

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

**Public Hearing**

**Commissioner**

The Honourable Justice  
Austin Cullen

**Held at:**

Room 701  
Federal Courthouse  
701 West Georgia Street  
Vancouver, B.C.

Friday, October 18, 2019

**APPEARANCES**

Brock Martland, QC  
Patrick McGowan

Senior Commission Counsel  
Senior Commission Counsel

David Butcher, QC

for Brad Desmarais

Robin McFee, QC  
Jessie Meikle-Kahs

for James Lightbody

Paul Jaffe

for Fred Pinnock

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1  
Introductions

Vancouver, B.C.  
October 18, 2019

1  
2  
3  
4 THE REGISTRAR: Order. All rise. The Cullen  
5 Commission of Inquiry is now open to hear  
6 applications for standing.

7 THE COMMISSIONER: Yes, Mr. Martland.

8 MR. MARTLAND: Thank you. Mr. Commissioner, it's  
9 Brock Martland, M-a-r-t-l-a-n-d. I appear with  
10 Patrick McGowan, M-c-g-o-w-a-n. We're both  
11 senior commission counsel. We're convening the  
12 first hearing today of the commission into Money  
13 Laundering in British Columbia.

14 As we commence our process, I'd like to  
15 start by acknowledging we're here today on the  
16 unceded and traditional territories of the Coast  
17 Salish People, the Musqueam, Squamish, and  
18 Tsleil-Waututh Nation.

19 I'll first ask counsel to introduce  
20 themselves, and then Mr. McGowan is going to  
21 address you briefly.

22 THE COMMISSIONER: Thank you.

23 MR. MCGOWAN: I think I've been introduced, but  
24 Patrick McGowan, M-c-g-o-w-a-n, for the  
25 commission.

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

27 MR. BUTCHER: Mr. Commissioner, I am David Butcher. I  
28 appear for Mr. Brad Desmarais.

29 THE COMMISSIONER: Thank you, Mr. Butcher.

30 MR. MCFEE: Mr. Commissioner, Robin McFee, M-c-f-e-e,  
31 and with me is Jessie Meikle-Kahs, M-e-i-k-l-e,  
32 dash K-a-h-s, and we appear for James Lightbody.

33 THE COMMISSIONER: Thank you, Mr. McFee.

34 MR. JAFFE: Mr. Commissioner, my name is Paul Jaffe  
35 and I appear as counsel on behalf of Frederick  
36 Pinnock.

37 THE COMMISSIONER: Yes. Thank you, Mr. Jaffe. Yes,  
38 Mr. McGowan.

39 MR. MCGOWAN: Yes, Mr. Commissioner. You convened  
40 today's hearing to further consider the  
41 applications of four individuals. In directing  
42 this hearing in your initial ruling, you noted  
43 that it was unclear from the materials filed by  
44 one of the applicants, Mr. Alderson, the nature  
45 and extent of participation he was seeking. You  
46 noted that Mr. Alderson had requested a meeting  
47 with commission counsel and requested that we

2  
Commissioner's Opening Remarks

1 meet with him. I can advise that I have met with  
2 Mr. Alderson. I discussed with Mr. Alderson his  
3 application, what being granted standing as a  
4 participant means, and the different ways members  
5 of the public with relevant information can  
6 engage with the commission.

7 At the conclusion of our meeting, Mr.  
8 Alderson advised me that he did not wish to  
9 proceed with his application to be a formal  
10 participant and asked that I convey that decision  
11 to you today.

12 THE COMMISSIONER: Yes.

13 MR. MCGOWAN: I can say, Mr. Commissioner, that as  
14 part of the Commission's investigation, we do  
15 plan to engage with Mr. Alderson with a view to  
16 determining what relevant information and  
17 documents he can offer.

18 Having addressed Mr. Alderson's application,  
19 I would invite you, Mr. Commissioner, to proceed  
20 with your opening remarks, following which we  
21 will hear from counsel for the three remaining  
22 applicants.

23 THE COMMISSIONER: Thank you, Mr. McGowan.

24 Before I formally open this hearing, I would  
25 like to say a few words since this is the first  
26 time I am speaking publically in my role as  
27 commissioner of the Commission of Inquiry into  
28 Money Laundering in British Columbia.

29 As Mr. Martland and Mr. McGowan mentioned,  
30 this hearing has been convened in accordance with  
31 a direction I made following the receipt of 20  
32 applications from various individuals and  
33 entities seeking leave to participate in the  
34 Commission of Inquiry into Money Laundering in  
35 British Columbia. On September 24th of 2019, I  
36 granted participant status to 16 of the  
37 applicants with a direction that the remaining  
38 four applicants, Messrs. Alderson, Desmarais,  
39 Lightbody, and Pinnock, attend an oral hearing of  
40 the inquiry to enable a further review and  
41 determination of their individual circumstances  
42 in light of the relevant considerations governing  
43 these applications.

44 In the meantime, the British Columbia Real  
45 Estate Association sought an extension of time to  
46 apply for participant status. I granted that  
47 extension of time, and in light of their

1 application, I granted their application for  
2 participant status on October 15th of 2019. My  
3 reasons for doing so are posted on the  
4 commission's website.

5 As you've heard and as it transpired, Mr.  
6 Alderson, after discussions with senior  
7 commission counsel, has elected to withdraw his  
8 application for participant status, being  
9 satisfied that if he is called as a witness, he  
10 will be able to contribute to the work of the  
11 commission to the extent that he wishes.

12 Before considering the remaining three  
13 applications, it seems appropriate to provide a  
14 brief overview of the nature and the scope of our  
15 mandate and to say something about the commission  
16 itself, which will help to give some context to  
17 the remaining applications.

18 As I noted in the introductory statement,  
19 which is posted on the commission's website,  
20 there appears to be a consensus among law  
21 enforcement officials, academics, and subject  
22 matter experts that British Columbia is a  
23 jurisdiction in which money laundering is  
24 flourishing.

25 The mandate of the commission, which was  
26 established by the provincial government, is very  
27 broad. It encompasses various economic sectors  
28 where money laundering is said to have taken  
29 root, grown, and evolved, and it requires the  
30 commission to make findings of fact in relation  
31 to a number of things, including:

- 32
- 33 - the extent, growth, evolution, and methods  
34 of money laundering in British Columbia  
35 with regard to specific economic sectors  
36
  - 37 - the acts or omissions of responsible  
38 regulatory agencies and individuals and  
39 whether those have contributed to money  
40 laundering in the province or amount to  
41 corruption  
42
  - 43 - the scope and effectiveness of the anti-  
44 money laundering powers, duties, and  
45 functions of these regulatory agencies and  
46 individuals  
47

1                   - and the barriers to effective law  
2                   enforcement in relation to money  
3                   laundering.  
4

5                   In addition, the commission has a responsibility  
6                   to make recommendations to address the conditions  
7                   that have enabled money laundering to grow and  
8                   evolve in the province.

9                   In recent years, there has been extensive  
10                  media investigation and coverage of money  
11                  laundering. There have also been studies and  
12                  reports prepared by academics and other experts  
13                  that shed light on the prevalence of money  
14                  laundering in the province and its noticeable  
15                  effects. As a result, the public has become aware  
16                  of and concerned about this problem. One recent  
17                  poll reported that approximately 90 percent of  
18                  British Columbians are concerned about money  
19                  laundering.

20                  It is part of this inquiry's role to add to  
21                  the public's understanding of the nature and scale  
22                  of money laundering in the province and to address  
23                  its concerns to the extent possible through  
24                  recommendations for action.

25                  There is also an incidental benefit from  
26                  simply bringing additional concentrated attention  
27                  to the crime of money laundering. The more  
28                  awareness there is of its presence and of the  
29                  profound social harms it springs from and  
30                  propagates, the less complacency there can be for  
31                  facilitating or tolerating it.

32                  Brock Martland, QC, and Patrick McGowan, who  
33                  are present at this hearing, are the two senior  
34                  commission counsel. They have undertaken the  
35                  significant responsibility of assembling and  
36                  organizing the evidence that will be placed before  
37                  the commission at the hearing stage.

38                  The evidence will come from many sources and  
39                  will cover a broad array of topics. To assist in  
40                  this task, they have put together a very capable  
41                  team of lawyers and consultants. Biographies of  
42                  all the commission counsel are posted on our  
43                  website.

44                  This commission, like all commissions  
45                  appointed under the *Public Inquiry Act*, is  
46                  independent of government. We serve the people of  
47                  British Columbia. This means that the commission

1 must live up to certain standards in conducting  
2 its public hearings.

3 One of the integral standards is that of  
4 fairness to those whose privacy interests, legal  
5 interests, or reputational interests may be  
6 affected by the proceedings.

7 Another important standard for the  
8 commission is thoroughness. The commission must  
9 do its utmost to ensure that its subject matter is  
10 comprehensively and meaningfully covered. That  
11 entails hearing from a range of voices and points  
12 of view.

13 One of the mechanisms of ensuring fairness  
14 and thoroughness is permitting certain parties to  
15 act as participants in the proceedings if their  
16 interests may be affected by the findings of the  
17 commission, if their participation would further  
18 the conduct of the inquiry, and/or if their  
19 participation would contribute to the fairness of  
20 the inquiry.

21 Not all persons or organizations'  
22 representatives who may be called as witnesses are  
23 entitled to participant status. If a person  
24 believes that he or she has relevant evidence to  
25 give, they may be entitled to testify and they may  
26 be represented by counsel. It does not follow  
27 that having relevant evidence to give justifies a  
28 grant of participant status. The other conditions  
29 I have mentioned must be in play.

30 This hearing is not adversarial. It's an  
31 attempt by all present to get at the root of the  
32 question of whether Messrs. Desmarais, Lightbody,  
33 and Pinnock meet the criteria for status as  
34 participants or whether their involvement is  
35 appropriately confined to that of a witness or a  
36 potential witness. I do not anticipate any need  
37 for extensive evidence or any cross-examination at  
38 this hearing. A simple exploration of the factual  
39 and statutory conditions at issue will lead to an  
40 appropriate resolution.

41 As I understand it, Mr. Martland and Mr.  
42 McGowan have spoken with counsel for Messrs.  
43 Desmarais, Lightbody, and Pinnock, and have agreed  
44 upon a format for proceeding this morning. I will  
45 shortly ask one of them to set forth what format  
46 those proceedings will follow. But in the  
47 meantime we'll stand down briefly to permit the

1 cameras to be cleared from the hearing room.  
2 THE REGISTRAR: All rise.

3  
4 (PROCEEDINGS RECESSED)  
5 (PROCEEDINGS RECONVENED)

6  
7 THE COMMISSIONER: Yes, Mr. Martland.

8 MR. MARTLAND: Yes, Mr. Commissioner. We'll now hear  
9 from counsel for the three applicants. I thought  
10 I would just mention for the benefit of people in  
11 the room that your opening remarks from this  
12 morning would be posted on line on the  
13 commission's website in short order so people can  
14 access them that way.

15 THE COMMISSIONER: Thank you. Yes, Mr. Butcher.

16 MR. BUTCHER: Mr. Commissioner, I'm going to say from  
17 the outset that I am going to be applying for a  
18 brief adjournment of my application. But I'll  
19 come to the reasons for that at the end of my  
20 submissions.

21 THE COMMISSIONER: All right. Thank you.

22 MR. BUTCHER: My client, Mr. Desmarais, is currently  
23 the vice-president of Casino and Community Gaming  
24 for the province -- sorry, for the British  
25 Columbia Lottery Corporation, and also the interim  
26 vice-president of Legal Compliance and Security  
27 for the lottery commission. He has been involved  
28 for almost 40 years in the investigation,  
29 detection, and regulation of money laundering in  
30 different economic spheres.

31 He has been at the Lottery Corporation since  
32 2013 and was one of the senior regulators at the  
33 corporation who have been subject to some critical  
34 comment both by Mr. German and by other persons in  
35 the public domain in the last six months. He was,  
36 like Mr. Kroeker, who did receive participant  
37 status, responsible for many of the key decisions  
38 that are the subject of some comment, sometimes  
39 adverse comment, in Mr. German's report.

40 I want to just take you quickly to the terms  
41 of reference that relate to him. He clearly --  
42 and this is paragraph 2 from your ruling with  
43 respect to application for standing. He clearly  
44 has very significant evidence going back probably  
45 to the 1980s with respect to the extent, growth,  
46 evolution, and methods of money laundering in  
47 British Columbia with respect to the economy as a

1 whole, I would expect, not just the sectors set  
2 out there. But it includes the gaming and  
3 horseracing sector as item number one.

4 The part of your commission mandate that  
5 concerns him the most and probably concerns most  
6 of the other applicants is the second bullet in  
7 paragraph 2, which directs you to make findings  
8 with respect to the acts or omissions of  
9 responsible regulatory agencies and individuals,  
10 and whether those individuals have contributed to  
11 money laundering in the province or amount to  
12 corruption. Those are very serious words used by  
13 the attorney general in the establishment of this  
14 commission and make every person who sits in  
15 the -- or sat in the decision-making chairs of the  
16 responsible regulatory agencies concerned about  
17 the evidence that may be led and concerned about  
18 whether or not that they are at jeopardy.

19 Now, my reason for seeking to apply to  
20 adjourn at this point is really two-fold. First,  
21 I have had some very preliminary discussions with  
22 Mr. Smart, who is counsel for the Lottery  
23 Corporation, about both documents and our relative  
24 roles in this commission should I be granted  
25 participant status. I would like to continue  
26 those discussions.

27 Second, I am aware of some documents that  
28 would bring much more clarity to the submissions I  
29 made that were both brief and somewhat vague in  
30 the initial process. But those documents are not  
31 available for use by me at this point in this  
32 proceeding. They are subject to legal  
33 restrictions. I would hope to be able to sort  
34 those two issues out within a month or so, and I  
35 would ask that I be able to come back before you  
36 for 15 or 30 minutes at sometime in November.

37 THE COMMISSIONER: All right. Thank you, Mr. Butcher.  
38 Mr. Martland or Mr. McGowan, do you have any  
39 comments to make?

40 MR. MARTLAND: No. I suppose I would, Mr.  
41 Commissioner, identify as -- this is a question I  
42 think Mr. Butcher has already anticipated, the  
43 question of alignment versus departure in interest  
44 between the Lottery Corporation and the individual  
45 here.

46 THE COMMISSIONER: Yes.

47 MR. MARTLAND: But I do appreciate -- with respect to

1           the request for more time and the basis for that,  
2           I don't have any questions that arise. I think  
3           that's been spelled out fairly clearly.

4       THE COMMISSIONER: Thank you. Mr. Butcher, as I'm  
5           sure you understand what is primarily of concern  
6           to the commission in these applications is that  
7           you establish or applicants establish that they're  
8           on a somewhat different trajectory than the  
9           corporation, which has been granted standing. And  
10          if I understand your application for an  
11          adjournment correctly, you're seeking that  
12          adjournment to enable you to get documents that  
13          may help to establish that there is a --

14       MR. BUTCHER: There is or is not a different  
15          trajectory.

16       THE COMMISSIONER: -- is or is not a different  
17          trajectory, yes.

18       MR. BUTCHER: Yes.

19       THE COMMISSIONER: Yes. All right. Well, I think in  
20          those circumstances, I am disposed to grant it and  
21          I will. Thank you.

22       MR. BUTCHER: Thank you.

23       MR. MARTLAND: Mr. Commissioner, I've been -- I should  
24          do this with a loud voice. I've just been  
25          reminded that although we have mikes in front of  
26          us --

27       THE COMMISSIONER: Yes.

28       MR. MARTLAND: -- and usually this courtroom has an  
29          amplification process, but it's actually not  
30          turned on today. So if everyone -- if I can just  
31          remind anyone addressing you to please speak in a  
32          loud voice so the people at the back can hopefully  
33          hear.

34       THE COMMISSIONER: So far have people been able to  
35          hear me in the back row?

36       VOICES: Yes.

37       MR. MARTLAND: Well, of course they're going to say  
38          that you, so...

39       THE COMMISSIONER: All right. Thank you. Yes, Mr.  
40          McFee.

41       MR. MCFEE: Yes, Mr. Commissioner. As we told you in  
42          the introductions, we act on behalf of James  
43          Lightbody who is the president and CEO of the B.C.  
44          Lottery Corporation. Now, he's fulfilled that  
45          function and performed those important duties  
46          since February of 2014. But prior to February of  
47          2014, Mr. Lightbody was BCLC's Vice-President of

1 Casinos and Community Gaming, and that was from  
2 2011 to January 2014.

3 Now, when one looks at those dates, Mr.  
4 Lightbody's tenure with BCLC and his involvement  
5 in the gaming industry in British Columbia spans  
6 the timeframe identified in Mr. German's report  
7 number one for the evolution of what Mr. German  
8 described in his reports as small-time loan  
9 sharking that evolved into large-scale money  
10 laundering in the Lower Mainland casinos.

11 Now, in that timeframe and that context, one  
12 then looks at the commission's mandate, and its  
13 terms of reference require the commission to make  
14 findings of fact, including with respect to the  
15 extent, growth, evolution, and methods of money  
16 laundering in British Columbia with regard to --  
17 one aspect is gaming and horseracing.

18 The second aspect of the mandate is the acts  
19 or omissions of responsible regulatory agencies  
20 and individuals -- and I emphasize the  
21 "individuals" -- and whether those contributed to  
22 money laundering in the province or amount to  
23 corruption.

24 And a third aspect of the commission's  
25 mandate is the scope and effectiveness of anti-  
26 money laundering powers, duties, and function of  
27 those regulatory agencies, and again, I emphasize  
28 "and individuals."

29 Now, the terms of reference require the  
30 commission to inquire into the extent and growth  
31 of money laundering in the very period of time  
32 that Mr. Lightbody was a senior executive and  
33 ultimately the president and CEO of BCLC, and  
34 importantly, to make findings of fact with respect  
35 to the acts or omissions of individuals and the  
36 scope and effectiveness of anti-money laundering  
37 powers of individuals.

38 Now, the terms of reference mandate that you  
39 make findings of fact with respect to the  
40 regulatory agencies and individuals.

41 Now, as such, Mr. Lightbody, the president  
42 and CEO of BCLC, has obvious significant personal,  
43 privacy, reputational, and professional interests  
44 that may be affected in the course of the  
45 commission's proceedings and by the findings of  
46 the commission. That Mr. Lightbody's personal,  
47 privacy, reputational, and professional interests

1 are in play is further highlighted by the  
2 commission's terms of reference that require the  
3 commission -- require the commission -- to review  
4 and take into account foundational reports,  
5 including the German reports.

6 Now, Mr. German's March 31st, 2018, report,  
7 entitled "Dirty Money: an Independent Review of  
8 Money Laundering in Lower Mainland Casinos," can  
9 fairly be described as being in aspects highly  
10 critical of BCLC's alleged failure to recognize  
11 the evolution of money laundering in Lower  
12 Mainland casinos. Its response to the issue, when  
13 identified, and BCLC's relation, or sometimes lack  
14 of relation, and interplay, with the Gaming Policy  
15 and Enforcement Branch. And Mr. German's even  
16 critical of BCLC's expenditures on certain aspects  
17 of their operations, including its software  
18 system.

19 Now, all of Mr. German's observations and  
20 criticisms occurred, it's fair to say, on Mr.  
21 Lightbody's watch as a senior vice-president or  
22 the president and CEO. Mr. Lightbody takes  
23 significant issue -- significant issue -- with a  
24 number of Mr. German's observations and  
25 conclusions.

26 Mr. Lightbody is and was a key player and  
27 decision maker in the British Columbia gaming  
28 industry at all times material to the commission's  
29 terms of reference. And it's a well accepted  
30 principle of law -- and we've outlined this for  
31 you in our written submissions. I'm not going to  
32 go over them in detail, but I want to highlight a  
33 few aspects. It's a well established principle of  
34 law that commissions of inquiry have a duty to act  
35 fairly in coming to decisions that affect the  
36 rights, privileges, and interests of an  
37 individual.

38 Now, in our written submissions we've  
39 addressed the five factors stipulated by the  
40 Supreme Court of Canada in the *Baker* decision to  
41 be considered when determining the content of that  
42 duty of fairness. And as I said, I'm not going to  
43 repeat those. But consideration of those factors  
44 draws one to the conclusion, the inescapable  
45 conclusion, that Mr. Lightbody's personal  
46 interests, as opposed to the collective corporate  
47 interests of BCLC, are squarely engaged by the

1 commission's terms of reference. Hence, Mr.  
2 Lightbody in his personal capacity is owed a high  
3 degree of procedural fairness that can only be met  
4 by granting a right of standing on the gaming and  
5 horseracing sectors.

6 Now, further granting Mr. Lightbody  
7 standing, in our submission, will enhance and  
8 contribute to the commission's work. As I have  
9 noted, Mr. Lightbody's tenure in British Columbia  
10 spans the entire timeframe under consideration by  
11 the commission. Mr. Lightbody can provide  
12 personal and unique insight into the government's  
13 oversight of BCLC's operations and the casino  
14 industry and the changes that occurred when the  
15 oversight transferred from the Ministry of Finance  
16 to the Ministry of the Attorney General. Mr.  
17 Lightbody can provide evidence and insight with  
18 respect to interactions between BCLC, gaming  
19 service providers, and the regulators: GPEB and  
20 FINTRAC, which are the subject of very  
21 considerable comment, as you'll see, in the German  
22 reports.

23 He can provide personal insight into and  
24 educate the commission with respect to the unique  
25 business model under which casinos are operated in  
26 B.C. And he can also --

27 THE COMMISSIONER: I'm sorry to interrupt you at this  
28 point. I just have a question though, Mr. McFee.  
29 The things you're discussing right now is, it  
30 seems to me, evidence he could give or information  
31 he could provide equally under the umbrella of  
32 BCLC. In other words, what you're talking about  
33 isn't incongruent with BCLC's interests before  
34 this commission, it seems to me.

35 MR. MCFEE: No, that's correct. But the ability to  
36 have his personal, privacy, and reputational  
37 interests protected is not co-extensive with BCLC.  
38 His personal, privacy, and reputational interests  
39 in some situations could be in conflict with the  
40 collective interests of BCLC.

41 THE COMMISSIONER: That's really what I wanted to get  
42 to.

43 MR. MCFEE: Let me just provide you, if I can, with  
44 a -- as I say, we're not going to delve into the  
45 evidence.

46 THE COMMISSIONER: No.

47 MR. MCFEE: But just one example. One example of that

1 where Mr. Lightbody's interests can't be  
2 adequately protected and represented by counsel  
3 for BCLC or BCLC, who have the corporate  
4 collective interests to look after. Mr. German's  
5 report -- and I don't need to take you to it, but  
6 I'll give you the references. Under Chapter 16,  
7 "A Failed Strategy," paragraph 478, Mr. German  
8 says:

9  
10 [A BCLC] investigator --

11  
12 So this is a BCLC investigator.

13  
14 -- further advised that no transaction was  
15 refused by BCLC before 2015. A senior  
16 official within the corporation told him in  
17 2012 that his job was "not to investigate  
18 money laundering." He pointed out that  
19 nobody was investigating money laundering  
20 despite copies of suspicious transaction  
21 reports being provided to GPEB and to the  
22 RCMP. In his view, nobody showed any  
23 interest in the issue.

24  
25 Now, that's an important aspect of evidence  
26 that Mr. German relies upon that, one expects,  
27 will come before you as the commissioner. Mr.  
28 Lightbody -- the buck stopped with him. He takes  
29 great issue with that. He says that's incorrect,  
30 and that's only one example. BCLC's counsel can't  
31 properly represent Mr. Lightbody's interests in  
32 that scenario because you've got a conflict  
33 between what one individual at BCLC may have said  
34 and what the senior executives and BCLC were  
35 actually doing and undertaking and the oversight  
36 they were providing.

37 So in summary, when one -- and that's only  
38 one example. But in summary, when one considers  
39 the significant extent to which Mr. Lightbody's  
40 personal interests are engaged by the commission's  
41 terms of reference and how Mr. Lightbody's  
42 personal interests may be affected by the  
43 commission's finding, supplemented -- and it's a  
44 supplementing -- by Mr. Lightbody's wealth of  
45 experience and knowledge in the gaming and  
46 horseracing industry in British Columbia, which  
47 will serve to further the conduct of the inquiry.

1                   In our submission, Mr. Lightbody should be  
2                   granted standing on gaming and horseracing.  
3       THE COMMISSIONER: So your position, if I understand  
4                   it correctly, is that there is a realistic  
5                   prospect that Mr. Lightbody may find himself at  
6                   odds with BCLC on some issues that arise during  
7                   the course of the inquiry?  
8       MR. MCFEE: I wouldn't say with the collective of  
9                   BCLC, but of aspects of the BCLC's position and  
10                   evidence that will come forward from former or  
11                   current employees of BCLC that were perhaps not in  
12                   the senior executive ranks at the time. And  
13                   BCLC's counsel will be in an impossible position  
14                   to deal with that.  
15       THE COMMISSIONER: All right. Thank you.  
16       MR. MCFEE: And I should say this. Should the  
17                   commission grant standing to Mr. Lightbody, we as  
18                   his counsel, as you will appreciate, will ensure  
19                   that his participation doesn't duplicate that of  
20                   other participants, that there will be Mr.  
21                   Lightbody's perspective and it won't be repetition  
22                   and it won't be duplicative of that of other  
23                   participants, whether they be BCLC or others.  
24       THE COMMISSIONER: No. It seems to me that in the  
25                   event standing were to be granted to him, it would  
26                   be on the footing that you would fully cooperate  
27                   with Mr. Smart in his presentation or at least his  
28                   shepherding --  
29       MR. MCFEE: Yes.  
30       THE COMMISSIONER: -- of BCLC during the course of the  
31                   inquiry.  
32       MR. MCFEE: Yes, no question about that. And not just  
33                   Mr. Smart for BCLC. For any other persons that  
34                   would have similar interests if you grant standing  
35                   to other senior executives of BCLC.  
36       THE COMMISSIONER: All right.  
37       MR. MCFEE: Those are our submissions.  
38       THE COMMISSIONER: Thank you. Mr. Martland or Mr.  
39                   McGowan, do you either have any submissions or  
40                   comments or --  
41       MR. MARTLAND: No --  
42       THE COMMISSIONER: -- questions you wish --  
43       MR. MARTLAND: -- the questions we had have been  
44                   canvassed. Thank you.  
45       THE COMMISSIONER: Thank you. Yes, Mr. Jaffe.  
46       MR. JAFFE: Thank you, Mr. Commissioner. I understand  
47                   that you've had a chance to review Mr. Pinnock's

1           lengthy statement?

2       THE COMMISSIONER: Yes, I have. Thank you.

3       MR. JAFFE: Thank you. I want to start by saying that  
4           at paragraphs 101 to 105 of your initial ruling on  
5           standing, you briefly reviewed who Mr. Pinnock is.

6       THE COMMISSIONER: Yes.

7       MR. JAFFE: And you would know from having seen what  
8           you've seen that Mr. Pinnock brings to the  
9           commission the possibility of a relatively unique  
10          perspective. It's a perspective that was  
11          developed throughout 29 years of policing, much of  
12          which was associated directly with organized  
13          crime, the investigation of organized crime. And  
14          before Mr. Pinnock was appointed commander of the  
15          Integrated Illegal Gaming Enforcement Unit, he  
16          brought with him to that job tremendous experience  
17          in the area of investigating organized crime.

18          In my respectful view -- well, let me just  
19          start by saying that you would know from what  
20          you've read that Mr. Pinnock is extremely grateful  
21          that a commission has been struck facilitating a  
22          public inquiry into the concerns that were so  
23          meaningful to Mr. Pinnock that it forced him after  
24          29 years with the RCMP to leave and take early  
25          retirement. That -- if there's any question as to  
26          whether the personal, reputational, privacy  
27          interests of Mr. Pinnock are at stake in this  
28          proceeding, one need only look at the history and  
29          how involved he was in the matters that are now  
30          squarely before this commission.

31       THE COMMISSIONER: The way I read Mr. Pinnock's  
32          report, Mr. Jaffe, or his submissions rather, is  
33          that he's provided a wealth of information --

34       MR. JAFFE: Mm-hm.

35       THE COMMISSIONER: -- to the commission that it seems  
36          to me warrants the commission engaging with him to  
37          investigate the various aspects of his  
38          submissions. I don't see that -- well, let me put  
39          it this way. It seems to me that his interests  
40          are congruent with that of the commission. In  
41          other words, the commission would be pursuing the  
42          things that he considers to be of value to the  
43          commission. And at this stage, it's difficult to  
44          see how granting Mr. Pinnock participant status  
45          would advance that process.

46       MR. JAFFE: Yes.

47       THE COMMISSIONER: In other words, there is a certain

1 coordination that can be done with Mr. Pinnock.  
2 MR. JAFFE: Yes, I understand that. And of course we  
3 all know that much of his evidence, if not all of  
4 it, can come out by way of being called as a  
5 witness. And the question then is whether or not  
6 his participation beyond that might be helpful to  
7 the commission.

8 THE COMMISSIONER: Right.

9 MR. JAFFE: And in my respectful view, it would be for  
10 a number of reasons. First of all, this  
11 commission wouldn't exist today if it wasn't for  
12 the part of a couple of whistleblowers who came  
13 forward and exposed what they believe has been  
14 going on. Mr. Pinnock, without delving into the  
15 evidence of course, was in a fairly unique  
16 position to see what he perceived as being  
17 interference with his stated mandate, and far  
18 beyond a simple indifference or neglect as to the  
19 systemic use of gaming venues to facilitate money  
20 laundering.

21 Yes, this is his concerns and much of what  
22 he has set out in his statement is congruent with  
23 the function of this commission, and therefore the  
24 concern might be that his standing would be  
25 somewhat redundant and unnecessary. But I raise  
26 this concern. This commission of public inquiry  
27 has a very important function of satisfying the  
28 public demand for an area of great concern to be  
29 thoroughly and fairly investigated. You have  
30 before you 20 applications for standing, only two  
31 of which relate to people who had the courage to  
32 come forward. In other words, only two of the 20  
33 are the people whose courage really is what has  
34 brought this commission into being, Fred Pinnock  
35 being one of them. Mr. Alderson now has accepted  
36 his role as a witness rather than a participant.  
37 But the two of them have much in common in terms  
38 of the nature of their observations and the  
39 concerns they've expressed.

40 But if you exclude Mr. Pinnock from having  
41 standing here, virtually all of the participants  
42 or parties that have interests to protect in ways  
43 which -- let me back up a bit from that. There  
44 are some participants of course that aren't  
45 capable of being -- finding themselves in the  
46 crosshairs of Mr. Pinnock's concerns. Of course  
47 there's a few of them. But for the GPB, the

1 Government of Canada, FINTRAC, and the RCMP, the  
2 Gateway, the B.C. Lottery Corp -- they're all here  
3 participating fully with counsel, with the ability  
4 to call witnesses, with the ability to cross-  
5 examine and shape evidence, with production of  
6 documents capabilities, and --

7 THE COMMISSIONER: Just so you're aware, Mr. Jaffe,  
8 the question of the extent to which participants  
9 can call witnesses is not determined yet. We have  
10 a draft set of --

11 MR. JAFFE: I understand.

12 THE COMMISSIONER: -- rules of procedure, but --

13 MR. JAFFE: Okay. I understand. But eventually there  
14 will come a time when they will, under whatever  
15 rules are agreed upon, be capable of participating  
16 much more fully than someone who's merely on a  
17 witness list.

18 THE COMMISSIONER: I take your point there.

19 MR. JAFFE: Yes. And so from the point of -- and I  
20 don't think one can overstate the importance that  
21 this commission be seen by the public as one that  
22 has a level playing field on which all the  
23 discrepant interests can be addressed. And I'd  
24 simply say that if, within all of the  
25 participants, neither of the whistleblowers are  
26 able to be at the table and have the capability of  
27 participating whether through cross-examination or  
28 otherwise, could, in my respectful view, be a  
29 problem for the commission down the road.

30 It would also be quite likely, in my view,  
31 that because of Mr. Pinnock's background and  
32 observations he made, as you've now reviewed in  
33 his statement, he's capable of helping the  
34 commission explore certain avenues that may not be  
35 as obvious to other people at the table.

36 It's interesting that here we are in October  
37 of 2019 and I -- as you've seen from Mr. Pinnock's  
38 statement, efforts have been under way for quite  
39 some time through various Freedom of Information  
40 requests for the production of documents from the  
41 Lottery Corporation and from FINTRAC dealing  
42 squarely upon matters that Mr. Pinnock is able to  
43 give evidence on. And you don't have the document  
44 production yet that will truly inform you of the  
45 degree to which Mr. Pinnock may contribute to this  
46 commission, whether by way of witness or as a  
47 participant. But just to give you an example

1 of -- you know, and I was interested to hear Mr.  
2 Butcher -- his position, the needing some more I  
3 understand his position and -- but it's  
4 interesting that for four years, efforts have been  
5 made for the Lottery Corp and FINTRAC to provide  
6 disclosure of documents relative to the  
7 observations of Mr. Pinnock and his concerns about  
8 organized crime in the gaming venues. And for  
9 years those efforts have been unsuccessful. I can  
10 simply say, for instance, the request went out in  
11 February of 2019 --

12 Actually, before I read to you the FOI  
13 request, I'll just tell you where I'm headed. It  
14 may be -- it may be, in order for you to reserve  
15 on the question of Mr. Pinnock's standing until  
16 you see what it is that we're seeking to have  
17 produced. And it also may be within your  
18 jurisdiction to fast-track the FOI process and  
19 make an order yourself for the material that I'll  
20 describe to you.

21 But in February of 2019, Mr. Sam Cooper from  
22 Global News made the following FOI request:

23  
24 any emails or documents addressed to or  
25 exchanged between Fred Pinnock, Derek  
26 Sturko, Kevin Begg, Bev Busson, Dick Bent,  
27 Leon Ben Wall (phonetic), Joe Schalk, Don  
28 Adams [sic], David Morhart --

29  
30 These are all people whose names you will see  
31 surfacing in Mr. Pinnock's statement.

32  
33 -- regarding the policing or regulation of  
34 illegal gaming venues in the B.C. Government  
35 legal casinos with regard to issues relating  
36 to concerns about organized crime and money  
37 laundering, crime and money laundering,  
38 jurisdiction of regulation and enforcement  
39 of these issues or reports on these issues.

40  
41 Now, that went out nine months ago. And  
42 other than some bureaucratic form letters, there's  
43 been no production, materials squarely of immense  
44 relevance to the commission, and much of which  
45 will require Mr. Pinnock's involvement to manage  
46 and deal with properly beyond being on a witness  
47 list, in my view. Or at least that may be the

1 case. Until we see it, you won't know.

2 I will say that of the disclosure made so  
3 far, FINTRAC in 2015 -- so that shows you how long  
4 efforts have been made to get the material.  
5 FINTRAC in a heavily redacted statement has a  
6 record from 2015 saying this:

7  
8 According to media reports, an RCMP unit  
9 whose responsibility was to combat illegal  
10 gambling in British Columbia, reported in a  
11 threat assessment that organized crime  
12 figures were likely involved in illegal  
13 gambling. According to the assessment, 25  
14 reports were filed over 2005 to 2008 --

15  
16 That's Mr. Pinnock's tenure there.

17  
18 -- involving illegal gaming houses connected  
19 to or operated by organized crime figures or  
20 frequented by gang members. Members and  
21 associates of the Hells Angels as well as  
22 Italian and Asian organized crime figures  
23 are believed to run these illegal facilities  
24 and operate as bookmakers.

25  
26 It is also noted that:

27  
28 Some loan sharks are also believed to be  
29 associated to Asian-based criminal  
30 organizations. The assessment recommended  
31 that a now disbanded RCMP unit take a  
32 leadership role in the province-wide  
33 coordinated enforcement initiative to combat  
34 organized crime that engaged in illegal  
35 gambling.

36  
37 Now, FINTRAC had that in 2015, four years  
38 ago. Yet, you know, when we read the Peter German  
39 report -- now, it's a lengthy report and I  
40 apologize if I missed it, but I didn't find it.  
41 And one can certainly appreciate the frustration  
42 and hurt that Mr. Pinnock -- of all the hundreds  
43 of RCMP people and officials of the provincial  
44 gaming unit and the casino -- he has come forward.  
45 He has come forward. If it wasn't for Fred  
46 Pinnock and Mr. Alderson, this commission wouldn't  
47 be here. And I think it's imperative from the

1 public perception that he be treated as more than  
2 just a witness, be able to participate and  
3 actually assist the commission in what's supposed  
4 to be the great engine of truth in making the  
5 necessary findings.

6 THE COMMISSIONER: I think there's no doubt but that he  
7 will assist the commission, whatever status he  
8 has. But I take your point.

9 MR. JAFFE: Thank you. And I'll just finish by saying  
10 this. I know, Mr. Commissioner, you have all the  
11 discretion in the world to fashion the standing in  
12 a manner which best suits the purposes of the  
13 commission, and it's not a black and white matter.  
14 It's not an on-and-off switch. So obviously there  
15 are areas of your inquiry that are beyond Mr.  
16 Pinnock's capability to help you with. But  
17 there's much of what you'll be looking at which  
18 would be assisted greatly, in my view, by his  
19 place at the table before you.

20 And I also note -- I know that Mr. Alderson  
21 has accepted his role as a witness in this, but I  
22 also note that you can fashion standing in the  
23 nature of a group allocation. So if for instance  
24 there are people of -- other whistleblowers who  
25 might want to come forward, you can fashion  
26 standing to some degree to accommodate them. And  
27 you'll see in Mr. Pinnock's statement there's a  
28 number of people that he doesn't identify  
29 specifically but that he's spoken with, including  
30 an individual who was an employee of a casino that  
31 observed a senior manager at the casino dealing  
32 with a known loan shark, but moving off camera  
33 before they had that conversation. That kind of  
34 evidence --

35 THE COMMISSIONER: As I recall, though, he doesn't  
36 have his name, that individual's name.

37 MR. JAFFE: Ah, well, that has been resolved.

38 THE COMMISSIONER: Oh, okay.

39 MR. JAFFE: That has been resolved, and there are  
40 other names of other people who at this point have  
41 confided in Mr. Pinnock but who haven't come  
42 forward for various reasons. So if Mr. Pinnock  
43 had standing, the ability to marshal some of that  
44 evidence and put it before the commission, I  
45 think, would be enhanced.

46 THE COMMISSIONER: All right. Thank you, Mr. Jaffe.

47 MR. JAFFE: Thank you.

1 THE COMMISSIONER: Anything, Mr. Martland or Mr.  
2 McGowan?

3 MR. MARTLAND: Thank you, no, Mr. Commissioner.

4 THE COMMISSIONER: Thank you. All right. Thank you.

5 MR. MARTLAND: I think we're now at the juncture where  
6 I think we're able to conclude unless there's  
7 something I've overlooked. It seems to me that  
8 we'll be looking to set some further date to  
9 address Mr. Butcher's application.

10 THE COMMISSIONER: Yes.

11 MR. MARTLAND: In addition to these hearings on  
12 standing, we have public meetings that are  
13 starting next week, Wednesday, in Vancouver --

14 THE COMMISSIONER: Yes.

15 MR. MARTLAND: -- in five cities. All of the  
16 information about those meetings will be available  
17 through the commission website. Unless there's  
18 anything further, I suggest we're in a position to  
19 adjourn at this point.

20 THE COMMISSIONER: Yes. And I think I should indicate  
21 to the applicants that I will do my best to get a  
22 decision out sooner rather than later. I'm  
23 hopeful it can be before the end of next week, but  
24 it may slide into the following week. We'll do  
25 our best. Thank you.

26  
27 (PROCEEDINGS ADJOURNED)

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