. So at that meeting the primary discussion
15 was around the information that was being
16 brought into TD and actioning on that
17 information. That was one of my primary key
18 points that I wanted to bring up in that
19 meeting.

20 Q Okay. And at the time of that meeting -- would
21 it be fair that at that time the information
22 that was being received was not being analyzed
23 or used at that point. Is that correct?

24 A That is correct.

25 Q Okay. And was a decision taken at that meeting

1 with respect to either of the two asks or
2 anything in a regard?

3 A Yeah. So the outcome of that meeting was not
4 that TD was not going to participate. TD was
5 definitely going to participate. However,
6 Alexandra Andreu being the associate vice
7 president was going to further have discussions
8 with the executive leadership team to determine
9 the approach and how that was going to come into
10 TD and how we were going to proceed with
11 working.

12 Q Okay. And in that context, Ms. Gabriele, when
13 you say they were -- TD was definitely going to
14 participate, at that point did you understand
15 that to mean that project -- that TD would
16 continue to attend Project Athena meetings, or
17 that it would actively participate in terms of
18 sort of taking action with -- taking the
19 requested action with respect to the information
20 that had been and was continuing to be provided?

21 A I would say it was with the information that was
22 coming in and at that meeting there were no
23 discussions about future meetings.

24 Q Okay. And following that March -- sorry, that
25 meeting just following this January 23rd Athena

1 meeting, was anything -- was any investigative
2 use to your knowledge made of the intelligence?

3 I think you said it was in April, late
4 April that you conducted this sort of
5 preliminary analysis. Do I have that right?

6 A Yes, you're correct.

7 Q Okay. And I -- and in the interim, between when
8 you became involved and that April -- late
9 April preliminary analysis, there was no
10 investigative use of the information to your
11 knowledge; right?

12 A Yes. So in the interim I had had that meeting
13 at the end of January, and in mid
14 February Alexandra Andreu had actually left
15 TD Bank and I hadn't heard what had been done up
16 until then. So yeah, I was working as I
17 normally would.

18 Q Okay. If we could -- let's -- I'd like to move
19 ahead two months to March, late March 2019.

20 MR. ISAAC: And if we could bring up document TD426,
21 please.

22 Q And that is an email. Can you see that okay?

23 A Yes.

24 Q Okay. So this is a two-page-email. This is
25 from Mr. McConnell to Melanie Paddon. And this

1 is --

2 THE COMMISSIONER: Sorry, is that -- have you got
3 that right? Is it from Ms. Paddon to
4 Mr. McConnell?

5 MR. ISAAC: Thank you, Mr. Commissioner, you're quite
6 right. I've read it from the top down, but
7 you're right, it is -- it's from Melanie Paddon
8 to Mr. McConnell.

9 THE COMMISSIONER: Thank you.

10 MR. ISAAC.

11 Q AND the subject is "Project Athena -
12 January 2019." Do you see that, Ms. Gabriele?

13 A I do.

14 Q Okay. And then what we're seeing below there is
15 is -- again it's the similar format, right, of
16 total bank drafts, TD Bank's share and then the
17 details and specifics for all of the specific
18 drafts that have been identified for potential
19 involvement in money laundering through the
20 casinos; is that right?

21 A Yes. Correct.

22 Q Okay. And this is in January. So do I
23 understand you're continuing to receive -- and
24 Mr. McConnell forwarded this on to you; is that
25 right?

1 A I believe this was part of -- actually I had
2 received emails from Mel because I had asked for
3 some more information so I could have one of my
4 investigators proceed with doing some work on
5 our end with the information we had from
6 March up until January 2019.

7 Q Okay. So you received this. So in this period
8 TD is continuing to receive these sorts of
9 monthly statistics; is that right? We're seeing
10 here the information being provided in respect
11 of January, and this is being provided on for
12 March as well -- sorry, it's being provided in
13 March in respect of January.

14 A In March, yeah.

15 Q Okay.

16 A Yeah, I see that.

17 MR. ISAAC: Okay. If we could please mark that as
18 the next exhibit.

19 THE COMMISSIONER: 463.

20 THE REGISTRAR: Exhibit 463.

21 **EXHIBIT 463: Email from Melanie Paddon re**
22 **Project Athena, Jan 2019 - March 21, 2019**
23 **(redacted)**

24 MR. ISAAC:

25 Q I take it, again -- at this point, again,

1 March -- late March, March 21st, 2019, we
2 haven't gotten to the preliminary analysis that
3 you ultimately conducted in April of 2019 and
4 there hasn't been anything -- there isn't
5 anything being done with the information at this
6 point, to your knowledge?

7 A Correct.

8 Q Oka. There was another Project Athena meeting
9 on April 24th, 2019. Did you attend that
10 meeting?

11 A I did.

12 Q Okay. And did anyone else attend with you from
13 TD?

14 A No, I attended that one on my own.

15 MR. ISAAC: Okay. And if we could please bring up
16 CAN17. And I'll just pause to say this is --
17 just out of an abundance of caution, this is one
18 of the documents that was subject to the
19 direction, Mr. Commissioner, and ask that it not
20 be live-streamed or posted to the website again.

21 Q So if we look at CAN17. If you let me know when
22 you see that, please.

23 A I can see it.

24 Q Okay. And as before, if you attended one of
25 these meetings, you received the minutes. Is

1 that how this worked?

2 A Yes, if you attended, you would receive.

3 Correct.

4 Q And you received these minutes as well?

5 A I believe this is the agenda, but yes, I did
6 receive the minutes.

7 Q Okay. Well, let's see. I think that these may
8 be --

9 A Or is this the minutes?

10 Q I believe they are the minutes, but let's maybe
11 make that call when we look at the document.
12 You can -- we can revisit that in a moment.

13 So if we go, please, to page 2 of this
14 document.

15 You'll see here -- and I'm looking up at the
16 -- there's a block of text. It's the second
17 paragraph. And I should say just in context,
18 this discussion is a discussion that is based on
19 these minutes. It's Ms. Paddon from the RCMP.
20 Do you recall her presentation at that meeting?

21 A Yes.

22 Q Okay. She says -- well, I shouldn't say she
23 says. The minutes state that:

24 "Based on a review of the BCLC
25 spreadsheets over an 11 month period ..."

1 And just pausing there. Was it your
2 understanding that the source of the
3 information -- sort of the significant source of
4 the information that was being flagged through
5 this project came from BC Lottery Corporation
6 spreadsheets; is that correct?

7 A Correct.

8 Q So it says:

9 "Based on a review of the BCLC
10 spreadsheets over an 11 month period (from
11 the beginning of Project Athena March 2018
12 to January 2019) - gamblers using 2 or
13 more banks and/or purchasing 3 or more
14 bank drafts."

15 Then it says:

16 "Low end: 21 issuing drafts."

17 And:

18 "High end: 510 issuing drafts."

19 Do you see that?

20 A I do.

21 Q Okay. Do you recall Ms. Paddon saying at the
22 meeting or telling you at the meeting that the
23 high end referred to there referred to the bank
24 drafts from TD?

25 A I don't recall that at the meeting, but this

1 became apparent after I had one of my
2 investigators review all of the information from
3 March to January.

4 MR. ISAAC: Okay. And we no longer need this
5 document. Thank you.

6 Q And you said that that became apparent. And I
7 take it you're referring to the -- this April --
8 late April analysis that happened after this
9 meeting. Is that right?

10 A Correct.

11 Q And what did that preliminary analysis -- well,
12 first, what did that involve? Was that a
13 significant amount of work or how was that done?

14 A Yes, it was a couple of days' worth of work. I
15 had pulled off one of my investigators and
16 provided her with all of the information that
17 Melanie had provided me per month and the ask
18 was to review all of the information to
19 determine who of those -- who of the individuals
20 were TD Bank customers and then determine
21 volumes.

22 Q Okay. And what did that tell you in terms of
23 the number of drafts and the value of those
24 drafts for that period that you analyzed?

25 A Yes. So the volume was -- that was in those

1 meeting minutes. I believe it was -- I know it
2 says 510. I thought we had 513. And the volume
3 with the actual amounts and the total of those
4 amounts were over 1 million. I don't remember
5 the exact amounts.

6 Q Over how many, sorry?

7 A 1 million, I believe.

8 Q Was --

9 A If I'm not mistaken. In the 11-month period.

10 Q Oh, sorry. I'm talking about that entire
11 11-month period. Was the number not closer to
12 27 million?

13 A Oh, sorry. It's in one my decks. Yes, it might
14 be.

15 Q Okay. Well, perhaps we'll get to that. And I
16 think that's something as well that may have
17 been referred to in the interview that you
18 attended as well. But is it possible that it
19 was closer to 27 million and not 1 million?

20 A Yes, I -- yes. Sorry, I misspoke. I believe it
21 was 26.

22 Q Okay. Thank you.

23 MR. ISAAC: And I apologize, I think I prematurely
24 asked that the document exhibit 458 be brought
25 down.

1 I do have one other portion, please,
2 Ms. Gabriele that I'd like to ask you about with
3 that document.

4 And sorry, Madam Registrar. If we could
5 bring back up exhibit 458. Thank you. And if
6 we could go to page 3 of this.

7 Q So the next portion I'd like to ask you about,
8 it's on -- you're looking at page 3. And you'll
9 see there's a heading towards the bottom of this
10 page that says "Bank Drafts Amendments." Do you
11 see that?

12 A I do.

13 Q This is in a box called "Discussion." Okay.
14 And there's various bullet points that are
15 identified here. And the first one under the
16 heading "Bank Drafts Amendments" says:

17 "- HSBC has made their drafts undesirable
18 to money launderers by including the
19 purchaser name and account
20 information, this information is
21 written on by the teller.

22 - HSBC currently looking into system to
23 embed this information onto their
24 drafts."

25 Do you see that?

1 A I do.

2 Q Okay. Do you remember HSBC describing this at
3 the meeting?

4 A They did speak about it, yes.

5 Q Okay. And then if we go down, you'll see that
6 there's another heading immediately below this
7 called "Roundtable On Individual Financial
8 Institution Thoughts on Amending Drafts." Do
9 you see that?

10 A I do.

11 Q Okay. Did you participate as part of that
12 roundtable discussion?

13 A I did.

14 Q Okay. So just going through there. Number one,
15 it says:

16 "HSBC has implemented the change as they
17 wanted their drafts to be less desirable
18 to criminals, this process took no time to
19 implement, all it took was communication
20 to each bank staff that they are now to
21 write the purchasers name and account on
22 the draft, currently looking into a system
23 where this is embedded on the draft."

24 Do you see that?

25 A I do.

1 Q And second, it's BMO. It says:
2 "BMO shares the same view as HSBC,
3 currently looking at training and
4 communication strategy and a system for
5 embedding this information --"

6 MS. YATES: Mr. Isaac, if I can just interrupt.
7 Given that there is the potential that a sealing
8 order will be brought in respect of the contents
9 of this document, I wonder if you might refer to
10 the content that those able to view the document
11 can read without reading it into the record
12 given than I don't think the record is being
13 prevented from being live-streamed as the
14 document is.

15 THE COMMISSIONER: Mr. Isaac?

16 MR. ISAAC: Well, I can certainly try to avoid
17 verbatim as much as possible. I don't think
18 it's going to be possible or is intended by the
19 direction to avoid the ability to speak to the
20 contents of this. But I will seek not to simply
21 just read verbatim.

22 THE COMMISSIONER: All right. I think certainly the
23 witness is entitled to refresh her memory from
24 this document and to testify to what she recalls
25 occurring. I don't think any order I make with

1 respect to this document operates to preclude
2 her live testimony, so I think you can use the
3 document to refresh her memory to the extent
4 it's necessary. So go ahead.

5 MR. ISAAC: Thank you.

6 Q So we were -- I think we were looking at the
7 second item, which relates to the Bank of
8 Montreal. And you'd agree with me that -- as
9 these minutes that reflect there's an indication
10 that the Bank of Montreal has -- is on the same
11 page as HSBC in terms of the approach that it's
12 taking. Is that accurate, Ms. Gabriele?

13 A It's accurate.

14 Q Thank you. And the third item is with respect
15 to Scotiabank. Do you see that?

16 A I do.

17 Q And the indication there is that -- Scotiabank's
18 position is that it does not distribute a
19 sufficiently high volume of bank drafts to
20 get -- to implement those changes, get the
21 support to make those changes; is that right?

22 A That's correct.

23 Q Okay. And that's consistent with your
24 recollection of these -- of this roundtable; is
25 that correct?

1 A Yes, correct.

2 Q Okay. And then the next item is to the Royal
3 Bank, RBC. Do you see that?

4 A I do.

5 Q Okay. And the indication here is that they are
6 already manually entering the purchaser name and
7 had been doing so since May of 2019. Is that
8 what you see?

9 A It is.

10 Q Okay. And then the bottom there for CIBC
11 indicates that they have no input because
12 they've already been embedding the information
13 on their drafts. Do you see that?

14 A I do.

15 Q Okay. And then the reference with respect to
16 TD. You were the only TD representative at this
17 meeting; is that right?

18 A Correct.

19 Q Okay. So these are 00 to the extent
20 these minutes -- these are minutes reflecting
21 your contribution to the roundtable; is that
22 right?

23 A Correct.

24 Q Okay. And the indication here is that you're
25 going to be working to get buy-in, essentially,

1 from the new leadership of TD; is that right?

2 A Correct.

3 Q Okay. Well, let's pause there. What can you
4 explain by what you meant by that in terms of
5 getting buy-in and engagement from the new
6 leadership, please.

7 A Right. So as I mentioned previously, we did
8 have turnover in our executive leadership team
9 within the financial intelligence unit.
10 Alexandra had left in the middle of February,
11 Amy Hellen, our VP, joined us at the end of
12 February, and then Kevin joined us at the
13 beginning of March. So it was really part of my
14 meeting with them that I had in May where I did
15 raise this as one of my recommendations.

16 Q Okay. So that's the May 2019 meeting I think
17 you adverted to earlier; is that right?

18 A Yeah, it was May 13th.

19 Q Okay. And that's -- when you talk about getting
20 sort of buy-in from leadership, from the new
21 leadership, that's where you sought to do so
22 with respect to both of the asks that we --

23 A Correct.

24 Q Okay. And based on this roundtable that you
25 attended and refreshing your memory using

1 these minutes, did you understand at this point
2 that HSBC, RBC, CIBC, they had already addressed
3 the -- or taken some action to address the
4 anonymity issue? The Bank of Montreal was
5 looking into it, looking into doing the same as
6 well. Was that your understanding based on that
7 roundtable?

8 A Yes, it was.

9 Q Okay. Thank you. And I think if we go just to
10 page 5 of this as well, the last item here,
11 "Final Remarks." There's a reference there to
12 obtaining buy-in from VPs. Was that -- do you
13 recall that? Was that something that you
14 remember that seems to be consistent with --
15 echoes your comments with respect to the
16 roundtable?

17 A Yes.

18 MR. ISAAC: Okay. Thank you. We no longer need this
19 document. Thank you.

20 Q So I'd like to turn to the analysis that you did
21 do. I think you -- as you said, that occurred
22 in late April. That was after this meeting; is
23 that right?

24 A Correct.

25 Q Okay. And I think you indicated that based on

1 that preliminary analysis, that you -- it was
2 clear at that point the total number of bank
3 drafts from TD, the total dollar value and also
4 that this was matching the high end that we saw
5 was identified in the April 24th meeting. Is
6 that all correct?

7 A That's correct.

8 Q Okay. And to be clear, this preliminary
9 analysis that you conducted in April, that was
10 not an investigative use of the intelligence at
11 this point; it was sort of preparing it together
12 and organizing it. Is that accurate?

13 A Yes. It was a preliminary review of all the
14 information we had received to date which I then
15 used within my presentation deck to my executive
16 team.

17 Q And that's what I'd like to ask about now, and
18 this is the -- this was the meeting I think you
19 referred to several times. Was that on
20 May 13th, 2019?

21 A Yes, it was.

22 Q Okay. And who was at that meeting?

23 A At that meeting we had Amy Hellen, we had Kevin
24 Doherty, we had John Hamers. I believe I
25 invited Lilly Di Felice, but I'm not a

1 hundred percent sure if she joined or not. But
2 those were the participants I had invited.

3 Q Okay. And for the record, Kevin Doherty, he was
4 the head of the Canadian FIU at that time?

5 A Yes. He took over for Alexandra Andreu.

6 Q And Amy Hellen --

7 A Amy Hellen was the head.

8 Q Sorry. Amy Hellen was the global head of AML at
9 that time?

10 A Of the operations. So of the financial
11 intelligence unit and AML operations.

12 Q Okay. Is there -- was there anyone higher than
13 her within the -- that unit at that time to your
14 knowledge?

15 A No, not within the financial intelligence unit.

16 Q Right. And then John Hamers as well, that
17 was -- I think you've mentioned that was a
18 senior AML manager?

19 A Senior manager.

20 Q And he was your direct boss?

21 A Correct.

22 Q Okay. And as part of that meeting you said you
23 prepared a slide deck and did a presentation?

24 A I did.

25 MR. ISAAC: Okay. And, Madam Registrar, if we could

1 bring up, please, TD11.

2 Q And do you recognize that as a copy of the slide
3 deck? We could scroll down perhaps to the --
4 that page. Do you recognize that as a copy of
5 the slide deck that you prepared for the
6 meeting?

7 A Yes.

8 MR. ISAAC: Okay. If we could please mark that as
9 the next exhibit.

10 THE COMMISSIONER: 464.

11 THE REGISTRAR: Exhibit 464.

12 **EXHIBIT 464: TD - Project Athena: A**
13 **Public/Private Partnership presentation -**
14 **Undated (redacted)**

15 MR. ISAAC:

16 Q And, Ms. Gabriele, I appreciate on the version
17 that we're seeing now there are a number of
18 redactions. And I'm not going to ask you to
19 reproduce again through your testimony the
20 specific words under those redactions, but I am
21 going ask you about the substance of your
22 meeting and what was discussed and the
23 presentation you gave. So you'll see that the
24 first page here there's a heading that says "Key
25 Asks."

1 A Correct.

2 Q Now, was that -- did you identify both in the
3 meeting and in the presentation those two key
4 asks we'd mentioned earlier in terms of Project
5 Athena?

6 A Yes.

7 Q Okay. And those were to use the information
8 that was being provided to take action with it,
9 to conduct investigations. Is that right?

10 A Correct.

11 Q And the other one was, you mentioned, to take
12 action to include payee/payor information on
13 bank drafts to address the anonymity that was
14 being exploited?

15 A Correct.

16 Q Okay. And did you present to Ms. Hellen and the
17 others at the meeting as well the specific
18 results of your analysis that you had conducted
19 in terms of the total number and value of the
20 bank drafts that had been flagged through
21 Athena?

22 A Yes, that was also part of this deck.

23 Q Okay. And was it also part of the discussion
24 that occurred at the meeting?

25 A It was one of the pieces of discussion. The

1 main areas of discussion that I focused on was
2 to conduct the reviews based on the information
3 that we were receiving, which meant completing
4 the end-to-end reviews with outcomes, and the
5 second one was my recommendation to proceed to
6 make the changes to our TD bank drafts to
7 include the purchaser's name.

8 Q Okay. So you're referring there, you made some
9 specific recommendations to your leadership team
10 at that meeting; is that right?

11 A Correct.

12 Q And I want to unpack those a little bit in a
13 moment, but just going through the other things
14 that -- the other areas that you may have
15 addressed. Did you note at the meeting the
16 volume of TD's drafts, whether it was high or
17 that it was at the high end of -- or it was the
18 high end of the banks participating in Project
19 Athena?

20 A Yeah, in the meeting I did discuss that they
21 were high volumes from TD Bank and as well as
22 the total amount that they resulted in.

23 Q Did you discuss or present about the fact that
24 there were -- all of the other banks were
25 participating in Project Athena?

1 A That was part of the meeting that I had that
2 yes, there was participation from the other
3 financial institutions.

4 Q From all of the other financial institutions at
5 that time, all of the big banks; is that right?

6 A Yeah. Correct.

7 Q Did you discuss at all whether there was a risk,
8 if TD did not participate, that it would become
9 an outlier in that regard? Is that something
10 that was discussed or that you presented about?

11 A Yeah, the discussion was never that TD was not
12 going to participate. The discussion in that
13 meeting was how were we going to proceed and
14 what were next steps.

15 Q Okay. But in relation to that decision and --
16 or the recommendations that you were making, did
17 you raise and discuss the possibility that if TD
18 did not actively participate, if it didn't take
19 some of the steps that you were recommending,
20 that it might become an outlier among its peer
21 financial institutions?

22 A Yeah. One of my points within the deck is that
23 if TD did not participate, I believed that we
24 would have been the only financial institution.
25 But that was never on the table for discussion

1 because participating was not something that we
2 were not going to do.

3 Q Okay. And you described your -- sorry, when you
4 say that "participating was not something that
5 we were not going to do" -- I think I -- sorry
6 if I mangled what you said there -- what do you
7 mean by that? How was that expressed?

8 A What I mean by that is that TD was going to
9 participate and it was the executive team that
10 was going to further have discussions on how we
11 were going to approach it.

12 Q Okay. So that was based on the feedback or
13 comments. Who actually said that or can you
14 explain, sorry, where you came to that
15 understanding?

16 A Yes. That came as a result of this meeting that
17 Amy Hellen was going to take that away.

18 Q Okay. I'd like to ask, you said that you made
19 two specific recommendations as part of this
20 meeting, and I think one of them was to create a
21 special investigative team for Project Athena.

22 A Yeah, one was to add more resources to the team
23 that I already had.

24 Q Okay. And what specifically did you -- were you
25 requesting? Did you identify specific resources

1 that you thought would be required to undertake
2 the end-to-end reviews?

3 A If I'm not mistaken, if memory serves me
4 correctly, I believe I asked for four additional
5 investigators and a manager to manage this
6 workflow.

7 Q Okay. And you said that the other
8 recommendation that you sought was to take
9 action to address the bank draft anonymity
10 issue; is that right?

11 A Correct.

12 Q And is that something that would have taken
13 place to your understanding solely within the
14 AML group, or was that something that required
15 engagement with possibly another part of the
16 bank? Was that part of your engagement?

17 A Yes. So as a result of the particular meeting
18 in May, Kevin was going to take that away and
19 reach out to Caitlin, who is the executive of
20 the advisory team, and have conversations with
21 the line of business in Everyday banking.

22 Q And that's -- was that Caitlin Riddolls?

23 A Yes. Correct.

24 Q Okay. And were there any reservations? What
25 was the response to the recommendations that you

1 made at this meeting?

2 A There were no reservations with any of the
3 recommendations that I had made. The outcome of
4 the meeting was to have further meetings with
5 executive leadership teams to determine the
6 approach and how we were going to proceed.

7 Q Okay. I recall, Ms. Gabriele, being asked about
8 this as well at your October interview, and I
9 understood -- and I don't want to take you to
10 the transcript, but just ask -- I had understood
11 that there were potentially some questions
12 raised about whether or not other regulatory
13 priorities would permit or in light of those
14 whether or not those were things that needed to
15 be considered first before any decision was
16 taken on these recommendations that you made.
17 Is that accurate or can you tell me --

18 A Yes, so the outcome -- yeah, I'll explain that.
19 The outcome of this meeting was that I was
20 directed to continue to work on the regulatory
21 priorities and the current demands that were on
22 my team until further meetings took place at an
23 executive level and determined those outcomes
24 and approach.

25 Q Okay. Thank you. And specifically was there

1 any direction coming out of this meeting that
2 you should begin conducting any of the
3 end-to-end reviews that you referred to earlier
4 that would sort of be the natural next step to
5 make use -- sort of an investigative use of the
6 information that TD had been receiving up to
7 this point?

8 A So as a result of the meeting, no, I wasn't
9 provided direction to proceed with the
10 end-to-end reviews. And again, that was part of
11 discussions that were going to take place under
12 the executive leadership team to determine the
13 approach and how that was going to be had.
14 However, I do know that as a result the
15 end-to-end reviews were conducted at a later
16 date. I believe my understanding was between
17 December 2019 and March 2020.

18 MR. ISAAC: Right. And if we could -- I no longer
19 need this document. I think it is exhibit 464.

20 I'd like to just pick up briefly -- and you
21 did refer to this but in fairness, you know, it
22 may be helpful to actually see the record -- on
23 the second recommendation that you made, which
24 was the bank drafts anonymity issue. You
25 mentioned that there had been some follow up and

1 Ms. Riddolls was going to perhaps follow up with
2 the business side of the bank.

3 If we could bring up TD57, please.

4 Q Okay. Do you see that document?

5 A I do.

6 Q Okay. And you'll see here that if we go to the
7 bottom there is a reference here to the slide
8 deck, I think, that you had for the meeting, the
9 May 13th meeting. We'll see that copying the
10 people that you indicated had attended.

11 Although I take it you'd indicated that
12 Ms. Di Felice maybe did not attend.

13 A I'm not a hundred percent sure. I can't
14 remember.

15 Q Okay. And that's fine. And I don't think I
16 asked you, but what was Ms. Di Felice's role at
17 that time?

18 A She was an executive within our policy training
19 and governance team.

20 Q Okay. And then if we look at the portion just
21 above that, there's -- if we could scroll up a
22 little bit please. There's an email from
23 Mr. Doherty to you and copying Mr. Hamers,
24 saying:

25 "Hi Anna. Caitlin confirmed the change

1 request for the drafts is in with Everyday
2 banking - she's seeking a status update."

3 So if you could explain what that means perhaps
4 for those of us who don't have the TD decoder
5 ring. Who's the -- Everyday banking and what
6 you understood, and is that Ms. Riddolls?

7 A Sure. So Caitlin reached out to the line of
8 business in Everyday banking requesting and
9 proposing the change to the bank drafts, and
10 that's what that means.

11 Q Okay. And did you -- and then if we look up to
12 the top of this same document, you respond back
13 to Mr. Doherty, copying Mr. Hamers. And you
14 say:

15 "Hi Kevin. This is great news! Let me
16 know what the status update is once she
17 gets it. Thanks again, as I truly believe
18 this is a great enhancement to our drafts
19 to eliminate the anonymity!"

20 Did you -- so I take it from this, Ms. Gabriele,
21 that you were in support of -- you thought
22 the -- taking steps to remove the anonymity was
23 an enhancement; is that right?

24 A That's correct.

25 Q Okay. And did you receive an update in 2019

1 about what, if anything, might have happened
2 with respect to the bank draft issue?

3 A No, I didn't receive an update in 2019. But as
4 part of this process that I'm currently involved
5 in right now, I did get an update that as of
6 September 2020 changes were made in the Pacific
7 region where purchasers' names were manually
8 being printed on bank drafts that were
9 purchased. And then further to that a national
10 rollout scheduled for 2021.

11 Q Thank you. And so -- but nothing -- no update
12 that you were aware of and no change prior to
13 that; is that right?

14 A No, not in between that time. No.

15 MR. ISAAC: Okay. If we could please mark this as
16 the next exhibit.

17 THE COMMISSIONER: Yes. 465.

18 THE REGISTRAR: Exhibit 465.

19 **EXHIBIT 465: Email from Anna Gabriele re**
20 **Project Athena - May 17, 2019**

21 MR. ISAAC: Thank you.

22 Q So if we could look, please, at TD document 17.
23 So we're -- we've gone -- there was this
24 May meeting with your senior leadership team,
25 and then we're going to move ahead in time to

1 June 21st. Do you see that here, this email?

2 A I do.

3 MR. ISAAC: Okay. If we go to page 2 of this,
4 please. If we scroll out a little bit, please.

5 Q All right. And you'll see here we're looking,
6 there's another -- this is another sort of email
7 providing further intelligence from Project
8 Athena and following the same format; is that
9 right?

10 A That's correct.

11 Q What is the date -- what date block does this
12 information relate to? Can you tell?

13 A Yeah. It provides February, March and
14 April 2019.

15 MR. ISAAC: Okay. And if we scroll up to -- sorry.
16 If we scroll up, please, to page -- I'm sorry.
17 I'm just finding the location here. Sorry.
18 Yeah, on page 1.

19 Q You've -- you're sending this on to Mr. Doherty
20 as well as Mr. Hamers on June 21st, 2019. Do
21 you see that?

22 A I do.

23 Q Okay. You'll see there you've summarized the
24 kind of -- the headline numbers. Based on this
25 you now had, as you said, it confirmed at least

1 based on that previous block that the drafts
2 from TD were the high end of those identified
3 through Project Athena. Was that -- I take it
4 you were a little -- you were more attuned
5 perhaps to that at this point. Was that
6 something that you saw was there continued to be
7 a high proportion of bank drafts from TD at this
8 point?

9 A Yes, I believe that's accurate.

10 Q Okay. And you ask in this as well:

11 "Do you have any further updates from
12 Caitlin on that status of having the
13 purchaser's name added to everyday TD Bank
14 Draft that's purchased?"

15 And I think you'd indicated you didn't hear back
16 any status update on that, certainly not in
17 2019.

18 A Correct.

19 Q Okay. And then if we see the next line down,
20 there's a reference that there's another
21 upcoming meeting July 24th for Project Athena.
22 Do you recall that?

23 A Yes.

24 Q Okay. And if we scroll up, please, in this
25 email. There's a response here from

1 Mr. Doherty. Who's the -- you said was the head
2 of the Canadian FIU. Do I have that right? And
3 he's responding to you and copying your manager
4 as well as copying Ms. Hellen. Do you see that?

5 A Sorry, can you move it up a little bit. I think
6 you're on the wrong page.

7 MR. ISAAC: Yeah, sorry. Madam --

8 THE WITNESS: The other way.

9 MR. ISAAC: Sorry. The first page.

10 Q Okay. Do you see that? I'm looking at the top
11 block on the -- of text on this email?

12 A There we go. Thank you.

13 Q Okay.

14 A Yes.

15 Q So as I said, that's an email from Mr. Doherty
16 to you copying Mr. Hamers and Ms. Hellen. Do
17 you see that?

18 A I do.

19 Q Okay. And then this is what the text says. It
20 says:

21 "Thanks for the summary and the chat
22 earlier.

23 To confirm our conversation, no
24 action required on Project Athena at this
25 time. As a FIU team, we're still

1 determining with Mike B and GSET" --

2 Who does that refer to?

3 A That is Mike Bowman.

4 Q And GSET, what does that refer to, please?

5 A Is our global senior executive team.

6 Q Okay. So:

7 "As an FIU team, we're still determining
8 with Mike [Bowman] and GSET the
9 appropriate way to deal with initiatives
10 like Athena. As for the Vancouver
11 meeting, I will speak with Amy and we will
12 determine attendance going forward."

13 Do you see that?

14 A I do.

15 MR. ISAAC: If we could mark that, please, as the
16 next exhibit.

17 THE COMMISSIONER: 466.

18 THE REGISTRAR: Yes. Exhibit 466.

19 **EXHIBIT 466: Email from Kevin Doherty re**
20 **Project Athena - June 21, 2019 (redacted)**

21 MR. ISAAC: If we could bring up document TD 27.

22 Q So -- and sorry, we did see earlier in that
23 email, and I can bring it back up, Ms. Gabriele.
24 Perhaps I'll just ask you the question first.
25 Again with reference to "no action required on

1 Project Athena at this time." And I just
2 confirm that was your understanding of sort of
3 the state of affairs following your May meeting
4 with senior leadership. And this point now in
5 June was that no action was being taken at that
6 point with respect to any of the information
7 that was being -- had been received or that was
8 continuing to come in. Is that your
9 understanding?

10 A Correct.

11 Q Okay. Thank you. So we're looking now at TD
12 document 27. Do you see that?

13 A I do.

14 Q Okay. And this is a July 11th, 2019 email from
15 Mr. Doherty to Ms. Hellen. And you'll see the
16 text says:

17 "Hi Amy, given all our recent discussions
18 on Collecteur/Interac/Athena, I will be
19 asking Anna to stand down from attending
20 the next session in Vancouver later this
21 month - we've yet to identify who
22 ultimately should own this in GAML --"

23 What does that refer to?

24 A Global anti-money laundering.

25 Q Okay.

1 "... and as we're not doing anything with
2 the data outputs."

3 And again would that be consistent with your
4 understanding that at this point nothing is
5 being done with the data outputs?

6 A Nothing further than what I had originally done
7 in April.

8 MR. ISAAC: Okay. And if we could mark that, please,
9 as the next exhibit.

10 THE COMMISSIONER: 467.

11 THE REGISTRAR: 467.

12 **EXHIBIT 467: Email from Amy Hellen re Project**
13 **Athena advisory role - November 7, 2019**

14 MR. ISAAC: Actually, just -- no, that is right.
15 Sorry, I was wondering if I'd already marked
16 that. Thank you.

17 You subsequently heard back directly,
18 Ms. Gabriele, instructions to the effect of
19 standing down. And I'd like to show you
20 something in that regard.

21 If we could bring up please, document TD216.

22 Q These appear to be sort of messenger, whether
23 it's Skype or otherwise, between you and
24 Mr. Doherty. Do you see that?

25 A I do.

1 Q And Mr. Doherty says here:

2 "Hi. We are standing down on Athena for
3 now and won't be attending the
4 July meeting in person."

5 Do you see that?

6 A I do.

7 MR. ISAAC: And if we could please mark that as the
8 next exhibit.

9 THE COMMISSIONER: 468.

10 THE REGISTRAR: Exhibit 468.

11 **EXHIBIT 468: Message from Anna Gabriele and**
12 **Kevin Doherty re TD involvement with Project**
13 **Athena - July 11, 2019**

14 MR. ISAAC:

15 Q Were you told why TD was standing down on
16 Project Athena and that you were not to attend
17 the upcoming meeting in July at this point?

18 A No, my understanding was that meetings were
19 still taking place with the executive team but
20 nothing in great detail.

21 Q Was it explained to you why you shouldn't attend
22 the upcoming meeting on July 24th, even just for
23 informational purposes or to continue to receive
24 the minutes or the intelligence that Project
25 Athena was generating?

1 A That was not discussed with me, no.

2 Q Okay. And I take it you weren't privy to the --
3 in fairness to you, Ms. Gabriele, I appreciate
4 you're not an executive of TD, and I take it you
5 weren't privy to decisions that would have been
6 taken necessarily at that level; is that fair?

7 A That's correct.

8 Q Okay. And so that July 24th meeting, you
9 were -- I take it you didn't attend that meeting
10 either in person or otherwise?

11 A Correct.

12 Q And to your knowledge did anyone else from TD
13 attend that meeting?

14 A Not to my knowledge. I'm not sure.

15 MR. ISAAC: Okay. And if we could please bring up
16 Canada document 23. And again this is one of
17 the documents, Mr. Commissioner, that is subject
18 to the direction made this morning, so I ask
19 that it not be live-streamed or posted.

20 THE COMMISSIONER: Very well.

21 MR. ISAAC: If we could go to, please, page 4 and 5
22 of this.

23 Q And, Ms. Gabriele, I take it you saw this
24 document in connection with the interview that
25 you had with commission counsel in October. But

1 did you receive this document -- I think we had
2 described earlier that those who attended
3 meetings got the minutes but those who did not
4 may not have. Did you receive these minutes at
5 the time?

6 A I'm not sure if I received the minutes or not.
7 Sorry, I'm not sure.

8 Q Okay. If we could scroll -- but you have seen
9 these before in connection with the interview
10 that you had with commission counsel previously;
11 is that right?

12 A Correct.

13 MR. ISAAC: Okay. And if we could scroll down,
14 please, and zoom in on the bottom portion of
15 this document.

16 Q Now, Ms. Gabriele, there is a heading here
17 called "BCLC Statistics Update." Do you see
18 that?

19 A I do.

20 Q Okay. And there is a reference here to the -- a
21 presentation that's made at this time based on
22 the same BC Lottery Corporation charts that we'd
23 seen earlier, and there's a listing of -- well,
24 first the banks in sort of descending order in
25 terms of the dollar value of the bank drafts

1 that were being flagged through Project Athena.

2 Do you see that?

3 A I do.

4 Q Okay. Would you agree with me that TD is at the
5 top of that list?

6 A Yes, they are.

7 Q Okay. And then there's a series of bullet
8 points below there that break down by dollar
9 value and provide some information sort of
10 breaking down the number of money that's
11 involved and has been identified through this.
12 Do you see that?

13 A I do.

14 Q Okay. And you'll agree with me that the
15 indication here is that in 2018 there were
16 roughly 3,000 drafts and 150, roughly, million
17 dollars in value from all of the various
18 financial institutions that were flagged as part
19 of this project. Do you see that?

20 A Yes.

21 Q Okay. And then if we go down to the next point,
22 there's a breakdown in terms of where these bank
23 drafts are originating. And the indication is
24 that 98 percent of them are coming from the top
25 six financial institutions, and it gives a

1 dollar value for that as well of just below --
2 just above \$147 million. Do you see that?

3 A I do.

4 Q Okay. And then there's a sort of -- if we
5 scroll down, please, to the next line. You'll
6 see that there's a point there that it says the
7 top 2 financial institutions -- so based on what
8 we saw before that would be TD and then the next
9 bank -- together represent 66 percent of the
10 dollar volume and about 63 percent of the count
11 volume.

12 So based on sort of my calculations that
13 would be roughly \$100 million between the top
14 two banks of which TD Bank was the first. And
15 you said you don't recall whether or not you
16 received these minutes, Ms. Gabriele, but do you
17 recall being given information or this -- these
18 statistics being made aware to you or present in
19 any of the analysis that you conducted?

20 A These specific statistics with the overall total
21 value, no. But again, the information that we
22 had analyzed was from March 2018 to
23 January 2019, and yes, that's where I did
24 identify a high volume of TD bank drafts.

25 Q And it's fair to say that if you had attended

1 this meeting, if the decision hadn't been made
2 to -- that you were directed to stand down and
3 not attend, then you would have been present to
4 receive this information. Is that -- that's a
5 fair conclusion?

6 A That's a fair statement.

7 Q Okay.

8 MR. ISAAC: If we could please mark this as an
9 exhibit, and again not public at this point,
10 please.

11 THE COMMISSIONER: All right. Very well. Sorry,
12 where are we at, Madam Registrar?

13 THE REGISTRAR: 469, Mr. Commissioner.

14 THE COMMISSIONER: Thank you.

15 **EXHIBIT 469: Project Athena Meeting Minutes -**
16 **July 24, 2019**

17 MR. ISAAC: So -- and we can take -- we can bring
18 this document down, please, Madam Registrar.

19 Q After you received the message that you were to
20 stand down on Project Athena, did you continue
21 to receive further bank intelligence information
22 from the project?

23 A I think the last intelligence I received was for
24 February, March and April 2019.

25 Q Okay. So up to when you -- essentially when you

1 ceased attending the meetings, the intelligence
2 also -- the intelligence flow also ceased in and
3 around the same time; is that right?

4 A Yes.

5 Q Okay. And I understand that you left the SIU
6 team to take on new responsibilities within TD
7 at the end of October, very beginning of
8 November; right? October 31st, November 1st; is
9 that right? 2019.

10 A Correct. October 31st, 2019, was my last day,
11 and November 1st, 2019, I managed two new teams.

12 Q Okay. And if you look at, please -- look at
13 TD346, please. I'm showing you -- this is a
14 two-page document. It's an email. If we go
15 from -- to page 2, please. There is an email
16 from an AML manager in the SIU by the name of
17 Dermot Hickey dated November 28 to you copying
18 Mr. Cowley. Do you see that?

19 A Yes, I do.

20 Q And she's [sic] asking whether or not -- from
21 your SIU days whether or not you received any
22 guidance and asking for all things Project
23 Athena related to that time. Do you see that?

24 A I do.

25 MR. ISAAC: Okay. And if we scroll up, please, to

1 the next page. Thank you.

2 Q So you're now responding back to Ms. Hickey,
3 copying Mr. Cowley and Mr. Doherty and you're
4 providing an update; is that right?

5 A Yes. It's Mr. Hickey.

6 Q Okay. My apologies.

7 A That's okay.

8 Q And you're re describing -- you say:

9 "Hi Dermot. At one of my team meetings
10 (earlier in year) I had given the team a
11 high level summary of Project Athena and
12 what is --

13 I think you mean to say "what was in" --

14 A What it was.

15 Q What it was? Okay. Thank you.

16 "... in anticipation that it would be a
17 new work flow/project that the team would
18 be working."

19 And that -- was that an accurate -- that was
20 your expectation when you first became involved
21 in Project Athena that it would become a new
22 work flow/project that the team would -- your
23 team would be working on?

24 A Correct.

25 Q You say:

1 "The one thing that I did do was --"

2 And you mention, I believe, the name of the
3 investigator in your team that conducted that
4 preliminary analysis; is that right?

5 A Correct.

6 Q Okay.

7 "... to review all the customers that
8 Melanie Paddon had provided me for each
9 month from March 2018 to January 2019 to
10 determine the following."

11 And I appreciate the next portion is redacted,
12 but you agree with me that that's a summary of
13 sort of all of the metrics that that review
14 identified, and we've already -- you've
15 addressed a number of those already. Is that
16 right?

17 A Correct.

18 Q Okay. And then you sort of give a conclusion
19 based on the data, and then you indicate what
20 the total dollar value was; is that right?

21 A Correct.

22 Q Okay. And if we scroll up, please, you'll see
23 that Mr. Cowley, his response to Mr. Hickey
24 November 28th, 2019, is that:

25 "Not much was done then."

1 With a series of ellipses after that. Do you
2 see that?

3 A I do.

4 Q Okay. And I just to confirm. As I said, I
5 think you indicated that to your knowledge it
6 wasn't until December 2019 that investigative
7 use began to be made of the bank draft
8 intelligence information; is that right?

9 A Correct.

10 Q Okay. Did you have any visibility or
11 involvement in those investigations?

12 A No, I did not.

13 MR. ISAAC: Okay. Thank you. If we could mark that,
14 please, as the next exhibit.

15 THE COMMISSIONER: 470.

16 THE REGISTRAR: Exhibit 470.

17 **EXHIBIT 470: Email from Dermot Hickey re**
18 **Project Athena, customer review - November 28,**
19 **2019 (redacted)**

20 MR. ISAAC:

21 Q Thank you for bearing with me, Ms. Gabriele. I
22 have one last document I wish to ask you about
23 and that is TD199, please. Okay. Do you see
24 that record, the document in front of you?

25 A I do.

1 Pierre in the fall of 2018."

2 And the second is:

3 "Did you go to another Athena meeting in
4 July? - Yes I attended a meeting that was
5 held on July 24th, 2019."

6 I think that may be a mistake.

7 A That's a mistake, yes. It should have said
8 April 24th.

9 Q Thank you. And then it says:

10 "When would you say we put this project on
11 hold due to 'other operational
12 priorities'?"

13 Do you see that?

14 A I do.

15 Q Then your response was:

16 "We --"

17 I think the "were" may be a typo there, and I'll
18 omit that. But:

19 "We ... never did any work on Project
20 Athena due to other priorities we had at
21 the time."

22 Do you see that?

23 A Correct.

24 Q And that's accurate?

25 A Yeah, other than the initial reviews that we had

1 done at the end of April.

2 Q Okay. And there's a reference there to other --
3 both Mr. Cowley and you, he refers to "other
4 operational priorities"; you are saying "other
5 priorities we had at the time." I think you'd
6 indicated that initially you were not -- that
7 perhaps the decision-making at the highest level
8 wasn't necessarily something that you were privy
9 to, but did you gain any further understanding
10 at around this time or afterwards about what
11 were the competing priorities or what was it
12 that was informing the decision not to do -- to
13 put the project on hold as Mr. Cowley says and
14 not to do any work on it during that November up
15 until -- November 2018 period up until
16 December 2019?

17 A Yeah, so the other priorities was the current
18 work flows and the regulatory requirements and
19 demands that were already within my team.
20 However, the decision to put it on hold or not
21 do any further work, I have no knowledge as to
22 what that entailed.

23 MR. ISAAC: Thank you, Ms. Gabriele. Those are all
24 of my questions.

25 THE COMMISSIONER: All right. Thank you, Mr. Isaac.

1 And I understand that there are no questions
2 from any of the participants. Is that correct?

3 MR. ISAAC: That's correct. There have been no
4 allocations with respect to Ms. Gabriele, and
5 the allocations with respect to Mr. Bowman who
6 will be testifying next. I will just note, I
7 apologize, I did not introduce my friend
8 Ms. Yates on the record. Perhaps a little bit
9 belatedly, perhaps Ms. Yates would just identify
10 herself for the record. I believe she's counsel
11 for TD.

12 MS. YATES: Mr. Commissioner. Yates, Y-a-t-e-s,
13 first initial J., on behalf of TD Bank including
14 both Ms. Gabriele as well as next witness,
15 Mr. Bowman. With me is Mr. Kevan Hanowski,
16 H-a-n-o-w-s-k-i. He's not visible to you, but
17 he is here in the room with me.

18 THE COMMISSIONER: Thank you, Ms. Yates.

19 THE REGISTRAR: Sorry to interrupt, Mr. Commissioner.

20 Do we need to mark the last document, TD199?

21 MR. ISAAC: Yes, please, Mr. Commissioner and Madam
22 Registrar, if we could that would be great.

23 Thank you.

24 THE COMMISSIONER: Thank you, Madam Registrar. That
25 will be 471.

1 THE REGISTRAR: Yes, exhibit 471.

2 **EXHIBIT 471: Email from Dermot Hickey re**
3 **Project Athena, customer review - November 28,**
4 **2019 (redacted)**

5 THE COMMISSIONER: All right. And thank you,
6 Ms. Gabriele. I am very appreciative of your
7 time and sharing your experience on this issue
8 with us. You're excused from further testimony
9 now. Thank you.

10 THE WITNESS: Thank you.

11 **(WITNESS EXCUSED)**

12 THE COMMISSIONER: And I think what we'll do now,
13 Mr. Isaac, is take a 15-minute adjournment and
14 then resume with Mr. Bowman.

15 MR. ISAAC: Thank you, Mr. Commissioner.

16 THE REGISTRAR: This hearing is adjourned for a
17 15-minute recess until 11:22 a.m. Please mute
18 your mic and turn off your video, thank you.

19 **(PROCEEDINGS ADJOURNED AT 11:08 A.M.)**

20 **(PROCEEDINGS RECONVENED AT 11:22 A.M.)**

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

23 THE COMMISSIONER: Thank you, Madam Registrar. Yes,
24 Mr. Isaac.

25 MR. ISAAC: Thank you. The next witness,

1 Mr. Commissioner, is Michael Bowman, and he will
2 be sworn. Madam Registrar, if you'd please
3 administer the oath.

4 **MICHAEL BOWMAN, a**
5 **witness called for the**
6 **commission, sworn.**

7 THE REGISTRAR: And please state your full name and
8 spell your first and last name for the record.

9 THE WITNESS: My name is Michael Bowman.

10 B-o-w-m-a-n, Bowman.

11 THE COMMISSIONER: Yes, Mr. Isaac.

12 **EXAMINATION BY MR. ISAAC:**

13 Q Mr. Bowman, you're currently the global chief
14 anti-money laundering officer for CAMLO for
15 TD Bank; is that right?

16 A That's correct, yes.

17 Q And how long have you held that position,
18 please?

19 A Since the spring of 2018.

20 Q Okay. What can you tell the Commissioner about
21 what your sort of principal responsibilities and
22 role is as global CAMLO?

23 A Sure. As the global CAMLO I'm essentially
24 responsible for overseeing the bank's
25 enterprise-wide program in support of anti-money

1 laundering and economic sanctions. So that
2 includes essentially everything from the
3 advisory side where we support the business in
4 understanding their obligations and their
5 requirements and also we on a centralized basis
6 for the bank oversee the operational aspects in
7 terms of transaction monitoring, customer name
8 screening, regulatory reporting and such.

9 Q What about public/private sort of sharing
10 initiatives? Is that something that is usually
11 coordinated through you as the global CAMLO?

12 A If they are -- with respect to the money
13 laundering, the AML regime, yes.

14 Q And I just in order to sort of understand your
15 role as CAMLO and how you relate to some of the
16 people and the various departments that we've
17 heard about and are mentioned in some of the
18 documents, I'm just going to ask you very
19 briefly to explain what, if any, lines of
20 reporting or visibility you had with respect to
21 some of those people and how they fit in.

22 So perhaps I could begin one of the things
23 we've heard is the financial intelligence unit,
24 or FIU. Would you just explain, you know, is
25 that part of the global AML world and what its

1 part in that world is?

2 A Sure. So we have two FIUs, we have a Canadian
3 FIU and a US FIU, financial intelligence unit.
4 Both of those FIUs together are part of what we
5 call global AML operations which is comprised of
6 those two FIUs plus a number of supporting areas
7 that are sort of the backbone or the central
8 infrastructure of the FIUs.

9 The FIUs are part of my organization. So
10 the FIU leaders on either side of the border
11 report up into a global head of AML operations,
12 who is a direct report into me. And the
13 activities in the FIU would be those centralized
14 operational activities that I mentioned before
15 ranging from, you know, enhanced due diligence
16 on high-risk customers, transaction monitoring,
17 regulatory reporting across the enterprise.

18 Q Thank you. And in terms some of the specific
19 individuals that might be part of that world,
20 you know, we heard from Anna Gabriele this
21 morning who was in the special intelligence unit
22 at that time within the financial intelligence
23 unit. Is that correct?

24 A That's correct, yes.

25 Q Okay. And then Mr. Hamers and Mr. Cowley, those

1 were both managers in the financial intelligence
2 unit?

3 A Correct, yep.

4 Q Okay. And are those people part of the sort of
5 reporting chain of command that would come up to
6 you?

7 A Yes.

8 Q Okay. And Kevin Doherty, I believe we've seen
9 his name in references being the head of the
10 Canadian financial intelligence unit; is that
11 correct?

12 A That's correct, yes.

13 Q And was that -- is that a direct report into
14 you?

15 A No. So he oversees the Canadian FIU, and so he
16 reports to the global head of AML operations who
17 reports to me.

18 Q Okay. And that global head of -- I'm jumping
19 ahead in my list a little bit, but the global
20 head of operations, would that be -- during this
21 time that would be Amy Hellen?

22 A That's correct.

23 Q Okay. And then Amy Hellen would be the one that
24 reports into you; is that correct?

25 A Yep.

1 Q Okay. And the other -- Caitlin Riddolls, I
2 believe we've heard her described as a vice
3 president and in a particular area with respect
4 to AML. What was her role and is she someone
5 who reported to you as well?

6 A Yes. So Caitlin is a direct report into me.
7 She would be a peer of the global head of AML
8 operations. As I mentioned before with respect
9 to what's within my mandate, my purview, part of
10 that is what we refer to as the advisory
11 components of the AML program. And those are
12 the teams that directly support and work very
13 closely with various businesses across the bank
14 to ensure that those businesses are, you know,
15 properly informed of the obligations and there's
16 some oversight and monitoring of some of the
17 activity that happens in the businesses.

18 Caitlin is one of our VP leads that has an
19 advisory function and hers is specifically
20 around the Canadian banking businesses which
21 includes the personal bank and Everyday banking,
22 which is the branch banking, which I know is
23 part of what is the subject of some of the
24 questions here today.

25 Q Yeah. Not to jump ahead too far, but in terms

1 of Ms. Riddolls' role, we understand that she
2 had a -- played a role in terms of advancing or
3 working with the business side of the bank on
4 the bank draft anonymity issue. And when you
5 say that -- is that sort of part of your
6 understanding of her role was to sort of be the
7 voice of AML with respect to the other elements
8 of the -- of TD more broadly. Is that accurate?

9 A That's correct, yeah.

10 Q Okay. Another group we did hear about was --
11 and I'll try to avoid acronyms where I can,
12 Mr. Bowman; they'll be unavoidable at some
13 point -- but global security and investigation,
14 so GSI, which is a group -- we've seen reference
15 to a Pierre McConnell as well as a Pierre
16 Jireada. Is that GSI group part of the AML
17 entity? Is that something that reports to you
18 or do you have visibility on? What can you tell
19 the Commissioner about what GSI is and how it
20 engages with the AML group?

21 A I'll start by saying it is not part of the AML
22 organization. It actually is a part of the bank
23 that reports separately from where AML reports,
24 meaning I report up to the general counsel of
25 the bank. And at the time of this -- these

1 activities that we're talking about today, GSI
2 did not have that same reporting line.

3 GSI is group security and investigations,
4 which is essentially physical security. So they
5 oversee, you know, security in the branches and
6 so forth as well as, you know, employee conduct
7 and insider conduct-type concerns.

8 Q Would they deal with things like non-anti-money
9 laundering such as fraud and things of that
10 nature?

11 A There's actually a group even separate from GSI
12 which is specifically responsible for the
13 oversight of the bank's fraud controls and
14 anti-fraud measures. But you are right, GSI is
15 separate from anti-money laundering and would
16 not generally have any oversight or
17 responsibility for any aspects of the AML
18 program.

19 Q And I think you indicated that at the time --
20 and I appreciate we haven't established a time
21 frame; I will do that when we get into the
22 substance -- but that at the time we'll be
23 looking at GSI did not report into that same
24 sort of chain of reporting but that it does now;
25 is that accurate?

1 A Yes, that's accurate.

2 Q Was that change made at all in -- can you
3 explain at all the reason for that change? Was
4 it ...

5 A Yeah, at a high level I would say that there was
6 a point in time, but I don't have the exact time
7 sort of at top of mind, but there was a point of
8 time when the bank established a second line
9 fraud risk management, leadership, oversight.
10 And so today, for example, we do have a second
11 line which we call FRM, fraud risk management,
12 and the head of fraud risk management is a peer
13 of mine who has the same reporting line that I
14 do.

15 But fraud operations, so the actual
16 investigators and the operational activities are
17 in a separate reporting line in the bank which
18 is in enterprise operations role. And when that
19 second line fraud risk management was created,
20 one of the structural changes that was done was
21 the GSI component, which was previously managed
22 side by side with fraud, was pulled into the
23 second line fraud risk management program. And
24 so today the SVP with responsibility for fraud
25 risk management reports into the same person

1 that I report to.

2 Q Thank you. Thank you for that sort of
3 background so we understand where things are
4 situated. I'd like to turn now to discuss TD's
5 participation in Project Athena and the
6 information that it was receiving through the
7 project as well as your sort of visibility and
8 awareness of that. And as I said, I'm going to
9 try to break that down into very specific time
10 periods so we're clear what we're referring to.

11 And the first time period I want to focus on
12 is between May and October 2018, so we -- sort
13 of taking us up to the fall of 2018. And we
14 understand that based on what we've heard thus
15 far that TD appears to have sort of begun first
16 participating in Project Athena in early 2018
17 when Mr. McConnell from the GSI group began
18 attending Project Athena meetings in May 2018
19 and then starting in around June 2018 TD through
20 him began receiving intelligence about bank
21 drafts that the Project Athena was generating.
22 Is that something you are aware of now?

23 A I am aware of it now from reading the emails and
24 other information that is part of the Cullen
25 Commission, yes.

1 Q Okay. I take it from that, Mr. Bowman, that you
2 were not aware of that at the time; is that
3 correct?

4 A That's correct, I was not aware.

5 Q Okay. And I just want to show you just so we're
6 looking -- we understand the type of information
7 that was being received I'm just going to show
8 you two documents. We'll just look at them,
9 we'll identify a few things and I may ask you
10 some sort of combined questions about them.
11 Hopefully it's -- I'll be able to provide both
12 the document number as well as the
13 exhibit number for Madam Hearing Officer. It's
14 exhibit 460, TD71, please, is the first
15 document.

16 So you'll see here -- let me know when you
17 have that on your screen, Mr. Bowman.

18 A I do have it on my screen, yes.

19 Q Okay. And you've seen this document?

20 A Yes, I believe so.

21 Q And you'll see it's August 2018. It's from
22 Melanie Paddon, who was one of the RCMP who was
23 coordinating Project Athena, to Pierre
24 McConnell, and the subject is Project Athena
25 June 2018. And you'll see there this is sort of

1 a common format that we've seen where it
2 provides the total number of bank drafts
3 tendered from all financial institutions at the
4 casinos, the share of those with a specific
5 number issued by TD, the number of patrons and
6 then it's sort of identifying the specific
7 drafts and the transactional information with
8 respect to those TD drafts that the RCMP had
9 flagged for potential involvement in the money
10 laundering typology that was at issue in Project
11 Athena. Do you see that?

12 A I do.

13 Q Okay. And this is the -- this is for June 2018.
14 I do want to show you just one more example. If
15 we could look at TD72, please.

16 And this is a same format. It's for
17 July 2018. You'll see here, though, that
18 Mr. Cowley is copied. Do you see that?

19 A I do.

20 Q And Mr. Cowley was a senior manager in the AML
21 group; is that right?

22 A Yes.

23 Q Okay. And this is the bank drafts for
24 July referred to here.

25 MR. ISAAC: And if we could please have this marked

1 as the next exhibit.

2 THE COMMISSIONER: Very well.

3 THE REGISTRAR: We are at 472, Mr. Commissioner.

4 THE COMMISSIONER: Thank you, Madam Registrar.

5 **EXHIBIT 472: Email from Melanie Paddon re**
6 **Project Athena bank drafts for July 2018 -**
7 **September 27, 2018**

8 MR. ISAAC:

9 Q At this point in sort of August/September 2018,
10 was any of this intelligence that TD was
11 receiving, either the fact of it or the
12 substance, being reported up to you in your
13 role?

14 A No.

15 Q Okay. Were you aware at any point in 2018 of
16 TD's engagement in Project Athena and the
17 intelligence that Mr. McConnell and Mr. Cowley
18 were receiving regarding the bank drafts that
19 were suspected of being used for money
20 laundering?

21 A No, not to the best of my recollection.

22 Q Okay. When did you first become aware of TD's
23 involvement and participation in Project Athena
24 and the transactional intelligence that TD was
25 receiving. And those may be two different

1 times, so please feel free to split that up.

2 A So my recollection as to the first time that I
3 became aware of something called Project Athena
4 was in the summer of 2019 when through the
5 Canadian Bankers Association communication to
6 one of my direct reports, who is responsible for
7 policy and governance within the AML program and
8 she is sort of one of our primary constituents
9 at the CBA table and historically, for example,
10 she's been our primary constituent around the
11 PPP tables, she received a communication from
12 the CBA along with -- you know, to her as well
13 as other CBA members, making them aware of
14 Project Athena and advising them that this is a
15 project that was established sometime in 2018
16 and advising them that it was being managed out
17 of the corporate security working group within
18 the CBA.

19 And my understanding from the communication
20 that came from Lilly to me was that the project
21 was now sort of recognizing or acknowledging
22 that this was more of an AML project than a
23 corporate security project, and so it appeared
24 that they were looking to transition or pass
25 sort of the leadership torch from the corporate

1 security working group of the CBA to the -- what
2 we call the MLSG, the money laundering steering
3 group, within the CBA. And so to the best of my
4 recollection that is the first I learned of it
5 and at that point in time would have viewed it
6 and understood it as a -- you know, sort of a
7 now for us, for the AML participants, you know,
8 a new public/private partnership project.

9 At that time I was not aware that -- the
10 extent to which Project Athena had been in
11 existence. In fact if I remember correctly --
12 and it's one of the exhibits in here -- that
13 email from Ms. De Felice to me indicates on it
14 that some members of AML were part of the
15 preliminary meetings which, you know, I think I
16 inferred from that that we just had some
17 preliminary meetings, not that they went back to
18 2018. And so this in my mind was a new PPP that
19 was getting underway, and so I was not aware of
20 the historical transfer of information into the
21 bank or to bank employees or anything that was
22 done or not done with that information at that
23 time.

24 I think the second part of your question was
25 when did I -- then when did I become aware of

1 the transactions.

2 Q Yes.

3 A If you want me to go there.

4 Q Yes, I think so. There will be some
5 clarification on that first point, but if you'd
6 like to perhaps at least answer that second
7 part as well, that would be helpful?

8 A Sure. And, again, you know in reading all of
9 the materials to prepare for today, it does
10 sometimes get a little fuzzy as to what I know
11 from reading these emails and what I actually
12 knew at the time. But to the best of my
13 recollection I was not aware that the bank had
14 been provided any of the either metrics or data
15 or draft information from or through Project
16 Athena until sometime very late in 2019. I know
17 for sure that I knew about it in -- at a meeting
18 sometime in December of 2018 [sic] when there
19 was a presentation in which that information was
20 identified.

21 Q I'm sorry, Mr. Bowman. I just want to say, you
22 just mentioned December 2018. Did you mean to
23 say --

24 A I'm sorry, 2019.

25 Q Okay. Thank you.

1 A 2019. So to the best of my recollection it was
2 around that time that I first became aware that
3 there had been information provided into the
4 bank around the drafts from the -- through the
5 Project Athena group.

6 Q Okay. That is very helpful. Perhaps we could
7 unpack and -- I think despite the best of your
8 abilities there were a few acronyms that may
9 have worked into the answer, so I'd like to just
10 perhaps clarify a couple of things.

11 On the first question, which is when did you
12 first become aware of TD's engagement with
13 Project Athena or when did Project Athena sort
14 of first turn up on your radar, I think you
15 mentioned that it was -- was it Lilly Di Felice
16 who had communicated with you?

17 A That's correct.

18 Q And you mentioned that was through CBA. Is that
19 the Canadian Bankers Association?

20 A Correct.

21 Q Okay. And just so I understand, the -- is that
22 sort of -- that group -- and maybe you could
23 explain a little bit more. I think you said
24 that Ms. Di Felice in her role and her work with
25 the CBA is often engaged in potential

1 public/private partnerships or hears about them.
2 Is that sort of an expected channel or a more
3 established channel that you were familiar with
4 at this time in terms of where these projects
5 might be sort of put on your radar or raised and
6 discussed?

7 A Well, I guess I would first say that, at least
8 across the -- what's referred to as the major
9 reporters or the larger bank contingent, the
10 grouping of the CAMLOs and sort of a policy and
11 governance leaders, so that would be sort of,
12 for example, Lilly's counterpart at the other
13 large banks. Those have -- at least in my time
14 in the role and my experiences, those have been
15 the individuals who are traditionally the most
16 engaged, the most active, the most vocal sort of
17 as part of -- first and foremost, the CBA
18 working group, the money laundering steering
19 group, and then other initiatives that have been
20 going on more broadly, which is a range of
21 things -- not all of them perhaps rise to the
22 level of being a true PPP, but there have been a
23 number of initiatives happening externally,
24 whether it's RUSI or -- which I know that's an
25 acronym and I can't tell you what it stands for,

1 but it's a historic initiative to bring better
2 understanding and light to some
3 information-sharing opportunities.

4 There have been some initiatives with
5 respect to a public utility, for example, that
6 was explored for a long period of time amongst
7 the large bank contingent. And it would be
8 folks like myself and Lilly most predominantly
9 involved in those kinds of things.

10 And I think that's certainly true
11 historically for the true PPPs that we're all
12 aware of, whether it's Project Protect, Project
13 Shadow, Project Guardian. These were all the
14 predecessors to Project Athena.

15 I think part of your question, though, was
16 whether or not our engagement in those always
17 flows through the CBA, and I don't have enough
18 direct connection to how all those prior ones
19 got initiated to know if they came through the
20 CBA or not, but I do know that the
21 representation around the table for those was --
22 of course in addition to others because many
23 banks bring many players to those kinds of
24 discussions, but certainly it would have
25 included the CAMLOs and/or other people who

1 directly report to the CAMLO.

2 Q Okay. And I think we will return because one of
3 the questions I do want to ask you about is how
4 initiatives like Project Athena or other
5 potential initiatives might most effectively
6 appear on the radar of someone in your position.
7 And perhaps we can address that later on in your
8 testimony today, Mr. Bowman.

9 I do want to go through at least a couple of
10 -- I promised you some stages of time that we
11 would look at. But before we do that, just
12 based on your understanding now, is it your
13 understanding that -- I mean, the purpose of
14 Project Athena in providing this information to
15 TD and to the other financial institutions
16 participating was that TD would use the
17 information; right? That it would use the
18 information to initiate or feed into its own AML
19 investigations and, if appropriate, file STRs,
20 possibly resulting in actionable intelligence
21 for the RCMP.

22 Is it your understanding now that that was
23 the contemplated sort of intelligence circle
24 that Project Athena aimed to achieve?

25 A Yes.

1 Q Okay. And you agree that if the information is
2 not being used by a financial institution in
3 that way, if it's essentially just accumulating,
4 then that information-sharing loop isn't going
5 to work; right?

6 A Yes.

7 Q Just going back into our time, I know we'd --
8 I'd asked you about 2018. We understand that
9 there was sort of a point of transition in and
10 around November 2018 where Ms. Gabriele and her
11 team in the SIU became involved. They were
12 asked to -- she was asked and her team to become
13 involved in Project Athena and there was --
14 appeared to be sort of a transition between the
15 GSI and the financial intelligence unit. Was
16 that transfer something that you were aware of
17 or involved in at all at the time?

18 A No.

19 Q Okay. So that takes us -- the next period of
20 time I just want to focus on is between
21 November 2018, that sort of transfer to
22 Ms. Gabriele's team, and late July 2019. We
23 heard evidence this morning that Ms. Gabriele
24 attended a Project Athena meeting along with
25 Mr. Cowley in late January 2019 and she had some

1 subsequent internal meetings, including with
2 Alexandra Andreu, the associate vice president
3 for AML compliance. Was that something that you
4 were aware of or briefed at at all at the time?

5 A No, not to my recollection. No.

6 Q And looking again in that same November 2018 to
7 July 2019 time period, we heard from
8 Ms. Gabriele that her team conducted some
9 preliminary analysis in late April to sort of
10 compile the intelligence -- some of the
11 intelligence that had been received. And that
12 was work that took an investigator a couple
13 of days to complete. But aside from that
14 preliminary compilation, she was not aware of
15 any other work or analysis being conducted prior
16 to her departure from the SIU at the very end of
17 October 2019.

18 And, Mr. Bowman, are you aware of any
19 investigative use being made of the Project
20 Athena intelligence prior to late December 2019?

21 A No.

22 Q Okay.

23 A As I mentioned before, I wasn't even aware that
24 this information had been passed over to the
25 bank.

1 Q And perhaps we'll pause there. Was that
2 something that was sort of the expected way that
3 you would have expected the information to flow
4 up, or was it perhaps something where you were
5 surprised to learn that that information did not
6 make it up to your level earlier?

7 A Well, I think it's fair to say that I was
8 disappointed to learn that it didn't make it up
9 to me. I don't know that I'm surprised given
10 the sort of manner in which the AML resources
11 were engaged. And by that I just simply mean
12 that for the GSI to -- you know, a non-executive
13 member of the GSI to send a note over to a
14 non-executive in AML and say, hey, can you
15 support us on this or come and join me at this
16 meeting, is, in my view, probably not the most
17 effective way to get the AML group involved in a
18 project. And that I would expect normally for
19 that communication or that request for our
20 insight and our investigative resources and our
21 views on the project to have come into the AML
22 group at a much more senior level, from a more
23 senior level into a more senior level.

24 And, you know, I think in just looking
25 through the history of emails and I think the

1 fact that it was, you know, a sort of a more
2 junior person whose responsibilities and
3 awareness and understanding of the broader
4 aspects of the bank and the broader aspects of
5 the program and the implications of what's being
6 discussed, you know, or asked through Project
7 Athena, to me it sort of -- it certainly
8 demonstrates why it's critical to ensure -- for
9 TD and for all participants to ensure that we've
10 got the right resources and people being
11 dedicated to these external initiatives.

12 Q And before we look at sort of the moment in
13 which at least it appears as though senior
14 members of the AML group were briefed on both
15 the project as well as its key asks and what
16 some of the preliminary analysis was showing, I
17 want to understand to what extent you had
18 awareness of the scale of the share or
19 proportion of TD's bank drafts. And perhaps we
20 could do this without -- we don't necessarily
21 need to show you the document, Mr. Bowman, and I
22 can just ask you at least in first instance.
23 But if it would be helpful, I'm happy to show
24 you the document as reference.

25 But we understand that Ms. Gabriele attended

1 a meeting in April -- late April 2019 of Project
2 Athena where information about where the highest
3 source and where the lowest source of these bank
4 drafts was flagged. And that in her subsequent
5 analysis, that preliminary analysis that she
6 connected, it confirmed that for the March --
7 the entire 2018 up until January 2019, so
8 March 2018 to January 2019 period, TD was at the
9 very high end. It was the largest source of the
10 bank drafts that were being flagged by project
11 -- as part of Project Athena. And I think, you
12 know, it was somewhere near \$27 million.

13 When was that something that you were made
14 aware of? Was that not -- I should let you
15 answer that question. When was that something
16 that you were made aware of?

17 A Yeah, I would say that it certainly -- it
18 couldn't have been before I became aware that we
19 had received the transactions information to
20 begin with. I suspect it was -- but my best
21 view would be it would've been around that late
22 2019, December 2019 time period.

23 Q Thank you. So I'd like to -- we sort of
24 discussed that preliminary analysis that
25 Ms. Gabriele conducted. And we understand that

1 shortly after that she gave a presentation to
2 Amy Hellen, Kevin Doherty and John Hamers. And
3 this was to sort of identify what the findings
4 were and make specific recommendations and
5 specific next steps. And would it be fair to
6 say that, you know, this is a senior -- at least
7 with respect to Ms. Hellen, we're talking about
8 senior leadership within the AML group at TD?

9 A Yes, she reports directly to me, and I would
10 certainly say that qualifies as she's senior.

11 Q Okay. So perhaps I could ask. Connecting with
12 some of your testimony earlier, Mr. Bowman,
13 however Project Athena had engaged with TD in
14 the sort of 2018 time period, you'd agree with
15 me that at this point Project Athena is being
16 put on the radar of some very senior people
17 within the TD AML world; is that fair?

18 A I think that's correct, but I think that there's
19 some context that goes with that that would be,
20 you know, important to point out as well.

21 Q Please do. Yeah.

22 A Thank you. At the time of that meeting which
23 would be with the two executives that are over
24 Anna Gabriele or in Anna Gabriele's reporting
25 line, those two executives would have at that

1 point been in their roles for just over -- that
2 would be Amy Hellen and Kevin Doherty, they
3 would've been in their roles for just over two
4 months and one month, respectively. So they
5 were quite literally brand new in the role and
6 both came into a set of circumstances under
7 which there was a very, very high amount of I
8 will say regulatory priority happening at the
9 time. So it was sort of a very enormous
10 situation that they came into.

11 So I think it's important to just -- to
12 understand that and then to -- contextually, you
13 know, Anna is giving them a deck with respect
14 to -- and, you know, again I only know what I've
15 seen through these materials, but she's giving
16 them a deck of what is probably explained to
17 them as an external industry initiative that is
18 voluntary.

19 And so in the context of just seeing this
20 and hearing it versus everything else that's
21 going on and the high degree of -- and when I
22 talk about the high amount of work going on, I
23 don't just mean for the executives. The amount
24 of work that was being asked at that time, for
25 example, even of Anna Gabriele's team and the

1 other teams, the work and the commitments and
2 the deadlines that the bank was working against
3 to meet regulatory obligations and regulatory
4 commitments was quite extensive. So I just
5 wanted to highlight some of that context.

6 I'm happy to answer questions about that
7 context, but I think that's important to
8 appreciate.

9 Q Well, I think that would be helpful, Mr. Bowman.
10 Perhaps we'll go through at least some of what I
11 understand is what we heard today what some of
12 the information was that was presented at that
13 point, and then the decision that appears to
14 have occurred after that. And perhaps to the
15 extent that that plays into it, if you could
16 explain that as well as any other factors and
17 we'll be able to explore those areas further.

18 So we -- the commission heard evidence today
19 that as part of this presentation to the senior
20 team, Ms. Gabriele presented the statistics that
21 the SIU had compiled at that point. So, you
22 know, the volume of TD banks being flagged, the
23 total dollar value which at that point I believe
24 was close to \$27 million for that period as well
25 as the fact that all of the other big six banks

1 were then participating in the project and that
2 there was a risk -- noted in her presentation
3 that there was a risk that TD might become a
4 sole outlier if it did not actively engage with
5 the project.

6 Is that -- and I just pause there. Is that
7 something that you're -- I appreciate you
8 weren't aware of it at the time, Mr. Bowman, but
9 is that something you're aware of now?

10 A Only from reading the document you are referring
11 to, yes.

12 Q And Ms. Gabriele also made two recommendations,
13 and those were directly connected to what were
14 the sort of two key asks of Project Athena. To
15 create an investigative team to review the
16 information, the transactional information that
17 was provided, and engage in that intelligence
18 circle that I had described earlier as well as
19 to look into a request to make a change for the
20 bank drafts.

21 So were -- was this meeting with Ms. Hellen
22 and any of these issues, those asks, the
23 specific resource request, was any of that
24 escalated to you in and around this time period?

25 A No.

1 Q Okay. And I understand that Ms. Gabriele also
2 told the commission today that requests for an
3 investigative team came with an actual specific
4 resource request. It was a team of five; four
5 investigators, one team lead. And just pausing
6 there, was that resource request ever raised
7 with you? And I apologize, I may have asked
8 that just a moment ago, but ...

9 A No, it was not.

10 Q And we understand and we've seen some documents
11 reflecting the fact that following these
12 recommendations, these findings, the
13 presentation of the volume and dollar value of
14 the bank drafts to senior AML leadership at the
15 time, what happened in terms of actually
16 occurring was that there wasn't a five-person or
17 any team created at that time and instead the --
18 what appears to have occurred afterwards is that
19 there was an instruction to stand down on
20 Project Athena, which meant stop attending
21 meetings. And as I said, there didn't appear to
22 be an investigative team that was created and
23 there doesn't appear to have been any
24 investigate steps taken either prior to
25 December 2019. And you're aware of that now; is

1 that right?

2 A I am aware -- no, I'm not aware either from the
3 documents or from my own knowledge that there
4 was, you know, quote/unquote, a stand-down order
5 to not participate in Project Athena. I have
6 read the emails and I know that as part of these
7 hearings I shouldn't speculate, but I can only
8 speculate based on what I've read as to how in
9 the end, you know, folks like, as I saw it in
10 their email communications, Kevin and Anna were
11 using the term "stand-down." But there was
12 no -- to my knowledge there was no -- certainly
13 from me, and I'm not aware of there being
14 anything from Amy or anybody else, that the bank
15 would not be participating in Project Athena.

16 Q Okay. Well, let's focus in on that just for one
17 moment. Were you involved or aware of that
18 decision in July 2019? I won't characterize it
19 one way or the other, but the decision that
20 resulted in not forming these teams at that time
21 and not attending subsequent Project Athena
22 meetings?

23 A No.

24 Q Okay. And who to your understanding was the one
25 that was involved or who was involved in making

1 that decision?

2 A So let me just first say I don't think there was
3 a decision to not attend Project Athena
4 meetings. To the best of my recollection of
5 looking at the documents there was only one
6 Project Athena meeting in which TD was -- in
7 which TD did not attend.

8 As I look at the timing around all of this,
9 as I mentioned before, in that June time period
10 we learned, I learned, for the first time of
11 this thing called Project Athena and was told by
12 Lilly that there had been some preliminary
13 meetings in which the FIU was already engaged.
14 And this is -- as I mentioned before, this is
15 where I'm speculating a little bit because I can
16 see from the email chain that I turn around and
17 I say to Lilly, who's responsible for our
18 external initiatives and governance, I say to
19 Lilly, you know, this sounds like this could be
20 a pretty good project, right? I think further
21 indication that I'm hearing about it for the
22 first time. And I say to her, there seems to be
23 a lot going on out there at the moment between
24 all these different initiatives and I'm losing
25 track on how we're engaged and who's in there

1 and who's leading for us. And I ask her to, you
2 know, gather with the team and pull all this
3 together; right? So we as a leadership group
4 can have a single line of sight into what's
5 going on and make sure that we're, you know,
6 getting the right people to these meetings.

7 I think as a result of that ask, right, and
8 me saying -- although this is not in the email,
9 I'm sure I've said something like hey, it's
10 great that the FIU went to those meetings, but
11 we've got to figure out who really should go to
12 those meetings; right? And that had trickled
13 down -- you know, down the levels to people
14 saying, Anna, stand down; right? But it wasn't
15 the intention -- it certainly wasn't my
16 intention that TD would not participate but just
17 that we want to ensure that we're participating
18 with the right people.

19 Q Okay. So I think -- you can agree with me or
20 not agree with me, Mr. Bowman, but I think what
21 you are describing is that it wasn't your --
22 there may have been a miscommunication
23 internally in terms of -- that was interpreted
24 as a stand-down. Is that correct?

25 A Yes, perhaps.

1 March 2018.

2 A Correct.

3 Q Is that right?

4 A Yeah.

5 Q Okay. And, Mr. Bowman, we saw in a record --
6 and I can put it to you if you would like, but
7 perhaps we can see how far we get without doing
8 so -- a reference later on in December 2019
9 where there's a followup with Ms. Gabriele, and
10 both she and Mr. Cowley, they're asking what
11 happened with Project Athena, and there's a
12 reference to "other operational priorities."
13 That nothing was done, that they stood down
14 because of other operational priorities.

15 Can you explain what the significance of
16 that is from your perspective and how that fits
17 in with what you've been describing.

18 A Well, I certainly don't know for sure because I
19 wasn't aware of, you know, a stand-down for
20 other operational priorities. But, you know,
21 look, I think that if at the time Amy -- if Amy
22 had instructed Anna to not pursue the
23 investigations, I mean, I think first and
24 foremost she couldn't, right, without additional
25 resources, right, because her resources were,

1 you know, 100 percent engaged in meeting
2 day-to-day regulatory obligation. So, you know,
3 the instruction or direction from Amy for her
4 team not to deviate from the higher regulatory
5 priorities could be what Anna was referring to
6 there. But I wasn't part of that communication
7 to Anna, and so I don't know specifically what
8 was meant by it.

9 Q Okay. And that question of resources, I did
10 want to follow up with you about. And that is
11 is it your evidence, Mr. Bowman, that TD at the
12 time did not have people to spare to undertake
13 this initiative?

14 A That's correct. Given what we were working
15 through and on at that time, that would be a
16 correct statement.

17 Q Okay. And I think that's consistent with as
18 well what you said during your interview, that
19 you didn't have a single person possibly to
20 spare. And is that -- I -- can you explain for
21 the Commissioner -- and perhaps it's something
22 that may not be apparent to those on the
23 outside -- how an institution of TD's size and
24 resources isn't in a position to have a person
25 to spare to take investigative steps with

1 respect to actionable intelligence that the RCMP
2 is providing regarding money laundering in
3 British Columbia?

4 A Sure. I think there's a couple of things I
5 would say in response to that. First is ideally
6 we all want to be in a situation where we do
7 have sufficient resources and, say, adequacy of
8 resources to be flexible enough to pivot when
9 new and different priorities emerge. But given
10 the fact that we don't have full control of when
11 and how and where asks, requests and priorities
12 emerge, this happened to be a point in time when
13 there was a convergence of a large volume of
14 different priorities hitting our bank at the
15 same time. And so you can't always prepare for
16 that.

17 We were -- everybody across the FIU -- this
18 was a period of time when the FIU was, quite
19 frankly, drained. There was a number of both
20 unexpected and evolving initiatives that were
21 taking our time.

22 Now, the other thing I would say is we're a
23 large bank. You know, you can -- you know, some
24 people might ask, well, then, why don't you just
25 go out and bring in additional contractors,

1 which by the way during this period of time we
2 certainly had plenty of to sort of help us in
3 the types of work that made sense. But that's a
4 challenge as well because it's critical that
5 this work be done properly and it's -- you know,
6 to just add resources, to go out to the market
7 and bring in contractors who are not readily
8 familiar with the bank's systems, with the
9 bank's data infrastructure, with all the
10 different technology tools that we use, it
11 literally takes many, many months before -- when
12 we hire a new investigator, before that
13 investigator is able to perform both from a
14 quality perspective and from a productivity
15 perspective with where we would like them.

16 So unfortunately it puts us in a position or
17 it realistically puts us in a position where we
18 have to assess our priorities, and those
19 assessments are happening all of the time. We
20 are very regularly reallocating and redirecting
21 resources based on evolving and changing
22 priorities. And I think in the scheme of
23 everything that we were faced at that point in
24 time, the other priorities took precedence. And
25 I say that from the perspective of, you know,

1 that's what I assume was going on in Amy
2 Hellen's mind, perhaps in the minds of others.
3 You know, it wasn't brought to my attention to
4 help make a priority decision at that time.

5 Q If it had been -- and if you don't wish to
6 speculate about this Mr. Bowman, feel free to do
7 so. But if it had been, would you have
8 prioritized things possibly differently or
9 assigned the -- some resources to look at this
10 earlier than what occurred?

11 A Honestly I'd have to speculate there and, you
12 know, I can't so quickly go back in time in my
13 mind to really reflect on exactly, you know, at
14 that given point in time or, to be honest, a
15 given day what I would have thought or
16 considered.

17 I will say -- I mean, since you asked the
18 question, I will say, though, that -- and I
19 think I raised this with you when we spoke
20 previously -- one of the things that probably
21 would have come to my mind most immediately was
22 to, you know, explore the question of the extent
23 to which the legal framework around the
24 providing of information was considered at the
25 early stages of Project Athena because I think

1 that would, you know -- and, again, it's one of
2 the -- when I talk about how this project came
3 in through for the non-executive level that
4 doesn't bring the full context and the full sort
5 of comprehension of not just what an operations
6 team does every day but how we as a financial
7 crime control function in the bank think about
8 things.

9 But I think the question -- the potential
10 question of propriety of the manner in which the
11 request came in would likely have been something
12 that would have been first and foremost in my
13 mind had it been brought to my attention.

14 Q And can you explain that a little bit further
15 for the Commissioner in terms of what you are
16 referring to in the propriety, what the
17 implications of that are.

18 A Sure. I'm referring to just simply the fact
19 that an external law enforcement agency hands
20 information over to the bank outside of a
21 production order or other formal means within an
22 acceptable legal framework and whether -- and I
23 don't know either way. I'm just saying it's a
24 question I would've asked and wanted to be sure
25 I understood the answer to. And whether the

1 flow and the exchange of information as proposed
2 is acceptable and appropriate under the legal
3 framework and other constraints within the
4 Canadian regime, including, you know, among
5 others, you know, the privacy legislation.

6 Q And I had anticipated perhaps discussing this
7 as -- sort of at the end of your testimony
8 today, Mr. Bowman, but we're sort of engaged
9 with some of those issues now. When you
10 describe the way in which this came to TD's
11 attention and the way in which it engaged, are
12 there things that Project Athena could have done
13 more effectively in your view as perhaps a
14 private/public initiative to more effectively
15 engage with and appear on TD's radar, whether in
16 terms of who it reached out to or who TD sent to
17 the project or otherwise?

18 A Well, it's a little hard for me because I was
19 not -- you know, I don't know how -- to be
20 honest, I don't know how it was initially
21 initiated back in -- whenever it was in the
22 early stages of 2018. So not knowing sort of
23 how it came to be and how the various bank
24 groups were engaged, obviously it was being
25 managed out of the corporate security working

1 group within the CBA. And how that even came to
2 be is -- I'm unaware of.

3 But it does seem that at some point there
4 was a recognition among engaged parties that
5 perhaps transitioning it to the AML working
6 group within the CBA was a good idea. And so
7 how everything transpired up to that point, I
8 have -- you know, I really don't have a strong
9 view on. I think the fact that one of the big
10 five banks in Canada, the AML team within that
11 bank got engaged by a non-executive reaching out
12 to a non-executive and saying hey, come to this
13 meeting with me, in and of itself demonstrates
14 that that's not sort of the holistic level of
15 understanding and transparency that we would
16 prefer these things to work in.

17 And while I certainly understand and
18 acknowledge that, you know, there is no perfect
19 way, and I don't think yet that across the
20 industry, certainly not within the AML industry,
21 have we yet landed in sort of the perfect way
22 for these things to both initiate and engage and
23 the governance around them. But I do think --
24 and I know this is a bit of a general comment.
25 I would say it's definitely -- I feel quite

1 certain that amongst the leadership, the AML
2 leadership group, it's a shared understanding
3 that collectively -- not just the banks but
4 collectively we can and should do better in how
5 we think about both the subject matter for
6 public/private partnerships, how we consult and
7 engage and think about those things and
8 ultimately how we get to that final product,
9 whether it's an operational alert and other
10 kinds of things.

11 You know, it's a journey that we're all on.
12 We've only been doing these public/private
13 partnerships for -- I think now about
14 four years. We've got about -- as I mentioned
15 before, we've got four of them under our belt.
16 And so, you know, we definitely are getting
17 better. But from the beginning, the very first
18 one was Project Protect, we did not have a play
19 book on how to do them then. And as far as I am
20 aware, we don't still don't have a playbook,
21 although we're evolving into some better
22 circumstances.

23 And I do think that Project Athena in and of
24 itself was a bit of an anomaly; right? And an
25 outlier in a number of ways. One is, you know,

1 in the way that it started outside of the AML
2 context and transitioned in -- sort of in this
3 informal way. But also because, at least to the
4 best my recollection, you know, all of the prior
5 public/private partnerships were engaged around
6 really understanding, accessing and talking
7 about typologies to ultimately result in a
8 better way for the banks to identify this
9 activity. And so there had never before been --
10 again, at least as far as I recall -- instances
11 of law enforcement providing data or information
12 with an expectation or an idea that the banks
13 take that back and look at it and, you know,
14 from that point forward, you know, file FTRs as
15 appropriate.

16 And I say that to you because in June of
17 2019 when we got the note from CBA that this
18 project called Project Athena is going to sort
19 of be transitioning into the CBA. As I
20 mentioned earlier, from my perspective and from
21 Lilly's perspective this was a new
22 public/private partnership that we were now
23 hearing about and we would not have expected or
24 understood from prior experiences that there
25 would have been that type of information

1 communicate the prioritization of various
2 initiatives and sort of very clearly -- and act
3 as a clear point of contact in saying,
4 prioritize this; this is number 1, this is
5 number 2, et cetera?

6 MS. YATES: Before you answer that, Mr. Bowman.

7 Mr. Isaac, as you know, Mr. Bowman is here
8 pursuant to a summons and the summons gives a
9 topic, which is TD's knowledge of and response
10 to the potential misuse of its bank drafts to
11 facilitate money laundering through
12 British Columbia casinos. I appreciate that
13 that topic can touch on broader issues as you
14 have done, but the focus and the relevance of
15 his testimony in our view needs to remain
16 bracketed by the terms of his summons.

17 And so I feel compelled to make that point
18 at this stage as we go further afield from that
19 topic.

20 THE COMMISSIONER: All right. Thank you, Ms. Yates.

21 Mr. Isaac.

22 MR. ISAAC: Yes, appreciating that, you know, perhaps
23 I could ask the question in relationship to --
24 in relation to the scope that Ms. Yates has
25 identified.

1 Q When we look at TD's knowledge of and response
2 to -- particularly the response to Project
3 Athena and -- would it have been helpful, in
4 your view, Mr. Bowman -- and if you can
5 answer within the confines that Ms. Yates has
6 just articulated -- to have had a more central,
7 some sort of recognized entity that would have
8 been the point of contact to communicate to TD,
9 how it ought to have responded to this
10 initiative and, if you feel comfortable to do
11 so, you know, other such initiatives?

12 A I think it's fair to say that enhanced
13 coordination, transparency, fulsome engagement,
14 consultation, those are all things that would
15 increase the likelihood of achieving, you know,
16 the best outcomes for everyone. And so -- and I
17 think that's a true statement for, you know,
18 this evolution that we as a regime are on in
19 terms of trying to become more effective and
20 more successful in the way we can engage
21 together across the stakeholders in these kind
22 of partnerships.

23 And so is there opportunity for improvement?
24 I think absolutely, yes. Does it need to be,
25 you know, in such a sort of a formal way as

1 JMLIT? I don't have an opinion on and I don't
2 know what that sort of end result looks like,
3 but I certainly think it's fair to say that we
4 can definitely sort of continue to get better in
5 how we bring the various stakeholders together
6 through PPPs and overall enhance the
7 effectiveness of the regime.

8 Q Thank you. The second point -- and it will be a
9 briefer one, Mr. Bowman, but the second point I
10 wanted to address with you relates to the other
11 of the two key asks from Project Athena which
12 Ms. Gabriele referred to in her testimony today
13 and which she raised at that meeting with
14 Ms. Hellen. And that was the request that
15 financial institutions take action to address
16 the vulnerability that was being exploited as
17 identified by Project Athena, which was the
18 anonymity of bank drafts. And you are aware now
19 of that issue having been identified through
20 Project Athena; is that right?

21 A Correct. Yes.

22 Q Okay. And it appears that -- I think we -- you
23 mentioned this is something that Ms. Riddolls,
24 that she took some steps on behalf of the AML
25 group to raise in advance internally on behalf

1 of the AML group; is that right?

2 A That's correct.

3 Q Okay. And I trust -- I think we probably can do
4 this without painfully taking you through
5 documents, but if you need to look at anything,
6 please do let me know.

7 It appears that Ms. Riddolls, she made some
8 initial inquiries with the business side of the
9 bank in December 2018 and then had a period of
10 sort of followup efforts between May and July --
11 the July 29th, 2019. Do you recall that? Is
12 that your understanding?

13 A I am aware of that only from the review of the
14 documentation that I looked at for this hearing.

15 Q Okay. And were you kept apprised of that or
16 aware of those efforts by Ms. Riddolls on behalf
17 of the email group while that was occurring?

18 A No, I have no recollection of knowing about the
19 efforts or the initiative to look into adding
20 the customer's name on bank drafts until, to the
21 best of my recollection, when I received the
22 communication from this commission.

23 Q Okay. Do you recall -- Ms. Riddolls, she was
24 also interviewed by the commission. She
25 referenced having a meeting with you at the very

1 end of this May to July 2019 effort about what
2 next steps were. I think it would have been in
3 and around July 29th, 2019. Do you not recall
4 that meeting?

5 A I do not.

6 Q Okay. Is it your understanding -- you said that
7 this sort of reappeared on your radar, if you
8 will, in early -- did you say March 2020?

9 A I think it was March when we received our first
10 communication from the commission, yes.

11 Q Okay. And then -- so between that time -- I'll
12 first ask, there were no changes made to TD's
13 bank draft at any point in 2019; is that right?

14 A That's correct.

15 Q Okay. So whatever Ms. Riddolls' efforts were
16 internally with Everyday business, with the
17 business side of the bank, those didn't result
18 in any changes being made in that time; is that
19 right?

20 A Yes.

21 Q Okay. I do want to put to you at least
22 Ms. Riddolls's recollection, and if you don't
23 recall, that's fine, but in fairness to you, to
24 show you what she had -- her recollection of a
25 meeting that she had with you in that period.

1 MR. ISAAC: If we could please bring up the document
2 TD4, please.

3 Q I'll just ask while that's happening,
4 Mr. Bowman, you knew that Ms. Riddolls had been
5 interviewed as well by the commission; is that
6 right?

7 A Yes.

8 Q Okay. And you had an opportunity to review
9 this, or at least -- I'm not going to ask you
10 any skill-testing questions, but you've seen
11 this transcript at least prior to today?

12 A I have, yes.

13 MR. ISAAC: Okay. If we could please mark this as
14 the next exhibit.

15 THE COMMISSIONER: Very well.

16 THE REGISTRAR: Exhibit 473, Mr. Commissioner.

17 **EXHIBIT 473: Caitlin Riddolls Interview -**
18 **October 21, 2020**

19 MR. ISAAC:

20 Q Okay. And the portion that I wish to take you
21 to is on page 29, please, of the exhibit. And
22 it begins -- I'm just going to look at the
23 question that begins at around line 22 here.
24 And let me just get the reference here.

25 So the question -- the first thing -- sorry.

1 And this is actually a different portion, but
2 I'll address this now. As part of Ms. Riddolls'
3 efforts in that May to July time period, are you
4 aware that she reached out to other peer banks
5 to find out what their practice was with respect
6 to bank draft anonymity?

7 A I am only from reading these documentations, and
8 I think it was Lilly Di Felice, if I remember
9 correctly, who reached out to the other banks
10 and not Caitlin.

11 Q Okay. And perhaps I could just ask you, then,
12 having reviewed that, is it your understanding
13 based on Ms. Di Felice's efforts and what
14 Ms. Riddolls did that as of sort of this end of
15 July 2019 point that they understood that all
16 but one of TD's peers had taken some steps to
17 implement either a manual solution or a system
18 solution at that time. Is that your
19 understanding?

20 A That seems to be the results of what Lilly had
21 collated from her reach out.

22 Q Okay. In that case I don't -- we will skip the
23 process of actually showing you what
24 specifically she said. But I did mention as
25 well that Ms. Riddolls indicated that she'd had

1 a meeting at the very end of this process on
2 July 29th. And if we could go to page 34,
3 please, of the transcript. And I'm just looking
4 at -- if we -- there is a reference here, and
5 I'm going to begin reading it at line 35 here on
6 page 34:

7 "Q What did you discuss and what was the
8 outcome of that meeting?

9 A We discussed given the magnitude of the
10 regulatory changes and the number of
11 projects already in flight for Canadian
12 personal banking was this an item we
13 wanted to prioritize ahead of
14 regulatory commitments knowing that
15 could jeopardize our regulatory
16 commitment time frames, or was that
17 something we would revisit later as
18 part of an already planned email
19 emission.

20 Q Which of those -- what was the decision
21 or the outcome at the end of that
22 meeting?

23 A The direction was to prioritize
24 regulatory commitments over an industry
25 practice."

1 And just pausing there, Mr. Bowman. I just want
2 to see whether or not that may -- I don't know
3 if that would refresh your memory about whether
4 or not you had a meeting with Ms. Riddolls at
5 the end of July 2019?

6 A I don't recall that meeting but given her
7 testimony, I'm sure it happened.

8 Q And I suppose the words there speak for
9 themselves, but if you don't remember the
10 meeting I won't ask you to interpret them. But
11 it's fair to say that no -- as you indicated, it
12 wasn't until you received a letter from the
13 commission in March that further action was
14 taken and this sort of reappeared and was
15 prioritized on your radar. Is that fair?

16 A It is. Although I would say, as you accurately
17 say, given that I don't recall the conversation
18 I really can only surmise a bit from what's
19 here. Her responses here are a bit high level,
20 and so I don't fully appreciate or understand
21 whether the dialogue that she had with me was
22 solely with respect to, for example, a
23 technology solution or whether at this point in
24 time there was even conversation about pursuing
25 a non-technology, but I think as this commission

1 is well aware, the AML regulatory amendments
2 that were published in -- I'm losing track of
3 time. Gosh, I forget what year the regulatory
4 amendments were published.

5 But one of the most significant deadlines
6 that involves a very significant amount of
7 technology and system change in all the banks is
8 June of 2021. And at this particular point in
9 time planning around all of that was one of the
10 biggest priorities in the bank, which is why as,
11 you know, her answer here indicates, can we put
12 this sort of, you know, up in light of all that.
13 And she points out here, you know, at the risk
14 of potentially taking away resources or
15 commitment from meeting the new regulatory
16 requirements.

17 And so there she seems to be saying we had
18 concluded no, we don't want to do that. Because
19 I don't recall the conversation, I don't recall
20 whether there was conversations about
21 alternatives, whether we should be doing other
22 things.

23 Q Okay. That's fair. I'm not asking you to
24 comment on things that you don't recall.

25 MR. ISAAC: And, Madam Registrar, we don't require

1 this document anymore.

2 Q Perhaps just focusing, then, on what you are
3 aware of. At least to your knowledge between
4 July 2019, the end of July 2019 and your
5 receiving communications from the commission in
6 March 2020, in that eight-month period, you are
7 not aware of any steps having been taken to
8 advance any changes to TD's bank drafts during
9 that time. Is that accurate?

10 A Yes, that's accurate.

11 Q Okay. Thank you. And it was -- I think you
12 indicated it was a letter that you'd received
13 from the commission in March that sort of
14 renewed interest on this, and that ultimately
15 resulted in a change being implemented by
16 TD Bank.

17 What can you tell the Commissioner, please,
18 about what that -- what change was implemented.
19 And I think the date by which it was implemented
20 was effective September 14th, 2020.

21 A That's correct. We ultimately implemented a
22 process change effective in September 2020 in
23 all of the branches in the BC province pursuant
24 to which the bank customer who purchases a
25 draft, their name would be manually added on the

1 face of the draft.

2 Q Okay. So that's sort of a manual solution
3 essentially through training and protocols where
4 the anonymity is addressed through writing in
5 the bank draft information; is that correct?

6 A Yes.

7 Q Prior to that, you know, sort of up until
8 September 13th of 2020, a TD customer could have
9 obtained a bank draft that was -- that did not
10 have that information written on it. Is that
11 accurate?

12 A M'mm-hmm. Correct.

13 Q And, Mr. Bowman, I don't -- again, I don't want
14 to necessarily take you to the document unless
15 that's necessarily, but we did see reference in
16 some of the Project Athena meeting minutes,
17 particularly April 24th, 2019, about some of the
18 other peer practice that was other occurring at
19 the time. And one of the -- one of TD's peer
20 banks indicated that it had implemented a manual
21 change. I won't call it a similar change, but
22 it implemented what appears to have been also a
23 manual as opposed to a system change, and that
24 that -- according to the minutes, that that took
25 no time to implement and it was an easy --

1 effectively an easy change.

2 And I'm just wondering, was that TD's
3 experience with implementing the change that it
4 did? And if it was, was there anything holding
5 it back from implementing this change further
6 earlier than it did aside from the decision to
7 not push it ahead of the sort of -- the 2021
8 other amendments that I think you referred to
9 earlier?

10 A Well, you know, I guess I'll start by saying I
11 have no comment on what the other bank did or
12 why that particular bank viewed the change to be
13 easy. But I would say that at least in my
14 experience there is nothing that a bank the size
15 of these large banks can change within its
16 branch network that could qualify as easy. This
17 is not, you know, send out an email to everybody
18 and say, starting tomorrow add the name. Quite
19 frankly, I think it would be a bit foolish to
20 think that we operate that way.

21 Making a change -- this is quite a
22 significant change. This is a behavioural
23 change in the branches. This is a change that
24 at least in my view it would have been
25 appropriate to explore what the impact is on the

1 customer experience, how the customers are going
2 feel about this request. How do we prepare the
3 employees in the bank to respond to customer
4 questions about why the bank is adding that or
5 why the bank needs to add that. Prepare branch
6 employees to know what to do and how to escalate
7 and report customers who refuse or who decline
8 after they are told that their name has to go on
9 and they say, I no longer want the draft if my
10 name has to go on. What do we do in that
11 circumstance. How do we provide that
12 information into the AML group. How do we
13 create a feedback loop. How do we create
14 quality control to ensure -- and quality
15 oversight to ensure that people in the branch
16 are in fact applying this new process and adding
17 the name.

18 So I do know that -- and all of that work,
19 by the way, was not done by our AML team.
20 That's how seriously our business takes change.
21 And, you know, the other thing to always -- I
22 think the other thing that's important to
23 understand in all this is that in the branches,
24 given the large and evolving -- or I should say
25 revolving personnel that works in the branches.

1 It's been a long time since somebody told me
2 what sort of the annual attrition rate is in our
3 branches, so I don't want to the speculate, but
4 it's quite high; right? Like, in other words,
5 we have people who are part-time students, we
6 were people who work at a branch and then get a
7 different job some place else, and there's a
8 constant revolving of personnel that are helping
9 customers in branches.

10 And so, you know, the way to change an
11 actual process, a required process, requires
12 FAQs, it requires job aids, it requires play
13 books that are rolled out in the branches. It's
14 top-down training to get each of the -- you
15 know, whether it's the district or the regional
16 heads to understand the change so that each
17 branch manager understands change and so forth
18 all the way down to the day-to-day personnel in
19 the branches who would actually be executing
20 this change.

21 So apologies for that long answer, but I do
22 think that generally speaking any type of a
23 change like this in a branch does need to come
24 with some very thoughtful and meaningful
25 preparation and rollout.

1 Q Thank you. And that context in terms of the
2 amount of effort that goes in, we did receive
3 this morning before the --just before the
4 hearing some further information from counsel
5 for TD about some of the timeline. And I just
6 want to ask you just about that. And that's --
7 I think you indicated that it was a letter or
8 perhaps other communications from the commission
9 in March 2020 that brought a renewed interest to
10 this and resulted in sort of further steps being
11 taken at that time.

12 And I understand that the work that you're
13 describing in terms of advancing this and taking
14 the various steps and all of the work that you
15 describe, that wouldn't have occurred prior --
16 before the receipt of that communication from
17 the counsel -- from the committee -- sorry,
18 yeah, the commission and that the work -- the
19 AML's communications with the banking side to
20 implement this change would have begun in and
21 around May 2019. Is that your understanding as
22 well, Mr. Bowman?

23 A Yeah, I guess maybe the best way for me to say
24 is this. I'm not aware of any of that sort of
25 work being done any time prior to me becoming

1 aware in that March time frame that there was
2 some work for us to do.

3 Q And sorry, I misspoke. I was reading the wrong,
4 I believe, portion of the letter that I was
5 referring to. But that the request to initiate
6 a change with respect to TD's bank draft, that
7 that was made on or around April 14th, 2020.
8 Sorry, that -- is that consistent with your
9 understanding?

10 A Yeah, I'm not -- so you mean with respect to the
11 manual change that was ultimately done?

12 Q Yes, the change that was advanced in 2020.

13 A I have to tell you I don't -- I'm not familiar
14 with sort of the mechanisms and the processes
15 for the engagement between Caitlin and the
16 business to ultimately drive that change. All I
17 know is that it was ultimately implemented in
18 September.

19 Q Okay. Thank you. And just because you have
20 referred to the last thing, I just -- you have
21 referred to that letter that you received.

22 MR. ISAAC: Madam Registrar, if we could please bring
23 up TD1.

24 Q I'll just ask you when you see that, Mr. Bowman,
25 if that's a copy of the letter that you received

1 March 20th, 2020, from the commission?

2 A That certainly looks like it, yes.

3 MR. ISAAC: Okay. If we could mark that as the next
4 exhibit.

5 THE COMMISSIONER: Very well.

6 THE REGISTRAR: Exhibit 473 [sic], Mr. Commissioner.

7 **EXHIBIT 474: Letter to Michael Bowman re Misuse**
8 **of Bank Drafts, TDs Response - March 20, 2020**

9 MR. ISAAC: And then if we could also bring up TD2.

10 Q I understand that you responded -- you provided
11 a response to that initial letter dated
12 June 15th, 2020; is that right, Mr. Bowman?

13 A That's correct.

14 Q Okay. And do you see that letter now?

15 A I do.

16 MR. ISAAC: Okay. If we could please mark that as
17 the next exhibit.

18 THE COMMISSIONER: Sorry, Mr. Commissioner. I can't
19 remember what I said. The last one, it should
20 be 474.

21 MR. ISAAC: Yes the last was 473 and I think this is
22 474.

23 THE REGISTRAR: Yeah, the last is 474 and this one is
24 475.

25 THE COMMISSIONER: Oh, okay. So the letter from the

1 commission was 474?

2 MR. ISAAC: I have that at 473.

3 THE REGISTRAR: Sorry, I'll clarify again. So TD1
4 should be 474 and TD2 should be 475.

5 THE COMMISSIONER: Thank you.

6 **EXHIBIT 475: Letter from Michael Bowman re**
7 **Misuse of Bank Drafts, TDs Response - June 15,**
8 **2020**

9 MR. ISAAC:

10 Q Thank you, Mr. Bowman, those are all my
11 questions. But I just want to ask is there
12 anything that we -- in terms of TD's response to
13 and knowledge of these issues that we've been
14 discussing today, is there anything else that we
15 didn't cover that you wish to address?

16 A I appreciate that, Mr. Isaac. I would just
17 say -- would just like to reiterate just how
18 seriously TD Bank takes its obligations with
19 respect to money laundering and financial crime
20 prevention. And, you know, we certainly
21 appreciate the work that the commission is doing
22 to help to identify areas for opportunity. And
23 whatever ultimate recommendations come from this
24 commission, we look forward to seeing those and
25 to continuing to be as active in our

1 participation in the regime and to continue in
2 that manner. So thank you. And thank you,
3 Mr. Commissioner.

4 MR. ISAAC: Those are all my questions,
5 Mr. Commissioner. There has been allocated, I
6 believe, 40 minutes for -- I may have that
7 wrong. 45 minutes for participants.

8 THE COMMISSIONER: Yes, thank you. The first
9 allocation is to Ms. Stratton on behalf of the
10 province, who has been allocated 10 minutes.

11 MS. STRATTON: Thank you, Mr. Commissioner. I have
12 no questions for the witness.

13 THE COMMISSIONER: Thank you, Ms. Stratton. The next
14 participant is Ms. Magonet for the British
15 Columbia Civil Liberties Association, who has
16 been allocated 15 minutes.

17 MS. MAGONET: Thank you, Mr. Commissioner.

18 **EXAMINATION BY MS. MAGONET:**

19 Q Mr. Bowman, can you hear me?

20 A Yes, I can. Thank you.

21 MS. MAGONET: Thank you. My first question relates
22 to a document, and I'd like to ask, Madam
23 Registrar, if you'd please pull it up. It is
24 CAN00004. I may have missed a zero. Thank you,
25 Madam Registrar. If you could just -- or no,

1 sorry, you don't need to scroll down at all.

2 Q Mr. Bowman, are you familiar with this document?

3 A I believe so, yes.

4 Q And I appreciate based on your testimony today
5 that you may have not had much awareness, if
6 any, of Project Athena in 2018, but I just
7 wondered if you may be able to shed any light on
8 some points in these meeting minutes. I believe
9 they're meeting minutes from a 2018 meeting of
10 Project Athena. And under the section regarding
11 TD Bank, the document suggests that TD was
12 flagging some issues around Project Athena and
13 its compliance with the *Privacy Act* and concerns
14 that this project was allowing law enforcement
15 to indirectly obtain information in the absence
16 of a production order. Is that -- can you shed
17 any further light on these concerns or concerns
18 TD may have flagged in this discussion?

19 A So I'm not sure who specifically participated
20 from TD at that meeting and certainly what they
21 might have been thinking. I can speculate
22 because I think there's a reasonable likelihood
23 that this relates to what I had mentioned
24 earlier in my testimony in response to a
25 question from Mr. Isaac which is that I think

1 the question of the propriety of the flow of
2 information and the banks receiving and acting
3 on the information received from -- directly
4 from the RCMP outside of the context of a formal
5 production order is something that, you know,
6 had I been -- become aware of this earlier, it
7 would have been, it seems to me, at least a
8 question I would have wanted to satisfy myself
9 on. And it seems perhaps that whoever was
10 attending this meeting for TD had the same
11 thought in his or her mind.

12 Q Thank you.

13 MS. MAGONET: Mr. Commissioner, would it be possible
14 for this to be marked as the next exhibit.

15 THE COMMISSIONER: Yes. That's fine.

16 THE REGISTRAR: We're at 476.

17 THE COMMISSIONER: 476.

18 **EXHIBIT 476: Project Athena Stakeholders**
19 **Meeting minutes - October 24th, 2018**

20 MS. MAGONET: Thank you. And you can take this
21 document down, Madam Registrar.

22 Q This is just building on my previous question,
23 Mr. Bowman, but is it fair to say that you or
24 anyone else at TD may have had concerns that
25 Project Athena would require TD to act as an

1 extension of law enforcement?

2 A I don't recall which documents they were, but I
3 do recall seeing some references within the
4 material that I reviewed where that perhaps
5 seemed to be a concern of at least one or two
6 people within the FIU. Yes.

7 Q Thank you. Perhaps I could take you to what I
8 think one of those documents may be.

9 MS. MAGONET: Madam Registrar, the document is
10 TD000034. I'm actually not sure if the
11 part after the underscore matters, but then
12 there's a bunch of zeros and a 1. Yes, this is
13 the document. Thank you.

14 Q And I believe, Mr. Bowman, that this is
15 correspondence between some employees at TD,
16 including a May 13th, 2019 email from Lilly Di
17 Felice. And she writes:

18 "While these projects are extremely
19 important to have to remind all that it is
20 not all tactical/operational and some of
21 the participants may ask reporting
22 entities to undertake activity we should
23 not."

24 Are you able to shed any light on the concern
25 that Ms. Di Felice may have been flagging here?

1 A Yeah, on this one and again I have to preface it
2 by saying I am speculating a bit. I'm actually
3 not entirely sure that in that response she's
4 talking specifically about Project Athena in the
5 context of information coming over from law
6 enforcement. I think she's expressing some
7 concerns she's had with the outcome -- without
8 the proper engagement with the outcome from some
9 prior operational alerts in other PPPs in which
10 the red flags and items that are cited as areas
11 that a bank should be concerned about are not
12 really consistent with our own views of
13 reasonable grounds to suspect.

14 And I say I'm speculating because I'm tying
15 this together with some just sort of historical
16 conversations I've had with Ms. Di Felice
17 regarding that. So maybe I should start by
18 saying no, I don't specifically know exactly
19 what she's referring to, but my sense is she's
20 referring to the operational alerts and the
21 outcomes from these projects.

22 Q Thank you. And so just to make sure I
23 understand, your sense is that she's referring
24 to a concern that these operational alerts may
25 lead financial institutions to report

1 transactions that according to their own views
2 may not be suspicious within the legislated
3 threshold.

4 A Yes. She says there at the end the onus on
5 making the reasonable grounds to suspect is --
6 you know, is with us; right? And so I think
7 just making sure that we're -- we the industry
8 and the AML leaders are aligned with what's
9 ultimately coming out of these operational
10 alerts in terms of areas to focus on and areas
11 that could potentially constitute reasonable
12 grounds to suspect.

13 Q Thank you.

14 MS. MAGONET: Madam -- or rather, Mr. Commissioner,
15 could this be marked as the next exhibit.

16 THE COMMISSIONER: Yes. Ms. Yates, do you have any
17 issue with that?

18 MR. BRONGERS: We do not, Mr. Commissioner.

19 THE COMMISSIONER: All right. Thank you. It will be
20 marked as the next exhibit then.

21 THE REGISTRAR: Exhibit 477, Mr. Commissioner.

22 **EXHIBIT 477: Email from Kevin Doherty re**
23 **Project Athena - May 13, 2019**

24 MS. MAGONET: Madam Registrar, you can take this
25 down. And I would ask you to bring up one final

1 document. It's CAN and a series of zeros 17.
2 And I believe from earlier there is one that
3 should not be live-streamed.

4 Thank you. And if you could scroll down, I
5 believe it's -- or rather --

6 Q I assume you are familiar with this document,
7 Mr. Bowman, and I think it was referenced
8 earlier in your examination.

9 A Yes. Okay.

10 MS. MAGONET: Okay. If you could please scroll down,
11 Madam Registrar -- sorry, let me just get the
12 page number -- to page 3.

13 Q I won't read from it in light of the potential
14 redactions that may occur, but at the top of
15 page 3 it seems to me that there's a reference
16 to information sharing between banks and the
17 RCMP prior to the filing of an STR. And I was
18 wondering if you have any information about
19 that. Whether there was direct two-way
20 information sharing between the banks and law
21 enforcement in the context Project Athena prior
22 to an STR being filed, and what types of
23 information were being -- was being shared.

24 A I'm not aware of what this particular reference
25 in this document is regarding, no.

1 Q Okay. Thank you. I can appreciate that.

2 MS. MAGONET: I'm done with that document. Thank
3 you, Madam Registrar.

4 Q I just have a few more general questions,
5 Mr. Bowman, related to information sharing and
6 Project Athena. So it's my understanding that
7 law enforcement was directly providing
8 information to TD in the context of this project
9 and this could include personal information
10 about individuals who may have had accounts with
11 TD; is that correct?

12 A Yeah, to the best of my recollection. The
13 information provided included at least enough
14 personal information for the banks to determine
15 whether or not the individual was a customer of
16 the bank, yes.

17 Q And there was an expectation that TD initiate an
18 investigation into those customers. Is that
19 accurate?

20 A That's my understanding, correct.

21 Q Do you know if there was of an expectation that
22 TD provide information directly back to law
23 enforcement?

24 A I'm not aware that that was ever an expectation.
25 I think everything -- even from the Project

1 Athena materials most everything that I read
2 indicated that the expectation would be that the
3 banks treat this as an alert and investigate as
4 they deem fit or appropriate and on the basis of
5 what they learn do whatever they would normally
6 do, whether that's file an STR or not file an
7 STR.

8 Q And I understand from your testimony earlier
9 that this type of information sharing to the
10 best of your knowledge differed from the type of
11 information sharing that occurred in other
12 public/private partnerships which was more at
13 the level of typologies or strategic information
14 sharing. Is that accurate?

15 A Yes, to the best of my knowledge I am not aware
16 of other -- in the context of other PPPs where
17 information was shared into the banks with an
18 expectation that banks use that information to
19 undertake investigations.

20 Q I appreciate that you may not know this, but do
21 you know what was understood to be the legal
22 basis for the type of information sharing
23 contemplated between banks and the RCMP in the
24 context of Project Athena?

25 A I don't.

1 Q And I have just one final question. Do you know
2 if there was information sharing between
3 financial institutions in the context of Project
4 Athena, so private/private information sharing?

5 A I'm not aware that there was any, no.

6 MS. MAGONET: Thank you. Those are my questions.

7 Thank you very much.

8 THE WITNESS: Thank you.

9 THE COMMISSIONER: Thank you, Ms. Magonet.

10 And now Mr. Rauch-Davis on behalf of
11 Transparency International Coalition, who has
12 been allocated ten minutes.

13 MR. RAUCH-DAVIS: Thank you.

14 **EXAMINATION BY MR. RAUCH-DAVIS:**

15 Q Mr. Bowman, after Project Athena did FINTRAC
16 provide any guidance to TD on how to respond to
17 the issues arising from that -- from the
18 circumstances you've described?

19 MS. YATES: I object. The relationship that TD has
20 with its federal regulators is beyond the
21 jurisdiction of this commission.

22 THE COMMISSIONER: Mr. Rauch-Davis.

23 MR. RAUCH-DAVIS: Mr. Commissioner, in my submission
24 this is clearly within the mandate of the
25 commission and within this witness's knowledge

1 base, and I submit it's an appropriate question.

2 THE COMMISSIONER: So what do I do with it if it's
3 answered?

4 MR. RAUCH-DAVIS: I'm not sure I understand your
5 question, Mr. Commissioner.

6 THE COMMISSIONER: Well, Ms. Yates has objected on
7 the footing that essentially, I think, it's not
8 relevant to my mandate because it touches on the
9 relationship between banks which are a federally
10 regulated entity and FINTRAC, and this is a
11 provincially constituted commission. So I'm
12 just concerned with whether we're getting into
13 areas that I may or may not be able to do
14 anything about if I hear it.

15 MR. RAUCH-DAVIS: I see. I don't have a specific
16 submission on that point, Mr. Commissioner. I
17 guess I'll just --

18 THE COMMISSIONER: Well, before you do, let me ask
19 Mr. Isaac if he has any submissions to make on
20 that.

21 MR. ISAAC: I actually was about to suggest,
22 Mr. Commissioner, that it might be helpful to
23 hear from counsel for Canada about whether or
24 not they have any concerns first in terms of --
25 given that the jurisdiction, I think, that's at

1 issue would be falling into potentially their
2 side of the fence.

3 THE COMMISSIONER: Mr. Brongers.

4 MR. BRONGERS: Thank you, Mr. Commissioner. Yes,
5 obviously this is a very complex legal question
6 that you, Mr. Commissioner, have already flagged
7 for the participants in your interim report.

8 With respect to the factual question that's
9 being asked at this point in time, we have no
10 objection to an answer being given with the
11 understanding that ultimately, Mr. Commissioner,
12 submissions are going to be made around the time
13 of closing submissions with respect to whether
14 the information can be used. I think it's -- at
15 this point it's simply a factual question, so
16 from our perspective we have no formal objection
17 to it being answered.

18 But yes, this obviously isn't the first time
19 that questions have been asked asking for
20 opinions from witnesses with respect to issues
21 that at the end of the day it's not evident that
22 this commission has the constitutional
23 jurisdiction to opine on. So those are my
24 submissions at this time stage.

25 THE COMMISSIONER: All right. I think that's a

1 sensible middle road to take. I think the
2 question which has been asked does engage some
3 questions of the jurisdiction of this commission
4 and the intersection of what are legitimate
5 provincial interests in pursuing questions of
6 barriers to effective investigations into money
7 laundering and what are beyond my capacity to
8 make recommendations about. But I think that is
9 really an issue that needs to be decided with a
10 more comprehensive and complete legal argument
11 at the end of the day.

12 So what I'm going to do is allow the
13 question and the answer. And I think,
14 Mr. Rauch-Davis, it maybe appropriate to ask the
15 question again to give Mr. Bowman a chance to
16 make sure he understands it.

17 MR. RAUCH-DAVIS: Sorry. I was on mute. Thank you,
18 Mr. Commissioner.

19 Q So, Mr. Bowman, my question was after Project
20 Athena did FINTRAC provide any guidance to TD on
21 how to respond to the issues that have been
22 discussed this morning?

23 A So I'm not sure I understand what you mean by
24 the issues that have been discussed. So I'm not
25 sure if you're referring to the operational

1 alert that was published by FINTRAC.

2 Q I'm just wondering generally after operation --
3 after Project Athena was there a discussion
4 between FINTRAC and TD on the issues that came
5 up during Project Athena?

6 A No.

7 Q No. Similar vein. Did OSFI do any compliance
8 audit of TD or to your knowledge any other big
9 six bank in response to Project Athena?

10 MS. YATES: And, Mr. Commissioner, we make the same
11 objection and we propose that the question and
12 answer be treated in the same way as the
13 question in respect of FINTRAC.

14 THE COMMISSIONER: Very well. Thank you.

15 THE WITNESS: With respect to TD no, and I have no
16 knowledge of what OSFI may or may not be doing
17 with the other banks.

18 MR. RAUCH-DAVIS:

19 Q And I take it -- are you aware if FINTRAC issued
20 any fines or investigated any banks with respect
21 to Project Athena?

22 MS. YATES: Mr. Commissioner, we make the same
23 objection and propose that the question and
24 answer be treated in the same way. And
25 obviously we're happy if you'd like to make a

1 direction in respect of this whole line of
2 inquiry, if that'd be more efficient.

3 THE COMMISSIONER: Yeah, I think it would be,
4 Ms. Yates. I think it goes without saying that
5 anything that may appear to trench on
6 jurisdictions beyond that which is granted to
7 the commission falls into that category. That
8 it's subject to further argument.

9 MS. YATES: Thank you, Mr. Commissioner.

10 THE WITNESS: So I'm actually sorry, can you repeat
11 that last question, then.

12 MR. RAUCH-DAVIS:

13 Q Yes. To your knowledge did FINTRAC issue any
14 fine or conduct an investigation of TD or any
15 other big six bank with respect to Project
16 Athena?

17 A No for TD, and I have no knowledge with respect
18 to the other banks.

19 Q Thank you. And I take it TD has never been
20 fined by FINTRAC for AML activities or failing
21 to meet their obligations under the *PCMLTFA*?

22 MS. YATES: Mr. Commissioner, I'd make not only the
23 objection that we've already made but also an
24 objection with respect to relevance. This
25 witness has been summonsed to attend in respect

1 of TD's knowledge of and response to the
2 potential misuse its bank drafts to facilitate
3 money laundering through BC casinos. In respect
4 of more broad issues, TD was represented by the
5 three witnesses who testified yesterday in a
6 panel setting in respect of the larger broader
7 issues, which we would submit this is one.

8 MR. RAUCH-DAVID: Go ahead, Mr. Isaac.

9 MR. ISAAC: Mr. Commissioner, we agree with
10 Ms. Yates' submission in that regard and it is
11 accurate that Mr. Bowman was -- is here under
12 the summons as described by Ms. Yates and we
13 think that should have a bearing on the scope of
14 questions that he's asked today.

15 THE COMMISSIONER: All right. Thank you.

16 MR. RAUCH-DAVIS: And, Mr. Commissioner, if I may, I
17 would just say that the general topics and TD's
18 involvement are certainly relevant. I did not
19 hear evidence yesterday that the panel was
20 representing TD, but --

21 THE COMMISSIONER: I think the evidence was that
22 they're representing all of the six major banks.

23 MR. RAUCH-DAVIS: Okay. Then I take it that these
24 general questions -- or does the --
25 Mr. Commissioner, do you have a ruling on the

1 permissibility of general questions?

2 THE COMMISSIONER: I think you're confined to the
3 ambit of the summons, Mr. Rauch-Davis.

4 MR. RAUCH-DAVIS: Given that ruling, those are my
5 questions for this witness.

6 THE COMMISSIONER: All right. Thank you. Anything
7 arising from that, Ms. Magonet?

8 MS. MAGONET: No, thank you, Mr. Commissioner.

9 THE COMMISSIONER: Mr. Isaac?

10 MR. ISAAC: No, Mr. Commissioner.

11 THE COMMISSIONER: All right. Thank you.

12 MS. YATES: Mr. Commissioner, if I might be permitted
13 one question by way of redirect. I worry that
14 Mr. Bowman may have misspoken in respect of the
15 timeline on the anonymization of bank drafts
16 issue which was addressed in a letter that was
17 provided to commission counsel this morning.
18 And so I wonder if I might ask a question
19 about that, or Mr. Isaac can. But I wonder if
20 Mr. Bowman didn't misspeak himself with respect
21 to events from May of 2019 and August of 2019.

22 MR. ISAAC: I have no objection, Mr. Commissioner, to
23 Ms. Yates asking a clarification question of
24 Mr. Bowman in that regard.

25 THE COMMISSIONER: That's just fine. Go ahead,

1 Ms. Yates.

2 MS. YATES: Thank you, Mr. Commissioner.

3 **EXAMINATION BY MS. YATES:**

4 Q Mr. Bowman, with reference to the letter that
5 was sent on behalf of TD Bank to commission
6 counsel this morning, and you can refresh your
7 memory by looking at that, if you'd like, I
8 wonder if you might tell us about the steps that
9 TD took in respect of the bank draft
10 anonymization project in each of May 2019 and
11 August of 2019.

12 A I'm sorry, which document is it that you're
13 referring to, Ms. Yates?

14 Q The letter that was sent this morning and so
15 came to you by email prior to -- earlier today.

16 A So did I misunderstand an earlier question?
17 Because I wasn't aware that I had answered a
18 question with respect to anything that would
19 have been contained in there.

20 Q Yes. And so we're just asking that you identify
21 what steps TD took in the months of May of 2019
22 to address the anonymization of bank drafts and
23 what steps it took in August of 2019. And those
24 topics are addressed in the letter of this
25 morning that went to the commission counsel and

1 of which you were provided a copy.

2 A Okay. I am actually going to -- can I pull that
3 up on my computer?

4 THE COMMISSIONER: Yes, if you need it to refresh
5 your memory from.

6 THE WITNESS: Thank you. Okay. So -- and I don't
7 know if we know the exact wording of the
8 question that was asked earlier. Do you have
9 that, Ms. Yates, or ...

10 MS. YATES:

11 Q According to my note, the question that was
12 asked earlier was what steps were taken by TD to
13 address the bank draft anonymization between
14 July of 2019 and March of 2020.

15 A Okay. And yes, looking at this does refresh my
16 memory, and so I had thought that -- I had
17 interpreted that question to mean with respect
18 to the steps that we actually took that were --
19 that concluded with the manual process in
20 September of 2020, I thought the question was
21 referring to what was being done then with
22 respect to those -- the manual change.

23 There was -- as you correctly remind me,
24 Ms. Yates, there was work in play during that
25 period of time in terms of engagement between

1 Caitlin Riddolls and the AML team with the
2 business to, first and foremost, understand what
3 current practices were, what the adding of --
4 once we learned that names weren't included,
5 what the adding of a name would entail and
6 really just some information. And looking
7 directly at the letter, in August of 2019 there
8 were discussions with the business on the
9 addition of purchaser information to the TD
10 drafts.

11 Again, the business was during this time
12 period expressing the preference that we not do
13 a manual change but that instead we really focus
14 on a national technology-driven automated
15 change, which is -- while longer to implement
16 and more costly for the bank, it's a stronger
17 control with easier -- better ability for the
18 bank to monitor the overall quality and
19 effectiveness of it. So those kinds of
20 discussions were certainly happening during that
21 time period.

22 MS. YATES: Thank you. Mr. Commissioner, I have
23 nothing further.

24 THE COMMISSIONER: Anything arising from that,
25 Mr. Isaac? You are muted, I'm actually afraid.

1 MR. ISAAC: Yes, Mr. Commissioner, I just want to
2 ensure that I understand the significance of
3 this evidence in terms of what had been
4 explained previously.

5 **EXAMINATION BY MR. ISAAC (continuing):**

6 Q Mr. Bowman, if you could please be shown a copy
7 of the interview transcript from your interview.
8 That's TD5. And if you could let me know
9 when you see that.

10 Do you recognize that, Mr. Bowman, as a copy
11 of your transcript from your October interview --
12 October 22nd interview with the commission?

13 A Yes.

14 MR. ISAAC: If we could have that marked, please, as
15 the next exhibit.

16 THE COMMISSIONER: Very well.

17 THE REGISTRAR: Exhibit 478, Mr. Commissioner.

18 **EXHIBIT 478: Michael Bowman Interview -**
19 **October 22, 2020**

20 MR. ISAAC: Thank you. If we could go to page 72,
21 please, of this document.

22 Q And look down at line 15. You'll see there's a
23 question there. The question is:

24 "Q And I will say as well there's --

25 after that July 29th, 2019 reference

1 here there aren't any records that we
2 have seen between then and March 23rd,
3 for example, so sort of an eight-month
4 period that suggest or indicate that
5 anything specific had happened on the
6 bank draft anonymity question. I take
7 it you haven't seen anything
8 indicating anything specifically
9 dealing with bank draft anonymity
10 either on a systems or manual level in
11 that time frame?

12 A No. No, not that I recall."

13 Do you remember being asked that question and
14 giving that answer, Mr. Bowman?

15 A I don't remember, but I see it here, and so I
16 know I gave it. And I would say the only thing
17 that's changed between then and now is that
18 following Ms. Riddolls' testimony there was a
19 request of the commission to, I think, identify
20 and provide back in reference to an answer that
21 she gave some activities that were happening at
22 those times. And so my knowledge from that time
23 to this time has changed based on what
24 Ms. Riddolls and the commission and our counsel
25 have provided back.

1 Q Thank you. And just for the record, the letter
2 that Ms. Yates took you to, when was that --
3 what's that letter dated, please?

4 A I'd have to go to the --

5 Q I don't think it's in -- the document itself
6 isn't in evidence.

7 A It's dated today.

8 MR. ISAAC: Thank you. Those you are all of my
9 questions, Mr. Commissioner.

10 THE COMMISSIONER: Thank you. All right. Thank you,
11 Mr. Bowman, I appreciate the time you've taken
12 to share your experience with us. You are now
13 excused from further testimony.

14 THE WITNESS: Thank you.

15 **(WITNESS EXCUSED)**

16 THE COMMISSIONER: I think that leaves us adjourning
17 until tomorrow at 9:30, Mr. Isaac.

18 MR. ISAAC: That's correct, Mr. Commissioner.

19 THE COMMISSIONER: All right. Thank you. We will
20 adjourn.

21 THE REGISTRAR: The hearing is adjourned to
22 January 21st, 2021, at 9:30 a.m. Thank you.

23 **(PROCEEDINGS ADJOURNED AT 1:16 P.M. TO JANUARY 21, 2021)**

24

25