

**PROCEEDINGS AT HEARING
OF
SEPTEMBER 13, 2021**

COMMISSIONER AUSTIN F. CULLEN

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September 13, 2021

(Via Videoconference)

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

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

THE COMMISSIONER: Yes, thank you, Madam Registrar.
Yes, Mr. McGowan

MR. MCGOWAN: Yes, Mr. Commissioner. The witness we have today is Mr. Robert Boyle.

Madam Registrar, if you could please attend to swearing the witness.

**ROBERT BOYLE, a witness
called for the
commission, affirmed.**

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

THE WITNESS: Robert Hamilton Boyle the third. It's Robert, R-o-b-e-r-t, Boyle, B-o-y-l-e.

THE REGISTRAR: Thank you.

THE COMMISSIONER: Yes, Mr. McGowan.

MR. MCGOWAN: Thank you, Mr. Commissioner.

EXAMINATION BY MR. MCGOWAN:

Q Good morning, Mr. Boyle.

A Good morning, Mr. McGowan.

Q You can hear me okay?

1 A I can, yes.

2 Q Great. You hold a Bachelor of Science from New
3 York University?

4 A Yes.

5 Q And you're a certified public accountant?

6 A Yes.

7 Q And you're also a certified anti-money
8 laundering specialist?

9 A Yes.

10 Q I wonder if you could just explain to the
11 Commissioner how you came by that designation.

12 A Yeah. So as part of my work in financial crimes
13 and anti-money laundering and sanctions
14 compliance, there is a designation for
15 professionals in that field through the
16 Association of Certified Anti-Money Laundering
17 Specialists to obtain what's known as ACAMS
18 certification to become a certified anti-money
19 laundering specialist, and that includes
20 information based on work experience in terms of
21 work in that field in addition to an exam that
22 is taken around various money laundering topics
23 and information associated to anti-money
24 laundering processes, and upon completion of the
25 exam, the certification is issued upon passing.

1 Q Thank you. You are employed by Ernst & Young as
2 a senior manager of forensic and integrity
3 services?

4 A Correct.

5 Q Appendix A -- now, we're going to come to two
6 reports that you prepared for the commission,
7 and in each of those reports there is a
8 statement of your qualifications which includes
9 information about your qualifications and
10 relevant experience?

11 A Yes.

12 Q Bearing that in mind, I wonder if you would take
13 a moment at the outset and give the Commissioner
14 just a very brief overview of your relevant
15 professional experience and training.

16 A Sure. So I've been employed at Ernst & Young
17 for a little over 13 years. My work is
18 primarily in forensic accounting and compliance
19 matters. Since 2009 I focused primarily on
20 anti-money laundering compliance and sanctions
21 compliance matters in the broader financial
22 services industry. I focus primarily on those
23 compliance topics from a gaming perspective.
24 I've been doing that since 2015 for a variety of
25 gaming operators as well as Crown corporations

1 across the world. Including my experience in
2 this United States ranges from single-property
3 establishments to large multi-property
4 organizations. I've worked in Canada in three
5 provinces. I've worked in Asia in a number of
6 different countries regarding their anti-money
7 laundering programs, including Macau, Singapore,
8 Philippines, Vietnam, and I've also done work in
9 Europe at a property in Cypress as well as
10 working with our colleagues in Sweden as a
11 subject matter advisor to work being performed
12 there.

13 Q Thank you. Now, you were retained through
14 counsel by BCLC to work with them in relation to
15 this commission?

16 A Yes.

17 Q And as part of that retainer, you prepared for
18 the lottery corporation two reports. One
19 addressing topic of known play and the other
20 addressing the topic of AML practices in various
21 jurisdictions?

22 A Yes.

23 MR. MCGOWAN: Madam Registrar, I wonder if you could
24 first bring up the "Known Play" report and just
25 display the cover page of that.

1 Q This is your "Known Play" report prepared for
2 the lottery corporation and finalized on April
3 30th, 2021?

4 A Yes.

5 MR. MCGOWAN: If that can be the next exhibit,
6 please, Mr. Commissioner.

7 THE COMMISSIONER: Yes, very well. That will be the
8 next exhibit.

9 THE REGISTRAR: Exhibit 1037, Mr. Commissioner.

10 THE COMMISSIONER: Thank you, Madam Registrar.

11 **EXHIBIT 1037: Report on Known Play by Ernst &**
12 **Young LLP - April 30, 2021**

13 MR. MCGOWAN: And just to clarify, Madam Registrar,
14 this copy, am I correct that it has appended to
15 it the appendices and the exhibits?

16 THE REGISTRAR: Just the appendices. The exhibits
17 are not appended.

18 MR. MCGOWAN: Do you have those in a separate
19 document?

20 THE REGISTRAR: Yes.

21 MR. MCGOWAN: Okay. Does it make sense to file them
22 collectively as a single exhibit --

23 Q Maybe I'll ask you, Mr. Boyle. There were
24 originally one package of documents altogether,
25 the report, the appendices and the exhibits?

1 A Yes, they were.

2 MR. MCGOWAN: And I'm going to suggest,

3 Mr. Commissioner, that Madam Registrar combine

4 the two and file them as a single exhibit so

5 that the report has with it the appendices and

6 the exhibits that were intended to accompany it.

7 THE COMMISSIONER: Yes, all right. That's fine.

8 Thank you.

9 MR. MCGOWAN: Madam Registrar, is that something you

10 can do?

11 THE REGISTRAR: Yes, we will do that.

12 MR. MCGOWAN: Great, thank you.

13 And if we could please pull up the next

14 report, titled "AML Practices," just the top

15 cover page.

16 Q This is your report prepared for BCLC addressing

17 AML practices in various jurisdictions finalized

18 on April 28, 2021?

19 A Yes.

20 MR. MCGOWAN: Mr. Commissioner, I'm going to ask that

21 that be the next exhibit along with the

22 appendices and exhibits that were appended to it

23 when it was originally delivered.

24 THE COMMISSIONER: Very well. That will be

25 exhibit 1038.

1 THE REGISTRAR: Exhibit 1038.

2 **EXHIBIT 1038: Report on AML Practices by Ernst**
3 **& Young LLP - April 28, 2021**

4 MR. MCGOWAN: Thank you.

5 Q Now, sir, the commission was not involved in or
6 consulted during the process of the preparation
7 of these reports?

8 A Correct.

9 Q In fact the commission didn't know that you had
10 been retained to prepare these reports until
11 very shortly before they were finalized?

12 A From my understanding, yes.

13 Q When were you first approached by the lottery
14 corporation about matters related to the
15 commission, not necessarily in these reports but
16 just about the possibility of you providing
17 assistance or advice in respect of this
18 commission?

19 A So I was reached out to in December 2020 through
20 our EY's general counsel's office in Canada that
21 there had been coordination with counsel and
22 that they were going to -- with Hunter
23 Litigation Chambers and they were going to be
24 reaching out to me to discuss the possibility of
25 being involved in the commission.

1 Q Okay. Did you have any contact with BCLC or
2 their counsel prior to December 2020 about
3 matters related to the commission?

4 A Prior to 2020 -- I'm sorry, could you please --

5 Q Prior to December 2020 did you have any contact
6 with the lottery corporation or their counsel
7 about matters respecting the commission?

8 A So in October 2020, based on an email I had
9 received from the commission, there was
10 consultation internally with our general
11 counsel's office which included contacting our
12 client serving partner in Vancouver regarding a
13 relationship with BCLC. I know through that --
14 through email communications which I was
15 included on, there was discussion with BCLC
16 regarding -- regarding that inquiry, and that
17 was the extent of the communication I had seen
18 on that. I hadn't seen anything specific to
19 counsel until the December 2020 reference of it.

20 Q Okay. And was some other personnel at EY
21 involved in advising the lottery corporation or
22 their counsel prior to your involvement to your
23 knowledge?

24 A From my -- from my knowledge, there was
25 communication with our general counsel's office.

1 Q Okay. And that was in respect of the email you
2 were talking about?

3 A Yes.

4 Q Okay. And is December 2020 also the time period
5 in which you were first discussing the
6 preparation of these reports, or did that come
7 later?

8 A So in December 2020 we were talking about being
9 engaged and what the scoping of that engagement
10 would look like. We were engaged in February
11 2021, which we started talking about the idea of
12 preparing reports.

13 Q Okay. And you were ultimately given letters of
14 instruction and those are appended to your
15 reports?

16 A Yes.

17 Q Okay. And each report contains a section titled
18 "Instructions and Opinions Sought," and, as I
19 said, appends the instruction letter. Do
20 those -- does that section and that instruction
21 letter set out the instructions from the lottery
22 corporation in respect of each of the reports?

23 A Yes.

24 Q Were those the extent of your instructions, or
25 were you provided any other information or

1 guidance about what the report should cover in
2 any other form?

3 A Just what was provided in the letters.

4 Q Okay. You provided the commission with a draft
5 of each of the reports along with some
6 communications between yourself and the lottery
7 corporation and their counsel about the reports.
8 Leaving aside anyone else connected with EY, did
9 you receive any feedback or input about the
10 reports from anyone aside from BCLC employees or
11 their lawyers?

12 A No.

13 Q Do you know if drafts of the reports were shared
14 with any other participant or their counsel
15 aside from the lottery corporation?

16 A No.

17 Q Did you receive feedback from anybody, any other
18 participant or their counsel aside from
19 personnel connected with Hunter Litigation or
20 the lottery corporation?

21 A No.

22 Q What is the total that EY has invoiced the
23 lottery corporation or their counsel for the
24 preparation of these reports and any other work
25 associated with the commission?

- 1 A Approximately, as of last week, \$285,000
- 2 Canadian.
- 3 Q Both reports compare regulations, guidance and
- 4 practices in British Columbia with a number of
- 5 other jurisdictions. Is that a fair summary?
- 6 A Yes, that's a fair summary.
- 7 Q Okay. And am I correct that each report deals
- 8 with the same comparator jurisdictions?
- 9 A Yes. The jurisdictions involved were the same
- 10 in both. I would say for the "Known Play"
- 11 report that's more around concepts that are --
- 12 may not be present in British Columbia, whereas
- 13 the AML practices document is more specific to
- 14 that.
- 15 Q Okay. Were the jurisdictions that are used as
- 16 comparators identified when the reports were
- 17 initially scoped?
- 18 A Yes. The gaming jurisdictions were determined
- 19 at the beginning of the discussion around
- 20 scoping.
- 21 Q And did the jurisdictions that were to be
- 22 canvassed change at any point during the
- 23 preparation of the reports?
- 24 A No.
- 25 Q Okay. So each of the jurisdictions was -- your

1 evidence each of the jurisdictions was
2 identified at the outset and none were added or
3 removed during the process of preparing the
4 reports?

5 A No. Our initial discussions were around the
6 gaming jurisdictions where I had professional
7 expertise and are relevant from a regulatory
8 standpoint, so those discussions were had at the
9 onset and those gaming jurisdictions stayed in
10 place throughout.

11 Q Who selected the jurisdictions to be used as
12 comparators?

13 A So I provided information in terms of what I
14 would be able to provide my professional
15 expertise on regarding both operational
16 experience and my knowledge of regulations from
17 a global perspective. So the gaming
18 jurisdictions that I were familiar with were the
19 ones that were included. So based on my --
20 based on what I could provide context to, that
21 was what was added.

22 Q So do I gather from that answer that the
23 criteria for selection was those jurisdictions
24 in respect of which you had sufficient personal
25 experience to be able to speak to the regulation

1 experience.

2 Q Were you involved in scoping these reports?

3 A Yes.

4 Q Okay. What were you told in respect of -- let's
5 start with the "Known Play" report. What were
6 you told by BCLC or their counsel about why they
7 were commissioning the "Known Play" report?
8 What were they hoping to establish or what
9 question were they hoping the report would
10 answer?

11 A From my understanding it was to get
12 understanding of how -- how these particular
13 control processes operate from an international
14 perspective and this would provide insight in
15 terms of what the gaming industry is doing
16 around these particular areas of practices and
17 where they're applicable from a regulatory
18 perspective as well as a practical operational
19 perspective.

20 Q Thank you. And what were you told by the
21 lottery corporation or their counsel about what
22 they were hoping to establish or what question
23 they were hoping would be answered by the AML
24 practices report?

25 A So similarly that the AML practices report would

1 highlight the practices from an international
2 perspective as compared -- to address the
3 questions that were being asked related to
4 particular practices that were in place at -- in
5 British Columbia at the time.

6 Q Okay. Did the scope of either report change
7 after the initial scoping?

8 A No.

9 Q Was there a development during the scoping
10 process as to how broad the exercise would be or
11 how narrow it would be?

12 A We had some discussions based on my
13 preliminary -- my preliminary responses to
14 questions regarding -- regarding whether, you
15 know, the wording for some of these should be
16 adjusted slightly based on the information that
17 I was providing from an international
18 perspective.

19 Q Okay. Did time constraints impact on the ground
20 that was covered in either report?

21 A No.

22 Q Were there areas that were discussed going to --
23 that you didn't ultimately end up including
24 because of the time period which was available
25 to you to complete the report?

1 information where a patron has signed up for a
2 player's reward club or equivalent in which they
3 would have a player's card, which would be used
4 at various games throughout the casino floors.
5 So this would include inserting -- typically
6 inserting those cards into slot machines or
7 providing them at table games or poker or other
8 table games where that information would be tied
9 to their known patron information and would
10 allow for information from a gaming transaction
11 standpoint to be captured as well. And then
12 from a cashless play perspective, this includes
13 any product or service that's offered at the
14 casino that isn't based on a cash-based
15 transaction, and this doesn't necessarily apply
16 just to gaming related buy-ins or cash-outs, but
17 this could also be related to account-based
18 setups that patrons have with casinos and
19 transactions that would take place separate from
20 active gaming.

21 Q Okay. From an AML perspective do known play,
22 carded play and cashless play each enhance the
23 level of AML protection?

24 A Yes. Each have their sets of controls that
25 would be applicable from an anti-money

1 laundrying program perspective.

2 Q From an AML perspective is there any detriment
3 to any of those measures?

4 A From an AML compliance perspective, no.

5 Q And I'm going to ask you a few questions, sir,
6 now about various sections in the report,
7 various statements that have been made in the
8 report. And I'll reference paragraphs.

9 MR. MCGOWAN: And, Mr. Commissioner, those are for
10 your benefit, for the benefit of your notes.
11 I'm not asking the witness to turn up the report
12 or asking Madam Registrar to display it.

13 Q Sir, in the report, and you'll see this at
14 paragraphs 5.10 and 5.21, reference is made to
15 some EU and UK casinos that have 100 percent
16 known play, and I understand from your report --
17 maybe I'll ask you: do I understand correctly
18 that they accomplish this 100 percent known play
19 by IDing everybody that enters the facility or
20 at least the gaming floor?

21 A Yes. That's right. At the facility or the
22 gaming floor.

23 Q Okay. And in these instances do the facilities
24 track on an individual basis buy-ins and play as
25 such that it can be tied to an individual

1 connection with their players card for.

2 Q That's not an optional benefit; they have to do
3 it?

4 A So it's -- it's not -- well, from a benefit
5 perspective all the benefits are optional in
6 terms of what they would get from their cards.
7 But to enter those particular areas, generally
8 those levels in which they're playing at would
9 require information for the casino to have on
10 hand from an operational perspective. So they
11 would ask them for that information before they
12 go in there because their play is typically
13 tracked as part of those rooms.

14 Q Okay. And one of the reasons the operator
15 requires that information is to satisfy their
16 AML compliance obligations?

17 A Yes. So typically the values that are in those
18 rooms are greater than those that would be
19 required for regulatory reporting.

20 Q Okay. And in those instances where carded play
21 is required the entire gaming history of that
22 patron is accessible in essentially real time by
23 the operator by reviewing their account; is that
24 fair?

25 A From my experience, yes.

1 Q Now, I understand since you wrote your report
2 you've become familiar with at least a couple of
3 casinos in Canada that are operating on the
4 basis of 100 percent carded play. Is that fair?

5 A Yes. I've recently posted my report learned of
6 operations that have enacted carded play.

7 Q Okay. And which operations are those?

8 A So those are Fallsview Casino and Niagara
9 casino, part of Mohegan Gaming & Entertainment
10 in Ontario.

11 Q Do you have an understanding as to why they have
12 moved to 100 percent carded play?

13 A So my understanding from the information I read
14 on the carded requirement is that this is
15 related to contact tracing for COVID and that
16 this is a health compliance reason for requiring
17 patrons to sign up for carded play and this was
18 information that I learned through my -- you
19 know, through my regular updates in terms of
20 industry news and briefings that I receive on a
21 daily basis.

22 Q Okay. As an AML specialist do you expect that
23 this would have an ancillary AML benefit?

24 A Yes, this will.

25 Q Your report at paragraph 5.8 indicates that

1 while you're not aware of any casino that's
2 100 percent cashless, there are casinos that
3 utilize cashless play in certain areas. Which
4 areas are those?

5 A So those would typically be your VIP private
6 gaming rooms would typically be covered through
7 front money accounts or -- which are patron
8 gaming fund equivalent type accounts where
9 transactions wouldn't take place in cash but
10 would be with chips that are sourced for those
11 particular rooms or private gaming areas would
12 be -- would derive from their account balances.

13 Q Okay. And when you say private gaming are these
14 table games?

15 A Typically table games. There are high limit
16 areas that also have high limit slots.

17 Q Do you have an understanding as to why the
18 facilities that require cashless play in their
19 private or high limit areas do so?

20 A Yes. This is generally from a convenience
21 factor in terms of not having significant cash
22 moving through those locations if they know that
23 they're going to have patrons who are gaming at
24 baseline thresholds. So that's to prevent
25 having substantial -- at least from my

1 experience and through my discussion with
2 department personnel is that this is to allow
3 for more seamless transactions with the patron
4 and the department personnel staff.

5 Q Okay. And would requiring cashless play in
6 high-limit areas of a casino carry with it an
7 AML benefit?

8 A Yes, it would.

9 Q And I should just perhaps ask you before we move
10 on which jurisdictions is it that you're aware
11 that require cashless play in certain areas?

12 A So I've seen that from my experience in the US.
13 I've also seen this in Macau, which is heavily
14 based on a junket-based system, which is -- in
15 the -- in its setup in nature is designed for
16 transaction reconciliation after play.

17 Q Okay. And we spoke a moment ago about some
18 casinos that require carded play in certain
19 areas such as VIP areas. Which jurisdictions
20 are those?

21 A So I've seen those in the US, I've seen them in
22 Europe and I've seen them in Asia.

23 Q Aside from the two Ontario properties that you
24 spoke of, are there any jurisdictions in the
25 world, whether those canvassed in the report or

1 not, that you're aware that require either
2 100 percent carded play or 100 percent cashless
3 play? When I say "jurisdictions" maybe I should
4 say are there any properties?

5 A Not that I'm aware of. From a carded play
6 perspective, there are instances in which a
7 patron may not provide their card, but based on
8 the fact that they're a known patron, their play
9 could still be identified and tied to that
10 patron account. So my experience is that that
11 card, and especially in general mass gaming
12 areas, may not be requested even if there's a
13 known patron, but they would still potentially
14 have the ability to tie that patron to the
15 activity that's being coordinated.

16 Q Now, question -- I'm going to ask you just a
17 little bit about question 5 in this report, and
18 that's the question where you're talking about
19 whether there's going to be a development in
20 regulation or practice moving towards carded
21 play. Is what you're addressing at
22 question 5(b) whether casino operators are
23 contemplating or planning to move to 100 percent
24 card play in Canada?

25 A Sorry, can you repeat the question.

1 Q Yeah, sure. If it assists, I'm on page 7 of
2 your report looking at question 5(b):

3 "In answering question 4, please advise if
4 you are aware whether casino operators in
5 Canadian jurisdictions have indicated if
6 they will adapt changes towards
7 100 percent known play or 100 percent
8 carded play in anticipation of regulatory
9 changes from FINTRAC taking effect in June
10 2021 (setting a threshold of CAD 3,000 for
11 identification and receipting."

12 A So I'm not currently aware of any operators or
13 provinces that are moving to have 100 percent
14 carded play as a result of that -- of that new
15 regulatory component.

16 Q Are you aware of whether there are jurisdictions
17 moving to 100 percent carded play for any other
18 reason?

19 A Other than what I read about the two properties
20 in Ontario that have required players cards
21 signup for contract -- contact tracing purposes
22 for COVID, that's the only situation I'm aware
23 of where that's a requirement.

24 Q How did you answer that question in respect of
25 the various jurisdictions in Canada? Did you

1 interview personnel connected with gaming in
2 various provinces or what steps did you take to
3 determine whether gaming operators in each of
4 the provinces had any plan to move to
5 100 percent carded or nonplay?

6 A So that's based on my professional experience
7 with working with those respective provinces
8 over time.

9 Q Okay. Do you have experience working in each
10 province in Canada?

11 A I have experience working in Ontario, Alberta
12 and British Columbia.

13 Q So is your answer to that question limited to
14 your knowledge of those three provinces?

15 A From an operational perspective and experience,
16 yes. From my understanding of industry,
17 industry information that's out there, it's
18 however from my direct experience with working
19 with operators. It's limited to those three
20 jurisdictions.

21 Q Okay. The report -- I just notice at footnote 3
22 on -- pardon me. Footnote 6 on page 3 you
23 suggest there's no industry body in Canada. Are
24 you familiar with the Canadian Gaming
25 Association?

1 A I am, yes.

2 Q And is that an industry body that is situated in
3 Canada?

4 A It is an industry body that's situated in
5 Canada.

6 Q I'm going to ask you a few questions now about
7 the AML practices report. And first I want to
8 start with some general questions about the
9 report. And you've told the Commissioner what
10 the theme of the report is. From reviewing the
11 report it appears as if you took a number of
12 specific AML practices or potential practices
13 and attempted to determine for each of them --
14 for each of the jurisdictions canvassed if those
15 practices are mandated by regulation,
16 recommended by an industry body or utilized by a
17 casino operator. Have I got the gist of the
18 report accurate?

19 A Yeah, that's accurate.

20 Q Okay. And who identified each of the AML
21 practices that are addressed in the report?

22 A So this was information that was provided to me
23 by BCLC's counsel during the scoping of the
24 questions.

25 Q Okay. Speaking of the regulatory framework, in

1 addressing that did you limit yourself to a
2 review of those regulations or regulators,
3 pardon me, regulators and regulations listed at
4 paragraph 4.3 of your report on page 4?

5 A Give me one second. Yes, that's correct.

6 Q So for Canada the only regulation that you
7 considered regulator or regulatory framework was
8 that connected with FINTRAC?

9 A Correct.

10 Q And then the United States the only regulatory
11 framework was that emanating from FinCEN and --

12 A Correct.

13 Q -- the *Bank Secrecy Act*?

14 A Correct.

15 Q So if you were inquiring into Ontario, for
16 example, you did not -- would not have
17 considered requirements mandated by provincial
18 legislation or regulation or directed by the
19 provincial regulator?

20 A From an anti-money laundering perspective and
21 based on my professional experience, we've --
22 what I formulated my understanding was based on
23 FINTRAC's requirements around anti-money
24 laundering as well as my experience with working
25 with those individual provinces in terms of what

1 they -- what they require from a province
2 standpoint.

3 Q By analogy, if you were looking at British
4 Columbia with this approach, when you're
5 addressing the issue of the regulatory framework
6 you would not have considered the *Gaming Control*
7 *Act* or any directives issued to the operators by
8 the Gaming Policy and Enforcement Branch?

9 A We've looked at a variety of regulations
10 associated to anti-money laundering and from my
11 experience the items that best address the
12 questions that were in this report are related
13 to the regulations that were referenced.

14 Q Okay. And I think you've told us that your
15 review of the regulatory framework was limited
16 to those for the purpose of this report?

17 A Correct.

18 Q Okay. In jurisdictions that have embraced a
19 risk-based approach, would you necessarily
20 expect to see detailed requirements spelled out
21 in legislation or regulation to the level of
22 specificity of some of these AML practices that
23 you're considering, or is it possible that
24 operators might implement these kinds of
25 measures in response to their own risk analysis

1 even if not specifically required by
2 legislation?

3 A Yeah, so to answer your question, the latter is
4 what I've seen from my experience is that each
5 operator has a risk tolerance level in which
6 they address the regulation that is in place and
7 adapt their controls around established inherent
8 risks to mitigate that based on their risk
9 tolerance level.

10 Q Okay. And in answering the question about
11 industry body guidance, were you limited to
12 reviewing guidance issued by those bodies listed
13 under paragraph 4.5 of your report?

14 A Yes. So the American Gaming Association and
15 FATF were the two industry organizations where
16 there was -- where from my experience there's
17 substantial information regarding anti-money
18 laundering guidelines that were relevant to the
19 goal of the report.

20 Q Okay. Does Australia have an industry body that
21 provides guidance, to your knowledge?

22 A I'm not -- they may, but I'm not aware of one
23 based on my professional experience.

24 Q You didn't consider any guidance issued by the
25 Canadian Gaming Association?

1 A I looked into the Canadian Gaming Association in
2 terms of publications and information that was
3 there. For the purposes of the report I didn't
4 include anything that was relevant to my
5 answers.

6 Q Okay. With respect to the operator practice
7 section of the report, did you send out a survey
8 or conduct interviews to gain information about
9 what the various properties in the jurisdictions
10 canvassed were doing at the operator level?

11 A So this is a combination based on my
12 professional experience with working with
13 operators in those regions over the course of
14 the gaming period in conjunction with work that
15 I had done in 2016 with the American Gaming
16 Association in a co-publication that we prepared
17 around anti-money laundering in the US in where
18 we did survey and have interviews with operators
19 in the continental US.

20 Q Okay. How many operators did you survey or
21 conduct interviews, either yourself or in
22 conjunction with those you were collaborating
23 with in 2016?

24 A Sorry, can you repeat the question again.

25 Q Sure. In 2016 when you were collaborating on

1 this publication, how many operators did you or
2 your collaborators interview or survey for the
3 purpose of that publication?

4 A There were over 20 that responded to the survey,
5 from my recollection.

6 Q Okay. And in the past, let's say, since 2016,
7 how many individual operators have you
8 personally worked with?

9 A From an approximate standpoint, at least 20.

10 Q To the extent they were operators that you have
11 not recently worked directly with or gained
12 information through, for example your 2016 work,
13 is it fair to say those practices -- their
14 practices did not inform your answers to this
15 report?

16 A I'm sorry. There was some background noise.
17 Could you please repeat the question.

18 Q Certainly. To the extent they were operators
19 who you haven't canvassed, for example through
20 your 2016 work with the American Gaming
21 Association or haven't worked with personally,
22 those operators' practices did not inform your
23 answers to this report in this report?

24 A Correct.

25 Q Do you have a -- let me ask it this way: was

1 the operator practice section of this report
2 essentially populated by you anecdotally based
3 on information that you know from those
4 operators you've worked with or investigated for
5 some other purpose?

6 A Yeah, it's a combination of what I know from
7 those operators particularly plus my experience
8 with various meetings with individuals at
9 conferences and working group sessions from
10 various industry events over the course of my
11 professional career.

12 Q Do you know how many casino operators there are
13 in the United States or casino properties?

14 A I don't know that exact number.

15 Q Is it thousands?

16 A I would be guessing to respond. It is a large
17 number.

18 Q And the same is true for other jurisdictions
19 like the European Union, the United Kingdom and
20 Australia?

21 A Correct.

22 Q Are you familiar with Peter German's source of
23 funds recommendation?

24 A I am.

25 Q Okay. That's not found in any regulation or

1 industry guidance, I take it.

2 A Not -- I haven't seen anything in the
3 specificity that was from his report that's been
4 in any regulatory guidance.

5 Q Are you familiar -- or do you know that in
6 implementing that requirement BCLC instituted a
7 receipting requirement?

8 A Yes.

9 Q And that was just done through their own
10 interpretation and decision about how to
11 implement that recommendation?

12 A From my understanding, yes.

13 Q Okay. How is it, if at all, that the approach
14 you've taken to answering questions in this
15 report would have identified measures like Peter
16 German's source of funds requirement and BCLC's
17 receipting requirement they're implemented at
18 the local level of individual facility level.
19 How, if at all, through the approach you took do
20 we gain insight into that?

21 A So from my experience with working with
22 operators that record information from a
23 transaction standpoint and whether that's
24 information from a back-of-house standpoint,
25 from a compliance perspective or front of house

1 standpoint from a casino operational department
2 perspective, there are various guidelines and
3 regulations or casino practices that include
4 transaction tracking and receipting from a
5 general standpoint in terms of having
6 information regarding a particular transaction
7 once a particular threshold is received.

8 So, for example, in the US the multiple
9 transaction law will typically cover any
10 transaction that's included from a buy-in or
11 cash out standpoint for a patron that's
12 typically 2,500 to 3,000 US dollars. And that
13 information associated with that transaction,
14 there's information asked as part of that. So I
15 looked into instances and where specific
16 information associated to buy-in or cash-out
17 transactions take place and what is typically
18 covered from my experience from a procedural
19 process, walk-through perspective in addition to
20 what's available from a regulatory perspective
21 and the practices regarding individual
22 transaction tracking and recording and receiving
23 information.

24 Q Maybe I'll ask the question a different way.
25 Could there be properties in Australia or

1 Germany or New Jersey that have from their own
2 risk-based analysis determined that they are
3 going to require -- that they do require
4 receipts to establish a source of funds over a
5 certain threshold and you just don't know about
6 it?

7 A There could be. I'm currently unaware of it.

8 Q Okay. There's evidence before the commission
9 that suggests that the Great Canadian Gaming
10 Corporation for a period of time at their own
11 initiative refused cash buy-ins from individuals
12 or cash buy-ins that were connected to certain
13 individuals. This was an operator practice not
14 mandated by any regulation or directive or at
15 least potentially not. Would your approach
16 catch individual operator initiatives such as
17 this except in respect of those properties you
18 have personal knowledge of?

19 A Sorry, can you repeat the question.

20 Q Sure. If there's an individual -- if an
21 individual property decided from a risk-based
22 analysis they weren't going to take cash from
23 certain individuals and just refuse it on their
24 own initiative, unless it was one of those
25 properties in respect of which you have a

1 personal working relationship, is this something
2 that the approach you've taken here would have
3 identified?

4 A Unless it was covered by some -- something from
5 an industry standpoint outside of a specific
6 operator experience, then no.

7 Q Was your report, the AML practices report,
8 designed to speak to the effectiveness of any
9 AML practice or system?

10 A No. It was to provide context regarding the
11 anti-money laundering regulation industry
12 guidelines and operational practices globally.

13 Q Does your report offer us any insight, offer the
14 Commissioner any insight into the effectiveness
15 of the AML efforts or regimes in the comparator
16 jurisdictions?

17 A No. It provides the practices that were in
18 place throughout the gaming period.

19 Q Does the report provide any information about
20 the relative degree of AML risk as between
21 British Columbia and the comparator
22 jurisdictions?

23 A No. It provides the information associated to
24 what is being conducted in other jurisdictions
25 as noted to the questions in terms of what's

1 being covered in British Columbia.

2 Q Okay. Does the report speak to the similar --
3 any similarities or differences in terms of AML
4 risk factors present in British Columbia and the
5 comparator jurisdictions?

6 A The report does cover risk factors that are
7 present based on the commentary around
8 risk-based approach and practices that are taken
9 as a result of risk-based approaches by
10 operators or what has been suggested through
11 industry guidelines throughout the report.

12 Q Were you asked to or did you assess in this
13 report the effectiveness of BCLC's AML approach
14 or any measures instituted by BCLC, including
15 those canvassed in the report?

16 A No.

17 Q Does the report speak to effectiveness at all?

18 A No.

19 Q I'd like you to consider the following scenario
20 at a gaming property. I'm going to ask you to
21 assume that there are high-limit table game
22 patrons that are regularly buying in at the
23 gaming facility for six figures in \$20 bills
24 packaged in a manner not consistent with banking
25 practices, that the value of these buy-ins at

1 the gaming property is in the tens of millions
2 monthly, that the cash when it is produced at
3 the cash cage is presented in a grocery store
4 bag or boxes or backpacks and the like. I'm
5 going to ask you to assume that some of this
6 cash is identified as being delivered to the
7 facility or areas near the facility in the late
8 night or early morning hours and provided to
9 patrons from cars in grocery store bags and the
10 like. I'll ask you to assume that police have
11 communicated to those managing gaming at the
12 property that patrons are buying in with illicit
13 cash which had been provided to them and which
14 is sourced, at least in some cases, to a
15 facility dealing in illicit cash. What do you
16 expect the AML response would be to this
17 scenario in the comparator jurisdictions that
18 you've looked at?

19 A If law enforcement has provided information
20 where it is known that the source of funds are
21 coming from an illicit source, then the
22 transaction activity would be -- would not be
23 able to be processed at that property. The key
24 indicator here is known -- known money
25 laundering for suspicious indicators indicating

1 potential money laundering. So in the
2 information that you provided in terms of some
3 of the typologies that would suggest potential
4 money laundering to the extent that the patron
5 is known, information regarding those
6 transactions would be processed, suspicious
7 activity reports or suspicious transaction
8 reports depending on the jurisdiction would be
9 filed, and then those transaction reports would
10 be analyzed by compliance to determine whether
11 that patron meets their risk tolerance profile
12 any further and whether they need to be
13 considered from banning or barring from the
14 property.

15 To the extent that they're known, that the
16 transaction activity is known money laundering
17 and that has been communicated by law
18 enforcement, in my experience these transactions
19 are typically not completed unless law
20 enforcement encourages them to be completed in
21 order to continue furthering an investigation.
22 But that would depend on instructions from law
23 enforcement. That would be the primary driver
24 in terms of the steps that the casino would take
25 in terms of accepting the transaction activity

1 before making any decisions on derisking a
2 patron's involvement with the property.

3 Q Are there properties who from a risk management
4 perspective will look at a transaction and in
5 respect of transactions where there are a
6 constellation of risk factors that raise the
7 prospect of money laundering from their own risk
8 tolerance perspective will decline to approve
9 the transaction?

10 A So in my experience the instances in which there
11 are money laundering typologies and where the
12 patron is unknown, those would be the situations
13 in which there are, from my experience, I've
14 seen processes where there's -- where department
15 approval would be required for those types of
16 transactions and then they can be subjectively
17 declined based on the operational personnel who
18 is observing those transactions at the time for
19 unknown patrons.

20 For known patrons they are typically
21 accepted. The information regarding those
22 typologies are filed as potentially suspicious
23 with the -- with the corresponding enforcement
24 body and then any further action regarding the
25 risk tolerance profile based on the information

1 that's associated with those typologies is then
2 typically covered within compliance and
3 department personnel meetings, of conversations,
4 compliance committee discussions, et cetera, to
5 make a determination of whether the patron
6 relationship will continue or not.

7 Q Okay. Thank you. I'm going to turn to your
8 report now, and I'm going to ask you to turn it
9 up, and I'm going to go through various sections
10 of the report.

11 MR. MCGOWAN: And, Madam Registrar, if you could
12 perhaps display the paragraphs that I'm
13 referring to so that the Commissioner and
14 participants can follow along.

15 Q I'm going to start on page 80 of your report
16 with paragraph 5.7. And, sir, is this -- this
17 is the section of your -- I'm in the AML
18 practices report. That's the one. If you could
19 just zoom in a bit on paragraph 5.7, please. So
20 this paragraph says -- and maybe just to set the
21 context, you're answering here question 1 about
22 essentially about the concept of a cash cap.
23 And feel free to flip back to page 5 where this
24 section starts and where the question is set
25 out.

1 A Sorry, you said page 5?

2 Q Yes. I believe that's where the question that
3 you're answering is articulated.

4 A Yeah. So this is related to the question
5 regarding any particular cash buy-in threshold
6 specific to cash.

7 Q Okay. And you're on page 7 paragraph 5.7
8 addressing the operator practices portion of
9 that response.

10 A Yes.

11 Q Paragraph 5.7 says:

12 "In my experience I have observed that
13 casino operators' policies and procedures
14 in the gaming jurisdictions will typically
15 include procedures around cash buy-ins,
16 including threshold amounts where
17 additional information is required. The
18 operating sites will often require the
19 patron's name, full address, social
20 security number (if a US citizen) and
21 non-expired government-issued
22 identification before the patron can buy
23 in over the applicable threshold. Casino
24 operators apply threshold amounts based on
25 their own risk assessment for their

1 operations while also taking into
2 consideration regulatory requirements for
3 additional information required of patrons
4 according to the applicable gaming
5 jurisdictions."

6 My question is when you refer to operators
7 engaging in their own risk assessment, what
8 factors are they considering when conducting
9 that risk assessment?

10 A Sure. So what I've typically seen operators do
11 is for currency transaction reports, the
12 information that they require, because
13 everything is conducted on a live basis and that
14 could be challenging in certain instances to get
15 all the information that you need for a CTR
16 without -- you know, without stopping play and,
17 you know, creating a separate situation is that
18 a lot of operators follow a risk-based approach
19 in which when a customer or patron hits a
20 particular threshold, what's typically the
21 multiple transaction law threshold, so that's
22 typically from my experience anywhere from 2,500
23 to 3,000, they start to report information for a
24 patron in order to help from a risk-based
25 perspective make sure that they're getting

1 information that they would need to the extent
2 they hit particular thresholds.

3 Many table games' operating platforms have
4 the ability to start to mark patrons, whether
5 they are approaching particular regulatory
6 thresholds. So typically at the 2,500 to 3,000
7 MTL threshold patrons will be asked their name,
8 they'll be asked -- there will be a description
9 of information about the patron that's included,
10 a physical description. They will -- some
11 properties will ask for ID at that point,
12 although it's not required for the patron to
13 provide it. Some properties take a risk-based
14 approach in terms of asking for that information
15 upfront to help mitigate instances of which that
16 would be required later or through aggregation
17 processes they realize that they need to get
18 that information from a patron, they will start
19 to do that earlier in the process.

20 But from a required perspective, they'll
21 cover it when it's required from a regulatory
22 standpoint, but properties will typically take a
23 risk-based approach to help mitigate instances
24 where they could potentially have breaches by
25 acquiring that earlier in the process and having

1 flags in the system to let them know that
2 patrons are approaching that particular
3 threshold.

4 Q When you -- let me ask it maybe this way: when
5 the properties that you're familiar with are
6 conducting a risk assessment, what risk are they
7 assessing? Is it the risk that their property
8 might be used to facilitate money laundering or
9 might receive proceeds of crime, or is it the
10 risk that they will fail to comply with a
11 regulation, an AML regulation?

12 A From my experience it's both. Risk assessments
13 are comprehensive in terms of capturing all the
14 risks as it pertains to both products and
15 services offered as well as regulatory
16 expectations as well as the type of patrons that
17 are using the facility and the breakdown of
18 those patrons amongst mass gaming, premium mass
19 and VIP patrons. So there's a number of risk
20 factors that go into the decision process
21 around -- around operational procedures that
22 take place to address those inherent risks
23 identified.

24 Q You talk about properties from a risk management
25 perspective obtaining identification perhaps

1 earlier than they might strictly have to. And
2 you talked about sort of aggregation of various
3 buy-ins and the tracking of player play to make
4 sure that they don't reach a stage where
5 identification is required and hasn't been
6 obtained. In most of the properties you're
7 familiar with, is player -- are player buy-ins
8 and, you know, at various tables tracked by some
9 sort of electronic means or software or is it
10 done with pen and paper?

11 A So I've seen both. I've seen where there has
12 been manual processes in terms of where a cash
13 track informs, especially more, you know, from
14 my more historical experience, all the way to
15 where transactions, especially as it pertains in
16 the EU where it's really important to capture
17 that information early in the process given how
18 low the threshold is compared to other
19 jurisdictions of 2,000 euros where that
20 automated process takes place more quickly.
21 What I've seen most recently is that most table
22 games and slot operations have platforms in
23 which that information can be aggregated
24 electronically and then analytics and
25 information from that can be used to understand

1 the data associated to patron play.

2 Q Are you aware of any major gaming properties
3 outside the province of British Columbia that
4 are still tracking player play as they move
5 through the casino from table to table playing
6 table games manually with pen and paper?

7 A I'm not currently aware what the process is.
8 From my experience historically I have seen that
9 in Canada where the information has been -- has
10 been moved through manual processes. And I've
11 definitely seen that in the US where --
12 especially for single properties where that's --
13 you know, where there may be one or two pit
14 operations where manual processes are still used
15 to transfer over information to systems.

16 Q As an AML specialist in the modern era, would
17 you recommend a property track by pen and paper,
18 or as from an AML perspective is it more optimal
19 to put in place some sort of electronic or
20 tracking software?

21 A From an AML perspective based on what I've seen
22 in the industry, electronic is the -- is a
23 process that would help with that the most.

24 Q Thank you. I'm going to move to paragraph 5.9
25 where you say at the outset of that paragraph:

1 "I have also observed casino operators in
2 the gaming jurisdictions with additional
3 measures in place for addressing unknown
4 patron cash transactions at the cage and
5 at table games. In one instance, any cash
6 transaction from an unknown patron that
7 was over the casino operator's established
8 threshold amount was required to be
9 approved by the Cage Supervisor or manager
10 prior to accepting the cash."

11 What property are you speaking of here?

12 A So this was for a large casino operator in the
13 US.

14 Q Okay. And what was the threshold amount?

15 A So this was for the MTL threshold I referenced
16 earlier which would have been between 2,500 and
17 3,000 typically for an operator of this size.

18 Q Okay. And what factors were applied by the cage
19 supervisor or manager to assess whether or not
20 an approval would be given?

21 A So this is a subjective -- this is -- the
22 information provided here is related to the
23 processes and procedures that are in place for
24 those particular -- for that particular
25 operator. So in this instance if an individual

1 was providing \$3,000 and didn't provide
2 information such as name or refused ID, those
3 would be again from a subjective standpoint
4 typically a situation in which department
5 personnel would then ask their supervisor to
6 take a look at the transaction. Or if they
7 identified something from a suspicious activity
8 standpoint for, you know, for that transaction
9 as well, from -- what typically happens is at
10 that MTL threshold, a pit supervisor or a cage
11 manager is alerted to that activity because a
12 record needs to be taken for that particular
13 transaction.

14 Q Okay. And at this property if somebody showed
15 up at the -- showed up with \$400,000 in
16 \$20 bills wrapped in elastic bands with the
17 heads facing different directions in a grocery
18 store bag that had been delivered to them in the
19 parking lot, is that a circumstance where you
20 would expect the supervisor or manager to be
21 involved?

22 A If it is for an unknown -- yes. In any
23 situation where there is an known or unknown
24 patron, you would expect someone from the
25 department personnel perspective to be involved

1 given the size of the transaction.

2 Q And would part of the process of this property
3 of the supervisor or manager determining whether
4 to approve the transaction, the supervisor or
5 manager engaging in a process whereby they were
6 making sure they could satisfy themselves that
7 the source of the funds was legitimate?

8 A So in terms of what the department personnel are
9 responsible for, because source of funds
10 analysis typically would take place at the
11 compliance level, is that they would be
12 assessing the information that they have to
13 verify and know who the patron is as well as the
14 potential suspicious activity behind the
15 transaction that was being conducted. So if
16 they had reason to believe that the transaction
17 activity was coming from a known money
18 laundering incident, then, again, from a
19 subjective standpoint, they could elect to
20 decline the transaction, otherwise information
21 regarding the -- if they are acquiring
22 information regarding the patron themselves,
23 they -- you know, they could accept the
24 transaction and feed the information associated
25 to the patron, the suspicious activity

1 typologies identified and the value of that
2 transaction to compliance for further analysis
3 and continued evaluation of whether that patron
4 should continue to play at the casino.

5 Q In the scenario that I set out for you, would
6 you expect that the supervisor or manager might
7 ask the patron where the funds were from?

8 A Yeah. So it would be typically as part of the
9 CTR process for a transaction that large with
10 cash they would be asked employment information
11 associated to where the funds are from. So that
12 is typically as part of the CTR form there's a
13 employment field in which that can be -- it's
14 optional, can be filled out. That is typically
15 asked by personnel at that point. To the extent
16 that there is particular thresholds on single
17 time transactions or rolling transactions, there
18 may be additional questions that are asked based
19 on the casino's -- based on the casino's policy.
20 What typically happens is for transactions of
21 those size, they talk to the patron about
22 meeting with a marketing host or meeting with
23 somebody to give them alternatives in terms of
24 how they can utilize that cash in which they
25 would then be -- they would work with department

1 questions to be where did the \$400,000 in 20s in
2 the grocery store bag come from?

3 A I would typically expect that the question would
4 be what is your employment or what is -- you
5 know, what do you do in order to obtain the
6 cash. That is more typically covered from an
7 industry perspective in terms of what is your
8 background and what's your -- you know, what's
9 your employment and, you know, what's your
10 source of wealth component in terms of how you
11 obtained, you know, such a large source of
12 funds.

13 Q We'll come to it, but hasn't FinCEN since at
14 least 2014 been advocating inquiries into source
15 of funds in circumstances such as this?

16 A They have. But the definition between source of
17 funds and source of wealth and the information
18 provided as part of that tends to be a little
19 broader in terms of what constitutes that. I've
20 seen procedures and guidelines that cover that
21 information saying that if you provide bank
22 information and paylips that that is something
23 that corresponds to source of funds. Other
24 jurisdictions and other operators define that a
25 little bit more loosely as source of wealth. So

1 I've seen different ways in terms of how source
2 of funds and source of wealth are addressed from
3 a due diligence perspective when it comes to
4 defining what source of funds is. There's a --
5 it's -- it tends to be more subjective to allow
6 the casino operators to build a risk based
7 process in terms of what to address and when to
8 pull that information for a particular patron
9 based on the risk profile.

10 Q As an AML speciality, regardless of level of
11 income of the person buying in, would you
12 suggest that some inquiries might be made about
13 the source of the specific cash in the grocery
14 store bag in the scenario that I've given you?

15 A Yes. So they would typically be asked about
16 where the funds came from in relation to their
17 background.

18 Q Moving down that paragraph just to the bottom
19 three lines of the page, he says "suspicious
20 indicators," and the suspicious indicators
21 you're speaking of here, are these the
22 indicators that might be considered by a
23 supervisor or manager in deciding whether to
24 approve a transaction?

25 A Yes. Because these are typical indicators that

1 if you have an unknown patron coming in with
2 cash, you're going to be looking at the contents
3 of the cash in itself to really identify whether
4 there's a typology issue.

5 Q And when you say "a typology issue," these are
6 potential indicators of a money
7 laundering typology. Is that --

8 A Yeah, potential red flags, typologies associated
9 to money laundering.

10 Q Okay. And are these indicators that would be
11 considered by a supervisor or manager in the
12 property you're talking about in terms of
13 deciding whether to approve a transaction?

14 A Correct. These would be taken into
15 consideration.

16 Q Okay. So:

17 "Suspicious indicators include, but were
18 not limited to, red dye on the cash, cash
19 that is not strapped by a known bank or
20 casino operator, cash carried in plastic
21 grocery bags, or where photo
22 identification appeared to be fraudulent."

23 And I just want to ask you about a couple of
24 those. When you speak of red dye on the cash,
25 what is that?

1 A So this is typically when cash is taken
2 illicitly from a bank there is dying mechanisms
3 that they have. So if they were obtained
4 illicitly from a bank, those -- you know, those
5 precautions may cause red dye to be released on
6 those bills and would give an indication that
7 they could have been potentially stolen or
8 acquired from an illicit source.

9 Q You're talking about the sort of dye bombs that
10 we see in heist movies that explode once the
11 robbers get away and destroy all the cash by
12 tainting it with the red dye?

13 A Correct.

14 Q And then you say "cash that is not strapped by a
15 bank or casino operator," what are you speaking
16 of there?

17 A So typically cash in certain denominations, if
18 they're coming from a financial institution are
19 strapped with, you know, recognizable, you know,
20 banking information associated to whether
21 they're from a legitimate institution.
22 Sometimes if they're not -- or by a casino
23 operator to the extent that they play at other
24 casinos and they're bringing -- let's say if you
25 were going from Las Vegas Sands to Caesars, you

1 may have cash that was strapped and provided
2 from that property as you're going to the other.

3 So to the extent that there's, you know, odd
4 strapping of cash or institutions that are
5 unrecognizable, that could be a potential red
6 flag in terms of something that was compiled by
7 an organization that is not legitimate.

8 Q Okay. And when you're referring to strapping,
9 are you referring to the paper bands?

10 A Correct.

11 Q Are you familiar -- are you aware of any
12 mainstream bank or major casino operator that
13 uses elastic bands to strap their cash?

14 A Not that I'm aware of.

15 Q You say "cash carried in plastic grocery bags."
16 Why is that an indicator?

17 A So this was typically -- this is what I
18 identified from process documentation that I've
19 seen from this particular operator. Typically
20 plastic grocery bags or other non- -- to
21 rephrase, carrying containers that are not
22 typical that you would get from a financial
23 institution or could be, you know -- could be
24 just brought in from cash that's obtained
25 illicitly could be put in those particular

1 containers, so plastic grocery bag would be an
2 atypical way of carrying large amounts of cash
3 and is known synonymously with, you know, more
4 of carrying containers for petty crime.

5 Q Okay. The paragraph continues:

6 "The reasons for prohibiting cash buy-ins
7 were not limited to a specific dollar
8 threshold and required subjective
9 decisions to be made by authorized casino
10 operating personnel. This procedure was
11 instituted no later than 2015."

12 Do you know how long before 2015?

13 A No. Because that's when we started working with
14 the operator.

15 Q Okay. So do I gather that there's an assessment
16 of a -- of the constellation of factors and the
17 circumstances in which the cash is presented and
18 on the basis of those, the operator makes a
19 decision about whether to accept or approve or
20 not approve the transaction?

21 A Yes.

22 Q Would you expect there are circumstances where
23 there are enough suspicious indicators such that
24 the transaction might not be approved even where
25 it has not been proved definitively that the

1 funds are proceeds of crime?

2 A Depending on what the typologies are and how
3 egregious they are would definitely play a
4 factor. But again it would come down to the
5 risk profile. The requirements are that casinos
6 are not to take any -- take any -- any
7 transaction that they know is from money
8 laundering activity. So -- but they do have a
9 responsibility to file suspicious activity on
10 the transactions that are taken. So in an
11 instance where somebody becomes known and they
12 have a transaction that results in a SAR, and if
13 that's a one-time transaction, that information
14 will be reported to law enforcement for further
15 action. To the extent that that continues to
16 happen, that would be something that would be
17 flagged for subjective decisioning as well to
18 the extent that operational personnel continue
19 to see individuals exhibiting the same pattern,
20 then this is where decisions from a risk
21 standpoint tend to be typically taken.

22 Q Are there circumstances from a risk tolerance
23 standpoint where an operator might say, I don't
24 know for sure, but there's just too many risk
25 indicators here for me to be comfortable with

1 this transaction?

2 A Yeah. So typically what they would do is
3 instead of just flat out rejecting the
4 transaction, they would suggest that the
5 individual goes with the cash to the cage or
6 goes and meets with the marketing host or goes
7 and meets with somebody to get more information
8 regarding the activity. So they would say oh,
9 instead of bringing all of the cash to the table
10 and, you know, starting to, you know, get chips
11 and work with it here, there is alternatives in
12 which you can -- you know, in which you can buy
13 in here and then that would be -- those types of
14 conversations and decisioning around those would
15 involve some more personnel at that point. To
16 the extent that given the scenario that you
17 provided that's typically what would happen --

18 Q Okay. And if the patron -- sorry, I didn't mean
19 to cut you off.

20 A I'm finished.

21 Q Okay. And if the patron had been in the
22 scenario we've been discussing or scenarios like
23 we've been discussing have been provided
24 education and information about cash
25 alternatives and offered alternate ways to buy-

1 requirements to take appropriate action
2 when multiple STRs or equivalents are
3 filed on the same patron, or even if a
4 single STR is filed indicating that a
5 patron is suspected of having illegal
6 source of funds or gaming activity not
7 supported by what is known about patron."

8 When you say "appropriate action," what are you
9 referring to? So:

10 "Casino operators will typically include
11 requirements to take appropriate action
12 when multiple STRs or equivalents are
13 filed."

14 A Appropriate action would be barring or banning
15 the patron or creating any restrictions for that
16 patron.

17 Q And is it typical in the industry that if a
18 patron is the subject of multiple SARs or STRs
19 that consideration is given to barring the
20 patron?

21 A Yes, that's true.

22 Q And in most instances if a patron persists in
23 presenting cash in a way that requires a SAR to
24 be filed that they would be derisked?

25 A Yes.

1 Q And has that been the practice going back at
2 least with the operator we have been speaking of
3 to 2015?

4 A Yes.

5 Q And typically in most properties that's been the
6 case going back to 2015 or earlier?

7 A Yeah. So one of the things that we did with the
8 American Gaming Association when we conducted
9 our research into AML compliance is one of the
10 areas that we addressed was patron banning. One
11 of -- I believe it's exhibit 30 in the report,
12 we -- we address patron banning in terms of when
13 we have interviews with those operators and
14 compile those survey results, we saw an increase
15 in patron banning as a part of the process and
16 the practical use of that in terms of how that
17 was executed starting to increase pretty
18 substantially in 2014 -- 2013 and 2014 as
19 compared to 2011 and 2012 where there wasn't
20 significant -- it was quite minimal in terms of
21 the number of patrons that were banned as a
22 result of operators making that decision versus
23 what we saw in 2014.

24 Q And the uptick was in 2013 and '14 and that was
25 barrings in respect of patrons who were the

1 subject of SARs?

2 A Subject of anti-money laundering processes. So
3 it might not have necessarily been a SAR, but it
4 could have been during customer due diligence
5 processes afterwards they identified oh, this is
6 a known, you know, someone who's a known
7 criminal. So we haven't even gotten a chance to
8 file a SAR yet, but we'd have knowledge that
9 this is a known criminal, so we are going to
10 move forward with derisking the patron.

11 Q Thank you. Moving forward to paragraph 5.56.
12 And here you're addressing question 4.
13 Addressing circumstances in which a buy-in might
14 be refused because of suspicious indicators,
15 and, again, dealing with the operator practices?

16 A Yeah. That's right.

17 Q Okay. Paragraph 5.56 you say:

18 "In my experience, I have observed that
19 casino operators will typically file an
20 STR or equivalent if suspicious behaviour
21 is identified, but refusal of cash buy-ins
22 are typically at the discretion of the
23 casino operator. Instances of cash
24 buy-ins being refused by casino operators
25 occurred when patron did not provide

1 required information, adverse news was
2 discovered which questioned the source of
3 funds, patron's name matched OFAC list and
4 other suspicious indicators that led the
5 approver to question the source of funds."

6 And what are those other suspicious indicators?
7 Are those some of the ones we looked at earlier
8 like the plastic bag or the unusual strapping?

9 A Yes, that's right. Something with the
10 transaction activity itself that causes
11 suspicion, that would be a factor into making
12 that determination.

13 Q Okay. And then the paragraph continues:
14 "In addition, I have observed casino
15 operators conducting due diligence
16 procedures such as obtaining CTR required
17 information ..."

18 And maybe I'll pause there. What's CTR?

19 A Currency transaction:
20 "... conducting a search of the unknown
21 patron's name within a commercial search
22 engine for any adverse news, or evaluating
23 the patron and cash for any suspicious
24 indicators."

25 Are those the same type of suspicious indicators

1 that you were speaking of earlier?

2 A Correct.

3 Q Turning two pages ahead to paragraph 5.62. And
4 here you're addressing question 5 about source
5 of funds inquiries and you're talking about the
6 regulatory framework in this section of the
7 report; is that fair?

8 A Yes, that's right.

9 Q Paragraph 5.62:

10 "In addition to the regulations, I also
11 identified a recommendation from a
12 regulatory body. At the June 2014 VSA
13 conference suggested that 'casinos, like
14 other financial institutions, inquire
15 about source of funds as appropriate under
16 a risk-based approach.' The
17 recommendations included various areas to
18 which casino operators should pay close
19 attention. The follow areas were
20 highlighted for casino operators to pay
21 close attention on the topic of source of
22 funds: A, where precisely are the funds
23 coming from?"

24 And that's -- I take here that's the FinCEN
25 recommendation that we were discussing earlier

1 in your evidence.

2 A Correct.

3 Q And from the risk-based approach, what are some
4 of the indicators that would justify further
5 inquiries? Are those some of the indicators we
6 discussed earlier like strapping and groceries
7 bags and the like?

8 A Yeah, it would also include instances in which
9 patrons' activity hit particular thresholds set
10 by the risk tolerance level of the organization.
11 So it may not be single transaction events, but
12 it could be a rolling cash over a rolling
13 12-month period would be an example of one of
14 those, where if they hit a particular threshold
15 additional due diligence measures could be
16 taken.

17 Q And would one of those due diligence measures
18 according to this recommendation be an inquiry
19 about where precisely the funds being presented
20 are from?

21 A Yes. So typically source of funds, source of
22 wealth information is asked when more enhanced
23 due diligence measures are being taken.

24 Q Okay. And this is a 2014 recommendation. Was
25 that a commonly understood approach and practice

1 at least as of this time in American
2 jurisdictions at least?

3 A So part of this speech which was included was
4 that there was some conflicting information that
5 was out there in terms of what the requirements
6 for casinos were. There had been some recent
7 enforcement actions around casinos involving
8 money laundering situations and due diligence
9 measures that were taken at that time. So
10 this -- this speech provided some context in
11 terms of what -- what the expectations were on
12 top of the border regulatory guidelines around
13 having a customer due diligence and enhanced due
14 diligence program, what that means specifically
15 for casinos that have a unique patron
16 relationship in terms of what the setup is and a
17 varying patron relationship between mass gaming,
18 casual patrons and those who are, you know, high
19 value VIPs.

20 Q Okay. Thank you. If we could turn to
21 paragraph 5.67, please. Page 20. Thank you.
22 I'm just going to read you the last two
23 sentences of this paragraph. "Casino
24 operator" -- and again I should just pause to
25 say you're addressing the same question here but

1 from the operator practice perspective?

2 A Okay.

3 Q Okay.

4 "Casino operators generally do not require
5 source of funds receipt or equivalent
6 information until specific threshold
7 amounts around cash have been reached.
8 These additional procedures are typically
9 part of the casino operator's enhanced due
10 diligence ..."

11 And are you referring here to the same time
12 period starting 2014?

13 A Yes. From my -- yeah, from my professional
14 experience. So from 2015 onward. Looking at
15 procedures and processes from 2014 as part of
16 that work.

17 Q Okay. And is this a suggestion that at least
18 some casino operators from 2014 or '15 there was
19 a threshold after which there was a receipting
20 requirement for established source of funds?

21 A So I haven't seen receipting from a source of
22 funds perspective in the context of where that
23 specific funds comes from from a financial
24 institution. I have seen receipting in the
25 sense that if you brought in cash, they would

1 put a record at a certain threshold level in
2 terms of what was -- of the cash that came in,
3 but that may not be a receipt in the traditional
4 form of a receipt as coming from an ATM or
5 coming -- that it could be information
6 associated to what's your employment information
7 associated to that.

8 Q Thank you.

9 A Yeah.

10 Q Go ahead. I didn't mean to cut you off.

11 A That's okay. I'm finished.

12 Q Are there some circumstances where properties
13 might require information establishing or
14 satisfying them that the funds came from a
15 legitimate source?

16 A In my experience the information that's
17 typically asked for patrons in terms of
18 providing information from their source could
19 include but isn't limited to bank statements,
20 payslips from employment, general employment
21 information, information that's done and
22 researched externally by compliance personnel or
23 department personnel. These are the types of
24 things that are typically gathered as part of
25 due diligence. In my experience I haven't seen

1 where a particular buy-in is asked to be
2 correlated with a source of funds receipt that
3 ties to a financial institution. They may look
4 at transaction activity associated to a bank
5 statement related to cash that occurs, but that
6 would be done as a broader -- as a broader due
7 diligence measure in terms of what the patron
8 has as a whole, and some of that information is
9 typically gathered as part of account opening
10 processes, if the patron is reaching a level it
11 would make sense for them to have an account
12 with the casino.

13 Q Thank you. Turning to paragraph 5.111, page 27.
14 And this is -- you're assessing question 9 about
15 the topic of patron interviews. And you say:

16 "In my experience, I have not observed
17 casino operators conduct interviews of
18 patrons regarding their source of funds
19 used in buy-ins in the gaming jurisdiction
20 during the time period, including in April
21 2015."

22 And I just want to make sure the Commissioner
23 understands what you're saying here. Are you
24 speaking only to a formal interview process, or
25 are you saying you're not aware of casino

1 operators ever asking patrons where they got the
2 money from?

3 A Formal interview process as it pertains to
4 individual transaction buy-ins.

5 Q Okay. I take it you are familiar with
6 circumstances where an operator might ask some
7 questions about where funds came from.

8 A Yes. I -- yes.

9 Q Paragraph 5.113 on the next page. You say:
10 "Another casino operator that I am aware
11 of documented its policy that as part of
12 the KYC responsibilities, the casino
13 operator may require employees to document
14 and maintain certain information about a
15 patron's source of funds ..."

16 And where would they get that information from?

17 Would it in part be from asking the patron?

18 A In part it could be asking the patron. And the
19 other part would be obtaining information from
20 external sources that they use for due diligence
21 processes and investigation processes.

22 Q Thank you. Turning to page 30 of the report.
23 And question 12 reads -- I'm just at the top of
24 question 12 on page 30. That's right. Right
25 there. Thank you.

1 "For each of the BCLC AML practices
2 described below, please identify the BCLC
3 AML practices that compare to your answers
4 to each of the previous questions above."

5 I wonder if you could help the Commissioner
6 understand what it is you thought you were being
7 asked here and what you were trying to answer.

8 A So this was to provide information in the
9 context in terms of the actual BCLC procedure
10 and process that was in place at the particular
11 time and associated to the question. So a
12 control measure that had been put in place by
13 BCLC and the context of that in connection with
14 how we address the previous questions.

15 Q Okay. Maybe just to clarify a little further
16 what is it that you're comparing against -- on
17 each side of the comparison?

18 A So the comparison was primarily based on
19 operational practices in terms of what we're
20 seeing from an international perspective across
21 different jurisdictions as compared to the
22 control process that was put in place at BCLC.

23 Q Thank you.

24 MR. MCGOWAN: Mr. Commissioner, I'm going to suggest
25 that this might be a convenient time for a

1 break. I think we are in good shape in terms of
2 the time available and the time that -- the time
3 we have available and the estimates that we
4 have. I'm in your hands. We can take
5 10 minutes but equally 15 minutes I think is
6 easy to accommodate.

7 THE COMMISSIONER: All right. Well, I think let's
8 take 15 minutes, Mr. McGowan. Thank you.

9 MR. MCGOWAN: Thank you.

10 THE REGISTRAR: This hearing is adjourned for a
11 15-minute recess until 11:17 a.m.

12 **(WITNESS STOOD DOWN)**

13 **(PROCEEDINGS ADJOURNED AT 11:03 A.M.)**

14 **(PROCEEDINGS RECONVENED AT 11:17 A.M.)**

15 **ROBERT BOYLE, a witness**
16 **for the commission,**
17 **recalled.**

18 THE REGISTRAR: Thank you for waiting. The hear
19 something resumed. Mr. Commissioner.

20 THE COMMISSIONER: Yes. Thank you, Madam Registrar.
21 Yes, Mr. McGowan.

22 MR. MCGOWAN: Thank you, Mr. Commissioner.

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

24 Q Mr. Boyle, I wanted to just ask you about some
25 of the other work that you've done for the

1 lottery corporation, that you and EY have done
2 for the lottery corporation over the years. You
3 were involved in the completing of three reports
4 relating to cheque audits for the lottery
5 corporation?

6 A Cheque analysis.

7 Q Cheque analysis?

8 A Yes.

9 Q I wonder if you can just in very general terms
10 explain to the Commissioner what those reports
11 were about.

12 A Yes. So --

13 Q And maybe just before you answer, sir, I didn't
14 mean to interrupt you, but for the
15 Commissioner's benefit and just for his note,
16 these three reports are attached to the
17 affidavit of Kevin deBruyckere, which is
18 exhibit 484, and they are exhibits 13, 14 and 17
19 to that affidavit. So they were already in
20 evidence, and have been spoken to by some other
21 witnesses. But since I have one of the authors
22 here, I thought I might just ask him a few
23 questions. So if you could just briefly outline
24 to the Commissioner what it was that you were
25 addressing in those reports.

1 A Sure. So based on some of the information that
2 had come out in the media regarding River Rock
3 Casino, we were -- Ernst & Young was brought in
4 to look at the cheque issuance processes that
5 had taken place at River Rock during the 2014
6 and 2016 time period to identify if there was
7 any -- based on specific questions if there was
8 any particular instances in which those
9 questions were answered that there was a process
10 that wasn't completed as part of those cheques
11 that were issued. So we looked at cheques that
12 were issued for verified wins which were cheques
13 that were associated to, specifically to
14 gambling winnings that came from the casino. We
15 looked at cheques that were issued for return of
16 funds, so funds that had been brought in and
17 then were subsequently returned to the patrons,
18 and then convenience cheques which are cheques
19 that would be issued up to \$10,000 as
20 convenience for patrons who were using the
21 cheque system. So through that -- through the
22 initial analysis that we conducted, we
23 identified a subset of cheques that had met that
24 question criteria that they were issued with
25 some discrepancy associated with those. And

1 those were 49 cheques associated to the
2 population that we looked at over that
3 three-year period. Based on the results of that
4 analysis, an additional phase of analysis was
5 conducted to identify whether any of the patrons
6 associated with those 49 cheques, 28 patrons in
7 total, exhibited any characteristics based on
8 the cheque activity for them that met AML or
9 money laundering typologies that we had set out
10 at the onset of that analysis in the report, and
11 to the extent that those typologies were
12 identified, what, if any, mitigating action was
13 taken to address those patrons' activity during
14 that time frame.

15 After we conducted that analysis for River
16 Rock, we conducted the same baseline analysis at
17 Grand Villa Casino where we identified a very
18 small subset of cheques that had discrepancies
19 identified, so no further action was taken as a
20 result of that report. I'm sorry, Mr. McGowan,
21 you're on mute.

22 Q Thank you. Of the 48 cheques you identified at
23 River Rock of having some discrepancy on the
24 further analysis, how many of them presented as
25 also containing indicators of potential money

1 laundrying?

2 A So it was 49 cheques that we identified. What
3 we did as the second phase is we looked at a
4 series of 553 cheques associated to 28 patrons,
5 so we took the subset of the 49 cheques that
6 were associated to 28 patrons, we looked at the
7 population of cheques for those 28 patrons to
8 identify if there was a theme. For those we
9 identified typologies relating to placement,
10 layering and integration as defined in those
11 reports where we did see instances of where
12 money laundrying typologies were present
13 associated to a subset of activity associated
14 with those -- of those patrons. In addition to
15 the actions that were taken from a mitigation
16 standpoint, whether that included filing STRs,
17 putting on -- putting patrons on watch lists,
18 any kind of conditional association with those
19 patrons, whether it was cash conditions or chip
20 conditions, and then -- and ultimately if
21 patrons were banned as a result.

22 Q Okay. And how many cheques or instances did you
23 find where there were indicators of a money
24 laundrying typology?

25 A I'd have to look directly at the report for

1 reference.

2 Q That's fine. It's set out in the report?

3 A It's set out in the report.

4 Q Okay. And when you talk about money laundering
5 typologies, was what was being investigated here
6 the prospect of money laundering within the
7 casinos, so that is, for example, cash for
8 cheque?

9 A Yeah. So we had broken up our typology review
10 into categories that cover both placement and
11 layering and integration. Placement and
12 layering being those typologies where you would
13 see instances in which, you know, a cheque may
14 have been issued as a result of placing funds
15 into the system. So a baseline example of that
16 would be somebody came in with cash, they didn't
17 play and then they were issued a cheque as a
18 result. Or if they were issued a cheque that
19 had, you know, partially some of their initial
20 cash funding included as part of that. Whereas
21 the integration component would be we identified
22 information from a customer due diligence
23 perspective or patterns of the patron's play
24 historically outside of the cheque process or
25 including the cheque process where there was

1 concerns regarding the patron's activity as a
2 whole and that it's possible that they were
3 using funds as a form of integration or
4 entertainment but had potential issues
5 associated to the patron themselves.

6 Q Did you as part of either any of these three
7 reports investigate the prospect that casinos
8 might be used to -- being used to facilitate
9 money laundering by way of something akin to the
10 Vancouver model?

11 A It was very specific to the use and issuance of
12 cheques as part of the process. So we were
13 looking at the cheques that were issued by River
14 Rock as the baseline for the population. So to
15 the extent that there were other transactions
16 that were occurring that did not tie to the
17 cheque population in terms of what was being
18 issued to those particular patrons, that would
19 have been outside of our scope.

20 Q Okay. Did you have an understanding from your
21 dealings with the lottery corporation in the
22 context of these reports of what prompted them
23 to retain you to conduct this analysis?

24 MR. STEPHENS: Mr. Commissioner, it's Mr. Stephens
25 here, and I just would ask -- and I don't think

1 Mr. McGowan intended this, but just Mr. Boyle
2 not to refer to questions with legal counsel in
3 this context.

4 MR. MCGOWAN: Yes. No, I didn't ask about legal
5 counsel. Maybe I can ask the question more
6 directly.

7 Q Did you understand that this report was prompted
8 by concerns that were raised in the media, or
9 these reports?

10 A That was my understanding.

11 Q Okay. What was the cost to the lottery
12 corporation of EY's involvement in these three
13 reports?

14 A Approximately \$811,000 Canadian.

15 THE COMMISSIONER: I'm sorry, I didn't hear that
16 answer, Mr. Boyle. Could you repeat it.

17 THE WITNESS: Sure. It was \$811,000 Canadian.

18 THE COMMISSIONER: Thank you.

19 MR. MCGOWAN:

20 Q And that was for those three reports?

21 A That was for those three reports.

22 Q Okay. What other work has EY done for the
23 lottery corporation over, say, the last
24 10 years?

25 A So my experience with working with the lottery

1 corporation I can comment on my involvement in
2 activity over the time I started working with
3 BCLC and that was we conducted two assessments
4 under FINTRAC regulation required under FINTRAC
5 biannual assessments of work in which we came
6 which in 2015 and 2017 to address the time
7 period under those -- under that work as part of
8 our anti-money laundering assessment work in
9 which we've -- in which we assessed against
10 regulatory -- applicable regulatory processes
11 for those time periods. In addition I served as
12 a subject matter advisor for when BCLC was
13 considering implementation of credit into the
14 province and provided context from a compliance
15 perspective for that engagement.

16 Q Thank you. And can you give the Commissioner
17 any indication of what -- aside from the
18 \$800,000 for the three reports, what EY has
19 invoiced BCLC for over the, I guess, time of
20 your involvement with them?

21 A I can only speak from a compliance perspective
22 in terms of what I was involved with. I know
23 that Ernst & Young as a whole does work
24 separately with BCLC that I'm -- that's outside
25 of my area of expertise. The invoicing for the

1 assessments was each one of them was under
2 200,000. I wasn't involved in the billing
3 process, but I do know it was below those values
4 at the time given that I was brought in as a
5 subject matter advisor for the industry during
6 that time period to assist in the local
7 assessments. And the -- I'm not aware of what
8 we had billed from the credit engagement, as I
9 wasn't involved in the billing process for that.

10 Q Okay. Thank you. Have you done any work for
11 the Gaming Policy and Enforcement Branch?

12 A I haven't, no.

13 Q Okay. Have you worked for any other gaming body
14 in British Columbia during your time with Ernst
15 & Young?

16 A No.

17 Q Okay. Commission counsel wrote to you in August
18 and November of 2020 asking that you meet with
19 us to discuss the cheque review reports and
20 other work you'd done on gaming in British
21 Columbia. Did you receive those two emails?

22 A I did, yes.

23 Q Okay. What did you do when you received them?

24 A So when I received the first email in August
25 2020, as part of our standard Ernst & Young

1 process, any time we're reached out regarding
2 matters of -- like these, I reached out to
3 our -- my -- to the local Canadian forensics
4 team that I work with as well as Ernst & Young's
5 general counsel's office, and in this particular
6 case because the matter involved impact from a
7 client perspective, we reached out to the global
8 client service partner for the client as well.
9 So I took that action to address that I have
10 received this email and what steps to take, you
11 know, what next steps to take regarding any
12 potential involvement and those parties took
13 that back for internal review analysis.

14 Q Okay. Did you receive any input from BCLC or
15 their representatives or counsel about whether
16 you could or should respond to commission
17 counsel?

18 A I did not. The extent of my conversations were
19 with the individuals that I have reached out to
20 in terms of next steps, and I understand that
21 discussions and conversations took place, but to
22 the extent -- my involvement was covered through
23 the extent of the email communication that was
24 sent between those parties.

25 Q Okay. So you reached out to personnel within EY

1 who had communication with BCLC or their
2 counsel?

3 A Correct.

4 Q And after the personnel at EY that you reached
5 out to had communication with BCLC or their
6 counsel, did they come back to you?

7 A They hadn't come back to me -- they came back to
8 me in December 2020 with the indication that
9 counsel was looking to retain us. So I had seen
10 some communications in terms of, you know, that
11 BCLC had been contacted in October 2020 and then
12 I had received communication from EY's general
13 counsel office that counsel of BCLC would be
14 reaching out to me about potentially retaining
15 me, and that was in December of 2020.

16 Q Okay. Did you ever respond to commission
17 counsel's request that you meet with them?

18 A I did not.

19 Q Okay. You ultimately did meet with commission
20 counsel in preparation to give your evidence
21 here several weeks ago?

22 A I did, yes.

23 MR. MCGOWAN: Thank you, sir. Those are my
24 questions. Mr. Commissioner, next I believe we
25 have Mr. Stephens for the lottery corporation.

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

2 Mr. Stevens.

3 MR. STEPHENS: Thank you, Mr. Commissioner.

4 **EXAMINATION BY MR. STEPHENS:**

5 Q Hello, Mr. Boyle. Can you see me?

6 A Yes, I can.

7 Q Thank you. Just with respect to some questions
8 Mr. McGowan asked about your qualifications and
9 experience, just for completeness, you said that
10 you were certified anti-money laundering
11 specialist; correct? And you got that
12 certification in 2011. Am I right?

13 A Yeah, that's correct.

14 Q And you started with Ernst & Young in 2009; is
15 that right?

16 A 2008.

17 Q 2008. Thank you, sir. Mr. McGowan asked you,
18 other than the ACAMS certification, can I ask
19 you are you a member of any other gaming or AML
20 associations?

21 A Yeah. I'm part of the International Association
22 of Gaming Advisors. I'm a member of that
23 organization and partake in a number of their
24 events and conferences. I serve as a panelist
25 and moderator for several of those events that

1 they hold.

2 Q And just in that regard, then, so just sticking
3 with that. Have you been a speaker or presented
4 at gaming conferences and if so, could you tell
5 the Commissioner of that experience, please.

6 A I have, yes. I spoke at the global gaming Expo
7 on anti-money laundering matters. This was in
8 Las Vegas. I also spoke in -- the International
9 Association of Gaming Advisors host an annual --
10 an annual global summit, of which I've spoken at
11 a number of those conferences, both in the US
12 and in their conference that they held in Macau.
13 And I've attended -- I've attended also the
14 casino essentials, which is now the Vector
15 Solutions anti-money laundering conference in
16 August where we served as a sponsor there as
17 well and had provided some information
18 regarding, you know, our contributions to the
19 gaming industry.

20 Q Thank you. Just to be clear, the speaking
21 engagements that you referred to in those
22 conferences, did they concern anti-money
23 laundering matters?

24 A Yes. They concerned anti-money laundering and
25 other financial crimes matters.

1 Q Thank you. Mr. McGowan asked you and you spoke
2 in your evidence about participation in a 2016
3 report of the American Gaming Association. Do
4 you remember that?

5 A Yes, I do.

6 MR. STEPHENS: And, Madam Registrar, I'd like to call
7 up that report just to identify it, and I
8 believe it's -- it is in what is now
9 exhibit 1038, but from a document number
10 perspective, I understand it resides within
11 document 3455, if that assists.

12 THE REGISTRAR: Sorry, Mr. Stephens, which exhibit
13 again, please?

14 MR. STEPHENS: I believe it's PDF 2421, and we're
15 going to exhibit 30, if that helps with the
16 bookmarking. And, Madam Registrar, if you could
17 just scroll down.

18 Q Mr. Boyle, if I could just ask this exhibit 30
19 to your report, your AML practices report, is
20 this the 2016 American Gaming Association report
21 that you referred to in your evidence?

22 A Yes.

23 Q That's the report that -- did you participate in
24 authoring this report?

25 A I did, yes.

1 Q And this is the report that was done following,
2 among other things, some interviews with
3 participants in the American gaming industry; is
4 that right?

5 A Correct. It was a survey followed subsequently
6 by interviews with operational personnel.

7 MR. STEPHENS: Thank you very much. Thank you, Madam
8 Registrar. We can take that document down.

9 Q And, Mr. Boyle, just in terms of your knowledge
10 of AML, do you receive or review any industry
11 bulletins or bulletins of relevance to the
12 gaming industry or AML, and if so, could you
13 advise the Commissioner.

14 A Yes, I do. I receive a number of daily and
15 monthly communications from a variety of
16 different sources. From an email perspective I
17 receive daily emails from the *Casino & Gaming*
18 *SmartBrief*, *iGaming Business*, international
19 game -- international online gaming and I do
20 receive updates from the International
21 Association of Gaming Advisors. They put out an
22 expert insights report or information that's
23 associated to contributions on their website, of
24 which we had also provided some context for that
25 in the past, in addition to the American Gaming

1 Association updates that come through on an ad
2 hoc basis. I also run a Factiva AML alerts
3 article search that comes through every day that
4 has key words flagged for various money
5 laundering key words as well as gaming industry
6 connotations. So I receive those updates
7 through Factiva on a daily basis regarding any
8 industry updates or changes.

9 Q Is the information you received in these
10 distributions part of your knowledge base that
11 has been relevant to the subject matters of your
12 reports and the evidence you've given the
13 Commissioner today?

14 A Correct. Oftentimes when I received these -- or
15 get information, especially as it pertains to
16 financial crimes matter, I've had subsequent
17 conversations with those individuals and
18 industry and have talked about some of those
19 components and how certain operational
20 components would also have an impact from an
21 anti-money laundering compliance standpoint.

22 Q Thank you. I just want to ask you a few
23 questions about your AML practices report?

24 MR. STEPHENS: Madam Registrar, could I ask that you
25 pull up exhibit 1038, please.

1 Q Mr. McGowan did take you to portions of this
2 report, Mr. Boyle. I just have a few questions
3 walking through it in addition. Just firstly,
4 Mr. Boyle -- and I'm not sure and I don't know
5 if I have a note about what the time period was
6 that you looked at for this report, but if I
7 could ask, Madam Registrar to go to page 3 of
8 the report to section 2.3. Mr. Boyle if you
9 could tell Mr. Commissioner what your time
10 period is for the matters in this report?

11 A Yes. This was from January 1st, 2014, to
12 December 31st, 2020.

13 Q And just on the same topic, just in terms of
14 definitions and whatnot and you've given
15 evidence today about the gaming jurisdictions
16 you've looked at, but if I could ask, Madam
17 Registrar, if you could go back two pages to
18 page 1 and just tell -- if you can refer -- if
19 you wish to refer to footnote 2 you may,
20 Mr. Boyle, but just tell the Commissioner what
21 the gaming jurisdictions are?

22 MR. STEPHENS: Thank you, Madam Registrar. Just to
23 the bottom of that page. At footnote 2. Thank
24 you.

25 Q What gaming jurisdictions that you reviewed in

1 your report and the "Known Play" report?

2 A Yes. So this was Canada excluding British
3 Columbia, the United States, European Union,
4 which in this case is including the United
5 Kingdom, Macau, Australia and New Zealand.

6 Q Thank you. And I just want to ask you about
7 some of the conclusions you came to with regard
8 to what I might call cash caps.

9 MR. STEPHENS: Madam Registrar, if you could scroll
10 forward to section 5.3 which is on page 5 of the
11 report. That's perfect, thank you.

12 Q And, Mr. Boyle, I just want to ask you about
13 question 1 where you were asked to advise if in
14 the gaming jurisdictions --

15 "If the gaming jurisdictions had a
16 regulation prohibiting the amount of cash
17 buy-in by patrons over a certain dollar
18 threshold (or otherwise prescribing the
19 amount of the cash buy-in) during the time
20 period. If so, when ..."

21 And I would just refer to section 5.3,
22 Mr. Boyle. But could you tell the Commissioner
23 what your response is to that question.

24 A From a regulations perspective, I didn't
25 identify anything that was specific to a cash --

1 to a cash buy-in over a particular threshold.

2 MR. STEPHENS: Thank you. And then just scrolling
3 forward, Madam Registrar, to page 7, at 5.5.

4 Q With respect to industry body guidance, did you
5 find any such indication of a cash cap, as I'll
6 call it, in your review?

7 A I didn't see anything from a cash cap
8 perspective, from an industry perspective on
9 that outside of the information that would be
10 required from a regulatory perspective for
11 verification processes.

12 Q Right. So -- and so just to stick with that.
13 And I'll let you describe, but the question was
14 were there any thresholds beyond which cash
15 would not be accepted and I think you said the
16 answer is no, but you just said that you did
17 find something about thresholds, so just tell
18 the Commissioner what -- I think it may be
19 clear, but tell the Commissioner what you did
20 find relative to threshold of cash amounts.

21 A Right. So thresholds for cash amounts would be
22 based on what would be required from an
23 identification verification standpoint at
24 various jurisdictions. Those are set at
25 different levels. So it wasn't necessarily just

1 based on the fact that cash was being conducted
2 from a buy-in perspective, but the value of the
3 cash that was conducted could result in a
4 verification requirement in terms of information
5 that would be needed for regulatory filing
6 purposes.

7 Q And you're speaking there in terms of regulatory
8 reporting, I take it.

9 A Regulatory reporting, yes.

10 MR. STEPHENS: Thank you. And then, Mr. Boyle and
11 Madam Registrar, if I could ask you to move
12 forward to page 9 of the report at
13 paragraph 5.12.

14 Q Sticking with the cash cap concept, in
15 question 2 you were asked:

16 "If the gaming jurisdictions had a
17 regulation prohibiting the amount of cash
18 buy-in of \$20 denominations by a patron
19 over a certain threshold (absent other
20 indicators of suspicious activity required
21 in the gaming jurisdiction), during the
22 time period. If so, when this was put in
23 place ..."

24 And could you tell the Commissioner what your
25 response to that question is, was there

1 effectively a cash cap of cash of a certain
2 denomination such a threshold from a regulatory
3 perspective. And I'm referring to 5.12.

4 A Yeah, I did not identify any regulations that
5 are specific to a cap based on denomination of
6 bills.

7 Q And similarly over the page at 5.15.

8 MR. STEPHENS: Thank you, Madam Registrar.

9 Q You refer to your response based on industry
10 body guidance and what was your -- what did you
11 find in that regard with respect to industry
12 body guidance?

13 A I didn't identify any industry body guidance
14 that would suggest a cap for small denomination
15 bills on its own.

16 Q Thank you. Just moving to a different topic,
17 which I may call a source of funds threshold.

18 MR. STEPHENS: Madam Registrar, if I could ask you to
19 move the page forward to page 17 of 45 and down
20 to the bottom of that page is question 5.

21 Q And Mr. McGowan has asked you some questions
22 about this in the previous question with respect
23 to operator practice, but I just would like to
24 flesh it out a little bit more.

25 In question 5 you were asked with respect to

1 January 2018 interim recommendation of
2 Dr. German and BCLC implemented a mandatory
3 source of funds receipting requirement for all
4 cash buy-ins of \$10,000 Canadian or greater.
5 And you were asked to advise if the gaming
6 jurisdictions had a regulatory obligation that
7 cash and bearer monetary instruments, et cetera,
8 of \$10,000 or more required a source of funds
9 receipt, confirming the ownership of the funds,
10 by the patron prior to acceptance for buy-in at
11 a facility. If you could tell the Commissioner
12 what your conclusion was in answer to that
13 question with reference to 5.59?

14 A I didn't identify any regulations associated to
15 the gaming jurisdictions where source of funds
16 receipting was a requirement.

17 Q And was that the case, Mr. Boyle, both in --
18 throughout the time period as well as in January
19 2018, you didn't find any regulations that had
20 that type of requirement?

21 A Correct.

22 Q And similarly did you find any industry body
23 guidance requiring that or -- in that regard or
24 recommending? And I was going to refer to 5.64
25 of your report at page 19.

1 A As it pertains to the source of funds
2 receipting, I didn't see any industry body
3 guidance that recommended or covered that topic.
4 Q And so just to sum up to the extent that BC does
5 this source of funds receipting requirement at
6 \$10,000 or more, is it just -- is it the case,
7 then, that from your professional experience and
8 review, that measure is BC specific?
9 A My professional experience that component of the
10 source of funds review is unique to British
11 Columbia.
12 Q Mr. Boyle, I'm going to ask you about one other
13 features, which is the cash conditions aspect.
14 MR. STEPHENS: And, Madam Registrar, if I could ask
15 you to move forward to page 23 of the report
16 at --
17 Q And I'm going to question 7, Mr. Boyle. And
18 this is a fairly long -- a long worded question
19 that relates to BCLC implementing sourced cash
20 and chip conditions. First implemented in
21 November 2014 and then developed in August of
22 2015. And I'm not going to read it out to you,
23 Mr. Boyle. But if I could just ask if you could
24 tell the Commissioner -- and I'm referring I
25 suppose to 5.85 -- what your answer to that

1 question was, was any such measure in place that
2 you found in the gaming jurisdictions.

3 A So as it pertained to putting patrons
4 specifically on sourced cash or chip conditions,
5 I didn't see a practice that involves that, but
6 I would, you know, bring in the context of 5.86
7 where there are processes to verify chips from
8 a -- you know, from a game play perspective. So
9 there were some chip analysis activities that
10 would take place but not necessarily specific to
11 a patron, individual patron.

12 Q And how about the cash condition part of the
13 source of funds requirement? Did you find any
14 operator practice with that?

15 A I did not. Cash would be, again, assessed in
16 terms of the value and time period in terms of
17 it would be brought in from a customer due
18 diligence standpoint and that would be typically
19 a back of house process and not be unique to a
20 conditional component for a patron.

21 Q A patron buy-in, you mean?

22 A Right.

23 Q Right. And so 5.85 deals with operator
24 practices. And over the page, Madam Registrar,
25 at page 24 at 5.89 you address regulations and

1 industry body guidance but -- and the question
2 being was there such a cash conditions -- cash
3 and chip conditions program in place by way of
4 regulation or industry body guidance in the
5 other -- in the gaming jurisdictions. And your
6 response to that question was what, Mr. Boyle?

7 A I didn't see any gaming industry guidance or
8 regulations that were specific to sourced cash
9 or chip conditions for patrons.

10 Q Thank you. And then, Mr. Boyle, I just wanted
11 to reference one other report that you refer to
12 in your AML report that I don't think has been
13 referred to yet, although I may stand to be
14 corrected.

15 MR. STEPHENS: Madam Registrar, if I could ask you to
16 turn over the page to page 27. I'm just going
17 to reference 5.108. So I think it's over a
18 couple of pages. And I'm just going to direct
19 you there, Mr. Boyle -- thank you, Madam
20 Registrar.

21 Q Direct you to 2019, 2020 report by the American
22 Gaming Association. Do you see that there?

23 A Yeah, I do.

24 MR. STEPHENS: And you refer to that a couple of
25 times in this report that you've done, but I

1 just would like to turn that up, if I may, and
2 if I could ask, Madam Registrar, if we could
3 just turn up now what is exhibit 12 to
4 Mr. Boyle's AML practices report, which, again,
5 resides in that document. Thank you, you've
6 turned it up, exhibit 12. And if you could
7 scroll down, Madam Registrar, so the face
8 page -- if you could go up one page, Madam
9 Registrar. There it is, thank you.

10 Q Mr. Boyle, could you identify whether this is
11 the report, best practices report that you
12 referred to in your report?

13 A Yes, that's right.

14 MR. STEPHENS: If I could ask, Madam Registrar, if
15 you could scroll forward in that report to
16 page 18 of it. Mr. Duong tells me it's
17 PDF 1104.

18 Q Are you with me, Mr. Boyle?

19 A Yes, I am.

20 Q And this is an excerpt of this report that has
21 commentary on know your customer, and in the
22 italicized portion of it refers to something
23 which says "for high volume patrons or
24 transactions identified as possibly posing a
25 risk of violations the casino also may need to

1 obtaining additional information is covering
2 sources of wealth or income commensurate with
3 his or her gaming activities. So from my
4 experience in terms of how casinos have
5 addressed this from a risk-based perspective,
6 depending on what the values are, they may ask
7 information regarding a patron's bank statements
8 to understand what's driving the activity that's
9 seen over the course of the time period in which
10 they're gaming. They may ask for paylips.
11 They may ask for, as a baseline information,
12 employment information just to understand what
13 industry that they're involved in and what
14 position that they hold.

15 But these would all be the types of tools in
16 addition to what's being gathered externally.
17 So information regarding an individual either
18 from third party sources, third party reports or
19 through open-source searches to obtain
20 additional information about a particular
21 patron, and then finally to the extent that they
22 have any account-based relationships where, for
23 example, credit, credit reports and information
24 like that would also be included to provide more
25 information regarding their financial situation,

1 if they have liens or other impacts on their
2 credit report.

3 Q Thank you, Mr. Boyle.

4 MR. STEPHENS: Thank you, Madam Registrar. We can
5 take that particular document down. I just
6 have -- if I could ask Mr. Boyle's report just
7 go back up exhibit 1038, the AML report, Madam
8 Registrar.

9 Q I just wanted to take you to one section of that
10 that Mr. McGowan asked you about at page 8,
11 section 5.9. At the bottom. Thank you. You
12 remember Mr. McGowan asked you some questions
13 about your -- this part of your report,
14 Mr. Boyle?

15 A Yes.

16 Q And I just wanted to ask you because the
17 beginning sentence of that states that -- that
18 you observed casino operators in the gaming
19 jurisdictions with additional measures in place
20 for addressing unknown patron cash transactions.
21 And I just wonder if you could tell the
22 Commissioner what that concept is of an unknown
23 patron particularly as it refers to the rest of
24 that paragraph?

25 A Yeah. So in the context of this paragraph, the

1 unknown patron would be somebody that we didn't
2 have verifiable identification information for
3 as of the time of the transaction. So this
4 could be a transaction where we may have
5 gathered some information; it could be just name
6 and physical description, but it wouldn't
7 necessarily indicate that we have the verifiable
8 information that would be -- that would be
9 needed to identify a patron as known.

10 MR. STEPHENS: I see. Thank you. And just as a very
11 small thing, Madam Registrar. Just if you could
12 go to section 5.47 of the report at page 15.

13 Q And, Mr. Boyle, just at the end of the first
14 sentence there's a reference to an exhibit. It
15 says exhibit 0. I think that might simply be a
16 typo. Is that a typo and what is the relevant
17 exhibit number just for the Commissioner,
18 please?

19 A Yes. That should be exhibit 20.

20 Q Thank you.

21 MR. STEPHENS: Thank you, Madam Registrar. That
22 report can come down. Mr. Commissioner, I'm
23 wondering if I might be able to ask for a
24 five-minute break both to check my notes and
25 then just something arose that I just wanted to

1 check in the documents before we proceed, and
2 therefore if we could take a five-minute break I
3 would be grateful.

4 THE COMMISSIONER: Yes, that's fine, Mr. Stephens.
5 We'll take five minutes.

6 THE REGISTRAR: This hearing is stood down until
7 12:04 p.m.

8 **(WITNESS STOOD DOWN)**

9 **(PROCEEDINGS ADJOURNED AT 11:58 A.M.)**

10 **(PROCEEDINGS RECONVENED AT 12:04 P.M.)**

11 **ROBERT BOYLE, a witness**
12 **for the commission,**
13 **recalled.**

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

16 THE COMMISSIONER: Yes. Thank you, Madam Registrar.
17 Yes, Mr. Stephens.

18 MR. STEPHENS: Thank you, Mr. Commissioner.

19 **EXAMINATION BY MR. STEPHENS (continuing):**

20 Q Mr. Boyle, just a followup question with regard
21 to -- and I think you may be muted, Mr. Boyle.
22 There we go. A followup question with regard to
23 your participation at conferences that deal with
24 AML and the gaming industry. Is it the case,
25 Mr. Boyle, that at those conferences you learn

1 things about what's happening in other gaming
2 jurisdictions as well in terms of informing your
3 knowledge base?

4 A Yes, that's true. Especially for the
5 conferences that I have attended in the
6 international locations. We get -- we get
7 people from jurisdictions around the globe with
8 those.

9 Q Including jurisdictions within the gaming
10 jurisdictions to which your reports relate?

11 A Correct.

12 Q And secondly, Mr. Boyle, Mr. McGowan was asking
13 you some questions about your work experience in
14 the United States with respect to gaming
15 operators, and I believe my note was that you
16 mentioned that you worked with about 20 gaming
17 operators in the United States. I think that
18 was your evidence. Am I right in that?

19 A At least 20 operators. Correct.

20 Q And could you tell the Commissioner for those
21 operators did those operators operate multisite
22 facilities in different states or even within
23 states?

24 A Yes. This would be a combination of
25 multi-property enterprises, single property

1 establishments as well as online gaming
2 establishments throughout the country.

3 Q And can you give the Commissioner an example of
4 a multisite operator in terms of the number of
5 the states that that operator was operating in?

6 A Yeah, so the largest operator we worked with at
7 the time operated at 23 different state
8 jurisdictions.

9 Q That would be at least 23 facilities for that
10 one operator; is that right?

11 A Correct.

12 MR. STEPHENS: Thank you. And then thirdly I just
13 wanted to return to something Mr. McGowan asked
14 you about, and I'd ask, Madam Registrar, if you
15 can pull up a document that is part of the
16 material that Mr. Boyle provided as
17 correspondence leading up to his reports and
18 it's document 3685.

19 Q And, Mr. Boyle, I was just going to ask you
20 this. Mr. McGowan asked you some questions
21 about the draft of your report and its
22 distribution.

23 MR. STEPHENS: And if I could ask, Madam Registrar,
24 to just start at the bottom of the email.
25 That's -- thank you. There's an email you

1 appear to be copied on that relate to --
2 actually, I'm sorry, Madam Registrar, I think if
3 you could go even further down. I endeavour to
4 start at the start. I think that's sufficient
5 there. Thank you.

6 Q There's an email dated April 15th, 2021, with
7 respect to production of drafts and signing of
8 some documentation for the purpose of that to
9 two participants in the proceeding. Do you see
10 that?

11 A I do, yes.

12 MR. STEPHENS: Then, Madam Registrar, if I could ask
13 if you could scroll up to the top of that email
14 chain.

15 Q And there's a further email, you're copied on
16 there, where there's a reference to a signed
17 letter for another participant and his counsel
18 indicated in the draft has been shared to that
19 counsel. Do you see that?

20 A I do, yes.

21 Q And I just wonder if that refreshes your memory,
22 Mr. Boyle, this is when Mr. McGowan asked
23 whether the draft had been -- of your reports
24 had been shared with any other participants,
25 whether that assists you to your knowledge

1 whether that happened?

2 A Yes, that does.

3 Q Okay. And the answer being that a draft
4 appears -- was shared with some other
5 participants; correct?

6 A Correct.

7 MR. STEPHENS: Thank you. Thank you. That document
8 can be taken down.

9 Mr. Commissioner, I don't have any further
10 questions at this time for Mr. Boyle.

11 THE COMMISSIONER: Thank you, Mr. Stephens.

12 I'll now turn to Ms. Bevan on behalf of
13 Gateway Casinos, who has been allocated
14 30 minutes.

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

16 **EXAMINATION BY MS. BEVAN:**

17 Q Mr. Commissioner, can you hear me okay?

18 A I can, yes.

19 Q I do have some background noise going on today
20 in the form of construction next to me, so if it
21 becomes a problem do let me know and I'll try
22 and find a quieter environment.

23 A Will do.

24 Q I have a question, and I'm going to start at 5.9
25 of your report, which is on page 8 of 45.

- 1 MS. BEVAN: Madam Registrar, this is a general
2 question, so you perhaps don't need to bring it
3 up yet.
- 4 Q But at paragraph 5.9 and other places in your
5 report you refer to casino operators in the
6 gaming jurisdictions and provide your opinion on
7 the questions posed from an operational
8 perspective; correct?
- 9 A Correct.
- 10 Q And in particular in paragraph 5.9 you're
11 talking about casino operators with additional
12 measures in place for addressing unknown patron
13 cash transactions and the context of your
14 opinion is provided -- or your opinion is
15 provided in that context; correct?
- 16 A Correct.
- 17 Q So my question is a bit of a nuance in your use
18 of the term "casino operators." In 5.9 you
19 refer to one instance and earlier today I think
20 you told the Commissioner that that one instance
21 referred to a US-based gaming operator; correct?
- 22 A Correct.
- 23 Q I'm sorry. I didn't catch that.
- 24 A Correct.
- 25 Q Thank you. I'm wondering if you could comment

1 in your experience on the differences between a
2 US-based gaming operator environment and the
3 service provider operating environment in
4 British Columbia.

5 A Sure. So from an operational perspective and
6 what I've typically seen is, you know, from a
7 general global perspective is that the operators
8 will drive the policies and the procedures that
9 will be related to anti-money laundering and how
10 that's disseminated from compliance and how that
11 works with the operational. From a service
12 provider perspective, I've seen where the --
13 where the policy and procedures that are related
14 to the province from a Crown corporation
15 perspective are the measures that are in place
16 from a baseline perspective, and then with some
17 additional operational components that take
18 place as it's unique to the service providers
19 for -- that operate in that particular province.

20 Q So in the context of paragraph 5.9, the operator
21 that you're referring to in that paragraph
22 that's a US-based operator, that operator has
23 direct responsibility for the conduct and
24 management of gaming in that jurisdiction?

25 A Correct.

- 1 Q Okay. And generally speaking when you refer to
2 operators throughout your report is it the case
3 that you're referring to the entity that has
4 direct responsibility for conduct and management
5 of gaming?
- 6 A Correct.
- 7 Q Okay. And those organizations are the
8 organizations that train the staff and set the
9 policies as you referred to?
- 10 A From my experience, yes.
- 11 Q Okay. In the United States is it your
12 experience that casinos in that jurisdiction --
13 and there may be some nuance here as it's run by
14 state, state by state, but in that jurisdiction
15 those casinos more frequently offer credit than
16 in British Columbia?
- 17 A That's correct.
- 18 Q And in your experience does credit provide a
19 greater opportunity to a casino operator, the
20 entity that has conduct and management of
21 gaming, to control and eliminate the flow of
22 cash?
- 23 A In my experience, yes.
- 24 Q And how does that occur, briefly?
- 25 A So because credit allows an account-based

1 relationship to occur right away, typically
2 information regarding the patron from a credit
3 check perspective is performed upfront, so
4 there's information around how the patron is
5 going to fund their account to the extent they
6 build a balance. So when account balances are
7 built up, the patrons have the opportunity to
8 pay back that balance through different product
9 means. So the use of cash is sometimes a
10 process in which a patron would want to pay --
11 you know, pay the balance on their account, but
12 they have other options because they have an
13 account-based relationship. So you would see
14 wires, you could see cheques, you can see other
15 monetary instruments being used to pay that
16 balance, so there's options for the patron that
17 wouldn't necessarily include cash but could
18 include cash.

19 Q In paragraph 5.9 you refer to a number of
20 suspicious indicators, and I have a question
21 about one of them in particular -- two of them
22 in particular. You refer to suspicious
23 indicators as cash that is not strapped by a
24 known bank or casino operator or cash carried in
25 plastic grocery bags. To your knowledge when

1 did those -- at what point did those two
2 suspicious indicators become known as suspicious
3 indicators that operators should pay attention
4 to?

5 A So this was part of procedural documentation
6 that I had read as part of operational
7 procedures through department staff that were in
8 place by 2015, if not earlier.

9 Q Okay. I understand the way you explained it
10 earlier today with respect to these suspicious
11 indicators in paragraph 5.9 that the manner in
12 which the cash is presented is not an overriding
13 factor in an operator's analysis. Would you
14 agree with that?

15 A Yes. There's other factors involved.

16 Q Okay. And are you aware of a practice where an
17 operator would refuse a transaction simply
18 because of the packaging of the cash?

19 A I haven't seen an instance in which that was the
20 case for suspicious activity report.

21 Q Okay.

22 A Or equivalent.

23 MS. BEVAN: Madam Registrar, if we could turn up
24 paragraph 5.10 on page 9.

25 Q In paragraph 5.10, Mr. Boyle, you're describing

1 an observation that you have about gaming
2 jurisdictions performing cash-related reviews
3 after the buy-in when certain thresholds are met
4 for KYC, know your client purposes, and then you
5 referred to in one instance the casino operator
6 identified patrons that conducted multiple
7 transactions that reached the established
8 threshold amount through an analysis of CTRs, et
9 cetera. Do you recall what jurisdiction that
10 operator was in that you referred to in 5.10?

11 A Yes, this was in the US.

12 Q I'm going to now turn to 5.19, which is on page
13 10 of 45. And this is an answer to question
14 number 2. In 5.19 you have -- you say you've
15 also observed an instance, and same question
16 there. Do you recall what jurisdiction this
17 instance was in relation to?

18 A This was in Canada.

19 Q Okay. And here you refer to an additional step
20 if a buy-in was made up of specific smaller
21 denomination bills and you say:

22 "The additional steps included advising
23 police when the transaction exceeded a
24 certain value in small denominations and
25 this procedure was instituted no later

1 than 2018."

2 Do you see that?

3 A I do, yes.

4 Q Did this -- and I take it from your opinion, but
5 please correct me if I'm wrong, that this
6 additional step did not include a refusal of the
7 cash transaction based on these circumstances in
8 5.18 and 5.19?

9 A Not from what I recall.

10 Q If we may turn to page 13 of 45 and have a look
11 at paragraph 5.31. And this, Mr. Boyle, is in
12 relation to question number 3 with respect to
13 barring patrons. And in 5.31 and following, you
14 talk about subjective reviews to address whether
15 patrons are to be barred from play, and you
16 refer to refusing cash based on STRs or
17 equivalence is one component of enhanced
18 customer due diligence for those patrons of
19 large cash aggregates. Are you referring here
20 to entities that file STRs directly, are
21 directly responsible for the creation of STRs?

22 A It's in the context of both. It's in terms of
23 STRs or equivalence as it relates to those that
24 were filed in the various jurisdictions.
25 Whether it was filed through a Crown corporation

1 or it was filed through an operator, the
2 instances in terms of what we've seen covered
3 from those has been incorporated in this
4 response.

5 Q Okay. Thank you. If we could go to page 17 of
6 45. And 5.56. And I think this is something
7 that my friend Mr. Stephens was referring to.
8 Through the course of your report you refer to
9 SOF or source of funds, and I think what you've
10 explained to the Commissioner is that that term
11 "source of funds" may refer more broadly to a
12 number of factors, including factors that would
13 tend to prove the source of wealth; is that
14 correct?

15 A Correct.

16 Q And through your report you are using the more
17 broadly defined term such as the FinCEN use of
18 the term "source of funds" to include source of
19 wealth components in that term?

20 A Yes. And I would also reference the AGA best
21 practices document that we went through where
22 source of funds component, where that italicized
23 source of funds reference is made and in the
24 subsequent guidelines talk about a number of
25 factors that in some jurisdictions or in some,

1 you know, opinions that could be considered
2 source of wealth.

3 Q Okay. And so in paragraph 5.56 do we see an
4 example of this in about the fifth line down
5 where you say:

6 "Adverse news was discovered --"

7 This is a factor you're listing.

8 "Adverse news was discovered which
9 questioned the SOF."

10 That's the more broadly used term, you would
11 expect adverse news would be discovering --
12 would be questioning the source of wealth;
13 correct?

14 A Correct. For example, if you identify the lien
15 on a particular individual, that could have
16 impact in terms of their source of funding, that
17 could be looked at holistically from a source of
18 wealth standpoint or looked at in the context of
19 where would they be able to get their source of
20 funds if they had other -- or bankruptcy issues
21 or something to that extent that was identified
22 through media searches.

23 Q Okay. And would you agree with me that to some
24 extent this 5.56 and 5.57, the comments in here
25 are directed at unknown play similar to the

1 conclusions in 5.9? For example, in 5.57 you
2 used the example in the second line of:

3 "For example, a casino operator's policy
4 required an STR to be raised if the patron
5 made cash transactions of 2,000 to
6 10,000 euros in 24 hours and the patron
7 could not be identified."

8 This is an example of unknown play?

9 A Yes, so in the context of that, that was related
10 to unknown play. So to the extent that they
11 were able to perform those transactions and
12 information was not required -- it was not
13 obtained, that would be required to gain that
14 verification information, then yes.

15 Q And similarly with respect to source of funds
16 and the more broad definition, sticking in 5.57,
17 there's a sentence that's about four lines from
18 the bottom that begins "specifics regarding what
19 should be obtained as SOF report were not
20 detailed in the procedural documents."

21 And is that, again, an example of the more broad
22 definition of source of funds of what questions
23 the operator needed to satisfy to determine a
24 broad definition of source of funds including
25 source of wealth indicators?

1 A Correct. This was to allow the subjective
2 risk-based approach and application of risk
3 appetite into the decision process.

4 Q I'm wondering if we can turn to page 21 of 45.
5 And paragraph 5.71. And this is in relation to
6 a question about -- you're answering the
7 operator practices in relation to question 5,
8 which is requiring source of funds receipting.
9 And in 5.71 you said:

10 "I have also observed instances where the
11 casino operator verified the financial
12 instrument used for buy-in to confirm the
13 ownership of funds, but the casino
14 operator did not require the verification
15 of the SOF, the source of funds. Examples
16 of this included verifying the patron's
17 ownership of the cash equivalents with the
18 issuing financial institution (i.e. bank).
19 If the casino operator is unable to obtain
20 verification, it required various levels
21 of authorization at the casino operator
22 based on the transaction value."

23 And I'm wondering here in this paragraph if
24 you're referring to an instance where a patron
25 presents an instrument such as a bank draft and

1 the operator verifies that the bank draft was
2 drawn on the patron's own account but isn't
3 required to go further than that in terms of
4 verification of source of funds. Is that right?

5 A So that would -- so that instance could be an
6 example of how far they would go. They could
7 also ask to obtain bank statement information,
8 which provide additional information regarding
9 the patron's account.

10 Q And if we may turn to page 28 of 45. And 5.113.
11 The first sentence refers to "another casino
12 operator that I'm aware of." Do you recall in
13 the context of this paragraph what jurisdiction
14 that casino operator was in?

15 A I'll just read this quick and can tell you.

16 Q Yeah, please do.

17 A This was in the US.

18 Q Okay. And the third line of this paragraph
19 refers to "certain information about a patron's
20 SOF, property, business and professional
21 relationships, family wealth and records may be
22 made of visits to a patron's home or place of
23 business based on the level of risk the patron
24 may pose." Is this another example again of the
25 term "source of funds" being used more broadly

1 in accordance with the understanding of
2 including the indicators of source of wealth?

3 A Correct.

4 Q Mr. Commissioner put a scenario to you earlier
5 this morning that included as one of its
6 components knowledge that cash had been
7 delivered in the parking lot or outside of the
8 casino. Do you recall that?

9 A I do, yes.

10 Q And you didn't -- you answered or referred to
11 live monitoring in response to one of the
12 questions in your report, and I believe your
13 conclusion is that you didn't encounter any
14 regulations that referenced live monitoring or
15 required live monitoring of transactions.

16 A I'm sorry. Could you repeat the question.

17 Q Sorry. You did refer to live monitoring of
18 transactions. That was a component of a
19 question that was put to you in this report. Do
20 you recall that?

21 A Yes. Yes.

22 Q And your conclusion, do you recall what your
23 conclusion is about the live monitoring?

24 A If you could refresh my memory, please.

25 Q Yes, I will take you to it. Just one moment. I

1 just lost my place here. So it was in response
2 to question number 4, and the summary of your
3 answer is at 5.58, which is on page 17. And so
4 here your summary is:

5 "I have not identified circumstance where
6 a cash buy-in was prohibited by
7 regulations in the gaming jurisdictions
8 based solely on if 'suspicious behaviour'
9 is observed by staff, including any
10 circumstances of live-monitored drop-off
11 of cash by another during the time
12 period."

13 Do you see that?

14 A Yes.

15 Q My question to you relates to live monitoring
16 generally. Would you agree that it's not
17 possible in most circumstances to be live
18 monitoring a patron's behaviour before they
19 enter the casino and before they approach the
20 cash cage?

21 A To the extent that surveillance has cameras that
22 cover the parking lot or cover entrances to the
23 casino or hotel where they can reference that
24 information, we've typically seen those cameras
25 and that part of investigations covered

1 criminal activity in determining whether
2 to terminate a patron relationship."

3 Does that suggest that there's less of a need to
4 terminate the relationship where there's not
5 known criminal activity?

6 A There's -- this is one of many factors that
7 would go into the decisioning process. So known
8 criminal activity would typically carry more
9 weight than just the nature of the suspicious
10 activity, but I would also note in 5.27(a)
11 multiple SAR filings on the same patron, so if
12 there was suspicious activity that included
13 multiple times, that could be a determining
14 factor as well. So suspicious first known would
15 have to have additional context in terms of
16 whether traditionally known criminal activity
17 would carry -- would carry pretty high weight in
18 the decision process.

19 Q Thank you.

20 MS. PEDDLE: Madam Registrar, could you now turn to
21 page 16, so just the next page, and I'm looking
22 at 5.31 and forward. Yeah, that's perfect.

23 Q Mr. Boyle, so this is the section looking at
24 operator practices for barring patrons. And
25 you'll note there at paragraph 5.32 that one

1 operator had a policy to review whether a patron
2 ought to be barred if a patron poses significant
3 money laundering risk; is that right?

4 A Correct.

5 Q And it's only once they reach that level,
6 significant money laundering risk, that there's
7 a review?

8 A Correct.

9 Q Okay. And then at paragraph 5.33 you discuss
10 another operator, and for that one you note that
11 that operator's risk matrix included the fact
12 that the patron being involved in money
13 laundering in which case they would have reached
14 a beware or prohibit risk level and be barred;
15 is that right?

16 A Correct, correct.

17 Q So in that case actual involvement in money
18 laundering was the threshold used?

19 A So that would be the threshold used for
20 immediate risk designation. That doesn't mean
21 that patrons who had standard, medium or higher
22 risk wouldn't have other criteria that could
23 be -- that could be brought up and raised for
24 potential banning purposes.

25 Q Is it fair to say that generally speaking

1 throughout your report there wasn't any specific
2 guidance on what operators should -- what
3 information operators should obtain regarding
4 source of funds?

5 A Outside of industry guidelines in terms of what
6 could be captured as part of a risk-based
7 approach, that is the extent of -- and rhetoric
8 provided through, you know, various speeches and
9 publications by global jurisdictions, those
10 would service guidelines in terms of addressing
11 that.

12 Q And that actually brings me to my next question.
13 So in response to questions from Mr. McGowan,
14 you spoke about the June 2014 FinCEN -- I
15 believe you called it a regulation that
16 recommended casinos inquire about source of
17 funds. Do you remember referring to that FinCEN
18 regulation?

19 A I would characterize it as a FinCEN -- FinCEN
20 guidelines provided through a speech.

21 Q Thank you. That's actually what I wanted to
22 clarify. Because it was a statement made at a
23 conference. It wasn't any written policy or
24 guideline?

25 A Yeah. FinCEN -- FinCEN's speeches, though, and

1 any delivery from, you know, FinCEN director or
2 other regulatory -- any individual within that
3 regulatory body, typically those speeches get
4 put on the FinCEN website and can be referred to
5 as transcripts, so they have from my experience
6 served as guidelines in terms of how to approach
7 particular components but not necessarily
8 specific regulation.

9 Q Okay. Thank you. And in the context of that
10 guideline FinCEN didn't provide any specifics
11 about what procedures should be followed?

12 A In that particular speech, from what I recall
13 from the dialogue there were particular
14 questions that were asked as broader questions
15 that should be addressed by casinos when
16 thinking about source of funds.

17 MS. PEDDLE: Madam Registrar, if I could just take
18 Mr. Boyle to page 22 of the PDF. I'm looking at
19 paragraph 5.63. And 5.62.

20 Q So the questions in 5.62, are those the ones
21 you're --

22 A Correct.

23 Q -- talking about? Okay. But other than those
24 questions, there was no specific guidance about
25 what information should be obtained or what was

1 sufficient?

2 A Correct.

3 Q Thank you. Moving on to source of funds.

4 MS. PEDDLE: Madam Registrar, if I could go to
5 page 23, paragraph 5.66. Oh, actually page 24
6 because I'm looking at (b).

7 THE REGISTRAR: Sorry, PDF page --

8 MS. PEDDLE: Sorry, page 23 of the PDF.

9 THE REGISTRAR: Okay.

10 MS. PEDDLE: At the very top. Thank you.

11 Q So in this section, Mr. Boyle, you're discussing
12 industry body guidance on source of funds, and
13 you note at 5.66(b) that in December 2019 the
14 AGA best practices were to investigate things
15 such as source of funds where there's reason to
16 believe there is suspicious activity, and that's
17 specifically where dealing with a politically
18 exposed person or high-volume patron identified
19 as a risk; is that right?

20 A Yeah, those were examples, correct.

21 Q Okay. And even in October 2020, your report
22 notes that the FATF recommendations report
23 doesn't suggest that it's mandatory to
24 investigate a patron's source of funds but to
25 inquire where necessary, and, again, they give

1 the example of the politically exposed person?

2 A Yeah. So typically politically exposed person
3 would create a higher risk category for a
4 patron, is the general industry guidelines on
5 that, so because of the political exposure,
6 source of funds becomes a potential concern
7 given some of the potential risk components
8 associated where those funds might be coming
9 from.

10 Q Thank you. Mr. Boyle, are you aware that in
11 Ontario source of funds inquiries are never made
12 except in the case of politically exposed
13 persons buying in with cash?

14 A I'm aware that they take a risk-based approach
15 to cash and, you know, that may include that
16 measure.

17 Q And one other thing you mentioned in your report
18 on the question related to money service
19 businesses is that as of March 2018 there were
20 no regulations or directives prohibiting the use
21 of money service businesses as proof of source
22 of funds? I could take you to it. That's at
23 paragraph 5.78 on page 24. Sorry, 5.73.

24 A Yeah, so I did not see any regulations that
25 prohibited uses of MSBs to -- as proof of source

1 of funds receipting.

2 Q Okay. Based on your knowledge and experience,
3 do you have any sense of how much money coming
4 into a casino comes from MSBs?

5 A It varies from institution to institution.
6 Typically the amount of funds that come through
7 an MSB from my experience tend to be a small
8 portion of the funds that derive from buy-ins.

9 MS. BEVAN: Thank you. May I just have a moment.

10 Those are all my questions. Thank you,
11 Mr. Boyle.

12 THE COMMISSIONER: Thank you, Ms. Peddle.

13 And now Mr. McFee on behalf of
14 Mr. Lightbody, who has been allocated
15 30 minutes.

16 **EXAMINATION BY MR. MCFEE:**

17 Q Mr. Boyle, are you able to hear me without
18 difficulty?

19 A I can.

20 Q Thank you. I'd just like to focus for a moment
21 on the aftermath of the two February 15th, 2019
22 reports respecting the cheque analysis at River
23 Rock that you led the preparation of.

24 A Okay.

25 Q And as I understand it, after those reports were

1 delivered to BCLC, did you attend and
2 participate in a briefing for Minister David Eby
3 on February 28th, 2019?

4 A I did, yes.

5 Q And do you recall that a number of government
6 officials in addition to Minister Eby attended?

7 A I do, yes.

8 Q Do you recall that Associate Deputy Minister
9 Doug Scott attended?

10 A I do not recall that name specifically.

11 Q But do you recall that there was a deputy
12 minister, Richard Fyfe, there?

13 A I don't recall the exact members outside of
14 Minister Eby who were in the room at the time.

15 Q But there were a number of, as you understood
16 it, senior government officials there?

17 A Correct.

18 Q And do you recall that on behalf of BCLC my
19 client, the president and CEO Jim Lightbody,
20 attended?

21 A Yes.

22 Q Do you recall that the board chair at the time,
23 Peter Kappel, attended?

24 A Yes.

25 Q Do you recall that Robert Kroeker, the Vice

1 President Legal and Compliance, attended?

2 A Yes.

3 Q And there was also a Mr. Aujla, the BCLC
4 Director of Internal Audit?

5 A Yes.

6 Q And from EY there was you and Peter Law, the EY
7 partner from the Vancouver office?

8 A Correct.

9 Q Did you personally make a portion of the
10 presentation to Minister Eby and his officials?

11 A I did, yes.

12 Q Do you recall just in general terms what your
13 part of the briefing was?

14 A It was to go through similar to what I covered
15 in this hearing, to go through the context of
16 the analysis that was performed for the reports
17 for River Rock and the results of that process
18 and analysis that took place throughout the life
19 cycle of that work.

20 Q And so did you present the key findings that
21 came out of those two reports?

22 A Correct.

23 Q And what was your observation with respect to
24 Minister Eby's level of engagement during the
25 presentation?

1 A He had taken very detailed notes regarding the
2 report and had asked a series of questions
3 regarding the analysis and work performed
4 throughout both of the River Rock reports
5 presented.

6 Q And did it appear to you that the minister had
7 read the reports in advance of the briefing to
8 be able to ask these detailed questions?

9 A Yes, based on the notes and sections of the
10 report that he referenced, he had a copy during
11 the meeting, yes, it was clear.

12 Q And in your presentation and in particular with
13 the key findings, did you tell the minister that
14 EY's comprehensive review had found no evidence
15 of systemic money laundering typologies
16 involving cheque issuance at River Rock?

17 A We told -- we told the minister that we had
18 found instances in which there were typologies
19 that were identified and in the subsequent
20 mitigating control factors that BCLC had taken
21 to respond to those, those typologies identified
22 for those 28 patrons involved.

23 Q And did you tell the minister that EY didn't
24 find any evidence of patrons coming in with cash
25 and engaging in little or no play and leaving

1 with a casino cheque?

2 A We had provided the context of our analysis that
3 showed that a small subsection of cheques were
4 identified as part of this population and that
5 it was a small subset of patrons involved in
6 which we performed our analysis. I would say
7 that the presentation was objective in nature in
8 the terms of what we had identified as part of
9 it without an opinionated response in terms of
10 impact.

11 Q Do you recall what the minister's reaction was,
12 if any, to the key findings that you presented?

13 A I don't recall a specific reaction that stood
14 out during the meeting other than the fact that
15 the questions that he had asked were very
16 detailed and he was very -- from what I observed
17 was very invested in hearing the responses that
18 we provided in terms of the context.

19 Q And do you recall whether in the course of the
20 meeting the minister or for that matter any of
21 his officials asked you or EY if any further
22 analysis or investigative steps should be taken?

23 A Yes. We gave indication that we'd be looking
24 into Grand Villa as a result of the work and to
25 identify if there was anything further from the

1 that property's perspective to address.

2 Q And do you recall if the minister responded in
3 any way to that advice?

4 A He responded and acknowledged that -- I don't
5 recall a specific way in which he responded to
6 it, but he acknowledged that -- he acknowledged
7 that it was -- that that was good that we were
8 doing that.

9 Q And the following month, so March 2019, did
10 Mr. Lightbody ask you to make a further
11 presentation to the anti-money laundering deputy
12 minister's committee respecting these two
13 reports and your findings?

14 A I don't recall that -- I don't recall that
15 discussion. If you can provide more context.

16 Q Well, did you provide a presentation
17 subsequently to a deputy minister's committee
18 the following month?

19 A In terms of a live presentation?

20 Q Or by video.

21 A I can't recall the specific instance.

22 MR. McFEE: Those are my questions for you. Thank
23 you very much, Mr. Boyle.

24 THE COMMISSIONER: Thank you, Mr. McFee. I'll now
25 turn to Ms. Rajotte for the province.

1 MR. MCGOWAN: Mr. Commissioner, I'll perhaps just
2 interject here. Ms. Hughes has contacted me and
3 has to be in court on another matter and
4 originally had conduct of this and has asked
5 that they be allowed to conduct their
6 examination tomorrow. We do have to return
7 matters for commission counsel, a few stray
8 pieces of evidence. So I'm going to suggest
9 that we conclude now and commence again at 9:30
10 tomorrow with the province conducting their
11 examination.

12 THE COMMISSIONER: All right. That's fine,
13 Mr. McGowan. We'll do that.

14 We will adjourn until tomorrow at 9:30 and,
15 Mr. Boyle, I should indicate to you that while
16 you're under cross-examination you ought not to
17 discuss your evidence with anyone, including
18 counsel. Thank you.

19 THE WITNESS: Understood, thanks.

20 THE REGISTRAR: This hearing is now adjourned until
21 September 14th, 2021 at 9:30 a.m. Thank you.

22 **(WITNESS STOOD DOWN)**

23 **(PROCEEDINGS ADJOURNED AT 12:50 P.M. TO SEPTEMBER 14,**
24 **2021)**

25