

**Commission of Inquiry into
Money Laundering in British Columbia**

Public Hearing

Commissioner

The Honourable Justice
Austin Cullen

Held at:

Vancouver, British Columbia
via video link

Friday, May 29, 2020

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TABLE OF CONTENTS

	PAGE
Witnesses called for the Commission:	
SIMON LORD	
Examination by Mr. McGowan	1
Examination by Mr. Smart	33
Examination by Ms. Peddle	41
Examination by Mr. C. Weafer	60
Examination by Ms. Farrell	67
Examination by Ms. Friesen	73

EXHIBITS

Nil

1
Simon Lord (for the Commission)
Examination by Mr. McGowan, Counsel for the Commission

2 Vancouver, B.C.
3 May 29, 2020

4 THE REGISTRAR: Good morning, everyone. The hearing
5 is now resumed.

6
7 SIMON LORD, a witness,
8 recalled.

9
10 THE COMMISSIONER: Thank you, Madam Registrar. Mr.
11 McGowan, are you ready to pick up where you left
12 off?

13 MR. MCGOWAN: I am, Mr. Commissioner.

14 THE COMMISSIONER: Thank you.

15
16 EXAMINATION BY MR. MCGOWAN:

17
18 Q Mr. Lord, can you hear me okay?

19 A Yeah, I can hear you fine, thanks.

20 Q Okay, great. Yesterday you were giving some
21 evidence to the Commissioner about the use of
22 informal value transfer systems in connection
23 with money service businesses and underground
24 banking in the United Kingdom.

25 A Mm-hmm.

26 Q And I know you've done some extensive work
27 internationally and I wonder if that's put you in
28 a position as to offer a view as to whether those
29 typologies are being used either individually or
30 in connection with each other in British
31 Columbia?

32 A Yeah, I mean, British Columbia -- obviously, I'm
33 aware of the situation with E-Pirate.

34 Q Yes.

35 A And take that's an example of where an
36 underground banking typology is being used in
37 B.C. In terms of -- in terms of generally,
38 informal value transfer systems generally,
39 through the work that I've been doing with the
40 Five Hours community, quite a number of the cases
41 that we examine as part of that community cut
42 across multiple jurisdictions. We talked
43 yesterday about international controllers. One
44 of the things that we found is that one
45 international controller, as well as doing the
46 form of money movement that we saw yesterday with
47 the so-called London underground map, we'll be

1 doing that simultaneously in multiple countries.
2 So, although I can't be specific about British
3 Columbia, I can certainly say that the type of
4 IVTS that I was describing yesterday is seen in
5 Canada generally, as well.

6 Q You mentioned the E-Pirate investigation, and
7 yesterday you told the Commissioner that you were
8 retained as an expert on that file.

9 A Yes.

10 Q I wonder if you might just take a moment and, at
11 a general level, discuss the typology or
12 typologies that were employed in the E-Pirate
13 case, the money laundering typologies?

14 A Yeah, so the file came to me in around about late
15 2015, early 2016, and when I -- there was an
16 awful lot of information that came with it, all
17 the evidence in the case. But when I started
18 examining the evidence, and in all its various
19 forms, it seemed to me that the evidence was
20 consistent with what I was describing yesterday
21 in terms of Chinese underground banking. So
22 essentially what it was, there was a money
23 service business. And it was obviously set up as
24 a money service business, albeit the fact that it
25 wasn't registered with FINTRAC, as I understand
26 it, but it was set up as a money service business
27 in Richmond, in the outskirts of Vancouver.
28 Third floor of an office block. Run by Chinese
29 individuals. And the evidence in the case showed
30 that, almost on a daily basis, very large amounts
31 of cash in Canadian dollars was being delivered
32 to the money service business.

33 When it arrived, one of the employees would
34 count it all, run it through cash counting
35 machines, and it would be stored temporarily
36 until somebody else would come and turn up, and
37 those people would then take the cash away and
38 then use it for other purposes. And one of the
39 individuals who was collecting a large amount of
40 cash -- in fact, I think he was the biggest
41 customer of Silver International -- was
42 delivering that cash to people who wanted to
43 gamble either in registered casinos in B.C. or
44 sometimes in underground casinos, as well. On
45 top of that -- so we talked yesterday about the
46 use -- the repurposing, if you like, of criminal
47 cash, and that, in my view, was what was taking

1 place with Silver International.

2 The other thing that was happening in
3 respect of Silver was the evidence that was
4 recovered in the investigation showed that the
5 people who were running Silver were also
6 facilitating token-based cash handovers in -- my
7 interpretation of the text messages, or
8 BlackBerry messages, were that the cash handovers
9 were taking place in Latin America, so places
10 like Mexico City. And so it was like I was
11 describing yesterday. My view, the evidence
12 showed that, first of all, cash coming into the
13 casino delivered by people who had links to drug
14 trafficking and organized crime, that cash was
15 then being collected and then taken to people who
16 were gambling in casinos. In return for the cash
17 being delivered to Silver International
18 Investment, there would then be a token-based
19 cash payout in somewhere like Mexico City, thus
20 sort of transferring the value of the cash in
21 Vancouver to South America.

22 Which is what I would kind of expect if the
23 people who were involved in the delivering cash
24 into the money service business were involved in
25 drug trafficking and things like cocaine and what
26 have you, because, you know, it seems obvious
27 that if you want to import cocaine into Canada
28 from South America, then you're going to have to
29 pay for it somehow.

30 Just to add to that. The other evidence
31 that was collected was that the people who were
32 having the cash delivered to them in order that
33 they could gamble in the legitimate and the
34 underground casinos were releasing funds from
35 bank accounts that they held in China to a bank
36 account that was controlled by the money
37 laundering group in Canada. So there was a value
38 transfer of the funds from China into Columbia
39 [sic] in order to gamble. And as I say, I
40 described how that worked yesterday.

41 Q Okay, and what you're describing there, is that
42 your -- or your analysis -- the repayment for the
43 cash loan to the gambler?

44 A Yes, exactly so.

45 Q Okay. Have you heard the term "The Vancouver
46 Model?"

47 A I've heard it, yes. I've only seen it clearly in

- 1 Vancouver, but I've heard the term, yeah.
- 2 Q Okay, and is your understanding that what you
3 described right now represents the Vancouver
4 Model?
- 5 A Yeah. I mean, from my -- that is, as I
6 understand, what the Vancouver Model is being
7 said. What I would say about that is, is that
8 that's more unique to Vancouver in any way, shape
9 or form. You know, when we talked about the
10 intelligence assessments yesterday, ethnic
11 Chinese money laundering in the UK, that model is
12 replicated in the UK, and by virtue of my work
13 with International Partners, I can tell you that
14 that's what happens in places like Australia and
15 various other jurisdictions, as well.
- 16 Q But that methodology or that system is not
17 something that's unique to Vancouver or British
18 Columbia, it's something you're seeing elsewhere?
- 19 A Yes.
- 20 Q Thank you. I'd like to move on at this point and
21 discuss your FATF paper on the physical
22 transportation of cash.
- 23 A Yeah.
- 24 MR. MCGOWAN: Madam Registrar, I wonder if we might
25 have that, just the first page of that report
26 displayed, and just for the benefit of the
27 Commissioner and participants, this is Exhibit --
28 or, pardon me, Appendix LL to Exhibit 4.
- 29 Q Do you see that, Mr. Lord?
- 30 A Yeah, I see that.
- 31 Q All right, and that is your -- the FATF report
32 that you were involved in authoring dealing with
33 money laundering through the physical
34 transportation of cash?
- 35 A Yes.
- 36 MR. MCGOWAN: Okay, so we can take that down, Madam
37 Registrar.
- 38 Q How did you become involved in that project?
- 39 A So shortly after the project involving hawala and
40 other service providers was completed, we became
41 aware -- because myself, I was working with a
42 colleague at the time -- we became aware that
43 FATF was doing an audit of all the typologies
44 that -- and I think I mentioned this yesterday --
45 an audit of all the typologies that it had
46 produced reports on, and I realized that one of
47 the oldest and most common ones, cash smuggling,

1 wasn't one that had been covered, at least not
2 recently.

3 So, FATF announced an intention to
4 commission a report on that subject and it asked
5 for volunteers to join the typology working
6 group. You remember yesterday I said there was -
7 - it was a small group of people that work on a
8 project. Myself and my colleague, thought
9 through our involvement with the Expert
10 Laundering Evidence cadre - about this point I
11 was a fully paid up member of the Expert Evidence
12 cadre -- that we had a lot that we could
13 contribute to that type of report. So we asked
14 him whether we would be accepted onto the
15 typology working group, and we were offered the
16 chance to lead it, and so we accepted the chance
17 to lead it. And then at an early stage in the
18 process, my colleague had to drop out of doing
19 that work. He had some other stuff on. And so
20 it was left to me to lead the work on the
21 project, to sort of like organize the gathering
22 of the evidence, do a literature review, and
23 ultimately to write the paper.

24 Q Okay, and I wonder if it would make sense at this
25 point for you to walk the Commissioner through
26 the key findings of that project?

27 A Yeah, certainly. So the main thing about it is,
28 is that cash is still the raw material of most
29 criminal activity. Certainly all of the
30 commodity-based crime that you can think of, so
31 drug-trafficking, robbery, smuggling cigarettes,
32 all sorts of things like that, and even things
33 like the trafficking of human beings, modern
34 slavery and all the rest of it.

35 That is -- all that type of crime generates
36 cash. And so criminals have to find something to
37 do with the cash that they have made in part with
38 their criminal activities. And cash actually,
39 when you see it in large amounts, the thing that
40 strikes you about it is just how big and heavy it
41 is, and you know, it becomes -- it ceases almost
42 to become money, but becomes a commodity in its
43 own right. And so what that means is, in order
44 to sort of enjoy the fruits of your ill-gotten
45 games, you've got to try and find something to do
46 with it. And in most western societies now, and
47 certainly anybody who sort of complies with the

1 FATF 40 recommendations, it's actually extremely
2 difficult to get rid of large amounts of cash
3 now.

4 So, one of the ways in which people deal
5 with their cash is to move it away from the
6 jurisdiction where it is, where maybe you can't
7 get it into the banking system, and move it
8 somewhere else where -- either to break the audit
9 trail in between the possession of the cash and
10 the commission of the crime, or -- and this is
11 something that we see quite a lot in the UK -- is
12 to move it to a jurisdiction where you can bank
13 it much more easily. So we simply tend to see
14 cash move to places like the UAE and Hong Kong
15 and things like that where cash is much more
16 widely accepted in society but, you know, it's
17 not seen as inherently suspicious as it is in
18 some places. And so physically moving the cash
19 across borders is something that's on the up.

20 And one of the key findings of the document
21 was that the more that we impose restrictions on
22 the sort of disposal of cash in the UK and in
23 western society, the more we are starting to see
24 people moving it across frontiers, they're
25 smuggling it across borders. Part of the process
26 of pulling the information to get this report was
27 to survey members, and most of the members that
28 we surveyed said it was an increasing problem.

29 I talked yesterday about the criminal
30 decision making process, and the criminal
31 decision making process that I talk about, the
32 sort of how to make some money, what do I want or
33 need to do with it, how you're going to get it
34 there and in what form, that process crystalized
35 as of the putting this paper together, when we
36 were starting to think about why people would
37 move cash across international borders. That's
38 where it came from.

39 So that's where we -- like I say, the way in
40 which the money is moved is largely dependent on
41 what you want to do with it when you get there,
42 and all the rest of it. So, and there are lots
43 of processes that you have to go through in terms
44 of -- you know, if you're going to go small
45 amounts of the cash, for example, you might be
46 able to give it to somebody who can hide it about
47 their person and export it out of the country.

1 If you've got a much larger amount of cash and
2 you're moving it to a bigger jurisdiction, it
3 might be that you want to hide it in a different
4 way.

5 And one of the things that that led us to
6 realize is that if you really want to move cash
7 on an industrial scale, you know, if you're
8 making the kind of money that Colombian drug
9 trafficking cartels are making in terms of cash,
10 the way in which you do it really has to be cash
11 in freight, because it gets so big and so heavy
12 and so bulky that you can't move it on a person.

13 So, as I say, cash in freight is a thing.
14 Another thing that falls out of that is there is
15 a distinct advantage to anyone who wants to
16 smuggle cash in using high-denomination notes
17 [indiscernible], because obviously you can pack a
18 lot of value into a small space. Now, in the EU,
19 they're still in circulation, albeit they're not
20 being printed anymore, there was a 500-euro note.
21 And one of the things that we found in the UK, at
22 least initially, was that there was a large
23 criminal demand for 500-euro notes, and that
24 demand seemed to be almost entirely driven by
25 people wanting to exchange their money from
26 sterling into euros, to get their value as small
27 as possible, to make it easier to smuggle.

28 In the UK, we had an exercise whereby we
29 were able to prove to most people that the 500
30 euro note had no place in the UK society, so it
31 was voluntarily withdrawn from circulation. The
32 effect of that was people moved almost
33 immediately into purchasing the 200-euro notes
34 instead, because it was the next highest note
35 value and the next best way of packing a lot of
36 value into a small -- into a small space.

37 High denomination notes widely used across
38 the board for that purpose, although there was
39 some dissent from certain countries saying that,
40 you know, that they were no more suspicious than
41 any other note. But, for the most part, high
42 denomination notes were seen as facilitating
43 criminal activity. And certainly if you go to
44 somewhere like the Netherlands, the Dutch
45 National Police will tell you that that's
46 virtually all that high denomination notes are
47 used for. And I'm told -- I haven't seen it

1 personally, but I'm told by the Dutch that there
2 are some places in which a 500-euro note will
3 cost you more than 500 euros, such is the demand
4 for them.

5 Another thing that we found as part of the
6 report is that there are cash declaration systems
7 obviously in most countries. So when you're
8 moving money from one location to another, most
9 countries require you to declare cash in certain
10 amounts. And one of the things that we found is
11 there are ways of abusing that cash declaration
12 system to make illicitly gained cash look
13 legitimate. One of the things that we found, for
14 example, is people were occasionally declaring
15 cash that didn't actually exist so that they
16 could then walk into a bank with a big pile of
17 cash and say, look, this is entirely legitimate,
18 here's the cash declaration form I filled in, so
19 would you mind paying it into the bank account
20 for me. And so that happens quite a lot. And
21 it's the sort of adaptation you might expect
22 actually when people are getting used to the way
23 that regulatory systems work.

24 Difficulties. People tend not to appreciate
25 the way in which cash is moved around the world.
26 And I say that because one of the things that we
27 were -- we got involved with, with the Dutch
28 treasury in talking about was the fact that there
29 was actually a legitimate market for cash in
30 large amounts, and financial institutions move it
31 around the world in -- you know, up to \$60
32 million at a time on occasion. But we found that
33 the way that cash was packaged when it was being
34 moved between financial institutions was
35 different to the way it was being packaged when
36 it was being moved in bulk and it was derived
37 from criminal activity. And the report goes into
38 the details of how you can tell the difference
39 between the two.

40 And probably the final and most significant
41 thing about it is cash has its own commodity code
42 and it is treated as a form of -- just like a
43 form of goods like any other, in terms of when
44 it's being freighted. The commodity code doesn't
45 attract any duty or VAT or anything like that.
46 And so a lot of the time when people are
47 freighting cash around the world, the

1 declarations -- the customs declaration paperwork
2 doesn't actually refer to how much is in the
3 shipment. And sometimes the cash is deliberately
4 mis-declared, for security purposes. So rather
5 than saying it's cash, you know, it might be
6 declared as printed banknotes and things like
7 that. And that makes actually understanding how
8 much cash there is in transit from place A to
9 place B extremely difficult, because what you
10 might find, even if the cash is declared
11 correctly, the declaration -- the customs forms
12 might just say cash, two tons, and then give the
13 value of the consignment as the value of the
14 paper that it's printed on and the ink that's on
15 it rather than the fact that it's 60 million
16 franks.

17 And so it's actually quite difficult to work
18 out how much cash is actually being moved around
19 the world, and you have to dig into it quite a
20 lot. And one of the things that we discovered
21 was, is that occasionally you might need to use
22 like coercive powers on a financial institution
23 to get them to tell you who the actual beneficial
24 owner of the cash is, but you didn't have access
25 to those powers because the cash had been
26 declared entirely correctly according to customs
27 procedures, and you have no other grounds for
28 suspicion which might allow you to go for a court
29 order.

30 So, as a result of that, the Dutch
31 authorities changed their legislation to allow
32 their customs officers to compel people to give
33 information about cash. And also, after we
34 published the assessment, the French authorities
35 introduced a declaration form for cash in freight
36 where they have to actually fill it in and say
37 how much it is and where it's going and who the
38 beneficial owner is and all that sort of thing.

39 So, in general, those are the findings of
40 the report.

41 Q Interesting. One of the things I think is sort
42 of a widely held view is that the goal of money
43 laundering often is to get cash into some other
44 less suspicious instrument or form. One of the
45 things I found interesting about your paper were
46 -- was your discussion of instances where criminal
47 organizations want to take money that's in the

1 banking system and convert it back to cash for
2 various reasons. I wonder if you could discuss
3 that?

4 A Yeah, so this is something -- and when I was
5 working on the paper, alongside me was a guy from
6 a Tunisian financial intelligence unit, and he
7 was able to come up with a number of examples,
8 which is why it ended up in the paper, of
9 something where exactly that had happened. They
10 had gotten money in the financial system in
11 Tunisia and they had managed to withdraw the
12 money in large amounts of cash. And obviously
13 that's something that you can do in Tunisia, but
14 you may not be able to do in somewhere like
15 Canada or the UK. And the guy had then taken the
16 cash and just moved it across a couple of midland
17 boundaries to another country in Africa and paid
18 it back into the bank in that location. And it
19 was simply to break the audit trail. You know,
20 it was moving the cash across an international
21 boundary. Because he knew that even though they
22 were only like maybe 500 kilometres apart, the
23 authorities in country B wouldn't be talking to
24 the authorities in country A, and equally, didn't
25 consider the cash to be suspicious. And so there
26 was no way you would be able to know that that
27 person in location A also had a bank account in
28 location B and he just moved the cash from one
29 place to another.

30 Q Interesting. One of the things I know that
31 you've spoken about in the past is the ability to
32 identify, by looking at cash and the manner in
33 which it's packaged, whether it is suspicious or
34 more likely to have come from a bank. And we're
35 talking large amounts of cash. I wonder if you
36 could speak to that?

37 A Yeah, so one of the things that we find in the
38 UK, in the UK there was a definition that has
39 been going around for as long as I can remember,
40 as a law enforcement officer, a definition of
41 what's called street cash. And street cash, by
42 definition, is cash that is derived from criminal
43 activity. So when we say street cash, we're
44 talking about, you know, the type of cash that we
45 generated from drug trafficking. And it's
46 bundled -- almost all of the cash received like
47 this is bundled in a particular way. And in the

1 UK -- it's slightly different in Canada, but in
2 the UK, what we see is, is that if you seize cash
3 off somebody and you open the bag, inside it
4 there will be bundles of cash that are about the
5 width of your hand, and each one of those bundles
6 will be made up of 5,000 pounds. And within the
7 5,000-pound bundles, there will be five sub-
8 bundles of 1,000 pounds, and generally they're
9 all wrapped up with elastic bands and things like
10 that, and they use notes and the notes aren't
11 faced, if you know what I mean, in other words
12 they're not all the other way around.

13 And one of the things that we know is the
14 reason it's bundled like that is so that if you
15 are the person who is either handing it over or
16 you're receiving it, you can do a very rapid
17 assessment of how much is there simply by looking
18 in the bag and counting the bundles. So you can
19 open the bag and go, one, two, three, four, five,
20 six, seven, eight, nine, 10, that's 50,000 pounds
21 or thereabouts, and you know that that's how much
22 you were expecting. If you open the bag and you
23 go, one, two, three, four, five, six, seven,
24 eight, nine, 10, and you're expecting 100,000
25 pounds, then instantly you know there's something
26 wrong.

27 You don't actually physically have to count
28 every pound note. You know that each one of
29 those bundles -- it's almost like a universal
30 standard -- each one of those bundles should
31 contain 5,000 pounds. It's always counted
32 properly when it's taken back to a safehouse and
33 run through a cash counting machine, but it's
34 something like that. And that is how street cash
35 is-- appears in the UK.

36 I believe -- and certainly on the basis of
37 the evidence that I saw in E-Pirate -- in Canada,
38 it's in \$10,000 bundles. But it -- the same
39 principle applies. You know by counting the
40 bundles how much is roughly going to be there.
41 And the odds are that when you actually do a
42 count of all of it, you may well be up a bit or
43 down a bit. You know, there might be a few \$20
44 notes missing or something like that. But in
45 general terms, the idea is you know how big a
46 bundle is.

47 So that's what criminal cash looks like.

1 When cash is being freighted around the world by
2 legitimate companies, what you end up with is a
3 slightly different situation where you are
4 talking about numbers of notes. So each currency
5 -- each currency will be banded separately. So
6 in the case of the Canadian dollar, you might
7 have five 10s, 20s and 50s all banded separately,
8 and there would be the same number of notes in
9 each bundle.

10 Now, obviously what that means is a bundle
11 of \$5.00 bills will be four times less. The
12 value of that bundle will be four times less than
13 a \$20 bill. And then there will be plastic
14 straps on the outside generally, and then the
15 whole thing is usually vac-packed. And then --
16 you know, and then the -- those bundles might
17 then be consolidated into bigger bundles and also
18 vac-packed.

19 The thing about the way cash is moved around
20 the world for financial institutions and the way
21 cash is traded is that it's traded in tiny
22 margins, like about four what they call pips,
23 which is like four decimal places on the exchange
24 rate. And the thing -- and what that means is
25 tiny fluctuations in the exchange rate can wipe
26 out your profit. So it's really important to
27 keep your overheads down when you're moving cash
28 about, and you do that by making sure it's packed
29 in bundles that no one's going to argue with, and
30 therefore you don't have to spend ages and ages
31 and spend lots of money on wages and what have
32 you for people to run it back through cash
33 counting machines to save it again.

34 So, as I say, for criminal cash, it's
35 bundled in a way so that if you're in a highly
36 vulnerable situation in a cash endeavour in a
37 supermarket car park, you can make a rapid
38 assessment of how much is there. For cash being
39 freighted around the world, it's in order to cut
40 costs to ensure that, you know, you're making as
41 much as you can on your currency trading
42 business.

43 Q Interesting. I thought we might move at this
44 stage to a discussion of trade-based money
45 laundering.

46 A Mm-hmm.

47 Q I understand that's an area you've done some work

1 in and gained some expertise in?

2 A Yes. Yes, I've talked about it quite a lot.

3 Q What is trade-based money laundering?

4 A Well, that's the first thing that -- that's the
5 first hurdle you have to overcome when you --
6 when you mentioned it, because there is no one
7 single definition of what trade-based money
8 laundering actually is.

9 A couple of years ago when I was working
10 with the Five Eyes community, we -- the great
11 lawyers of all of the major law enforcement
12 agencies in the Five Eyes community sat down in a
13 room and we tried to come up with a standard
14 definition that we could all use. And after
15 about an hour-and-a-half, this is what we came up
16 with. So, the exploitation of trade and
17 financial systems to disguise the movement of
18 either the actual or perceived value of illicit
19 proceeds.

20 Now, that's quite a complicated definition.
21 The most important thing to realize out of all
22 this is - is it's the use of trade to move value.
23 And that's the point I always try to get across.

24 So really trade-based money laundering is a
25 form of informal value transfer system, and the
26 value is moved by at some point having an either
27 genuine or fake trade transaction in the middle.

28 And it is -- a lot of people overthink what
29 TVML actually is. A lot of people shy away from
30 it saying it's all difficult and complicated.
31 But my view is it's actually not that difficult
32 to understand. If you're dealing with criminal
33 money and the money is being moved from -- the
34 value of the money is being moved from one
35 location to another, and there's a trade
36 transaction in there somewhere which facilitates
37 it, that's trade-based money laundering.

38 And as I say, it's not really -- not really
39 necessary to overthink it. It can be much more
40 complex than that. And you can bring in things
41 like trade finance and stuff like that. But at
42 its most basic, it's a movement of value from one
43 place to another, facilitated through trade.

44 Q Is that often accomplished by over or under-
45 invoicing?

46 A Yeah. It doesn't have to be. That's one of the
47 things that comes along with trade-based money

1 laundering. It's a little bit like when people
2 say, oh, hawala is all based on trust. It
3 actually isn't, but it's one of those things
4 where it's the first thing people say when you
5 mention the word hawala. Oh, it's a trust-based
6 system. It's actually not, but -- doesn't
7 matter.

8 One of the first things that people say
9 about trade-based money laundering is, oh, over
10 and under-invoicing. And there's no doubt that
11 that does have a part to play in TVML and the way
12 that values move. If you recall yesterday, on
13 the London underground map, we talked about the
14 goods from China moving to Pakistan where they've
15 been invoiced at only half the value. And that's
16 an example of invoice manipulation as a way of
17 moving value, if you like.

18 So, yes, it can involve over and under-
19 invoicing. Personally, in my experience, one of
20 the most common ways in which trade-based money
21 laundering manifests itself is by something what
22 we call a third party payment. And what that
23 means is, is there will be either a genuine or a
24 fictitious shipment of goods, but certainly
25 accompanied by trade paperwork between party A in
26 one location and party B in another location.
27 But the payment for the goods comes from a
28 completely unrelated third party, party C.

29 Now, to some extent, that was again shown in
30 the London underground map, with a payment coming
31 from the FX company in the UK to the company in
32 China. And what that means is -- so a third
33 party payment, if you think about it logically,
34 if you're a person who -- you know, you're in
35 Canada, I'm in the UK, so if I was to send goods
36 to you, you would expect to send me a payment the
37 other way. But if someone in another country
38 sends me the payment, I'm okay because I've been
39 paid, but you're up on the deal because you
40 haven't had to make a payment, so the money that
41 you should have -- that you should have used to
42 pay me is now available for some other purpose.
43 And what you can do then is make that money
44 available to the chap who did make the payment,
45 and it's moved the value of his money from his
46 location to Canada. And that's what I mean about
47 moving value through trade.

1 Q Right. I wonder if you could just explain to the
2 Commissioner how over and under-invoicing
3 facilitates the movement of funds or the
4 laundering of funds, and maybe give a couple of
5 examples you've come across?

6 A Yeah, so over-invoicing. So essentially what
7 you're talking about doing is you're describing
8 the goods correctly on the customs documentation,
9 so the goods will be as described. And I always
10 talk about widgets when I'm talking about trade-
11 based money laundering because the -- the goods
12 don't matter. It can be absolutely anything.
13 And that's one of the advantages of TVML is that
14 you can do with it anything you like. And you
15 can actually use services as well as goods.

16 So what you're doing is you're describing
17 the goods correctly on the customer's
18 documentation, but you're overstating the value.
19 So when you're over-invoicing, you're overstating
20 the value. So what you've got is you've got a
21 supplier who will supply a hundred widgets to the
22 importer, and they're actually only worth \$10
23 each, the widgets are, but you invoice them at
24 \$20 each. So the importer pays the full value of
25 the invoice. So the importer is actually down on
26 the deal because he's got a hundred widgets and
27 he's paid \$20 for them, but they're only worth
28 \$10, and the supplier is up on the deal because
29 he's sold all these widgets and he's been paid
30 double for them. So essentially what happens is
31 the criminal reimburses the importer for the
32 money that he's lost on the widgets, and the
33 supplier, who's got too much money, pays the
34 criminal at the other end, and there's a value --
35 and the value has moved from the importer side to
36 the supplier side.

37 I do a presentation on this, and it's much
38 easier to see on a presentation, but it's hard to
39 do over -- over Zoom. But essentially that's how
40 it is. And so the value moves in that way. And
41 under-invoicing is the same, but in the other
42 direction essentially. So that's the sort of
43 thing.

44 And then you can do things like under-
45 shipping and over-shipping where the values are
46 right, but the amounts of goods are wrong, and
47 things like that. But essentially that's the way

1 it is. And in terms of an example, you know,
2 I've got lots of things like that. One of the
3 things that -- the best place to look actually
4 for examples of this happening is in the USA,
5 because in the USA they have something called
6 Homeland Security, they have something called the
7 Trade Transparency Unit, and what the Trade
8 Transparency Unit does is examine the cost of
9 goods on a rolling basis, and so they can spot
10 when something is being drastically overpriced or
11 underpriced.

12 So I've got a couple in the presentation
13 that I deliver. I've actually got it in front of
14 me down here. There's a slide which I borrowed
15 from Homeland Security where it talks about some
16 of the ways in which this can be spotted. And
17 you've got things like one particular extreme
18 example is bulldozers shipped from the UK to
19 Colombia at \$1.74 a bulldozer, which obviously is
20 wrong. Things like prefab buildings going to
21 Trinidad at \$1.20 a prefab building. And then
22 the other way around, you've got things like
23 toilet tissue going from China to U.S., which is
24 invoiced at \$4,000 a kilo. So, extreme examples
25 like that, and that's one of the ways in which
26 this can be picked up.

27 And I've seen a presentation by a chap in
28 the USA who makes a living out of analyzing trade
29 data. And when I saw that a couple years ago, he
30 reckoned something like \$400 billion a year was
31 moved out -- in values, moved out of the U.S.,
32 simply by invoice manipulation of that nature.

33 Q So I guess when you're dealing with goods, the
34 red flag that one might look for is sort of a
35 value either going sort of drastically out of
36 touch, either more than it should be or less than
37 it should be?

38 A Yeah. The difficulty you have is you've got to
39 have something to compare it with. And this is
40 where the U.S. scores quite highly, because they
41 have the -- they import all of their trade data
42 not only into -- it's a database called DARTTTS,
43 D-A-R-T-T-T-S. I don't know what that stands
44 for, but that's the database. What the U.S. does
45 is make all that data available to -- I think he
46 said it's available on the internet if you look
47 for it. And so the U.S. has got the data which

1 you can compare it with, so you can tell, this
2 week, that the price of widgets from Argentina
3 has gone up by a couple of dollars, and so if you
4 see widgets from Argentina being invoiced at
5 three times what it was last week, then that's a
6 red flag.

7 The difficulty you face is -- in
8 jurisdictions -- and the UK is one of these at
9 the moment -- we're in the process of trying to
10 set up a trade transparency unit. The difficulty
11 you face is where you haven't got a baseline data
12 to base it on. And the other thing about trade
13 is that you can do all sorts of magical things
14 with invoices. So I've seen invoices -- in the
15 example that I gave yesterday of companies in the
16 UK sending goods -- sending payments to China on
17 the back of a fake invoice, I've seen the invoice
18 just say "Iron Bolts." You know, what's an iron
19 bolt? It could be an iron bolt that's this big
20 or it could be that big. You know, and so how
21 can you -- how on earth can you tell what the
22 true value of those goods are?

23 We've seen -- one of them there's a case in
24 the UK at the moment, a trade-based money
25 laundering case which involves the shipment of
26 second-hand clothes to West Africa. Who can put
27 a value on what second-hand clothes cost? You
28 know, basically they're worth what someone is
29 willing to pay. And then when you start going
30 outside that and you start invoicing services,
31 then you know, really it's almost impossible.
32 These are some of the advantages that are
33 conferred on a criminal by using trade-based
34 money laundering is that there are infinite
35 numbers of ways in which you can manipulate
36 invoices to your advantage.

37 Q Are there jurisdictions that are doing better
38 with the detection and investigation of trade-
39 based money laundering?

40 A Yeah, and the U.S. is actually quite good at
41 this. And as I say, there is the chap that I
42 saw. John Zdanowicz, his name is, who has done a
43 lot of work in terms of, you know, looking at
44 invoice manipulation and things like that. But
45 the difficulty you face is, is that first of all
46 -- all sorts of problems. First of all, people
47 tend to shy away from trade-based money

1 laundering because they think it's more
2 complicated than it actually is. The second
3 thing is, is that people don't really understand
4 how trade works in terms of, you know, what
5 documentation you can expect to see, and most
6 people wouldn't know what a bill of lading was,
7 or you know, or a proforma invoice or all these
8 sort of things. So they tend to be scared away
9 like that. And as I say, if you haven't actually
10 got the baseline data against which to compare
11 it, you're struggling.

12 Also, the other problem is, is that trade
13 tends to involve two different countries. And so
14 if you're in a situation where you don't
15 routinely share information with people from
16 another jurisdiction, you're always going to
17 struggle. So anybody that has all of those
18 problems in front of them is going to struggle to
19 deal with trade-based money laundering
20 effectively. That's not to say they won't pick
21 it up from time to time, you know, they won't
22 trip over it, but it's going to be very
23 difficult.

24 One of the things I've suggested in the past
25 is that any banks that do trade finance could
26 maybe do a little bit more in their own way if
27 they wanted to deal with trade-based money
28 laundering, because if they've got a trade
29 finance department, they must have all the data,
30 you know, that was presented to them, you know,
31 in terms of advancing a letter of credit, and so
32 they should therefore be able to at least have
33 some data which they can sort of compare things
34 against.

35 So, yeah, it's a tricky thing for most
36 people to deal with, unfortunately.

37 Q Thank you. I wanted to move on and ask you just
38 about a couple of other typologies, and maybe we
39 don't need to get into them in quite the same
40 degree of detail, but I just thought I might ask
41 you to briefly explain a few other typologies and
42 what your experience is with those and your
43 understanding of their use currently. One of the
44 areas that's garnered some attention in our
45 jurisdiction is the use of real estate as a
46 vehicle to launder funds, and I wonder if you
47 might discuss the use of real estate in money

1 laundering and your experience with that?
2 A Yeah, I mean, in terms of the -- the thing
3 obviously that -- the issue with real estate is
4 you can pack -- you can pack a lot of money into
5 a property transaction. I haven't actually seen
6 much laundering through the real estate in the
7 UK, but it does happen, and essentially it's just
8 the question of being able to get your money into
9 a position -- your criminal money into a position
10 where you can buy a property with it. But one of
11 the things about that is you've effectively got
12 to launder the money before it actually gets
13 there. Either that or you have to have access to
14 a gatekeeper, a legal professional who's willing
15 to look the other way and maybe not do his due
16 diligence in as good a way as he could. Because
17 generally, in a property transaction, certainly
18 in the UK, the funds come into the legal
19 professional's client account, and then the money
20 goes out then when the settlement is advanced in
21 terms of the property.

22 There is a recognition of the facts that in
23 the UK money laundering does -- as I say, I
24 haven't seen it much myself, but it does take
25 place. One of the ways in which it is being
26 dealt with in the UK, for a long time, estate
27 agency businesses, they've been regulated.
28 They're part of the regulated sector in the UK,
29 and therefore they have to do due diligence and
30 submit SARs and what have you, like that. But,
31 for a long time, all the estate agents -- all
32 they have to do -- and I think this is right, and
33 I'm sure I'll be corrected by colleagues if I'm
34 wrong -- but I think all estate agency businesses
35 in the regulated sector were required to do due
36 diligence on the seller. So, you know, a client
37 will come along and say, I'm going to sell this
38 property to somebody else, and all they have to
39 do is due diligence on the person who is actually
40 selling the property.

41 Now what they have to do -- those
42 regulations have been tightened up -- and they
43 have to do due diligence on both parties to a
44 transaction. And so, you know, the idea being
45 that they have to -- you know, someone comes
46 along and they're saying, okay, well, I'm going
47 to pay 500 back -- 500,000 pounds for this

1 property, they have to do the due diligence on
2 where the seller's purchase money came from. So
3 that's been talked about quite a lot.

4 And the other thing, like I say, in the UK,
5 is that legal professionals, lawyers, barristers,
6 solicitors, all the rest of it, are in the
7 regulated sector and they're obliged to submit
8 suspicious activity reports and do all the other
9 things that come along with the -- you know, that
10 come with being part of that sector, in the UK.

11 Q Yes. In Canada, presently, lawyers do not report
12 to FINTRAC, and I wonder if you might speak to
13 any challenges that might arise from that
14 circumstance?

15 A Well, I guess -- I mean, I'm not fully familiar
16 with the way that the legal system works in
17 Canada, because -- so I don't know what the law
18 says about the protections that submitting a
19 suspicious activity report affords you. In the
20 UK, submitting a SAR, there is a legal protection
21 built into the process of actually submitting a
22 suspicious activity report.

23 So whilst I understand in Canada that they
24 don't necessarily have to submit a SAR, I would
25 still expect most legal professionals to be doing
26 an element of due diligence and to be doing
27 source of funds and to be looking into the whole
28 transaction to see whether it makes sense or not.
29 Because notwithstanding the fact they don't have
30 to put SARs in, they're still surely under an
31 obligation to prevent money laundering through
32 their businesses, and should still be doing all
33 of that type of work. Even if, at the end of it,
34 if there is no mechanism for putting a SAR in,
35 they can put it in.

36 I mean, in the UK, anybody can put a SAR in.
37 There is a facility within the UK SAR database
38 for anybody to submit one. And I don't know
39 whether that's the same in Canada or not. But my
40 feeling on all of this is legal professionals are
41 the key to all of this, and regardless of whether
42 they are required to submit SARs or not, it seems
43 to me that they should still be doing their bit
44 in order to prevent money laundering by looking
45 at a transaction to see whether it's -- they
46 think it's suspicious or not.

47 Q Thank you. I wonder if you might address the use

1 of luxury goods as a vehicle to launder funds?
2 A Yeah, I mean, in the UK -- I mean, a great
3 example -- it's not necessarily money laundering,
4 but the lady I talked about with the unexplained
5 wealth order, spending -- I can't remember what
6 the actual figure was, but it was something like
7 half-a-million pounds in Harrods in a very short
8 space of time. People like to buy luxury goods,
9 and one of the things that you tend to find with
10 criminals is that they go for things like
11 expensive cars. They go for like expensive
12 watches and things like that. And there's always
13 an argument as to the extent to which the
14 purchase of an expensive item is a method of
15 laundering funds or whether it's just a way of
16 realizing your ill-gotten gains. You know, I
17 mean, the whole purpose of -- the whole purpose
18 of committing most types of crime is the
19 acquisition of a large amount of money. I mean,
20 you know, whenever I talk about money laundering,
21 I say that actually all crimes, a million crimes,
22 are actually money laundering, but just with a
23 predicate offence bolted on that generates the
24 money that you're going to launder.

25 And so, you know, in a lot of cases, if you
26 want to buy a flash car or you want to buy a
27 decent watch, it is simply the way you enjoy your
28 ill-gotten gains. But the other side of that is,
29 is that you're essentially getting into a type or
30 form of trade-based money laundering.

31 I mean, one of the things that I've seen in
32 the past where someone has owed somebody else a
33 debt is that they have given them a car or
34 they've given them a watch or they've given them
35 something else expensive, to pay off the debt.
36 And that is effectively a form of money
37 laundering. It's a payment, only it's been done
38 with a form of goods instead of anything else.

39 Q Right. You talked about the difficulty of moving
40 large amounts of cash because of the bulk and
41 because of the size, and I understand that one of
42 the things you've spoken about is the use of
43 precious metals and gems as a vehicle for
44 laundering?

45 A Yeah, certainly precious metals is something
46 that's on the up in the UK at the moment. One of
47 the things that we're seeing more and more is --

1 and certainly, is the use of gold. There's an
2 interesting case that's currently going through
3 the courts in the UK at the moment which involves
4 very large amounts of gold, but actually the gold
5 is not the money laundering mechanism. The gold
6 is something that's happening alongside the money
7 laundering mechanism, I so believe, and the --
8 and the money laundering is actually taking place
9 to control the network the same way.

10 But, there is no doubt -- and
11 notwithstanding that, there is no doubt -- one of
12 the things that we have seen is people using
13 like bullion dealers, paying cash into the
14 accounts of a bullion dealer, the bullion dealer
15 supplying them with fine gold bars, and then
16 people using -- you know, moving the gold bars
17 across an international boundary instead of
18 moving cash. Now, the advantage that they had of
19 doing that in the UK up until relatively recently
20 was that gold and precious metals, stones and
21 things like that didn't count as cash, and so you
22 couldn't seize it in the same way that you could
23 cash.

24 That has actually changed recently. There
25 has been something what's called the listed asset
26 provisions which have been introduced into our
27 primary money laundering legislation, which now
28 it effectively enables us to seize gold in the
29 same way, seize gold, precious metals, items like
30 that, in the same way that we would do in cash.

31 But, yeah, I mean, it is something we've
32 seen, and it's a useful method of money
33 laundering when you're moving gold to somewhere
34 which is a gold processing centre or where the
35 demand is very high. So, in places like India,
36 for example, and in places like the UAE, UAE is
37 somewhere which processes a lot of gold, turns it
38 into jewellery. And India, the price of gold
39 actually tends to go above the gold fix a lot of
40 the time because the demand is so great, they
41 can't get enough gold to meet the demand. So if
42 you're going to move money and you're going to
43 move it to somewhere like India, then doing it
44 through gold is quite an effective way of dealing
45 with it.

46 Q Thank you. I wonder if you might address the
47 Commissioner on the use of businesses that

1 generate cash or cash-based businesses as a
2 vehicle to launder funds?

3 A Yeah, I mean, the -- one of the -- generally, if
4 you want to get cash into a financial system, one
5 of the best ways of doing it is to introduce it
6 into the bank account of a business that deals
7 with large amounts of cash. So, up until a few
8 years ago, in the UK, that would mean go and
9 taking it to a money service business, because a
10 money service business generally had a bank and
11 it traditionally dealt with large amounts of
12 cash. Now, actually in the UK, money service
13 businesses find it almost impossible to get bank
14 accounts now because there were a number of high-
15 profile cases recently which caused the banks to
16 decide that money service businesses were outside
17 their risk appetite. So it makes it much more
18 difficult now.

19 But what we see instead is people setting up
20 businesses which are -- you know, they're dealing
21 large amounts of cash instead, and money goes in.
22 But in the UK, there is a form of regulation we
23 have. If you are a business which accepts cash
24 above a certain value -- and I can't -- it's gone
25 completely out my head what the value is -- it's
26 in euros is the amount, and I think it's about
27 10,000 pounds -- 10,000 euros, rather, in one
28 transaction or a series of linked transactions.
29 That makes you what is called a high-value
30 dealer. And as soon as you're a high-value
31 dealer, you're straight back into the regulatory
32 sector and you have to go through all of the same
33 things that a money service business would. So
34 you would have to do customer due diligence,
35 source of funds, business - monitoring, business
36 transactions and things like that.

37 So that, to a large extent, illustrates how
38 valuable to -- to the criminal having a business
39 that accepts a large amount of cash is, because
40 essentially you could hide quite a lot of
41 criminal cash in the business of -- in the bank
42 account of a business that deals with cash on an
43 ongoing basis. So we see quite a lot of things
44 like Vietnamese bars is something we see quite a
45 lot of. Any business like that, a grocery
46 business, anything like that which you would
47 expect there to be a large amount of cash.

1 The thing is, in the UK it's a bit more
2 tricky because the prevalence of the use of cash
3 is going down and down and down. Virtually
4 everybody pays for even tiny things with
5 contactless in the UK now. So, although the
6 number of transactions I think which involve cash
7 has dropped to around about 42 percent, most of
8 those transactions are for -- you know, when you
9 buy a Mars bar or something and you might pay for
10 it with a few p. But even then, if you walk into
11 a shop and buy a Mars bar, you're more than
12 likely just to wave your card at the machine
13 rather than take cash away. So it is getting
14 increasingly difficult for people to find those
15 businesses that will accept cash.

16 What we do see is a situation where someone
17 will open up a business, will set up a business
18 and will tell the bank one thing that it's going
19 to be, and then as soon as they've got the bank
20 account open, they will pile as much cash into it
21 in as short a space of time as they can, working
22 on the basis that it's going to take the bank
23 about four to six months to spot the fact that
24 what's happening in this bank account isn't what
25 they would expect. And then the bank will then
26 start asking questions, they won't get answers,
27 and they'll close the account down. But by the
28 time they've done that, they've been able to push
29 about half-a-million pounds through the bank
30 account. So that's one of the things that we see
31 quite a lot of.

32 Q So with the reduction in the use of cash in
33 society, are you seeing a reduction in the use of
34 businesses like restaurants and salons to launder
35 funds, or is it still sort of a viable typology?

36 A That does still happen, but the thing you have to
37 bear in mind is that in order to mask the volume
38 of funds that you make as a successful drug
39 dealer, if you want to hide that sort of money --
40 I mean, bear in mind we're talking -- when we
41 deal with the sort of cash handovers that we've
42 seen to international controller groups, or
43 Chinese money laundering networks, it's quite
44 often two, three, 400,000 pounds at a time. Now,
45 it's extremely difficult to hide that amount of
46 cash in a business, because that would mean for
47 it not to stick out like a sore thumb. The

1 business would have to be routinely dealing with
2 that as part of its legitimate business. And
3 that's a really big hair salon or a really big
4 restaurant that's got a turnover like that.

5 So we do still see it. People still do use
6 businesses, cash-based businesses to introduce
7 cash into the system, but the amount of money you
8 can move like that, you're restricted basically
9 by the type of business you can use.

10 Q Thank you. One of the vehicles that we
11 understand might be emerging is the use of
12 cryptocurrencies in laundering operations. I
13 wonder if you could address that?

14 A Yeah, that is something that is a significant --
15 it's something that we are starting to see in the
16 UK, and it's on the up.

17 So, as an illustration, I'll give you an
18 example. I was the expert witness on a cash
19 that's now settled. It's gone through court and
20 everything, so there's been a judicial finding,
21 it's not in any way sensitive. Essentially a
22 police force in the north of England happened
23 upon a chap driving a car. They had cause to
24 stop the car and there was 170,000 pounds in the
25 boot, in cash. So the guy was arrested. The
26 cash was seized. And they recovered, from the
27 car that he was driving, two mobile phones.

28 What they discovered when they analyzed the
29 mobile phones -- they were able to get through
30 the encryption -- when they got through -- you
31 know, there's sort of like the standard password
32 lock on the phone. What they discovered was he
33 was using messaging apps like WhatsApp and
34 Telegram to speak to a person who was acting as
35 an international controller in the UAE. It was
36 actually his father. And what he was doing is he
37 was being directed to go to various locations all
38 around the UK to do token-based cash pick-ups.
39 So very similar to what we were talking about
40 yesterday in terms of the London underground. So
41 he would meet someone in a supermarket car park,
42 he would show them the banknote with the serial
43 number on it, and he would then receive a large
44 amount of cash.

45 So, in that respect, not so different to
46 what we've been seeing for all along. What was
47 then happening, though, was the guy, on his

1 phone, had got the details of about four or five
2 cryptocurrency suppliers. We actually call them
3 cryptoassets in the UK. They've just been -- the
4 UK has just started regulating cryptoasset
5 exchanges. So the people who turn cryptoassets
6 into real money and vice versa. And also
7 custodian wallet providers, so the people who
8 actually provide the wallets to the groups whose
9 credited to[indiscernible].

10 So, the guy was picking up a lot of cash.
11 He got the details of four or five essentially
12 peer to peer cryptoasset suppliers. So these are
13 people who you will find on websites like local
14 Bitcoins.com who are willing to supply you with
15 bitcoins in exchange for large amounts of cash,
16 and who won't ask any questions in the process.
17 So he was then taking the cash, almost
18 immediately -- we can't say first -- and he was
19 taking it, almost immediately, to one of these
20 street bitcoin suppliers and he was handing the
21 cash over to him in return for which the guy
22 would then credit bitcoins to the value of the
23 cash, less his commission, to a bitcoin wallet
24 that was in the control of the controller in the
25 UAE.

26 And what we think was then happening, the
27 evidence -- we've subsequently come across in
28 some other cases where we can say that this is
29 definitely happening. And essentially the way
30 that it worked was the cryptoassets were then
31 being sold for cash to a criminal in another
32 country, somewhere like Spain or the UAE or
33 something like that, so there was a cash in and
34 cash out process almost immediately.

35 So the crypto -- the bitcoins which -- are
36 credited to a wallet, in the UAE, and then they
37 would be sold from the wallet in the UAE to a
38 wallet of someone in, say, Spain or the
39 Netherlands or something like that, and then the
40 cash realized as part of the sale.

41 So the cryptoasset was being used as the
42 value transfer mechanism. Which is quite a
43 clever way of doing it, because it achieves a
44 currency transmission -- a money transmission and
45 a currency exchange in one transaction, without
46 actually going anywhere near a regulated entity.

47 And the other advantage of doing it like

1 that is if you do it quick enough, it gets around
2 the volatility that is associated with the price
3 of cryptoassets. So, anyway, bitcoiners, you'll
4 be aware, their price tends to fluctuate quite a
5 lot. But if you cash in and cash out within a
6 couple of hours, you get around that volatility
7 issue.

8 And one of the things that we're pretty
9 sure, certainly in the UK, and if we're seeing it
10 in the UK, I dare say we'll be seeing it all
11 around the rest of the world, is we think that
12 this is something that criminals have worked out
13 that they can do, using cryptoassets, and are now
14 doing it extensively.

15 Q And has the NCA come up with any strategies to
16 investigate or combat the use of cryptocurrencies
17 in this way?

18 A We have got cryptoasset specialists, and we are
19 -- I think we're still formulating a plan to --
20 as far as I know, the case that I've just
21 referred to -- the guy was sent to prison,
22 incidentally. He pleaded guilty and was sent to
23 prison. And just to give you an illustration of
24 the extent to which he was doing it, the guy who
25 was caught with the cash, my analysis of his
26 phones showed that he had converted about a
27 million pounds to Bitcoin in six days, which
28 gives you an idea of the volume that you can move
29 using this thing.

30 As far as I'm aware, that case came to a
31 judicial outcome in August last year. As far as
32 I'm aware, that's the first one in the UK where
33 that had happened. So, in terms of working out
34 how we're going to combat this, we're at a very
35 early stage. I think this is something that
36 we've only started to see in the last -- you
37 know, in the last 12 months or so. The actual
38 events where the guy was arrested took place in,
39 I think it was March in 2019, so just over 12
40 months ago.

41 Like I say, I think that was the first time
42 we'd seen it in the UK, so we're still at an
43 early stage, but obviously it's something that we
44 are now aware of and we're working up a plan, but
45 as to what that plan is yet, I don't think we've
46 got that fully formed.

47 One of the things obviously that you can do

1 is do blockchain analysis, but there's -- you
2 know, there's a lot more that we need to work
3 out, as well. Like I say, the big change that
4 has happened in the UK is that in the middle of
5 last year there was the bringing of those
6 cryptoassets exchanges into the regulated sector.
7 So, in theory, they should now be doing all the
8 stuff that MSBs and everyone else should be
9 doing, like due diligence of source of funds and
10 submitting SARs and everything. The extent to
11 which they actually will do that, of course, is
12 another matter.

13 Q Thank you. You've spoken about the UAE and Gulf
14 states and a number of other jurisdictions today,
15 and I wonder if you can just comment on the role
16 and whether it's changed over time as some of the
17 small Caribbean islands that we've traditionally
18 heard about as being hubs for this type of
19 activity?

20 A Yeah, I mean, that's not my area of expertise
21 really. I mean, I haven't done a lot in terms of
22 the Caribbean islands. A while ago when I was
23 working in Customs, before I joined -- before I
24 joined the -- before I joined SOCA, I was -- I
25 was working on the drug trafficking team, and
26 there was a lot of drugs coming up from the north
27 of South America -- if you follow me -- into the
28 Caribbean and then being shipped all around the
29 world, using the Caribbean as a staging post. So
30 that is a -- that's a significant issue. And
31 obviously there's a cash -- and there were a
32 number of examples in the cash paper where cash
33 was being moved by vessels and what have you
34 around in order to service that trade.

35 The other thing about the Caribbean, of
36 course, though, is that it plays host to other
37 jurisdictions like the British Virgin Islands,
38 and the British Virgin Islands is an offshore
39 jurisdiction where there is a certain amount of
40 lack of transparency of business structures, and
41 so one of the things that we tend to find is we
42 do keep on bumping our heads up against opaque
43 company structures where there'll be a shell
44 company in the UK where the directors of the
45 shell company or another shell company in the
46 British Virgin Islands, and the directors of that
47 company would be another shell company in another

1 jurisdiction. So probably in respect to that,
2 there is -- that's one of the significant things
3 that we see in the Caribbean.

4 Q Thank you. You have alluded to, a couple of
5 times in your evidence today, difficulties with
6 quantifying the amount of funds that are being
7 laundered either in a specific sector or more
8 generally, and I wonder if the NCA has made any
9 efforts in that regard and whether they've had
10 any success, and I wonder if you could speak to
11 some of the challenges that are associated with
12 trying to quantify the amount of funds being
13 laundered, either in a specific sector or
14 generally?

15 A I mean, like I say, if you read the publicity
16 material for the National Economic Crime Centre,
17 one of the things that you will find is that it
18 refers to the cost of money laundering to the UK,
19 which is put at probably in excess of a hundred
20 billion pounds. The fact is, when you're talking
21 about money laundering in a particular
22 jurisdiction, you have to understand what you
23 mean about money laundering in a particular
24 jurisdiction, because so in the UK, for example,
25 are we talking about money laundering that just
26 arises as a result of criminality in the UK?
27 Because that gives you one figure. And it might
28 be possible, maybe, to quantify the amount of
29 drug trafficking that goes on. But of course, by
30 its very nature, all this stuff is underground,
31 so you never have a full picture of what it is
32 that's going on in terms of criminality.

33 So that's your first issue. So there's a
34 figure you could maybe put on that. But in terms
35 of money laundering impact in the UK, the UK,
36 I've already said, is a favoured destination for
37 eastern Europeans and for people like China and
38 what have you, to bring their money into the UK
39 for criminality that's occurred somewhere else.
40 So that's money that's been laundered into the UK
41 which has not resulted from crimes that's taken
42 place in the UK, but nonetheless it's still money
43 laundering because the way that our law works is
44 that there's an extra territoriality to our -- to
45 our legislation. So that's another figure.

46 And then there is the money that is
47 laundered from one jurisdiction, and because the

1 UK is a trade and financier to western Europe,
2 it's money that has been laundered in one
3 jurisdiction and it transits through the UK on
4 its way to somewhere else. So there's another
5 figure that you've got to try and quantify on top
6 of all of that.

7 And then if you're talking about money
8 laundering impact on the UK, you could be in a
9 situation where money is made from some type of
10 criminality maybe in eastern Europe and it goes
11 through the Latvian bank account of a shell
12 company that's been set up in the UK. And that
13 impacts on the UK because it affects obviously
14 the UK's corporate structures and what have you,
15 but the money hasn't gone anywhere near the UK.

16 So I think you can see that when you start
17 to take all of those different things into
18 consideration, really anyone who tells you they
19 can put an accurate figure on it, I think he's
20 not being entirely clear and truthful with the
21 facts. I've seen --

22 Q You also -- sorry, go ahead.

23 A Sorry, I was just going to finish off by saying
24 I've seen assessments where they say that the
25 amount of money laundering generally amounts
26 between 2 and 5 percent of GDP in some countries.
27 And, again, that's not a reliable way of
28 measuring it, because that would imply, for
29 example -- so the -- and I keep mentioning the
30 UAE all the time because, like I've already said,
31 I think they are unfairly targeted in these sort
32 of things. But it's just as an illustration.
33 The GDP of Saudi Arabia is about four times the
34 GDP of the UAE. And yet in terms of money
35 laundering threats, it's much harder to do
36 business in Saudi Arabia. It's much more
37 bureaucratically cumbersome to set up businesses,
38 and all that sort of business. And so in terms
39 of if you look at the GDP figure, it should mean
40 that Saudi Arabia is four times as much of a risk
41 as the UAE, and that's clearly not the case.

42 So, in terms of quantifying things, I
43 actually think it's extremely difficult to do.
44 And I think we can probably comfortably say that
45 the amount of money laundered in through --
46 impacting on the UK is probably in excess of a
47 hundred billion. But that is really a -- you

1 know, stick your finger in the air and just hope,
2 generally. That being the case, the amount of
3 money that is laundered all around the world
4 probably runs into trillions, but I don't think
5 it's possible to be more accurate than that.

6 Q The observations you've made about quantifying
7 and some of the challenges associated with that,
8 do you get the sense those same observations
9 would apply to the Canadian context?

10 A Yeah, a hundred percent, because you're going to
11 have exactly the same situation. There's, you
12 know, crime in Canada and the money laundered
13 within Canada, there'll be people moving their
14 money out of somewhere else into Canada. You
15 know, money moving through the Canadian banking
16 system on its way to somewhere else. Exactly the
17 same thing.

18 And the other problem you have, of course,
19 is double counting. You don't know whether the
20 money's gone out and come back in again, all that
21 sort of business. So, frankly, it's impossible
22 to do. And I always -- I mentioned this
23 yesterday -- I always try and resist any demands
24 by people, when I'm talking about this, to put a
25 figure on it. It's certainly in the report. The
26 first thing you always get asked is, well, how
27 much are we talking about? Nobody likes to be
28 told that we don't know, but the truth is, if you
29 put a figure in a report, people will just quote
30 the figure and won't read the rest of the report.
31 And what I want people to do is actually read the
32 nuances and understand the practicalities of
33 these things.

34 MR. MCGOWAN: Thank you. Mr. Commissioner, I'm going
35 to suggest that at this stage we take a break,
36 maybe 15 minutes. I think I'm either close to or
37 at the end of my questions. That'll just give us
38 an opportunity for me to review my notes and for
39 us to coordinate the examinations of other
40 counsel.

41 THE COMMISSIONER: All right. Thank you, Mr. McGowan.
42 We will adjourn for 15 minutes.

43 MR. MCGOWAN: Thank you.

44 THE REGISTRAR: The hearing is now adjourned for a 15-
45 minute break until 10:55. Please mute yourself
46 and please turn off your video.

47

Simon Lord (for the Commission)
Examination by Mr. Smart, Counsel for the B.C. Lottery
Corporation

(WITNESS STOOD DOWN)

(PROCEEDINGS ADJOURNED)

(PROCEEDINGS RECESSED)

THE REGISTRAR: The hearing is now resumed. Please ensure you're muted unless you are speaking.

SIMON LORD, a witness,
recalled.

THE COMMISSIONER: I don't think I can be heard right now.

MR. MCGOWAN: I can hear you, Mr. Commissioner.

THE COMMISSIONER: Can you? All right. There's an indication on my screen that my microphone is not working, but as long as people can hear me, then we'll carry on. Mr. McGowan, do you have some further questions?

MR. MCGOWAN: No, Mr. Commissioner. I have concluded my questioning of this witness. And I'll just confirm. Mr. Lord, can you hear the Commissioner as well?

A Yes, no problem at all.

MR. MCGOWAN: Okay, seems like your microphone's working fine, Mr. Commissioner.

THE COMMISSIONER: Good, thank you.

MR. MCGOWAN: Yes, we do have some participants who would like to ask some questions of Mr. Lord. The Province of British Columbia, for the Gaming Policy Enforcement Branch and Ministry of Finance, did have an allocation, as we had indicated earlier, but I don't believe they have any questions. Next is the Law Society of British Columbia, and I believe it'll be Ms. Catherine George.

MS. GEORGE: Thank you, Mr. McGowan. We, as well as the Province of British Columbia, having heard Mr. Lord's testimony, have no questions.

MR. MCGOWAN: Thank you. That takes us next to the British Columbia Lottery Corporation. Mr. Smart, you'd been given an allocation. Do you have questions?

MR. SMART: I do. Can you hear me all right, Mr. McGowan?

MR. MCGOWAN: Yes, I can. Thank you.

MR. SMART: Thank you.

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

EXAMINATION BY MR. SMART:

- 1
2
3 Q Just a few. Mr. Lord, listening to your
4 evidence, I'm struck by it seems there's been a
5 number of changes in recent years to try to
6 combat money laundering in the UK by law
7 enforcement. Am I accurate in that assessment?
8 A Yeah. There have been a number of developments
9 certainly in terms of things like public-private
10 partnerships.
11 Q Yes.
12 A We've looked through the legislation. There was
13 a process of trying to work out the areas that
14 the legislation didn't cover, introducing new
15 legislation to deal with that, and also, as I've
16 mentioned, the National Economic Crime Centre, as
17 well, setting that up. So, yeah, I think it's
18 fair to say that that is right.
19 Q Yeah, and for example, gold is now listed as
20 something that can be seized by law enforcement?
21 A Yes, it is.
22 Q And my sense from your evidence was that money
23 service businesses are finding it more difficult
24 to obtain a bank account, for example?
25 A Yes, that is the case.
26 Q And also, it was really -- I think you said it
27 was around 2015 that, in the UK, that Chinese
28 underground banking started to become more
29 noticeable?
30 A Yeah. Like I said, I'm not sure -- opinions
31 differ as to whether it was always there and we
32 just got better at spotting it --
33 Q Yeah.
34 A -- but my perception is we started to see more of
35 it at that point.
36 Q So it seems like knowledge and understanding of
37 the methods of laundering money by criminals is
38 -- that knowledge has really been -- has
39 increased over the last -- well, I'll say last
40 five, six, seven years?
41 A Yeah, I'd say that's the case. Yeah, I'd say
42 that's true.
43 Q And the methods used to combat it by law
44 enforcement have changed and adapted in order to
45 combat the new -- what appear to be changing or
46 -- I guess changing methods of laundering money?
47 A Yeah, I mean, I think the -- if you break it down

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

1 to its most basic level, with the sort of things
2 that we see now, or the sort of things we've
3 always seen, so things like smuggling cash,
4 informal value transfer systems --

5 Q Mm-hmm.

6 A -- shell companies, stuff like that, it's just
7 that the methods that are being used are getting
8 slightly more sophisticated and are changing over
9 time. So I've mentioned about, you know, the use
10 of gold. I've mentioned about cryptocurrencies
11 and things. At its heart, it is still moving
12 value across international boundaries, and you
13 can see IVTS. So it's just slightly different
14 iterations of those same things, if you follow
15 me.

16 Q Yes.

17 A And in terms of the way in which we combat them,
18 I think probably -- and I mentioned this
19 yesterday -- the biggest step change has been the
20 extent to which we now routinely share
21 information with the private sector. And we're
22 no longer working in silos, it is much more about
23 working in partnership with other bodies and
24 leveraging each other's capabilities.

25 Q So it would be a fair statement that what is much
26 more obvious today as methods to criminals to
27 launder money may not have been as obvious 10
28 years ago?

29 A Yeah. Well, things have changed, there's no
30 doubt about it. So, and like I say, the basic
31 techniques are the same now as they've always
32 been. It's just that they've altered slightly
33 over time to take on new forms. So really the
34 use of cryptoassets is just informal value
35 transfer. It's just using cryptoassets to do it.
36 Likewise, the movement of gold across
37 international boundaries is just an adaptation to
38 the fact that you can get cash seized a lot of
39 the time, so you -- so rather than do that -- and
40 it's always a case of everyone's playing catch-up
41 with each other. As soon as you put new
42 regulations in place or you introduce a new rule,
43 the law of the world is someone would try and
44 evade it in some way, and you constantly have to
45 adapt your practices to keep up.

46 Q Yes.

47 A So I don't know, I think we're as good now at

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

- 1 spotting these things as we always were. It's
2 just obviously -- you know, and that's part of
3 the job I do is, you know, my role is to look
4 across the whole world and see what the whole
5 world is doing and see how that's reflected in
6 the UK.
- 7 Q Let me ask you about the informal value transfer
8 systems that you testified about yesterday. If a
9 wealthy British citizen wants to purchase a
10 second home, say, in Spain, as an investment to
11 be used in the winter, they can transfer money
12 from the UK to Spain to do that?
- 13 A Yes.
- 14 Q If a wealthy Chinese citizen wants to purchase a
15 second home, say, in London, as an investment, or
16 to use part of the year, they can't transfer
17 their money from China to the UK to do that
18 because of currency controls?
- 19 A Yeah, that's -- as I say, we were seeing that an
20 awful lot with the cases that we encountered, and
21 so we asked that specific question through our
22 liaison offices in Beijing, of the State
23 Administration of Currency -- State
24 Administration of Foreign Exchange, and the
25 answer we got was, no, you are not permitted to
26 do that.
- 27 Q So they might use this informal value transfer
28 system to move money out of China?
- 29 A Yes.
- 30 Q For example, to purchase the London flat?
- 31 A Yes.
- 32 Q And they would pay a service fee to do that?
- 33 A Yeah, to the person who facilitates that movement
34 of value, yes, they would.
- 35 Q And you explained yesterday how Chinese students
36 studying in the UK might be used to help
37 facilitate that?
- 38 A Yeah. Yeah, by -- it's the first stage in the
39 process of getting rid of the criminal cash in
40 the UK.
- 41 Q And common sense would say they would earn some
42 kind of remuneration for doing that?
- 43 A Yeah. Yeah, I mentioned yesterday that some
44 Chinese students apparently can make two or 3,000
45 pounds a month by doing this.
- 46 Q And as you explained yesterday, your police
47 organization tries to warn students about this

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

- 1 process, and I gather, because your expectation
2 is that most of the students that are
3 facilitating this money laundering don't realize
4 that they're actually doing that?
- 5 A Yeah, I think that's fair to say. You know, the
6 story that they are given by the people who
7 entice them into doing this is that they're doing
8 foreign exchange for banks, Chinese citizens or
9 people who don't have access to banking in the
10 UK. And so I think it's fair to say, at least
11 initially, they are not aware of the source of
12 the funds that are being paid into their bank
13 account.
- 14 Q Because as you've used the expression "the
15 criminal decision-making process," it makes sense
16 that the criminals aren't going to tell the
17 students, oh, incidentally, you're helping
18 launder the proceeds of crime because --
- 19 A Yeah. No. Exactly. No. We're pretty sure that
20 doesn't happen.
- 21 Q And wouldn't it make sense that the -- I'll just
22 use the term "criminals" -- wouldn't tell the
23 wealthy Chinese investor that the money you're
24 getting in the UK to buy the flat is the proceeds
25 of crime and is a serious criminal offence?
- 26 A Yeah, so there's obviously a cut-out in the
27 middle. I mean, the criminals don't get to see
28 what happens to their money. It's like I
29 explained yesterday, all the criminal is aware of
30 is he hands over a bag of cash in a supermarket
31 car park, so will go and collect it, and he
32 receives a reciprocal payment in the destination
33 of his choice. So he wouldn't know what happens
34 to the cash once he's handed it over.
- 35 Q No. But this informal value transfer system, to
36 use my fictitious example, that's used by
37 criminals -- it may be used by criminals -- but
38 the original source of the cash from the wealthy
39 Chinese businessman may not be itself the
40 proceeds of crime, it may have been legitimately
41 earned?
- 42 A Yeah, that's certainly true.
- 43 Q And the person who assisted in moving it out of
44 China -- the Chinese students, I should say, who
45 are helping launder this, they aren't aware or
46 may not be aware that it's the proceeds of crime?
- 47 A Yeah, I mean, I think it depends on the level to

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

1 which they are allowing their bank accounts to be
2 used. I mean, if it's a couple of pounds or a
3 few hundred pounds here and there, maybe not.
4 When it gets to the point where some of them
5 have, where they end up with 120,000 pounds in
6 their bank accounts, then I think it's reasonable
7 to start asking questions about that. But, yeah,
8 your point is valid that they may not know, yeah.
9 Q And this same process -- and I'm using the
10 wealthy Chinese businessperson who visits London
11 -- that same informal value transfer system may
12 be used to allow the wealthy Chinese businessman
13 to purchase a Bentley or some other expensive
14 vehicle?
15 A Yeah, yes. I mean, it can be used for anything
16 basically.
17 Q Or money for a gambling junket?
18 A Yeah.
19 Q Yeah --
20 A We don't actually have gambling junkets in the
21 UK, but yeah, but your point is valid, they might
22 want to take it into a casino, yes.
23 Q Let me just -- do you have casinos in the UK?
24 A Casinos, yes. We don't -- I have not seen -- in
25 terms of casino junkets where, you know, the
26 gambling holidays, we don't see any reports of
27 those. I know a guy on the Gambling Commission
28 who does their the antimoney laundering side, and
29 he tells me that that's something you just don't
30 see. But I'm aware of their existence in other
31 countries, like Australia and Canada, in places.
32 Q And just let me ask you about the private sector
33 law enforcement partnership that you discussed
34 yesterday. And it sounds like it's been a
35 success?
36 A Yeah, very much so.
37 Q So, and with this -- and this is relatively
38 recent phenomena, if I can put it that way -- not
39 phenomena, but practice, over the last --
40 A Yeah.
41 Q -- three, four, five years?
42 A Yes.
43 Q And do you -- the information -- for example, the
44 2019 ethnic Chinese money laundering in the UK
45 document that you helped put together, that is --
46 is that available to private organizations?
47 A Yes. Yeah, it's been widely distributed.

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

1 Q So it's something that -- would it be available
2 for other government bodies, then, to view?

3 A Yeah, I mean, we've shared it widely with
4 international partners. So it's even gone --
5 like I say, it's even gone to the Chinese
6 authorities.

7 Q And it would be available for casinos, then, to
8 be able to read and to help inform themselves?

9 A Yes, yes.

10 Q And if a casino told you that law enforcement
11 provided information in this sharing of
12 information about what appeared to be significant
13 money laundering, and it was credible, law
14 enforcement would then investigate that?

15 A Yes.

16 Q The last thing I want to ask you about is,
17 because you're involved in economic crimes, I
18 think was the description that you used, is it
19 your experience that in the past, not enough
20 attention has been paid by law enforcement to
21 economic crimes?

22 A I think it's probably true to say that. I mean,
23 let me put it into my own perspective. A long
24 time ago, I was -- I've worked on a team that
25 basically chased bags of drugs around --

26 Q Mm-hmm.

27 A -- and it was during one of those investigations
28 that I suddenly realized -- I had an epiphany
29 really -- we seized an awful lot of heroin, about
30 108 kilos, and the people we seized it off were
31 annoyed, but they were -- but what made them much
32 more annoyed was the fact that we ended up
33 seizing the BMW that they were driving around in.
34 And all of a sudden I realized, well, hang on a
35 minute, it's got nothing to do with the drugs,
36 it's actually all about the BMW, that's the
37 important thing. And so I had an epiphany then,
38 and that's really what drove me into my career as
39 dealing with money laundering. I think a lot of
40 people don't have that epiphany. I think a lot
41 of people still think that the prime mover is the
42 drugs. But as I insist on telling everybody, and
43 as I mentioned during Mr. McGowan's questioning,
44 the whole point of the crime -- not -- I mean,
45 not every single crime. Some crimes have
46 different rewards. But most crime, most
47 commodity-based crime, the point is the money.

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

- 1 Q Mm-hmm.
- 2 A And so in my view, we could be doing more, not
3 just in the UK, but around the world, in terms of
4 understanding and tackling money laundering.
5 That's why I do what I do.
- 6 Q But economic crime covers all kinds of fraud, for
7 example, doesn't it?
- 8 A Yeah, it does.
- 9 Q Market manipulation and what have you.
- 10 A Yeah.
- 11 Q Does your economic group investigate those kinds
12 of frauds?
- 13 A Yeah, the National Economic Crime Centre, its
14 three primary focuses are serious money
15 laundering, public sector fraud -- sorry --
16 private sector fraud --
- 17 Q Mm-hmm.
- 18 A And when I say "private sector fraud" I'm talking
19 about things like business email compromise,
20 romance fraud, things like that --
- 21 Q Mm-hmm.
- 22 A -- things that affect private individuals. And
23 asset denial. HM Revenue and Customs, their
24 remit is essentially tax crime, so they deal with
25 public sector fraud, so things like that. But,
26 yes, but fraud is, you know, is alongside money
27 laundering as a priority for the National
28 Economic Crime Centre.
- 29 Q I'm using "economic crime" in a broad sense. Is
30 that a significant contributor to money
31 laundering in the UK, would you say?
- 32 A Yeah. I mean, anything that is -- you know, the
33 idea of a fraud is to make money. As soon as
34 you've illegally made money, you've done a
35 laundering in some way, shape or form. So,
36 clearly, that is a significant contributor to the
37 money laundering trade.
- 38 Q Any sense of whether economic crimes contribute
39 more or less to money laundering in the UK than
40 drug trafficking?
- 41 A Who knows. For the reasons I mentioned earlier
42 on.
- 43 Q Okay.
- 44 A I mean, various figures have been put on the
45 amount, the cost of fraud in the UK.
- 46 Q Mm-hmm.
- 47 A I've heard a figure of 190 billion pounds

Simon Lord (for the Commission)

Examination by Mr. Smart, Counsel for the B.C. Lottery Corporation

1 mentioned. I treat that -- that figure with
2 caution, personally, because I just don't think
3 it's possible to be that specific. We don't know
4 is the true answer.

5 Q Mm-hmm.

6 A And I'll defy anybody to come up with realistic
7 figures to prove otherwise.

8 Q The reason I ask you is because the Commission is
9 looking at money laundering generally in this
10 province, and we've heard some evidence earlier
11 before you that maybe there's not enough
12 attention by law enforcement in this country to
13 commercial crime. I mean, it can often be
14 expensive and slow and difficult to investigate.
15 So that's why I was asking you. Do you think a
16 greater focus by law enforcement on commercial
17 crimes, economic crimes, generally would be
18 beneficial to combating money laundering?

19 A Yeah, most definitely. I mean, so in the UK, we
20 have a body called the Serious Fraud Office.

21 Q Yes.

22 A And, you know, it does what it says on the tin
23 basically. Their role is to investigate those --
24 that type of stuff that we're talking about, the
25 serious, complex, difficult type of frauds which
26 will take, you know, three years to investigate
27 and six months of court time to go through all
28 the paperwork to prove. My view is that it is as
29 important to chase down that type of fraud as it
30 is the type of thing that affects the individual.
31 I mean, but you can't -- their relative
32 importance is difficult to gauge, because how --
33 if a corporation has been defrauded to the tune
34 of like 500 million pounds, but made a profit of
35 6 billion last year, how do you say that that is
36 more important than a poor depressed and rather
37 desperate person, you know, in a bed-sit in
38 London who has fallen victim to a romance fraud
39 and has surrendered their life savings to someone
40 in Nigeria and has -- you know, and has been
41 seriously affected by it? You know, how do you
42 weigh out what's important against -- against the
43 other?

44 Q Mm-hmm. I'm looking at the money laundering
45 process and whether then economic crimes are
46 significant -- if we're going to -- if we're
47 going to try to reduce, because we're not going

Simon Lord (for the Commission)

Examination by Ms. Peddle, Counsel for Robert Kroeker

1 to stop money laundering, are we?

2 A No.

3 Q To try to reduce it, perhaps some further focus
4 by law enforcement on economic commercial crimes
5 would be useful?

6 A Yeah, I mean, in general terms, as a wider point,
7 yes, I think we should concentrate more on
8 economic crime. I wouldn't say that we need to
9 do it to the detriment of the other types of
10 crime, because there's always a balancing act.

11 Q Yeah.

12 A But, yeah, I think economic crime is probably
13 under-addressed generally in law enforcement
14 across the world.

15 MR. SMART: Thanks very much. Those are my questions,
16 Mr. Lord.

17 A No problem.

18 MR. MCGOWAN: Yes, Mr. Commissioner, next on the
19 batting order is Ms. Peddle, counsel for Mr.
20 Kroeker.

21 THE COMMISSIONER: Thank you. Ms. Peddle.

22 MS. PEDDLE: Thank you.

23

24 EXAMINATION BY MS. PEDDLE:

25

26 Q Mr. Lord, first I just want to follow up on the
27 idea of a gambling junket that came up in Mr.
28 Smart's questions. What is the definition of a
29 gambling junket?

30 A So my understanding -- and as I say, it's not
31 something that we tend to see in the UK, but it
32 is an organized gambling holiday essentially. So
33 what you have is a situation where a tour
34 operator will offer the chance for a group of
35 individuals to travel to a location and to bring
36 -- you know, and the purpose of the travel is to
37 spend all their time sitting in a casino, playing
38 tables, doing roulette, all that sort of
39 business. That's essentially what a junket is,
40 is my understanding.

41 Q So does the money need to be made available in
42 the casino by a third party ready to play for it
43 to constitute a junket?

44 A No. I mean, I think the gambling -- you know, it
45 depends on where -- depends on who the clients
46 are and where the junket is taking place. I
47 mean, if you're in a situation -- I mean, for

1 example, it will be a lot easier if you were a
2 Chinese citizen, that you lived in Hong Kong and
3 you were going to Australia to carry out a
4 junket, it's a lot easier because the currency
5 restrictions that apply in Australia and in
6 Mainland China don't apply in Hong Kong. So you
7 could probably take your money with you if you
8 wanted to do that.

9 Q Okay. So now I just want to discuss the public-
10 private partnerships you described in your
11 evidence yesterday and a bit today. Your
12 evidence was that these partnerships not only
13 provide a better response by law enforcement, but
14 also the private sector to take preventative
15 steps to address risks within their own systems,
16 which you said had significant impacts on the
17 ability to combat money laundering in the UK.

18 A Yes.

19 Q And what you described was partnerships between
20 law enforcement and the private sector,
21 specifically banks?

22 A Mm-hmm.

23 Q Am I correct in assuming that the same would
24 apply to casinos?

25 A Yeah. You know, the -- if you're investigating
26 gambling through a casino, obviously one of the
27 things that you will routinely do is go to the
28 casino and take witness statements and pick up
29 documents and things. But I can certainly see an
30 argument for having a partnership arrangement in
31 place like the Joint Money Laundering
32 Intelligence Task Force where you could share,
33 routinely share sensitive operational
34 intelligence on cases that have not yet reached a
35 judicial stage.

36 And that's what happens with the JIMLIT. As
37 I say, every Tuesday people come into the NCA's
38 headquarters in London and they routinely share
39 -- people from the various police forces -- and
40 they will say, we're investigating this guy, we
41 know he's got a bank account here, this is what
42 he's suspected of. And all they've done is
43 they've got to the stage of maybe applying for
44 production orders or they're following him
45 around. They certainly haven't gotten anywhere
46 near arresting him.

47 So, as I say, it's very much in the covert

1 stage of the investigation where that happens.
2 And I can certainly see there being an argument
3 for that with casinos, especially if, in a place
4 like B.C., for example, where I understand that
5 casinos are quite widely used for this type of
6 activity.

7 Q And that would include not only the casinos
8 themselves, but the sharing of information
9 between police and lottery corporations who
10 oversee and manage the casinos, as well?

11 A Yeah, that's right. I mean, the most important
12 thing to bear in mind in respect of public-
13 private partnerships -- I'm a big fan, as you'll
14 have gathered, and I think they're extremely
15 successful -- we're lucky in the NCA in that when
16 the National Crime Agency was created -- and I
17 mentioned this, the *Crime and Courts Act*
18 yesterday, *Crime and Courts Act 2013* -- written
19 into the legislation was this very wide
20 information sharing panel that we have, which
21 makes it legal for anyone to share information
22 with the NCA in the course of -- you know, if
23 it's needed in the execution of our duties.

24 So I completely -- I completely agree that
25 the more you can share information with the
26 private sector, the better your response is going
27 to be, because there is always going to be --
28 there are always going to be capabilities that
29 the private sector will be able to bring to the
30 table that law enforcement won't with sort of
31 non-traditional intervention. But as I say, one
32 of the things you have to get around is the legal
33 procedure by which to do that. And as I say, we
34 were lucky in the UK in that we got that on the
35 -- written into the legislation when the NCA was
36 formed.

37 Q So, law permitting, though, you would agree that
38 it's beneficial to share information between the
39 private sector as well as government entities?

40 A Yeah, I mean, all you're going to build into it
41 is the -- the confidence in -- certainly from the
42 policing point of view, that the information is
43 not going to be misused. And one of the ways
44 that we've gotten around that in the JIMLIT in
45 the UK is that we security-vet all of the
46 individuals who are put forward by the banks to
47 take part in this. So, you know, we actually do

Simon Lord (for the Commission)

Examination by Ms. Peddle, Counsel for Robert Kroeker

- 1 the security clearance for them, and they're all
2 security-cleared to SC level, which means they
3 can see secret information.
- 4 Q And so information sharing between the Crown
5 lottery corporations and police would be
6 beneficial, direct communication is beneficial,
7 and it would be better to have that information
8 passed directly rather than through
9 intermediaries, just because of the timely nature
10 of these kinds of operations, as you discussed
11 with the bank example yesterday?
- 12 A Yeah, a hundred percent. So, as I say, the
13 JIMLIT meets every Tuesday and people sit down
14 and drink coffee together and -- and sit around
15 the table and routinely share stuff that they are
16 seeing now, you know, so things -- things that's
17 popped up. And the really good thing is that it
18 isn't just law enforcement telling things to the
19 private sector, it works in the opposite
20 direction like the example I said, the Barclays
21 Bank yesterday. We have got this issue we've
22 identified through our transaction monitoring and
23 we would like to present it to you because we
24 want to work together with you to prevent it.
25 And as I say, it's rather than going --
26 having to apply for court order rather than going
27 through all that sort of business. I mean, you
28 get to the stage where if you want to use it as
29 evidence, then you need a court order, because
30 that's just what the law says. But, nonetheless,
31 in terms of actually progressing in investigation
32 at the intelligence stage, the fact that you can
33 share it straight away over the table, without
34 any sort of concerns about the information going
35 astray or being misused, is a massive boom.
- 36 Q And not just for investigations, but also for
37 these entities to actually take preventative
38 steps --
- 39 A Yes.
- 40 Q And --
- 41 A Yeah, a hundred percent. I mean, you know, law
42 enforcement gets to leverage the power of
43 businesses, and businesses get all the current
44 bang up to date intelligence about how money
45 laundering works, and they can build that into
46 their risk management process.
- 47 Q Right, and so certainly the regulators should not

1 be hindering the sharing of information between,
2 in this example, the entities that manage the
3 casinos and the police? They shouldn't stand in
4 the way of that information sharing?

5 A My opinion is that they shouldn't. I mean,
6 that's just my opinion. But, I mean, in the UK
7 -- in the UK, there was -- when the JIMLIT was
8 being set up, one of the things that was
9 discussed was whether the Financial Conduct
10 Authority, whose job it is to regulate the banks
11 for anti-money laundering purposes, were going to
12 be included in the process because there was
13 obviously a fear from some people that the FCA
14 might use information that was shared for
15 purposes which the banks would rather they
16 didn't. But we got over that. There are ways.
17 If there is enough political goodwill in most law
18 enforcement and regulators and the private
19 sector, you can overcome these problems. It's
20 happened in the UK, and Australia has got a very
21 similar system, as well.

22 Q Right, and in that example you gave with the
23 banks, the fact that a lottery corporation, like
24 a bank, is not engaged in law enforcement isn't a
25 satisfactory reason to keep them out of the loop
26 of this information sharing?

27 A No.

28 Q And you'd agree that, to the contrary, it's most
29 critical for the entities that manage the casinos
30 to be in the loop because they're the ones who
31 need to act on the information from the
32 authorities, and they're actually best placed,
33 along perhaps with the casinos themselves, to
34 pass on relevant information to the police?

35 A Yeah. The important word in all of this is
36 partnership. So one of the things that the
37 JIMLIT facilitates is the discussion about what
38 the best course of action is amongst different
39 players, and that's what's led, to a large
40 extent, to the situation in the National Economic
41 Crime Centre is that it's about a partnership.
42 It's about everyone sitting around the table and
43 sharing the information and deciding between them
44 what is the best way of doing things; recognizing
45 that in some cases, for legal reasons, a
46 financial institution might have to do something
47 like exit a relationship or something like that.

1 But at least then, you know, if a bank says,
2 well, listen, you know, although the processes
3 that we've got built into our systems mean that
4 we've got to exit this relationship, at least
5 then they're going to share that information with
6 the investigating body and they can sort of
7 decide what it is they're going to do about it.

8 The key thing is partnership. That's the
9 same with all of this. It isn't about different
10 people sharing information and then going off and
11 doing different things without telling each
12 other. You've got to be able to sit down and
13 discuss these things and come to a common
14 understanding of what is going to happen.

15 Q And quite aside from the police, information
16 sharing with police, to continue my example, I
17 take it you would agree that information sharing
18 between the two Crown entities in this case
19 responsible for gaming in Canada, the regulator
20 and the lottery corporation, is of central
21 importance, and that it should be, as you've
22 discussed in other contexts, a two-way street?
23 So, to take B.C. as an example, that the B.C.
24 Lottery Corporation reports to the regulator
25 GPEB, but GPEB should also openly communicate
26 with BCLC and tell them what they're doing and
27 what they're identifying in terms of risk?

28 A Yeah, my personal opinion is, yeah, that should
29 be routine.

30 Q And so, for instance, if the regulator had
31 important information that the lottery
32 corporation could act on to mitigate money
33 laundering risks within casinos, such as new
34 typologies, that it would be important in terms
35 of combating money laundering to share that
36 information with the lottery corporation and the
37 casinos?

38 A Yeah, I mean, as long as the legal process is in
39 place that you can do that, then I would say
40 absolutely.

41 Q And so then it would not be satisfactory for GPEB
42 to identify issues but not want to provide any
43 specifics to BCLC about these issues, if they
44 were legally entitled to do so?

45 A Yeah, I mean, I'm not going to get drawn into
46 what's satisfactory or not in a situation like
47 that. It seems to me that the sharing of

- 1 information is a good idea, and the more of it
2 you do, the better. But as to whether it's
3 satisfactory about one person's conduct or
4 another, I'm afraid I'm not in a position to say.
- 5 Q But certainly, at a minimum, for example, if a
6 compliance audit is conducted by the regulator,
7 it would be worthwhile for the lottery
8 corporation to be made aware of the audit, have
9 input into it, and maybe most importantly, to be
10 made aware of the results so that they can
11 address any of the issues identified and take
12 preventative action?
- 13 A Yeah, like I say, all of this is about
14 communication and about partnership. I mean, the
15 more you talk to each other, you know -- I'm a
16 big fan of it really -- the more you do it, you
17 know, within the bounds of what's legally
18 permissible, the better it's going to be for all
19 parties.
- 20 Q And as you may know, in Canada, lottery
21 corporations such as BCLC have the ability to ban
22 players from casinos. If BCLC wanted to keep
23 problematic players who were on the police radar
24 out of casinos and prevent casinos from being
25 used to launder money, would it generally be
26 advisable, in your experience, for the names of
27 players to be provided to BCLC by law
28 enforcement, or by the regulator, so that they
29 could act on that information to ban the players?
- 30 A Yeah, I mean, you're getting dangerously close
31 into beckoning to data protection regulations and
32 things like that, aren't you, and sharing a
33 person's identifiable information. So it all
34 comes back to what the legislation says and what
35 should be legally permissible to do. But all
36 that said, if you are able to identify people who
37 may well be either deliberately laundering money
38 through a casino or unwittingly being used as an
39 outlet for criminal cash, then it would make
40 sense that the identities of those individuals
41 would be made available to the right people,
42 albeit it's in a protected way, in order to sort
43 of, you know, decide what intervention you're
44 going to put in place.
- 45 Q Right, because certainly these players shouldn't
46 be allowed to continue playing for months and
47 years without them being able to do anything

1 about it? Assuming they had no other means of
2 identifying them.

3 A Yeah, I mean, you know, it flies in the face of
4 reason, it seems to me, that if someone has been
5 identified gambling a colossal amount of money
6 that they don't appear to have any justification
7 for possessing, then there ought to be some sort
8 of inquiry made into that and decisions taken
9 accordingly. I think just leaving it to carry on
10 is going to get you into hot water at some point.

11 Q So I just have a few more questions on this
12 topic. Would you agree that it's beneficial for
13 lottery corporations to provide information to
14 the police regarding suspicious activity
15 observed, in particular when the lottery
16 corporations have insufficient visibility into
17 the issue and cannot themselves act on that
18 information? And would it be particularly
19 beneficial for there to be a specialized police
20 unit that this type of information could be
21 directed towards, as you've kind of described in
22 the UK?

23 A There's a lot of questions that were built into
24 there. In general terms, like I said, sharing
25 information is always a good idea. The ability
26 of policing generally to work together to combat
27 different types of economic crime is a good idea.
28 Working in silos with one part of the silo not
29 knowing what the other part of the silo does is
30 not the best use of resources and does not
31 leverage capability effectively.

32 So, like I've been saying all along, sharing
33 information within the bounds of what is legally
34 permissible is a good idea, because it benefits
35 everybody. I mean, I don't think there have been
36 any sort of downside of that in the UK that I'm
37 aware of. And like I said, being able to work
38 together to combat the problem, regulators, the
39 actual people who own the casinos, the people who
40 run the casinos, the people within -- you know,
41 security within casinos who can see what people
42 are doing, all of those sort of people need to
43 work together as a coherent hold in order to deal
44 with these issues.

45 Q And, sorry, I did build a couple of questions
46 into there. The last question was whether you
47 have -- in your experience, that it's been

1 particularly beneficial for there to be a
2 specialized police unit that this kind of
3 information could be directed towards?

4 A I think it helps for there to be -- the
5 investigation of serious complex economic crime,
6 to some extent, is a speciality. In the UK, we
7 have -- and I don't know whether it's the same in
8 Canada, but in the UK, we have financial
9 investigators who are people who are specially
10 trained, you know, in the various different
11 techniques of investigating various types of
12 financial crime, money laundering. And I've gone
13 through all of that training, so I've been
14 trained in financial investigations, and hence,
15 financial investigation, money laundering, cash
16 seizures, all that sort of stuff, confiscation.
17 It helps if you have people who are -- who sort
18 of move into that specialism so that you can feed
19 that information to those individuals. Now,
20 whether that has to be something like the
21 National Economic Crime Centre or whether it has
22 to be within a policing unit, a team which
23 specializes in dealing with serious complex
24 economic crime, yeah, I think in general terms,
25 the more you can concentrate this together, a
26 meeting of minds, the more effective the
27 investigation is likely to be.

28 Q And you mentioned you have financial
29 investigators in the UK. Do you also retain non-
30 police trained professionals like accountants to
31 assist with money laundering and financial crime
32 investigation?

33 A In the NCA, we don't, but in -- people like HMRC
34 do. I say we don't. To my knowledge -- and I'm
35 sure I'm going to get a phone call any minute now
36 if there are actually people in the NCA who can
37 fulfil that role -- but we can call accountancy
38 specialists if we need to because, as I say, one
39 of the things that we do endeavour to do is work
40 in partnership with people. And I've already
41 mentioned -- probably worth mentioning again --
42 Drug Money Laundering Intelligence Task Force is
43 moving into the accountancy sector and the
44 insurance sector, as well.

45 Q Mm-hmm. In your experience, in terms of
46 combating money laundering, if an entity comes to
47 the police with suspicious activity or something

1 that they have concerns about, and the police
2 don't have the resources -- they just simply
3 don't have the resources to deal with that
4 particular issue, would you agree that it would
5 be of assistance for that to be conveyed to that
6 entity and provide -- who provided that
7 information so that they can evaluate what other
8 steps they can take to address it?

9 A That's a really tricky question, and I say that
10 because -- the thing is, what you have to bear in
11 mind is the sheer amount of information that the
12 people whose job it is to receive that actually
13 receive. So, in the UK, we receive I think in
14 excess of a thousand SARs a day. Now, you know,
15 the UK Financial Intelligence Unit is made up of
16 a great bunch of people, but you physically
17 cannot deal with a thousand SARs a day,
18 especially when some of them are SARs which are
19 what we call defence against money laundering
20 SARs, so where people are actually seeking, you
21 know, something called a consent.

22 I don't know whether you have the same
23 situation in Canada. But if -- let me just
24 quickly explain one I know so you can see what I
25 mean. Where someone is presented with a
26 transaction and they're in a position where they
27 think they want to carry it out, but they have a
28 suspicion of money laundering, one of the things
29 that they have to do is seek consent from the UK
30 Financial Intelligence Unit to carry out that
31 transaction. And by being given the consent of
32 the FIU to do that, that is what's called a
33 defence against money laundering, because one of
34 the things that's built into our legislation is
35 you're allowed to do something if you've been
36 told you're allowed to do it by us, essentially.

37 We get an awful lot of defence -- DAMLs,
38 they're called, defence against money laundering
39 SARs, so we get a lot of those in on a day, and
40 they're resource-intensive to deal with. Because
41 one of the first things you have to do when you
42 get it is triage it, so you look and see if
43 anyone's actually actively investigating it, and
44 then you've got to look to see if you can place
45 it somewhere where someone can make those
46 inquiries.

47 So when you're dealing with a thousand SARs

1 a day and you are also dealing with a number of
2 those, being DAMLs, it is -- you know, you would
3 need thousands of people to be able to give
4 feedback on every single SAR that you receive.
5 So whilst I agree that it would be beneficial to
6 be able to give that feedback, if you're not
7 actually going to take action about the
8 intelligence that's there, sometimes I would say
9 that simply isn't possible.

10 However, one of the most important things
11 that you should be doing in that sort of
12 situation is making that information available to
13 the people who have the, you know, right level of
14 access to it.

15 So, in the UK, all of the suspicious
16 activity reports we receive go onto a database
17 called Moneyweb. So that's every single SAR that
18 gets submitted, after it's been triaged and, you
19 know, things like the more confidential serious
20 ones get taken out, like terrorism or crimes in
21 action. They all go into a system called
22 Moneyweb. And if you're a financial
23 investigator, one of the -- or a financial
24 intelligence officer -- one of the advantages
25 that that confers upon you is that you have
26 routine access to that data. And it's infinitely
27 searchable, so you can search on parts of names,
28 post codes, phone numbers, bank account details.
29 You can search on text in the body of the SAR and
30 all the rest of it.

31 So you've got to -- if you're not actually
32 going to address -- examine and address every
33 single SAR, then you've got to be able to make
34 the information available. And part of the --
35 the skill of that is making that known to the
36 people who submit the SARs so that they don't
37 think they're just banging in SARs and no one's
38 ever looking at them and it's all been a
39 fruitless exercise.

40 So I know that's a long complicated answer,
41 but it -- you know, in terms -- and I'll bet it's
42 the same with FINTRAC, I bet they get far too
43 many reports to be able to give independent
44 feedback on every single one.

45 Q But instead of talking about just suspicious
46 reports, the required reports, if an entity is
47 getting repeated information about a particular

1 issue and they are going to law enforcement again
2 and again about that issue, and there are no
3 police resources to deal with it, in that
4 situation, would you expect some kind of follow-
5 up from law enforcement?

6 A Well, actually in that situation, if you've got
7 somebody who's reporting the same person again
8 and again and again for the same type of
9 transaction, then you would have to ask questions
10 of the people who continue to process those
11 transactions, because what they should be doing,
12 if they have a suspicion about a first
13 transaction and they -- and, you know, they only
14 find out about it after the transaction's been
15 completed, but they then put a SAR in to say this
16 has happened, the second time that person comes
17 in through the door, they should be seeking a
18 defence against money laundering.

19 That's the way it works in the UK, and if --
20 because if you're putting the same -- if you're
21 putting a SAR in about the same person over and
22 over and over again, you are essentially
23 committing money laundering, because you suspect
24 that person of being involved in criminal
25 activity, and yet you are facilitating the
26 transaction.

27 So actually it isn't about whether there's
28 an effective response from the law enforcement,
29 there is an onus on the people who are reporting
30 the transaction to do something about it
31 themselves. And one of the things I always say
32 to people is you can always say no. If that
33 person walks in again, you can say, you know
34 what, I'm just not going to -- I'm not going to
35 serve you, I'm not going to deal with you, I'm
36 going to close your bank account, we don't want
37 to see you anymore, thank you very much.

38 Q Right --

39 A You don't have to -- you don't have to do 300
40 transactions for a suspicious guy.

41 Q Just to clarify. I should have been more
42 specific. The transactions -- in a situation
43 where the transactions were refused but the issue
44 is happening outside of the entity itself, so
45 it's out of the -- it's out of the entity's
46 actual control, the -- it can't deny these
47 transactions. It's doing everything it can in

- 1 its power. But what needs -- essentially the
2 only thing that can be done is law enforcement
3 acting?
- 4 A Well, yeah, I mean, in a situation like that, in
5 UK what would happen is that would be brought
6 into the JIMLIT, in most circumstances, which --
7 and what you're describing actually is very
8 similar to what Barclays Bank found themselves
9 with, with the -- as I say, the use of their
10 automated service devices. In the UK, the answer
11 was, identify it, bring it to the NCA, and work
12 together to tackle the problem.
- 13 Q Right, because in that case you need law
14 enforcement response, like with the Barclays
15 issue?
- 16 A Yeah, you need a partnership response, but in --
17 you know, if, you know, for some reason we've
18 shut up shop or we couldn't deal with it or cope
19 with it, something like that, then the onus would
20 then be on the bank, if you think it's
21 suspicious, to close down the loophole that
22 created the issue in the first place. And
23 actually Barclays have done that.
- 24 Q Right. So before I move on to the last areas,
25 which I promise will be more brief, I'm hoping
26 you can actually just describe in a bit more
27 detail how the system in the UK is set up in
28 terms of the information sharing and in terms of
29 manpower and cost and the specialized unit. Or
30 if that's too large of a question --
- 31 A Well, break it down into small bits. What are
32 the things you're most interested in? Because
33 you asked me about four different things there
34 again, so --
- 35 Q Right, so just in terms of how it actually works,
36 like how -- how does the -- what is the extent of
37 the cooperation between the public and private
38 sectors and how does that information sharing
39 actually work?
- 40 A Okay, so we routinely share information much more
41 than we used to, as a police, and sometimes we do
42 it in an informal way, by doing things, for
43 example, like I might go along and deliver a
44 presentation. I was -- just to give you an
45 example. On the 6th of June, I was originally
46 due to go along and talk to a law company -- a
47 law firm in the UK that does an awful lot of

1 conveyancing, because they had realized,
2 following on from a presentation I did at the Law
3 Society, that they've got a lot of clients who
4 were purchasing property in the UK and couldn't
5 work out where the money was coming from. So I
6 was going to do that type of thing, which is an
7 informal one to one information sharing session,
8 something like that.

9 And generally we will get those sort of
10 requests, and as long as there's -- you know,
11 there were no sort of serious concerns about
12 security, we would generally try and facilitate
13 that sort of information sharing on a -- I won't
14 call it informal basis, but on a sort of like a
15 one off sort of situation. So that's that type
16 of stuff, and we try and do that a lot.

17 In terms of the Joint Money Laundering
18 Intelligence Task Force, like I've said, what
19 happens is people will apply to become part of
20 the JIMLIT and -- and there are always going to
21 be capacity issues, because obviously the more
22 people you get in, you get physical things like
23 getting them through the gates and making the
24 room big enough and being able to process the
25 data, things like that. But generally we would
26 try and facilitate that. And in those
27 situations, there's a weekly meeting, on a
28 Tuesday -- I think it's still a Tuesday -- where
29 all of the representatives from all of those
30 financial institutions come to the NCA's
31 headquarters, and they will sit down around a
32 table and a law enforcement officer will turn up
33 from whatever police force it is -- might be from
34 the NCA, might be from HM Revenue and Customs, or
35 whoever -- and they will present their case to
36 the group and say, this is the type of
37 information that we're interested in. And then
38 all of the people who are sitting around the
39 table from the financial institutions are then
40 able to ask them questions, have you done this,
41 have you thought of that, where -- you know,
42 where does the guy live, what sort of things does
43 he do, and then they will go away and they will
44 look at their data holdings. And depending on
45 what financial institution it is, it will depend
46 on the extent to which they'll look at their
47 transactions.

1 So, some of the banks, for example, that
2 have an international footprint and who do a lot
3 of correspondence banking, we'll routinely look
4 at their correspondent banking records where
5 they're acting as correspondent for a bank that
6 might be in St. Lucia that's sending money to, I
7 don't know, the UAE or something. When the money
8 doesn't actually come anywhere near the UK, but
9 they are able, by looking in their correspondent
10 banking transactions, to find that that person
11 has actually made a transfer doing that. In
12 those sort of circumstances, they will come back
13 to the -- under a s. 7, which is the gateway
14 request which I talked about, the information
15 sharing gateway -- and they will share that
16 information with the law enforcement officers.
17 And in general terms, they will say, if you would
18 like that information in an evidential format,
19 this is what you need to put in your production
20 order. And then that enables the financial
21 investigator to go off to court to get an order
22 which compels the bank to hand over the
23 information. But the joy of it is they know the
24 information exists and they know what it's going
25 to say before they get to it.

26 And essentially that's the way it is, and so
27 -- and it's very much a collaboration. And then
28 you could have a conversation by saying, we've
29 done a review of this guy's bank account and now
30 you've raised it to us, we can see something we
31 might have overlooked and we're not actually
32 happy, and so we need to consider, under our own
33 risk management processes, whether we want to
34 exit this relationship. And then there's a
35 conversation to be had about whether that would
36 actually be a benefit or a detriment to the
37 investigation, and what practices they can put in
38 place about, you know, what's going to happen if
39 they take a certain course of action.

40 So like I say, it's very much a case of
41 sitting down, being as open and honest as
42 possible with each other, having those
43 conversations, and genuinely working in
44 partnership and not running away and not telling
45 anybody and decided you're going to de-bank the
46 guy, you know, because you don't want to tell
47 everybody. It is very much a case of being

1 willing to share and being willing to actually
2 work as a meaningful partnership in which those
3 things work.

4 And I guess in terms of, in that respect,
5 from the JIMLIT point of view, it's a meaningful
6 partnership, people sitting down and actually,
7 you know, meaning that they are going to share,
8 they're not going to hide stuff, you know, behind
9 their backs, and they do genuinely want to make a
10 difference. That is the one thing that comes out
11 actually when you talk to people at JIMLIT. They
12 genuinely do want to make a difference in terms
13 of tackling the issue.

14 Q Okay. So now I'd like to turn to smurfing.

15 A Mm-hmm.

16 Q Yesterday you described the general perception
17 amongst criminals that if you take a large amount
18 of money, break it down, that that will fly under
19 the radar. And you pointed out that banks are
20 very good at spotting this tactic, and it's
21 almost guaranteed to result in a report of that
22 activity. And that's because it's well
23 understood that by reporting entities such as
24 banks, that at least sophisticated criminals tend
25 to be aware of these thresholds.

26 A Mm-hmm.

27 Q And they try to avoid them, whereas maybe someone
28 who has a less nefarious purpose may be more
29 likely to transact above them, because they're
30 just not thinking about the threshold. Is that
31 fair to say?

32 A Well, the thing is, professionals -- I mean, I
33 don't know what it's like in Canada, there isn't
34 a threshold in the UK. There is a perception
35 that there's a threshold, but there isn't. I
36 mean, you know, it is theoretically possible. I
37 mean, so consider the case of terrorism finance.
38 Money laundering quite often involves very large
39 amounts of money, like we've talked about, and in
40 a situation like that, you might be -- you might
41 feel compelled to break 50,000 pounds down into
42 10 lots of 5,000 pounds, because you think
43 there's a reporting restriction, stuff like that.

44 Terrorism finance -- and, you know, we have
45 people on the Expert Laundering Evidence cadre
46 who work for the National Terrorism Finance
47 Investigation Unit in the Metropolitan Police.

1 They will quite often tell you that you might be
2 talking about two or 300 pounds at a time for a
3 transaction that will be involved in terrorism
4 finance, but it's tiny amounts. And so it's
5 really important not to have some sort of
6 arbitrary level below which you don't transact --
7 below which you don't need to put a SAR in. It's
8 much more about actually being able to assess the
9 individual circumstances of a transaction and
10 deal with it that way.

11 Q Right.

12 A So --

13 Q By breaking down large amounts into small
14 amounts, it's still suspicious?

15 A Yeah, actually it's more suspicious, because if
16 you -- because if you had a reasonable
17 explanation for the money, you can go into a bank
18 and produce all the paperwork and say, I've just
19 sold a Bentley and I sold it for 50,000 pounds in
20 cash, here's the address on the auto trader,
21 here's the buyer's address, he came and picked it
22 up, this is the cash he brought with him, you
23 know, all of that sort of business, and you can
24 pay it in one go, whereas if you try and sneak it
25 in, in small lumps, the banks are going to spot
26 it.

27 Q And for that reason, not just banks, but other
28 regulated entities that have to report and
29 monitor suspicious transactions are also quite
30 capable of detecting smurfing? Would you agree?

31 A I would say so, yes.

32 Q Including casinos?

33 A Yeah, yes.

34 Q So now I'd just like to ask you some questions
35 about the evidence you gave yesterday where you
36 talked about raising awareness amongst Chinese
37 students in the UK using their bank accounts.
38 And Mr. Smart asked you some questions about
39 this, so I'm not going to repeat those. But you
40 noted both yesterday and today that Chinese
41 gamblers, using IVTS, may not know the source of
42 the funds they're being provided. Do you agree
43 that it would be fair for the casinos, or BCLC,
44 when they see these VIP gamblers coming in with
45 large amounts of cash, to inquire with them about
46 where they're getting their money and to alert
47 them to the potential source of those funds?

1 A My view is, is that one of the -- if you want to
2 tackle this, education is a really useful tool
3 that you can bring to the party. These guys are
4 going to know that the money came out of China
5 illicitly because, you know, you can't move money
6 to B.C. to gamble in a casino by shifting money
7 through a bank, like you have to in China. It
8 has to come through the underground banking
9 mechanism. You know, the extent to which they
10 might consider that to be a bad thing to do is
11 open to question because, in a lot of
12 communities, this just seems a normal thing to
13 do, whether it's allowed by the government or
14 not. I certainly think that having some sort of
15 publicity campaign within casinos, very much like
16 we did with the Chinese students really, just
17 sort of say, this is how the process works, so
18 you need to be aware that the money that you've
19 been given may well have come from an illicit
20 source, would be -- would be a worthwhile thing
21 to do. And it's not just a question of doing it
22 with the customers, but doing it with the
23 casinos, as well.

24 So, I mean, the more -- I gave a -- as I
25 say, I gave a lecture at the Law Society in
26 London just before Christmas where I talked
27 extensively about this, and I've had non-stop
28 questions from lawyers ever since, asking me
29 about what I think they should do in a particular
30 circumstance, you know, because they've got this
31 Chinese guy who's got 2 million pounds in his
32 bank account and he wants to buy property with
33 it, and they've started digging and can't work
34 out where he got the money from. And in those
35 sort of circumstances, you know, that's -- and
36 that's a positive result, because that's --
37 because we've done an educational piece, you
38 know, and it's making people think about it. You
39 know, my advice is, well, we know perfectly well
40 what you should be doing, just go away and do it,
41 that sort of thing. But at least it's making
42 people aware of it and it's, you know, making it
43 more difficult for the people to exploit those
44 type of systems if all the people who are
45 involved in the various stages of it are aware of
46 where it's all coming from.

47 Q And you may or may not have seen this in

Simon Lord (for the Commission)

Examination by Ms. Peddle, Counsel for Robert Kroeker

1 E-Pirate, but BCLC obtained a lot of useful
2 information by interviewing the players who were
3 actually quite open about where they were getting
4 these funds.

5 A Yes.

6 Q And that information was handed over to law
7 enforcement. But would you agree that the fact
8 that they were quite frank about where the money
9 came from supports your assessment about what was
10 going on, that they may not have been aware of
11 the criminal source?

12 A Yeah, they may not have been. I mean, you know,
13 personally, if someone walks up to you and gives
14 you a big bag of \$50,000, I think you'd -- you
15 know, one of the things that anybody who's going
16 to ask, the question is, is where does that come
17 from? But, at the end of the day, if you're
18 expecting a bag of \$50,000, because -- and you've
19 made a reciprocal payment to someone to a bank
20 account in China -- I mean, I have seen the
21 evidence in E-Pirate that suggests that happening
22 -- you know, you're expecting a transaction and
23 it's turned up, so it may be that you just think
24 best not to ask.

25 I mean, in the UK, you see, our law is
26 slightly different to -- in Canada. You know, in
27 Canada, the phrase, I believe, in the *Criminal*
28 *Code* is "knowing or believing." In the UK, it's
29 "knowing or suspecting." And in UK law,
30 suspicion is a much lower test than belief. And
31 so the action of thinking "best not to ask" is
32 enough to get you over the threshold for
33 committing a criminal offence, whereas I don't
34 know it works in Canada, but maybe it's not in
35 Canada.

36 Q Okay, I think those are all my questions. Thank
37 you very much.

38 A No problem.

39 THE COMMISSIONER: Thank you, Ms. Peddle. Mr.
40 McGowan, do we have Ms. Farrell, for the B.C.
41 Civil Liberties Association?

42 MR. MCGOWAN: No, next -- Mr. Commissioner, sorry, I'm
43 just checking my phone for an update on who's
44 coming next. There's been some shifting. Mr.
45 Weafer, for the British Columbia Real Estate
46 Association, is next.

47 THE COMMISSIONER: Thank you.

Simon Lord (for the Commission)

Examination by Mr. C. Weafer, Counsel for the B.C.
Real Estate Association

1 A Mr. Weafer, I think you're on mute.

2 THE COMMISSIONER: Yes, you're --

3 MR. WEAFER: I'm there now.

4 THE COMMISSIONER: There you are.

5 A You're there now, yeah.

6 MR. WEAFER: Thank you. Thank you, Mr. Commissioner.

7 Thank you, Mr. McGowan.

8

9

EXAMINATION BY MR. C. WEAFER:

10

11 Q Mr. Lord, I just have a couple of follow-up
12 questions from your direct testimony. You did
13 not have any material, pre-filed evidence on real
14 estate money laundering; is that correct?

15 A That's correct, yes.

16 Q And Mr. McGowan took you briefly through, in
17 terms of real estate money laundering, and your
18 evidence, as I recall, was that there's not much
19 laundering of money in real estate in the UK; is
20 that correct?

21 A Yeah, I wouldn't say there's not much. We don't
22 encounter it that often, but that doesn't mean to
23 say it's not happening. I mean, there's, you
24 know, an awful lot of people with an awful lot of
25 expensive property, and all sorts of questions
26 can be raised about where the funding for that
27 property has come from. So seeing it and
28 understanding that it's going on are two
29 different things, if you follow me. It's a bit
30 like the argument around about the Chinese
31 underground banking thing. There was an argument
32 as to whether it's always been there and we just
33 weren't that good at spotting it, or whether it's
34 on the increase. So I'm sorry if it was slightly
35 misleading, what I said. I suspect that probably
36 a lot of money is laundered through real estate
37 in the UK, but typically we don't get to see it
38 because maybe the reporting restrictions are not
39 as -- maybe not as good as they should be.

40 Q Right, and is there any quantification of that
41 that you're aware of?

42 A In terms of the amount of money laundering that
43 goes on, I mean, like I said earlier on, that is
44 an extremely difficult thing to assess, for all
45 the reasons I gave earlier, in terms of -- you
46 know, it's an underground thing, so you can never
47 -- you can't count what you can't see essentially

Simon Lord (for the Commission)

Examination by Mr. C. Weafer, Counsel for the B.C.
Real Estate Association

1 is what it comes down to.

2 You know, property -- the thing about -- a
3 couple of years ago, we had a very interesting
4 talk -- it was a conference organized, and we had
5 a very interesting talk on commercial property,
6 from a commercial property lawyer in London. And
7 one of the things that he pointed out was the
8 fact that the ownership structures of even things
9 like hotels and what have you in the UK,
10 commercial property, is often extremely
11 complicated and is carried out through special
12 purpose vehicles. So these will be companies
13 that are incorporated in low tax jurisdictions
14 like Gibraltar and the British Virgin Islands and
15 things like that. And so, to a layman, you might
16 sit down and you might look at the ownership
17 structure of a property, and you might think to
18 yourself, well, that looks really odd because,
19 you know, all these different layers of shell
20 companies and all the rest of it, but what this
21 guy was at pains to point out is, he says this is
22 all -- this is perfectly normal and it's just
23 done for tax efficiency purposes.

24 So one of the issues that you have is being
25 able to look at the ownership of property and to
26 be able to sift out property that has been bought
27 with criminal funds and the ownership of which
28 has been hidden behind a shell company, because
29 they were criminal funds, and the ownership of
30 property which has just been, you know, done the
31 way it is, for tax efficiency purposes. And
32 that's a tricky thing to unpick.

33 Q Right, and that leads to your characterization of
34 anybody who's giving an estimate of money
35 laundering, let's say specifically on real
36 estate, as -- I think the words, they're not
37 being truthful with the facts; is that correct?

38 A Yeah. Yeah, I mean, if you're -- anybody who
39 thinks they can put an accurate figure on this, I
40 think is -- is wrong, frankly.

41 Q It's speculative?

42 A Yeah, it is speculative. It is.

43 Q Thank you. The other point in listening to --
44 and I very much appreciated the pragmatic
45 approach to explaining money laundering and de-
46 complicating it. One of the questions that
47 struck me was with respect to real estate. It's

Simon Lord (for the Commission)

Examination by Mr. C. Weafer, Counsel for the B.C.
Real Estate Association

1 a significant high-value asset, and so if
2 correctly identified as being acquired for money
3 laundering or proceeds of crime, it's a higher
4 risk asset for the launderer or the criminal.
5 Would you agree with that?

6 A Yeah, I mean, it depends on the way it's acquired
7 and the way it's held really. I mean, like I've
8 said, if you -- I mean, there's all sorts of ways
9 of holding an asset which makes it less
10 vulnerable to law enforcement intervention. I
11 mean, the first thing you can do is, like I've
12 described, you can bury it six layers deep in
13 special purpose vehicles and shell companies
14 which are owned by other shell companies. I
15 mean, other ways of doing it would be to put it
16 in a trust. I mean, that is something we do see
17 quite a lot of. You know, you own an asset, you
18 set it into a trust. The trust company then has,
19 you know, the beneficiary of the trust can then
20 the grandchildren, or can be another shell
21 company, something like that. And if you're
22 clever enough and you understand enough about
23 those different types of special purpose
24 vehicles, you can actually reduce the risk of the
25 vulnerability of the property to law enforcement
26 quite significantly.

27 Q Right, but if you're not as sophisticated, you'd
28 agree with me that it's generally a high value,
29 and in a jurisdiction that might have a
30 beneficial registry, it can be identified and be
31 subject to forfeiture for proceeds of crime or --
32 or unexplained wealth orders in your
33 jurisdiction; is that correct?

34 A Yeah, I mean, and I -- I mentioned yesterday that
35 HM land registry, who holds the details of who
36 actually owns the property or who holds the title
37 to a property across the UK -- I said yesterday
38 actually that that wasn't available publicly.
39 What I should have said is that it is available
40 publicly, but there's a fee involved if you want
41 to get that information, so obviously people like
42 lawyers and what have you can obtain that
43 information in terms of doing conveyancing on
44 property. But certainly law enforcement can go
45 to the land registry, find out who holds the
46 title to a property, and if you're a relatively
47 unsophisticated criminal, and the property is in

Simon Lord (for the Commission)

Examination by Mr. C. Weafer, Counsel for the B.C.
Real Estate Association

1 your name and, you know, you've been convicted of
2 a serious criminal offence, inevitably what will
3 follow will be a confiscation investigation, the
4 ultimate aim of which is to take the property
5 back off you.

6 Q Thank you, yes. Another point you made this
7 morning was with respect -- and I understood this
8 to be one of the reasons we don't see -- your
9 evidence this morning where you said there's not
10 a lot of money laundering in real estate in the
11 UK, is the money -- and I may be paraphrasing and
12 not correctly repeat your words, but that the
13 money has been cleaned up before it comes to the
14 real estate transaction. Have I got that
15 correct, and could you just expand on that for
16 us?

17 A Yeah, I mean, I was just giving an example
18 really. I mean, it depends on -- when I was
19 talking about things like that, if you're going
20 to use a legitimate solicitor to do your
21 conveyancing to purchase a property, then clearly
22 the solicitor is going to ask you where you got
23 the money from in order to purchase the property.
24 You know, he's going to ask you whether it's come
25 from a mortgage or something like that. So, in
26 order to satisfy the due diligence that the
27 solicitor is going to do, then you need to have
28 cleaned the money before it gets there.

29 Now, if you're a criminal and you have
30 access to a lawyer who might not be quite so
31 diligent, then maybe you don't have to clean the
32 money before it gets to it. So you would then --
33 you know, so the money would then go to the
34 solicitor in a relatively raw form, if that's the
35 way of putting it.

36 So, like I say, it's -- we see iterations of
37 all of these type of things. Property, money
38 laundering through property, like I say, does
39 happen a lot in the UK. It's just a question of
40 the extent to which you tend to see it as a
41 routine financial investigator.

42 What tends to happen a lot of the time is
43 you get to the point -- I mean, I've done it
44 myself, in a confiscation investigation, where
45 you will end up looking at an individual who's
46 being convicted of, say, drug trafficking, and
47 then you start looking at all his assets and

Simon Lord (for the Commission)

Examination by Mr. C. Weafer, Counsel for the B.C.
Real Estate Association

1 working out where he got them from. And, you
2 know, you know he's tied to that particular house
3 because that's where he lives, and looking at
4 that. Now, at some point, if he's a drug
5 trafficker and he owns the house, then there will
6 have been money laundering which involves the
7 property. But, you know, we didn't actually see
8 it at the point at which he bought the property.

9 If you follow me, and that's what I'm sort
10 of trying to allude to is we don't necessarily
11 see the money laundering at the point at which
12 the property is being transacted. A lot of the
13 time, we'll come across it afterwards, because
14 we're doing a confiscation investigation or
15 something like that.

16 Do you follow me? There's a sort of a
17 distinction there, yeah.

18 Q I do. You're speculating on events that may have
19 occurred before the money came through for what
20 appeared to be a legitimate transaction.

21 A Yeah.

22 Q But we don't know, we're speculating.

23 A Yeah, yeah, yeah. Yeah, a lot of the time, yeah.

24 I mean, you obviously need an awful lot of
25 information to be able to make a definitive
26 finding. It gets a lot easier when you're
27 dealing with confiscation post conviction,
28 obviously.

29 Q Thank you for that. With respect to that
30 description of money cleaned, for lack of a
31 better term, before it comes to the lawyer or
32 perhaps the real estate agent, who's got an
33 obligation to report a suspicious transaction, in
34 Canada, to the extent it's been cleaned, does it
35 make it more difficult to identify the suspicious
36 transaction for that layperson, realtor, or that
37 lawyer, who -- just as law enforcement has a
38 challenge, I take it it's also a challenge for
39 the realtor to identify?

40 A Yeah, I mean, so -- I mean, the whole point of it
41 is, if you were a -- if you are an entirely
42 legitimate legal person whose job it is to
43 facilitate the purchase and sale of property on
44 behalf of private individuals, then, you know, if
45 the job has been done properly, then you won't
46 necessarily know what the source of the funds
47 are. You know, and it depends on the extent of

Simon Lord (for the Commission)

Examination by Mr. C. Weafer, Counsel for the B.C.
Real Estate Association

1 your due diligence really.

2 You know, so there will always be sort of
3 red flags. I mean, you know, if you -- there's a
4 property worth \$2 million and a guy in jeans and
5 a baseball cap comes in, who doesn't apparently
6 have any source of income, but he's got a lot of
7 money in a bank account, then despite the fact
8 that you actually don't know -- there's no sort
9 of like indication the guy's a drug trafficker,
10 then there are still questions you can ask in
11 respect of that. But if they've got a bit of
12 sense about them, they might send a guy who's
13 middle-aged, with a shirt and tie and a suit in
14 to take the same money and deal with it that way.
15 So it depends on the way in which it's going to
16 be presented to the legal professional who's
17 going to be involved in the transaction.

18 So, you know, in terms of are they going to
19 be able to spot it or are they not depends on
20 each individual circumstance, I guess.

21 Q Fair enough. Fair enough. So just back to the
22 sort of modification of what you said earlier,
23 that there's not much money laundering in the UK.
24 When you gave that evidence, you identified some
25 factors in the UK that contribute to what I took
26 to be effective monitoring -- money laundering
27 through real estate. Were you able to give an
28 exhaustive explanation of what you're doing in
29 the UK to assist the Commissioner in terms of
30 reducing or monitoring money laundering through
31 real estate? Do you think your answer this
32 morning was complete?

33 A Yeah, I mean, so the first thing is, is that
34 lawyers and legal professionals involved in this
35 are in the regulated sector in the UK, so they
36 are compelled by law to do all of the -- I mean,
37 my view is they should be doing it anyway, but
38 they're compelled by law to do all of the anti-
39 money laundering inquiries, so the due diligence,
40 source of funds, you know, checking the identity
41 of the customers and all that sort of stuff. And
42 also to submit suspicious activity reports. The
43 key thing about that being, you know, if you get
44 to the point where you are thinking that you have
45 to put a suspicious activity report in about a
46 transaction, then it might actually -- you know,
47 you might actually decide to decline a

Simon Lord (for the Commission)

Examination by Ms. Farrell, Counsel for the B.C. Civil Liberties Association

1 transaction. Whereas if you are not in a
2 regulated sector, you might do all of these sorts
3 of things. You might decide you're not entirely
4 happy, but you might think, well, you know, I'm
5 not actually obliged to report this to anybody,
6 so I'll just carry it on. Do you see what I
7 mean? So the fact that you've got lawyers that
8 are actually in the regulated sector is a defence
9 in itself.

10 Secondly, I mentioned about estate agency
11 businesses, so the people who advertise
12 properties for sale, you know, whether it be on
13 the web or in tradition estate agency shops, they
14 are part of the regulated sector, as well. And
15 so that when people come to them and they want to
16 buy a property, also when they want to sell a
17 property, those people are also compelled to do
18 all that due diligence stuff, as well. So the
19 same thing in the monetary transactions, identify
20 the customer, source of funds, all of those
21 different things. And as I say, that sector, the
22 controls on that sector have been tightened up
23 recently to make the buyer and the seller -- the
24 responsibility of the estate agent to do that.

25 So essentially any transaction that is
26 taking place, you know, a purchase or sale of a
27 transaction, at numerous points, should hit
28 people in the regulated sector whose job it is,
29 under law, to identify any suspiciousness about
30 the transaction and to report those into the UK
31 Financial Intelligence Unit.

32 Q So that's similar to the evidence this morning,
33 which is fine, there was nothing else you needed
34 to add to --

35 A Yes.

36 Q -- your description for the Commissioner? No?
37 Thank you very much, sir. Those are my
38 questions.

39 A No problem.

40 THE COMMISSIONER: Thank you, Mr. Weafer.

41 MR. MCGOWAN: Mr. Commissioner, next we have Ms.

42 Farrell for the British Columbia Civil Liberties
43 Association.

44 THE COMMISSIONER: Thank you. Ms. Farrell.

45 MS. FARRELL: Thank you.

46
47

Simon Lord (for the Commission)

Examination by Ms. Farrell, Counsel for the B.C. Civil Liberties Association

1 EXAMINATION BY MS. FARRELL:

2
3 Q I have a few questions with regards to the report
4 entitled "The Role of Hawala and other Similar
5 Service Providers." And of course I'll just use
6 the acronym HOSSPs for the purpose of these
7 questions. In the report, it defines HOSSPs as
8 money transmitters, particularly with ties to
9 specific geographic regions or ethnic communities
10 which arrange for transfer and receipt of funds
11 or equivalent value and settle through trade,
12 cash, and net settlement over a long period of
13 time. Given this definition, does ethnicity play
14 a role in identifying and investigating potential
15 hybrid and criminal HOSSPs?

16 A No is the sure answer. Ethnicity always comes
17 second to intentions and actions, essentially.
18 The most important thing when looking at an
19 informal value transfer system -- and I hope I
20 made it clear when I was talking about IVTS
21 mechanisms yesterday -- that these things always
22 are set up in response to local conditions to
23 allow people to live their lives effectively.
24 And the unfortunate thing is, is that they've
25 become abused by criminals.

26 So the first point -- the first point in all
27 of this is, is you have to start on the basis of
28 saying that an informal value transfer system is
29 essentially a legal and sensible way of
30 transferring money between different locations
31 that might arise in places of, you know, war and
32 conflict and so on and so forth.

33 So the most -- so you have to start with
34 that. And when we're training our experts in --
35 when we do the Expert Laundering Evidence course,
36 we actually bring someone I know, Dr. Edwina
37 Thompson, who's done an awful lot of work in
38 conflict-affected states and looking at informal
39 value transfer systems, to bring this point home
40 to people, to say that, look, you know, the
41 existence of an informal value transfer system
42 does not mean that it's money laundering.

43 So you have to look at the way that the
44 system works and you have to be able to
45 understand how the system is used legitimately in
46 order to spot when it's not being used
47 legitimately.

Simon Lord (for the Commission)

Examination by Ms. Farrell, Counsel for the B.C. Civil Liberties Association

1 Now, it is the case that certain forms of
2 IVTS are sort of regional specific. So, for
3 example, the way it works in Somalia is different
4 to the way it works in China, because -- but
5 that's -- that's totally because of the local
6 conditions. So in Somalia, for example, there
7 virtually is no banking system. The whole thing
8 has collapsed and the country is perpetually
9 teetering on the edge of -- on the edge of war
10 and chaos. And obviously you've got terrorism
11 and things like Al-Shabaab and what have you.

12 So, in those sort of circumstances, the
13 local culture and the local -- and the local way
14 of life will require the thing that steps in to
15 replace the banking system to work in a
16 particular way, and it will work in a particular
17 way dependent on where the -- where the
18 expatriate population is going to be, and all
19 things like that.

20 I mean, for example, the way it works -- and
21 just as an illustration, the way it works in
22 Somalia is that the Somali community in the UK
23 will go to a money transmitter that has specific
24 links into getting money into places like -- you
25 know, places where no one else can get to, so
26 things like the more difficult places in
27 Mogadishu and things like that, where Western
28 Union don't have a foothold and stuff like that
29 -- and the way it works is they pay their money
30 to a money transmitter. That money is pooled and
31 then sent to another money transmitter in the
32 UAE. The money transmitter in the UAE then lends
33 that money to traders in the UAE, who use it to
34 buy goods, and then importing goods into Somalia,
35 the goods are sold in Mogadishu, and then the
36 resulting funds were used to pay the migrants.

37 Now, that is totally different to the way
38 IVTS works in China because the conditions are
39 different. And so there will always be regional
40 variations, dependent on the local conditions.
41 But in terms of being able to say that ethnicity
42 plays a role in the money laundering, that isn't
43 true. You're still on mute, Ms. Farrell.

44 Q Sorry. Thank you. My next set of questions
45 involve unexplained wealth orders.

46 A Mm-hmm.

47 Q And so earlier you had testified that -- or given

Simon Lord (for the Commission)

Examination by Ms. Farrell, Counsel for the B.C. Civil Liberties Association

1 evidence that unexplained wealth orders are a
2 means of targeting assets that may be generated
3 from criminal activity; is that correct?

4 A That's right.

5 Q Okay, and you mentioned before, as well, that you
6 do not require a predicate offence or even a
7 conviction in order for an unexplained wealth
8 order to be issued; is that correct?

9 A That's correct, yes.

10 Q Okay, and would you agree that having your assets
11 seized is -- can be viewed as a form of
12 punishment?

13 A I mean, it's certainly not an enjoyable
14 experience for the person who owns the assets. I
15 mean, I would certainly agree with you in that
16 respect. It's a fine balance, and when you're
17 going to introduce a peril like that, there have
18 to be obviously controls put in place.

19 So, you know, it isn't a situation -- and
20 actually there's -- if you were to look at the
21 use of unexplained wealth orders in the UK, you
22 would see that the most recent iteration of that
23 is we've just lost a case in the high court in
24 respect of one of these UWOs, because there are
25 -- we're still in the process of understanding
26 the legal technicalities of how they're likely to
27 work. In that case, you know, one of the things
28 that you have to be able to do -- so we will make
29 an allegation. We will go to a person and say,
30 you know, we can't see how you've been able to
31 afford that asset, but what we have to do, of
32 course, is give that person an opportunity to
33 explain where that -- where that money came from,
34 and then once they do that, then we have to look
35 at it and investigate it. And it might be that
36 we're in -- when we made the initial application,
37 that we weren't in a position to know what those
38 people know, and they might be able to come up
39 with a perfectly reasonable explanation as to
40 where that money's come from.

41 And so the most important thing, I guess,
42 with something like that is it's not -- you know,
43 there have to be balances to be put in place to
44 make the process robust enough so that the people
45 who have gained money through illicit activity
46 that we can't detect, lose their ill-gotten
47 gains, because ultimately that has to be a good

Simon Lord (for the Commission)

Examination by Ms. Farrell, Counsel for the B.C. Civil Liberties Association

1 thing for society. But ultimately there has to
2 be balances put in place so that the people whose
3 money is obtained from licit means are not
4 unfairly targeted or punished in that way in
5 which, you know, you suggest.

6 That's not quite the question you asked, but
7 do you see the sort of -- do you see the nuance
8 I'm trying to put into it?

9 Q I do. So I guess my question would be, is it
10 possible to have the assets seized or frozen
11 prior to the issuing of an unexplained wealth
12 order?

13 A Yeah. I mean, so that's the situation we're in
14 at the moment. We actually haven't got to the
15 point where we have forfeited a property yet.
16 there are properties which have got restraining
17 orders or freezing orders on them, and we're in
18 the process of running them through the courts.
19 And like I say, we're still in the learning phase
20 with all of this sort of stuff. So, the end
21 result of the process is the forfeiting of the
22 property ultimately. But there is a whole
23 process that leads up to that in which everybody
24 gets to have their say in front of the highest
25 court in the UK about how this system works. And
26 it gives -- you know, and it gives everybody the
27 opportunity to mount a legal challenge as to the
28 legitimacy of the process of the -- the thought
29 process in terms of how the investigators have
30 done it, you know, to adduce additional evidence,
31 all the rest of it. So it isn't just a case of
32 it can't work out where your money's gone, so
33 we're having that property, thank you. There is
34 a whole process that leads up to that that may
35 well ultimately end in the property being
36 forfeited, but only after a long and exhaustive
37 process has been followed.

38 Q So if assets can be frozen before they go through
39 this entire process, is it fair to say that for
40 certain individuals, they may not have access to
41 the funds or resources in order to mount a
42 defence or to mount a case to refute the -- you
43 know, the potential seizing of their assets, or
44 to prove that it's a legitimate resource?

45 A Yeah, I mean, so if we freeze a property, you can
46 still live in it. And, you know, generally the
47 -- you know, what -- in the UK, you know, we're

Simon Lord (for the Commission)

Examination by Ms. Farrell, Counsel for the B.C. Civil Liberties Association

1 big on civil liberties in the UK, and it's
2 something that we're particularly proud of, and
3 we have a long-standing thing. You will never be
4 in a position, as an individual, where you are
5 put up against the law and you have no means to
6 defend yourself. There will always be a
7 situation where there has to be equality of arms
8 in all this type of activity.

9 And so there can never be -- in terms of --
10 you know, ultimately all proceedings in the UK
11 judicial system have to be fair, and that
12 fairness includes the right to representation of
13 both of -- the other party, the party who's the
14 subject of the legal proceeding. So I don't
15 think we would ever get to the situation where
16 somebody lost a property because they simply
17 weren't able to afford the -- you know, the
18 lawyers that it would cost. Ultimately, you
19 know, there can always be an application for
20 costs, you know, on both sides in order to do
21 this. But I personally don't think -- and as I
22 say, it's a feature of UK law and UK society is
23 people are not put in that unfair position where
24 they're not able to defend themselves and they're
25 put at a disadvantage because of that.

26 Q So, in the UK, does it operate sort of like the
27 U.S. where you are given a lawyer or the
28 government provides a lawyer if you can't afford
29 one?

30 A Yeah, so if you -- I mean, if you take it back to
31 like basic criminal proceedings, if you're
32 arrested, you're entitled to free legal advice.
33 That's one of the first things you're told when
34 you're taken into custody is you are entitled to
35 free legal advice, free legal representation, and
36 everybody is asked, as one of the questions when
37 you're brought into custody, "Have you got a
38 lawyer? If not, do you want us to provide you
39 with a lawyer?" And the first thing that will
40 happen is, is if the guy says yes, they'll say,
41 okay, we need to put you in a cell, just a
42 minute, and they will get in touch with on-call
43 lawyers and say, this is the situation, this
44 person needs someone to defend them. And that
45 person will then be supplied with legal
46 representation.

47 Q Okay, thank you. I just have a couple more

Simon Lord (for the Commission)

Examination by Ms. Farrell, Counsel for the B.C. Civil Liberties Association

1 questions. In the UK -- like -- or unexplained
2 wealth orders, where do the funds from the
3 seizures go? Like, does it fund a certain
4 government department, or how is that distributed
5 once the funds are seized?

6 A So, in the UK, we have something called the
7 Assets Recovered Incentivization Fund, and
8 essentially what that is, is -- the way it's
9 supposed to work -- I mean, what tends to happen
10 is the money tends to get pooled, but the money
11 goes into central government coffers. 50 percent
12 of it goes into, you know, just the money that
13 can be spent by the government, and then 50
14 percent is then split -- the other 50 percent is
15 then split 50-50 between the court and the -- I
16 think I've got the right -- and again, like I
17 said earlier on, I'm sure to get a phone call if
18 I haven't -- but essentially the money is divided
19 up and is used. But it doesn't necessarily mean
20 that the money goes to, you know, to pay for
21 another police car. The sort of things that that
22 fund can be used for is for doing things like
23 building playgrounds and parks and stuff like
24 that. So it's money that's recovered, you know,
25 illegal money that has gone through the processes
26 and has been recovered, is used for the good of
27 society, I think is the way I'd put it, in the
28 UK.

29 Q Okay, thank you very much. That's all for my
30 questions.

31 A Thank you.

32 THE COMMISSIONER: Thank you, Ms. Farrell.

33 MR. MCGOWAN: Yes. Mr. Commissioner, I don't believe
34 we have any other participants seeking to ask
35 questions available. We do have a little bit
36 more time, so maybe I'll just pause and make sure
37 nobody else has thought of something during the
38 examinations by participants.

39 THE COMMISSIONER: All right, thank you.

40 MS. FRIESEN: Cherisse Friesen, for the Province.

41 THE COMMISSIONER: Yes, Ms. Friesen.

42 MS. FRIESEN: I do have a few questions arising for
43 Mr. Lord.

44 THE COMMISSIONER: Thank you. I'll just note that
45 your video is turned off.

46 MS. FRIESEN: Thank you.

47 MR. MCGOWAN: Yes, Ms. Friesen.

Simon Lord (for the Commission)

Examination by Ms. Friesen, Counsel for British
Columbia

1 MS. FRIESEN: Thank you.

2

3 EXAMINATION BY MS. FRIESEN:

4

5 Q Mr. Lord, I do have a few questions arising for
6 you regarding the questions you answered for Ms.
7 Peddle, counsel for Mr. Kroeker, pertaining to
8 the B.C. Lottery Corporation and the provincial
9 gaming regulator. There's just a few things I
10 want to clarify for the record. So we have to
11 refer to, firstly, the Provincial gaming
12 regulator as GPEB. Are you familiar with this
13 acronym and what it stands for?

14 A No.

15 Q So it stands for the Gaming Policy Enforcement
16 Branch, and I'll be referring to GPEB in my
17 questioning with you.

18 A Okay.

19 Q I take it from your CV, Mr. Lord, that you've not
20 studied legal or legislative framework within
21 which gaming occurs in British Columbia?

22 A No, that's a closed book to me.

23 Q And you don't then have a detailed knowledge of
24 the legislative framework within which BCLC and
25 GPEB each operate?

26 A No.

27 Q And you're not an expert in the regulation of
28 gaming?

29 A No.

30 Q And you wouldn't hold yourself out as an expert
31 in the conduct or regulations gaming in British
32 Columbia?

33 A No, not at all.

34 Q And you're not familiar with the respective roles
35 and responsibilities of these entities under the
36 legislative framework in B.C. Is that right?

37 A No, that's right.

38 MS. FRIESEN: And those are my questions. Thank you.

39 THE COMMISSIONER: Thank you, Ms. Friesen. Yes, Mr.
40 McGowan.

41 MR. MCGOWAN: Yes, I think that unless somebody else
42 jumps up now, that concludes the questions that
43 are to be put to Mr. Lord by participants, and
44 based on what we've heard so far, I'm not seeking
45 to examine him any further.

46 THE COMMISSIONER: Thank you. Well, Mr. Lord, I'd
47 like to thank you very much for the time you've

1 taken and the care you've taken in providing us
2 with your testimony. You've done a lot to
3 demystify, clarify and illuminate the subject of
4 money laundering and the various typologies that
5 constitute it, and in that way, I think you've
6 made a very significant contribution to the work
7 of the Commission and have given us a great deal
8 to consider as we go forward. So, you are now
9 excused, but you're excused with my gratitude for
10 your contribution.

11 A Thank you, sir, it's been my pleasure and my
12 privilege.

13 THE COMMISSIONER: Thank you.

14

15 (WITNESS EXCUSED)

16

17 THE COMMISSIONER: Mr. McGowan, unless there's
18 anything I'm unaware of, I think we're now in a
19 position to adjourn until Monday morning at 9:30;
20 is that correct?

21 MR. McGOWAN: That's correct, Mr. Commissioner.

22 THE COMMISSIONER: All right, thank you. We will
23 adjourn.

24 MR. McGOWAN: Thank you.

25

26 (PROCEEDINGS ADJOURNED TO JUNE 1, 2020, AT 9:30
27 A.M.)

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