

**COMMISSION OF INQUIRY INTO
MONEY LAUNDERING IN BRITISH COLUMBIA**

OPENING STATEMENT OF ROBERT KROEKER

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1. Mr. Kroeker welcomes the Commission's work and his ability to participate and provide his full and unhindered cooperation in the process. Mr. Kroeker has not yet been able to share his knowledge of events with the public, nor has he been afforded the opportunity to address the disinformation that has been in the public domain. He looks forward to being able to testify under oath and provide relevant information to the Commission. The truth needs to be made known in respect of various false assertions that have been made in this highly politicized context on the state of money laundering and anti-money-laundering (AML) measures in BC's gaming industry. Transparency must be brought to bear on this issue that is legitimately very important to British Columbians and beyond.

2. From September 2015 to July 2019, Mr. Kroeker was Vice President of Legal, Compliance & Security, and Chief Compliance Officer at the British Columbia Lottery Corporation. In this capacity, Mr. Kroeker oversaw and monitored compliance in BC's casinos. BCLC's compliance department worked alongside provincial and federal regulatory agencies, other Crown agencies, police, provincial and municipal governments, as well as private sector service providers. In other words, Mr. Kroeker dealt with police; he dealt with the regulator; and he had direct interactions with government officials in the context of his employment at BCLC.

3. Before that (from November 2012 to September 2015), Mr. Kroeker was in charge of compliance and regulatory affairs at Great Canadian Gaming Corporation (GCGC), the operator of several gaming facilities across Canada, including River Rock Casino.

4. In 2006 up until 2012, Mr. Kroeker led the creation, and subsequent operations, of the BC Civil Forfeiture Agency. During this period, he worked extensively with police and other enforcement agencies across BC, in addition to US Officials collaborating with BC law enforcement, exclusively on money laundering and proceeds of crime matters. As Executive Director of the Civil Forfeiture Office employed by BC's Ministry of Justice, he was responsible for the conduct of more than 1200 money laundering, proceeds and instruments civil cases, which resulted in the recovery of approximately \$30 million in laundered proceeds. It was this experience that led to his being called upon by the provincial government in 2011, to review controls on casinos implemented by BCLC and the Gaming Policy Enforcement Branch (GPEB).

5. He has in-depth knowledge and understanding not only of gaming in British Columbia, but of the events at the heart of this Inquiry's mandate.

6. Mr. Kroeker saw first-hand the diligent work that was done within BCLC and the casino service operators in recent years to comply with anti-money laundering legislation and regulations, to prevent its occurrence, and to track down offenders. Mr. Kroeker can also speak to the obstacles he and other persons of good faith encountered, in their endeavours to address these challenges.

7. When Mr. Kroeker arrived at Great Canadian Gaming, FinTRAC had just completed its 2012 review which had gone well. It was his understanding that no money laundering transactions had been detected during this review, providing him with a certain level of assurance

regarding the controls in place at the time. Nevertheless, Mr. Kroeker set out to update GCGC's corporate level compliance plan. He worked with BCLC, in particular Brad Desmarais who had taken on the lead compliance role at BCLC around the same time that Mr. Kroeker took up his at GCGC. They frequently communicated regarding AML, and worked together to enhance the existing controls and to develop closer connections to the police and GPEB.

8. While at Great Canadian Gaming, Mr. Kroeker and colleagues at BCLC noticed an increase in cash transactions and suspicious transaction reports (STRs). They did not ignore it: they introduced new measures to track and monitor these transactions and the individuals involved. The initial analysis showed that the increase in transactions and STRs followed a general increase in business in the casino sector. This was less of a cause for concern than if the STRs had increased where business was flat or declining.

9. Nevertheless, GCGC's efforts did not end there. It submitted reports to FinTRAC, to the regulator GPEB, to BCLC, and indeed conveyed this information to law enforcement. Everyone was aware of the rise in STRs, because GCGC (and BCLC) made them aware. BCLC not only monitored and analyzed the situation, it banned individuals from BC casinos and tried to get the police and the regulator to investigate. Both GCGC and BCLC actively sought the intervention and assistance of law enforcement and of the regulator, through 2013 and onward.

10. During Mr. Kroeker's tenure, it is unquestionable that Great Canadian Gaming and BCLC did not hinder anyone's work in investigating money laundering and loan sharking: quite the contrary. They urged investigations and participated fully in providing information.

11. In April 2014, a senior RCMP officer who specialized in proceeds of crime told Mr. Kroeker that it would be very difficult for money to be systematically laundered through a casino without detection given the controls in place. The vulnerability was around already laundered proceeds being used to gamble. This was Mr. Kroeker's assessment as well. The officer went on to note that detecting proceeds of crime coming in from a financial institution or another source would be difficult for a casino to detect, and indeed would require an extensive police investigation. The casinos were doing their part, the officer said. Still, BCLC and GCGC continued to advocate for just such a police investigation. They also continued to pass on information obtained from player interviews and surveillance, including about illegal casinos and unregulated banking channels: what became the central feature of the so-called "Vancouver model".

12. This RCMP officer's observations have been borne out. It is hoped that the Commission will adduce the necessary evidence that demonstrates that BCLC and the casinos it manages in fact have a substantial range of money laundering controls. BC has been an industry leader in anti-money laundering, and their controls have received the approval and backing of FinTRAC and police at numerous points over the years. The "Vancouver model" of money laundering does not involve money being laundered *through* the casinos, in any traditional sense. Rather, the model involves money being laundered through financial institutions and unregulated banking

channels, away from gaming facilities, and provided to otherwise *bona fide* gamblers, who appear to be engaging in these activities as a way of getting around restrictions on money exiting China. Illegal schemes working in the financial sector and away from legal casinos are at the center of this model.

13. GCGC and BCLC reported the information it had regarding these potential illegal operations to law enforcement, and asked that they be investigated. For such illegal operations to be tackled, officers with police powers of investigation needed to get involved. Inaccurate descriptions and loose language have persistently been used in the public domain, leading to misinformation and a misperception about what the real issue of significance is: the risk that proceeds of crime, already laundered through other sectors including the financial sector and legitimate gamblers with substantiated wealth, were being gambled at casinos. The work of this Commission will be critical to clarify the real issues, the real sources of money laundering, and the appropriate responses.

14. In June 2014, BCLC instituted an information sharing agreement with the RCMP so that the police had ready access to information it required to investigate. (This would also allow BCLC to create a proactive player banning program). At times, GCGC and BCLC were led to believe that the police would investigate, and did believe investigations were in fact underway. They urged GPEB to also use their investigative powers to investigate. Alarms were raised. But over time, Mr. Kroeker saw no evidence of any police investigations taking place and began to suspect that no investigative steps were in fact being taken.

15. In April 2015, Mr. Desmarais and Mr. Kroeker learned that the RCMP's Federal Serious and Organized Crime Unit (FSOCU) would finally open an investigation into BCLC's complaints.

16. The gaming industry including BCLC also welcomed the creation of the Joint Illegal Gaming Investigations Team (JIGIT) in 2016 in the midst of the MNP report.

17. The Commission should also hear about the other significant steps that Mr. Kroeker took while in charge of compliance at Great Canadian Gaming. In late 2014, GCGC noticed an increase in missing casino chips – called “chip liability” – which raised concerns of the chips being used in underground banking, underground casinos, or as stored value instruments by organized crime. GCGC reported the issue to BCLC and both started to monitor the situation more closely. In early 2015, Mr. Kroeker devised a chip replacement plan to take place on very short notice. BCLC's Brad Desmarais was on board, and the replacement was set to proceed. Notices to players went up so that legitimate customers could return their chips to the casino before the replacement date. This replacement would render valueless all chips not returned by legitimate players, and would have proven to be a significant problem for anyone operating an illegal scheme with vast amounts of casino chips. Under the replacement plan, if there was no record of the individual returning chips having purchased them, these would not be honoured and the individual would not be paid in exchange for their chips.

18. For reasons that remain unclear, GPEB directed that the chip replacement not proceed at the last minute. It eventually took place in January 2016, but the delay was problematic from GCGC and BCLC's perspectives. Because notices had gone up months earlier, the delay gave nefarious actors the opportunity to slowly and progressively return their chips to the casino over time in ways that avoided detection. It removed BCLC's ability to identify and interview individuals that appeared to have acquired chips inappropriately and to take measures against those individuals. It is hoped that the Commission will be able to shed light on what transpired in that instance.

19. When Mr. Kroeker then joined BCLC in September 2015, he became privy to recently acquired information from the RCMP suggesting that approximately 10 to 36 customers were acquiring their funds from illegal sources. Mr. Kroeker immediately ramped up BCLC's source of wealth and funds program. Source of fund interviews became mandatory in all instances where there were any concerns regarding the source of a player's funds, if the player engaged in large cash transactions (LCTs). While it is not possible to identify a direct cause and effect, since that point in time when Mr. Kroeker took up the compliance reins at BCLC, there has been a closely correlated decline in suspicious transactions at BC casinos – both in terms of number and value. In other words, the STR decline commenced in the latter part of 2015 (as a result of actions taken by BCLC), and cannot simply be credited to later policy changes.

20. Indeed by August 2016, the number of STRs declined by 45% and the dollar value of suspicious transactions had dropped by 80%. Revenue from high bet limit tables had declined by

\$120M due to refused players and transactions. Over a similar period, the total value of individual LCTs of \$20K or more had declined by \$162M or 66%, and the total value of LCTs over \$50K had declined by \$130M or 80%. In their public disclosures through late 2015 and 2016, GCGC opined in their Management Discussion & Analysis (MD&A) that table revenue was in decline at River Rock due to new controls BCLC had put in place. By December 2017, the number of STRs had dropped by 72% from July 2015, and the value of those transactions dropped from over \$27.4M to \$2.6M, or 90%.

21. It is also important for the Commission to provide much needed context to the public discourse. For years, prior to 2012, the regulator *required* casinos to deal only in cash. Everything else was prohibited. This means that very high volumes of cash would necessarily flow through the casinos. All casino customers had to come to a casino with bank notes. There was no authorized alternative. Customers were not permitted to use debit cards, credit cards, bank drafts, cheques, bank transfers, electronic funds transfers, money orders, or any other form of payment. Only cash.

22. With casinos operating under BCLC contract conducting more than \$8 billion dollars in transactions annually, this restriction imposed by the regulator meant that massive amounts of cash were necessarily handled by casino operators. This created a major money laundering risk as the volume of cash moving in and out of casinos makes it very difficult to distinguish illegitimate cash from legitimate cash. Dr. Peter German Q.C. stated in his first report, *Dirty Money*, that “casinos are attractive to money launderers because they deal in cash.” (para. 680).

Casinos, he said, are “overwhelmed by cash” (para. 563). There can be no doubt, then, that implementing cash alternatives is important. Contrary to Dr. German’s views, it was an important facet of BCLC’s work in addressing money laundering risks.

23. Mr. Kroeker identified this issue when he was appointed in 2011 to conduct a summary review of anti-money laundering measures in BC. He recommended the immediate introduction of alternatives to cash in BC’s gaming facilities, as is done in other jurisdictions around the world. Non-cash forms of payment are preferable, first, because they provide a paper trail and allow for better tracking of the movement of funds. They thereby facilitate investigations. Indeed, where money laundering concerns arise and an investigation is appropriately undertaken, non-cash transactions allow diligent and skilled investigators to follow the document trail. Transactions coming directly from a bank are traceable and carry a lower money laundering risk than cash transactions.

24. Secondly, if less cash flows through casinos, it becomes easier to track dirty cash and money laundering schemes, and take more targeted action. It allows gaming facilities to focus their AML attention on the higher risk customers who, despite alternatives, continue to play with high volumes of cash. When only cash is permitted, it is more challenging to differentiate between legitimate cash and illegitimate cash.

25. Since Mr. Kroeker’s 2011 summary report, a number of cash alternatives have been introduced in BC’s casinos. This is an improvement. Still, that process faced obstacles and cash

alternatives took longer to introduce than BCLC had hoped. And despite on-going efforts on the part of BCLC to move customers to more secure lower-risk transactions, to this day, the vast majority of transactions at BC casinos are cash. Disassociating legitimate cash from illegitimate cash therefore remains a concern. More needs to be done on this front, which should be explored by the Commission.

26. Nevertheless, during Mr. Kroeker's tenure at GCGC and BCLC, cash transactions of significance were systematically detected and reported to police, to FinTRAC, and to the regulator, GPEB. Suspect incidents and transactions were looked into and reported. As indicated above, significant pushes were made for police and others to investigate suspicious players and incidents, largely without success. Efforts were made to *reduce* the amount of cash entering casinos, and to address other money laundering concerns, with some obstacles being placed in BCLC's way.

27. For instance: for a long time, because BCLC was only authorized to deal in cash, payouts to customers beyond \$10K also had to occur in cash. Of course, there are money laundering risks associated with large cash payouts. Remitting large sums of money by way of a traceable cheque is certainly preferable. The banking sector in fact expressed concerns over the large amount of bank notes being paid out to casino customers that they could not track, requesting that alternatives be introduced.

28. When at BCLC, Mr. Kroeker and his team attempted to limit cash payouts by requesting from GPEB that the \$10K limit on return of funds cheques be removed. (The ability to issue a cheque in a greater amount would also allow BCLC to implement a daily limit of \$25K on cash payouts.) BCLC also sought authorization from GPEB to remove the requirement that a minimum of \$10K be deposited into a casino account to enable greater use of these traceable accounts, which require non-cash deposits. Despite these changes initially being endorsed by GPEB in 2018, there has since been a change in position for reasons unknown to Mr. Kroeker. He hopes this Inquiry will shed light on the issue and recommend a pathway forward – because despite BCLC’s efforts, to the best of Mr. Kroeker’s knowledge, these money laundering risks remain.

29. In recent years, BCLC has also endeavoured to introduce additional AML measures as risks continue to be identified and tackled, but it has not been able to operate freely to implement these changes as it sees fit. This is a cause for concern that should be addressed by this Commission.

30. The Commission should hear evidence about one measure that Mr. Kroeker *was* able to implement, that is a ban on funds emanating from money service businesses (MSBs) including Money Mart and Western Union. In mid-2015, the Government of Canada’s updated National Inherent Money Laundering Risk Report gave MSBs the highest risk rating: Very High Vulnerability. After some players interviewed by BCLC indicated they were obtaining their cash from MSBs, the AML Unit under Mr. Kroeker’s direction conducted a review with the aim of

devising policies and controls specific to MSBs. Ultimately, MSBs were deemed too high risk and funds emanating from any MSB were banned altogether in BC casinos.

31. There have been reports of money laundering concerns as it relates to some of the cash alternatives that have been introduced in BC's casinos, such as cheques and bank drafts. Some of these reports are wrong, and need to be corrected by this Commission. When various claims were reported, or were brought to his attention internally, Mr. Kroeker's reaction was that they could not be correct, absent BCLC's system having been compromised – and he had no indication of that occurring. Mr. Kroeker knows what it is possible to do and not possible to do in a casino given the controls in place. These reports suggested problems that either could not occur given the systems in place, or that were stringently controlled for and had not been identified.

32. For instance, it has been suggested that BCLC customers are laundering cash by depositing it in Casino Customer Accounts and almost immediately withdrawing it. But cash cannot be deposited in a casino account. BCLC's anti-money laundering controls do not allow for it. In other words: such a scheme is impossible. Since they were introduced in 2012 following Mr. Kroeker's review, Casino Customer Accounts can only be held in the name of the customer, and cash cannot be deposited in these accounts. Moreover, funds can only be received in a Casino Customer Account if they emanate from a Canadian bank or credit union, or from a top-50 American bank. If those funds are not clean, what needs to be asked is how they made it into the Canadian and the US's banking systems in the first place.

33. There are similar restrictions on the provenance of funds in the case of cheques, debit cards and Electronic Fund Transfers (EFTs) – all of which were also introduced in 2012. With one exception (verified wins from another casino), the funds must be sourced from a Canadian financial institution, or a top US bank. These entities are subject to money laundering regimes and overseen by FinTRAC in Canada and FinCEN in the United States, which while not definitive, should give some assurance the source of the funds has been vetted and is more likely to be legitimate.

34. In another case, it was reported that players were able to buy in with large amounts of cash and subsequently cash out cheques with little to no play having been conducted. BCLC has had tight controls on the issuance of cheques for a long time. Casinos may only issue a cheque to customers in limited circumstances, and cheque issuance is closely monitored by BCLC for indicators of money laundering.

35. Despite doubts regarding the accuracy of the reports and claims that have been made, Mr. Kroeker and BCLC took them at face value and diligently followed up on them. They deemed it necessary to undertake comprehensive reviews or audits of BCLC's processes. In one instance, they engaged an independent, well-reputed, external auditor, Ernst & Young Advisory, based out of NYC, to review and audit every single cheque issued over a 3-year period (2014 through 2016, selected based on the information contained in the media reports) to identify any such concern. EY found no evidence of cash being laundered through casinos in the manner alleged in the media reports.

36. In another instance, Mr. Kroeker tasked BCLC's AML team to locate and inspect every bank draft written over a near two-year period for every casino in BC, in the face of allegations that BCLC customers were using anonymous bank drafts purportedly purchased with proceeds of crime. Again, BCLC had tight controls on bank drafts and had seen none of the activity alleged. This review also concluded that not a single bank draft presented the defects that had been reported.

37. In other words, the results of in-depth reviews found that the reported claims were unfounded. Mr. Kroeker looks forward to this information being laid out by the Commission, so that the public may be properly informed.

38. BC's casinos are subject to numerous independent compliance reviews and AML audits. Aside from in depth FinTRAC reviews and GPEB reviews, biennial reviews are statutorily mandated and conducted by external auditors such as Pricewaterhouse Coopers (PwC) and EY. BC has regularly gotten reviews clean of any substantive adverse findings, and indeed has been complimented on its controls by oversight bodies like FinTRAC – and law enforcement officials. FinTRAC's reviews of BCLC have largely been positive. [Much has been made of the Administrative Monetary Penalty imposed on BCLC in 2010 (prior to Mr. Kroeker's tenure) and the litigation that ensued. But as BCLC stated at the time, this AMP followed technical deficiencies arising from a new computer communications link between FinTRAC and BCLC. Those deficiencies were quickly remedied, and it was confirmed that "at no time did any money

laundering transactions occur”. The litigation ended with FinTRAC consenting to the appeal being allowed and the fine against BCLC being set aside by the Federal Court. Not, as Dr. German wrote, “in a draw”.]

39. When Dr. German recommended as an interim measure that a source of funds declaration be obtained for all cash transactions of more than \$10K – with an exception for initial transactions by new customers, the public should know that BCLC went farther. It did not implement the exception which was laxer than existing controls and fell outside of BCLC’s risk tolerance. (There was also no way to track new customers and the number of transactions they engaged in in real time). And at Mr. Kroeker’s direction, BCLC continued to probe the source of funds in the case of suspicious transactions irrespective of dollar value – so indeed beneath the \$10K threshold – based on a risk assessment of the customer and the transaction. BCLC already required source of funds interviews to be conducted, and believed they should occur in all suspicious instances, not just when the LCT threshold was met. This is one example of how a risk-based or standards-based model can operate more robustly than a prescriptive model with overly precise (and constrained) requirements. BCLC’s compliance team made sure that the existing risk-based controls continued to apply to all transactions irrespective of dollar value. It also went beyond Dr. German’s source of funds declaration which required players to provide information regarding the financial institution and bank account from which the funds were sourced, to require a same-day receipt for the funds to be presented to and retained by the casino.

40. Let's be clear: during Mr. Kroeker's tenure at GCGC and then BCLC, they took action. Despite this, BCLC's compliance approach was the subject of some criticism by Dr. German in his first report. In certain instances, Dr. German gave credit to GCGC or GPEB, with no recognition of the fact that BCLC's actions or information led to the relevant changes being initiated.

41. The Commission is tasked with reviewing and "taking into consideration" Dr. German's reports, among others. It is imperative that mischaracterizations and errors in these reports be addressed publicly and corrected. Dr. German never met with Mr. Kroeker individually or sought out Mr. Kroeker's detailed knowledge of BCLC. Dr. German's only interaction with Mr. Kroeker on money laundering controls during his review, was a single hour and a half group meeting.

42. Improvements can no doubt be brought to bear on BCLC's AML program and the overarching compliance regime. But the public should not be misled about the past and current state of anti-money laundering measures and controls, and the good faith and due diligence exercised by BCLC and casino employees over time.

43. Contrary to what some in the public may have come to expect, under Mr. Kroeker's watch, BCLC was open to the possibility of no longer offering high bet limit table play, should that have been deemed advisable. BCLC was also prepared to impose a cap on cash transactions. In fact, it studied this option and saw no issue with its adoption. Dr. German ultimately recommended that no cash cap be imposed, but one could be implemented should the regulator see fit to impose one. Whether a cash cap is in order or not will be for the Commission to determine, but the

following should be made clear to the public: if they are concerned about large bags of cash entering casinos, a cash cap is the only way to change that reality. That is because legitimate cash can also travel in bags. And it does. Indeed, many players with what is by all appearances legitimately sourced cash, will also use bags to carry it. What we have seen in heavily publicized images and videos is still permitted today – in full abidance of Dr. German’s recommendations and directives issued by the regulator. Without a cash cap, it will continue.

44. We expect the Commission will find that throughout, Mr. Kroeker has acted with integrity and in full cooperation with the province and the regulators. He has discharged his compliance duties on behalf of BCLC honourably. In one specific instance, on which Mr. Kroeker may now comment, he intends to defend against an anonymous and malicious claim that he instructed staff at BCLC to “ease up” on anti-money laundering measures and “allow dirty money to flow into casinos.” He not only fully denies that this – or anything like it – ever took place, he has been cleared of this false allegation. Indeed, on November 1, 2019, after an in-depth investigation, Mr. Kroeker was notified by GPEB that the allegations were deemed “unfounded” and the matter was now closed.

45. Government and various social programming offered by government, depend on casino revenue. BCLC does not. Aside from the costs related to running the enterprise, profits go to government. In other words, any conflict of interest does not lie with BCLC, unless it is not acting independently from government. The Commission may therefore wish to consider whether there

is a need for BCLC to operate with greater independence from government, with appropriate oversight by an independent Board, and an independently operating regulator.

46. Unfortunately, the truth has been obfuscated by partisan interests and other questionable motivations. There are errors and falsities in the public discourse surrounding this issue, leading to a skewed understanding of casinos' vulnerabilities to money laundering – to the detriment of other, more vulnerable, sectors. There are several inaccuracies and inconsistencies in Dr. German's *Dirty Money* report, not the least of which is the suggestion that no one did anything. During Mr. Kroeker's tenure, the gaming industry including GCGC and BCLC were at the forefront of the actions that were taken in respect of preventing money laundering and detecting illegal networks operating with proceeds of crime. They were monitored, and they complied. They asked for investigations, and were repeatedly ignored. We are confident that by the end of this process, the public will be fully informed.

47. The Commission should have an accurate and full factual foundation to make recommendations in the public interest and devise solutions to real problems. We are confident that Mr. Kroeker's participation will enhance the Commission's ability to have a fair, accurate and complete picture of the significant actions taken by BCLC and others over the years in respect of money laundering concerns in the gaming industry, and of the true gaps and failures in the system.