

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA

The Honourable Mr. Austin F. Cullen, Commissioner

**Closing Submissions
of British Columbia Lottery Corporation**

HUNTER LITIGATION CHAMBERS
2100 – 1040 West Georgia Street
Vancouver, BC V6E 4H1
Tel: 604-891-2400

Counsel for British Columbia Lottery
Corporation

William B. Smart, Q.C.
K. Michael Stephens
Brian T. Duong
Kenneth K. Leung
Julia E. Roos
Susan J. Humphrey

INDEX

I.	Overview of BCLC's Closing Submissions	1
II.	Overarching Themes Regarding Gaming Sector.....	3
	(a) This Inquiry is a study of a paradigm of regulatory evolution	3
	(b) Hindsight is 20-20 (the risks of hindsight bias).....	4
	(c) BCLC took reasonable precautions and acted in good faith	5
	(d) Did money laundering occur in BC casinos?	5
	(e) Suspicious transactions vs. proceeds of crime and money laundering.....	7
	(f) Were BCLC AML's measures commensurate with the risk?.....	9
	(g) Reflections on a risk-based AML approach	10
III.	Five Time Periods at Issue (from BCLC's Perspective).....	12
	(a) Pre-Kroeker Report era: 2000 to August 2011.....	12
	(b) Kroeker Report and AML Strategy era: August 2011 to 2014.....	20
	(c) E-Pirate / cash conditions program era: Feb. 2015 to Dec. 2017	28
	(d) Dr. German's report to present	41
	(e) Present state of land-based casino AML and the future	45
IV.	Findings and Recommendations BCLC Asks the Commissioner to Make	49

I. Overview of BCLC's Closing Submissions

1. Since 2002, British Columbia Lottery Corporation ("BCLC") has had the statutory responsibility under the *Gaming Control Act* ("GCA")¹ to conduct and manage commercial casino gaming in British Columbia ("BC") on behalf of the government of the Province of British Columbia (the "Government" or the "Province"). BCLC is "a gaming entertainment company" that "is responsible for enhancing the financial performance, integrity, efficiency and sustainability of the gaming industry in the province within the policy framework established by the Province".²

2. Money laundering is complex and has become increasingly sophisticated and international in scope over the last 15 years. Society's understanding of money laundering typologies and appropriate anti-money laundering ("AML") strategies has likewise evolved over this time. BCLC's AML efforts at any given time should be assessed in the context of society's understanding of AML and the industry's practices of the respective day. BCLC's past actions were informed by its knowledge of this evolving issue as it attempted to responsibly implement AML best practices consistent with those in the casino industry.

3. BCLC has, throughout, taken reasonable actions to manage the risk of money laundering in its gaming facilities, including by investing significant resources into its AML efforts. Those efforts reflect the evolution of AML practices in the casino industry as BCLC's knowledge and understanding of potential money laundering typologies advanced.

4. Until 2009, cash was the only method of payment available to players in BC casinos pursuant to Provincial policy, and BCLC's efforts to transition patrons from using cash to other means of payment have taken time. In just over a decade, BCLC has moved from a cash-only business towards adopting a substantial account-based casino business model. During this period of transition, wealthy patrons gambled

¹ [Gaming Control Act](#), S.B.C. 2002, c. 14.

² [Ex. 508](#): "Roles and Responsibilities of Participants in British Columbia's Gaming Industry" (2010), p. 2, s. 3.1.

significant amounts in cash in BC casinos. BCLC's jurisdiction to investigate the source of these large cash buy-ins was limited, as it is not a law enforcement agency and its investigators are not special constables. BCLC has consistently reported suspicious transactions and pressed law enforcement to investigate the source of these large cash transactions ("LCTs"). When law enforcement finally did so in 2015, and communicated the preliminary results of its investigation to BCLC in July 2015, BCLC responded immediately and effectively, accelerating its source of funds ("SOF") initiatives despite Government's mandate to BCLC to optimize its financial performance.

5. Money laundering is antithetical to BCLC's values. With the benefit of hindsight, all stakeholders could have done things differently, and BCLC welcomes the Commissioner's report so that it can continue to improve its AML regime. BCLC was ultimately informed by law enforcement that its casinos were likely targeted by suspected criminals, and proceeds of crime may have been used at its casinos (although how much remains unknown). As a consequence of what BCLC now knows, the large amounts of cash accepted in BC casinos a decade ago would not be accepted today without proof of SOF. With the benefit of experience, and information from law enforcement, BCLC has adjusted its practices and risk tolerance.

6. The actions taken by BCLC throughout its AML evolution were undertaken in good faith. BCLC staff was never wilfully blind or unresponsive to the risk of proceeds of crime entering casinos. To the contrary, BCLC has consistently hired highly qualified personnel who have acted reasonably and responsibly in the context of the knowledge and practices of the day. BCLC has been an industry leader in AML.

7. Below, BCLC develops several overarching themes touched on above, and describes its AML efforts over the last two decades, the trajectory it sees into the future, and the findings and recommendations BCLC asks the Commissioner to make.

II. Overarching Themes Regarding Gaming Sector

(a) This Inquiry is a study of a paradigm of regulatory evolution

8. The evidence in this Inquiry describes an evolution within the BC casino industry to understand, and then respond to, an emerging concern in some BC gaming facilities: a significant increase in cash entering casinos and the risk that it may be proceeds of crime. BCLC's development of an AML regime responsive to this risk was a continual, iterative process, in dialogue with and in response to direction from Government.

9. Regulatory evolution and incrementalism are normal and expected. The story of money laundering risk and response in the BC gaming industry falls within the evolutionary paradigm described by the United States Supreme Court: "Agencies, like legislatures, do not generally resolve massive problems in one fell regulatory swoop ... They instead whittle away at them over time, refining their preferred approach as circumstances change and as they develop a more nuanced understanding of how best to proceed."³

10. The evolution of AML in the gaming industry and other sectors in BC can be analogized to the development of safety measures in other industries. For example, in the automobile industry, the installation of seat belts became mandatory in new cars and their use by occupants was required over time, beginning only in the 1970s.⁴ The need to require seat belts which may now seem obvious, as may requiring SOF receipting at the time of buy-in, has not always been so. In fact, SOF receipting measures still do not exist, even today, in other jurisdictions.⁵ As risks are better understood with experience, risk management measures evolve. BCLC was on the front lines of this evolution of understanding of LCTs, and implemented significant AML risk management measures in response.

³ *Massachusetts v. EPA*, 549 US 497 (2007) at 524 (*citations omitted*).

⁴ See *Migliore et al. v. Gerard*, [61 O.R. \(2d\) 438](#) (mandatory seat belt legislation was enacted in Ontario in 1976, and by 1981 only four Canadian provinces were covered by mandatory seat belt legislation). See also: Peter Drucker, *The Effective Executive* (New York: Harper Business, 2006) at p.127.

⁵ EY, "Commission of Inquiry into Money Laundering in British Columbia: AML Practices", April 28, 2021 ("EY AML Report"), [Ex. 1038](#), pp. 31-32, ss. 5.131-5.132, 5.135-5.136.

11. Further complicating matters, money laundering is not a local or industry-specific issue. It is a complex issue that exists across sectors, involving sophisticated criminal organizations with global reach,⁶ and requires a holistic, cross-sector, national, and international approach. Deterring money laundering in any one sector without addressing underlying causes will simply move the problem elsewhere. As such, the prevention of money laundering cannot be the responsibility of any one organization or agency – although BCLC plays a role within the context of the BC gaming industry. It requires a coordinated effort among those responsible for monitoring and reporting (such as BCLC, in the BC casino industry) and those responsible for investigation and enforcement (such as regulators, police, and, ultimately, Crown counsel).

12. The methods required to combat money laundering must allow for flexibility to permit reporting entities to adapt quickly and effectively to the evolving money laundering practices perpetrated by criminals. This requires a risk-based approach and avoiding prescriptive rules that sophisticated criminals will quickly learn to circumvent.⁷

(b) Hindsight is 20-20 (the risks of hindsight bias)

13. BCLC cautions against hindsight bias. Present-day knowledge should not be used to judge the reasonableness or adequacy of steps taken in years past.⁸ We know much more today about money laundering and the means by which it occurs than we did a decade ago,⁹ and our understanding of AML has evolved globally.¹⁰

⁶ [C. Chrustie](#), Mar. 29, p. 11, ll. 16-22: "... money laundering and transnational organized crime ... [i]t's like the same coin, heads or tails. There's no difference on the coin"; [B. Robinson](#), Apr. 14, p. 33, l. 15 - p. 45, l. 1: "... the money laundering scheme was very complex to investigate, mainly because it's so sophisticated. It's transnational nature ... presented a number of challenges"; Canada, Department of Finance, *Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada 2015* (Ottawa: Department of Finance, 2015) at p. 19 (OR: Documents Created by Canada, [Ex. 3](#), App. B; [Ex. 396](#)); "Money Laundering in British Columbia: A Review of the Literature", [Ex. 6](#), p. 29;

⁷ [Ex. 964](#), Maria Bergstrom, "The Many Uses of Anti-Money Laundering Regulation - Over Time and into the Future" (2018) 19:5 *German LJ* 1149 at p. 1160; [Ex. 32](#), "Report on the national evaluation of the risks of money laundering and terrorist financing in Switzerland" (June 2015), p. 8;

⁸ See *Roe v. Ministry of Health*, [1954] 2 *All E.R.* 131 (C.A.) at 137 (Denning L.J.: "we must not look at the 1947 accident with 1954 spectacles"); *Lapointe v. Hôpital Le Gardeur*, [1992] 1 S.C.R. 351, [1992 CanLII 119](#) (S.C.C.) at 16 ("... courts should be careful not to rely upon the perfect vision afforded by hindsight"); *ter Neuzen v. Korn*, [1995] 3 S.C.R. 674 at para. 34. See also F. Rense, May 13, p. 20, l. 16 - p. 21, l. 5, p. 122, l. 8 - p. 125, l. 23; [C. Cieslik](#), Nov. 25, p. 122, ll. 8-19.

⁹ *B. Desmarais Aff. #1*, [Ex. 522](#), pp. 1-2, paras. 3-6; [R. Kroeker](#), Jan. 25, p. 183, l. 14 - p. 184, l. 8.

¹⁰ [S. Lord](#), May 29, p. 33, ll. 36-42; [P. German](#), Apr. 12, p. 107, ll. 3-14.

(c) BCLC took reasonable precautions and acted in good faith

14. Throughout the past two decades, BCLC has taken reasonable actions, in the context of the knowledge and AML practices of the day, to manage the risks of money laundering taking place at its casinos, within the scope of its mandate and consistent with the direction given by Government and regulators. These efforts were made in good faith. Indeed, not one witness at this Inquiry has suggested otherwise.¹¹

15. BCLC, its management, and its employees did not turn a blind eye¹² to money laundering. BCLC's course of conduct in proactively banning and placing patrons on strict buy-in conditions, interviewing patrons (including about their source of wealth ("SOW") and SOF), diligently reporting suspicious transactions to the Financial Transactions and Report Analysis Centre of Canada ("FINTRAC"), police (proactively), and the Gaming Policy Enforcement Branch ("GPEB"), and offering to the Minister to eliminate high limit table games in September 2015 are examples that belie any such suggestion. There is likewise no merit to the allegation that revenue was prioritized over AML measures.¹³ BCLC attempted to responsibly balance revenue generation (part of its mandate as a Crown corporation) with its evolving understanding of AML within the scope of its statutory abilities.¹⁴

(d) Did money laundering occur in BC casinos?

16. Commission counsel's outline of issues asks: with the benefit of hindsight, did "money laundering" directly occur in, or was it facilitated by, or were proceeds of crime

¹¹ See, e.g., [K. Ackles](#), Nov. 2, p. 109, ll. 4-8; [M. de Jong](#), Apr. 23, p. 120, l. 22 - p. 121, l. 24.

¹² [D. Eby](#), Apr. 26, p. 132, ll. 10-19, p. 135, ll. 1-12.

¹³ Graydon Aff. #1, [Ex. 576](#), p. 3, para. 11; [M. Graydon](#), Feb. 11, p. 64, l. 9 - p. 65, l. 3, p. 73, l. 18 - p. 75, l. 1, p. 81, ll. 11-15, p. 92, l. 21 - p. 93, l. 7; [J. Karlovcec](#), Oct. 30, p. 173, ll. 18-24; [K. deBruyckere](#), Jan. 21, p. 81, l. 16 - p. 83, l. 3; [R. Kroeker](#), Jan. 25, p. 201, ll. 3-22; D. Tottenham Aff. #1, [Ex. 148](#), pp. 12, 16, paras. 55, 78; R. Kroeker Aff. #1, [Ex. 490](#), p. 62, paras. 262-263; J. Lightbody Aff. #1, [Ex. 505](#), p. 46, para. 210; T. Towns Aff. #1, [Ex. 517](#), p. 24, para. 147; B. Desmarais Aff. #1, [Ex. 522](#), p. 7, paras. 27-28.

¹⁴ J. Lightbody Aff. #1, [Ex. 505](#), pp. 56-57, paras. 252, 254-255, Aff. Ex. 133; R. Kroeker Aff. #1, [Ex. 490](#), pp. 42, 44, paras. 179, 186-188; [R. Kroeker](#), Jan. 26, p. 106, ll. 9-25, p. 211, l. 17 - p. 212, l. 8; [B. Desmarais](#), Feb. 2, p. 85, l. 15 - p. 86, l. 7; [B. Smith](#), Feb. 4, p. 103, l. 18 - p. 106, l. 7, p. 170, l. 4 - p. 172, l. 3.

(“illicit funds”) ever received at, BC casinos?¹⁵ BCLC’s response is that money laundering (as defined in the Terms of Reference) has probably occurred,¹⁶ including during a period of elevated AML risk from 2014 to 2015, but the extent is not known.

17. The Commission’s Terms of Reference define “money laundering” as “the process used to disguise the source of money or assets derived from illegal activity.”¹⁷ The sheer volume of cash received at BC casinos, combined with knowledge subsequently gained through E-Pirate in 2015,¹⁸ leads to the conclusion that the gaming sector was probably used to facilitate organized money laundering. That said, the evidence indicates that the scale of money laundering alleged to have been associated with BC casinos¹⁹ has been overstated.²⁰

18. Following GPEB complaints to BCLC of reported suspicious transactions in 2010,²¹ the RCMP’s Integrated Proceeds of Crime Unit (“IPOC”) investigated BC casinos and patrons²² from 2010 to 2012, with no resulting enforcement or disruption opportunity.²³ Since then, at least one other high limit player making large cash buy-ins

¹⁵ Commission counsel’s outline of issues, p. 4, questions 1-3, 6. Note that question 8 also refers to online gaming and lottery. The evidence suggests that the risks in regulated online gaming are not significant and processes are in place to mitigate those risks: see, [S. MacLeod](#), Apr. 19, p. 59, l. 14 - p. 60, l. 9; [J. Karlovcec](#), Oct. 30, p. 79, ll. 13-21. No significant evidence about the risk of money laundering through lottery tickets in BC or the processes or policies BCLC has in place to mitigate that risk has been canvassed in these hearings. BCLC therefore submits that it would be inappropriate to make findings in regards to the risk of money laundering in these two other sectors.

¹⁶ [B. Desmarais](#), Feb. 1, p. 156, l. 4 - p. 157, l. 6; [M. Graydon](#), Feb. 11, p. 24, l. 24 - p. 25, l. 17; [G. Friesen](#), Oct. 28, p. 96, ll. 13-20; [S. Beeksma](#), Oct. 26, p. 44, l. 2 - p. 45, l. 17.

¹⁷ [Commission’s Terms of Reference](#), s. 1.

¹⁸ In particular, E-Pirate information suggested a money service business (“MSB”) in Richmond that was likely used by casino patrons dealt in proceeds of crime. See J. Lightbody Aff. #1, [Ex. 505](#), p. 22, para. 113, Aff. Ex. 33, p. 2 (RCMP advise BCLC in July 2015 that “potentially” some of funds being investigated were linked to casino activity).

¹⁹ Including Dr. German – see, e.g., [Ex. 832](#), p. 13, para. 27 (“Large scale, transnational money laundering has been occurring in our casinos”). But cf., [P. German](#), Apr. 12, p. 28, l. 21 - p. 29, l. 25 (did not quantify money laundering), and [P. German](#), Apr. 13, p. 114, l. 16 - p. 115, l. 1 (quantification is “extremely difficult”).

²⁰ As has been the total amount of cash buy-ins accepted in BC casinos. Between 2014 and 2018, for example, there was approximately \$746M in total cash buy-ins over \$50K in BC casinos. Approximately \$278M (37%) of that total can be traced to a previous cash disbursement made by the casino to the patron within one week of the buy-in. See G. Aujla Aff. #1, [Ex. 481](#), Aff. Ex. 6, p. 32 (re: recycled cash).

²¹ D. Sturko Aff. #1, [Ex. 507](#), Aff. Exs. E, F.

²² See, e.g., [Ex. 759](#) (BCLC patron part of IPOC investigation).

²³ [C. Chrustie](#), Mar. 29, p. 48, ll. 3-17, p. 119, ll. 13-22, p. 120, l. 23 - p. 121, l. 1, p. 201, l. 12 - p. 202, l. 3; [B. Baxter](#), Apr. 8, p. 131, l. 21 - p. 132, l. 2, p. 132, l. 16 - p. 133, l. 24; [M. Paddon](#), Apr. 14, p. 13, ll. 3-6, p. 14, ll. 20-23; [Ex. 760](#), p. 3, para. J.

has been investigated, and the RCMP concluded that his conduct was not criminal.²⁴ Even the critical knowledge gained from E-Pirate, which resulted in enhanced AML initiatives by BCLC, did not result in any criminal convictions.²⁵ As Ross Alderson (then BCLC's Director of AML & Investigations) wrote in August 2015 as to BCLC's state of knowledge about "[w]here this cash come[s] from": "No one is really sure right now", and though some cash "may be tainted", law enforcement "was trying to establish the link".²⁶ A link to criminality has still not been proven in court.²⁷

19. No specific cash accepted at a BCLC casino has ever been established in a court of criminal or civil jurisdiction, or on the evidence in this Inquiry,²⁸ to be proceeds of crime. This fact supports the conclusion that BCLC's views²⁹ with respect to possible legitimate sources of large cash buy-ins have at least been reasonable. If law enforcement could not prove that LCTs were proceeds of crime, how was BCLC to do so?

(e) Suspicious transactions vs. proceeds of crime and money laundering

20. Commission counsel's outline of issues asks whether there was ever a risk of proceeds of crime entering BC casinos, and if so when?³⁰ "Risk" means a "chance or possibility" of an adverse event occurring.³¹ The answer is therefore yes – given the volume of cash entering BC casinos, there was a real possibility that money laundering

²⁴ D. Tottenham Aff. #1, [Ex. 148](#), pp. 41-43, paras. 198-203, Aff. Ex. 109; [D. Tottenham](#), Nov. 10, p. 87, l. 8 - p. 91, l. 2; Aff. Exs. 172-174 (Patron A).

²⁵ M. Chizawsky Aff. #1, [Ex. 663](#), Aff. Ex. A, p. 41, para. 125; [M. Chizawsky](#), Mar. 1, p. 21, l. 15 - p. 22, l. 8.

²⁶ J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 35, pp. 175, 178; [R. Alderson](#), Sep. 10, p. 31, l. 6 - p. 34, l. 7.

²⁷ [M. Chizawsky](#), Mar. 1, p. 21, l. 15 - p. 22, l. 8, p. 75, l. 8 - p. 76, l. 1, p. 141, ll. 12-20; [M. Paddon](#), Apr. 14, p. 147, l. 23 - p. 149, l. 22.

²⁸ [M. Chizawsky](#), Mar. 1, p. 21, l. 15 - p. 22, l. 8, p. 75, l. 8 - p. 76, l. 1, p. 141, ll. 12-20; [M. Paddon](#), Apr. 14, p. 147, l. 23 - p. 149, l. 22; [L. Vander Graaf](#), Nov. 13, p. 32, ll. 12-18 and at 39:35 of webcast (could not prove on a balance of probabilities large cash transactions at casinos were proceeds of crime); [D. Dickson](#), Jan. 22, p. 164, ll. 4-24; [S. Brooker](#), May 11, p. 106, ll. 12-25 (cautioning against the view that "just because it's cash or a large cash transaction that it's suspicious...")

²⁹ [G. Friesen](#), Oct. 28, p. 92, l. 8 - p. 93, l. 2; B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 37; [B. Desmarais](#), Feb. 1, p. 76, ll. 7-15, p. 84, ll. 15-24; [B. Desmarais](#), Feb. 2, p. 9, l. 7 - p. 10, l. 6; [J. Karlovcec](#), Oct. 29, p. 118, l. 16 - p. 119, l. 1; [T. Towns](#), Jan. 29, p. 147, ll. 7-16.

³⁰ Commission counsel's outline of issues, p. 4, questions 4-5.

³¹ *The Concise Oxford Dictionary*, 9th ed., *sub verbo* "risk".

“could be present”.³² That is why BCLC developed and implemented numerous AML measures, filed suspicious transaction reports (“STRs”) with FINTRAC, and proactively provided STRs and other information to the RCMP and GPEB.³³ STRs are filed in other industry sectors as well.³⁴

21. Some witnesses³⁵ (and at times media³⁶) have conflated the concept of suspicious cash with actual proceeds of crime or money laundering. Explicitly or implicitly, the volume of STRs has been used as a proxy for the volume of proceeds of crime entering BC casinos. But the two concepts are not synonymous. An STR is filed where “there are reasonable grounds to suspect” a transaction is related to a money laundering offence.³⁷ Suspicion does not equal proof, and an STR does not equal proceeds of crime.³⁸

22. It is not illegal to possess cash. Without other indicators, bulk cash is “suspicious at best”.³⁹ Indicators such as packaging (e.g. elastics) can elevate the threshold of suspicion,⁴⁰ but are not proof of illegality. Civil forfeiture jurisprudence confirms that courts do not conclude bulk cash is the proceeds of crime without other evidence of

³² B. Smith Aff. #1, [Ex. 537](#), Aff. Ex. 2, pp. 4-5, 9-10.

³³ T. Towns Aff. #1, [Ex. 517](#), p. 5, para. 28; [G. Friesen](#), Oct. 29, p. 13, ll. 6-19; D. Tottenham Aff. #1, [Ex. 148](#), p. 2, para. 9.

³⁴ Most predominantly by banks/credit unions and MSBs, but also in the securities/life insurance and real estate sectors. See, e.g., [Ex. 443](#), pp. 4-6, esp. Table 2; [Ex. 444](#); [A. Ryan](#), Jan. 18, p. 120, ll. 15-22; [B. MacKillop](#), Jan. 18, p. 120, l. 23 - p. 122, l. 4; OR: Financial Action Task Force, [Ex. 4](#), App. N, p. 84, Table 18.

³⁵ See, e.g., [J. Schalk](#), Jan. 22, p. 164, ll. 4-24; [B. Baxter](#), Apr. 8, p. 50, l. 12 - p. 51, l. 3.

³⁶ See, e.g., [Ex. 933](#), p. 1, paras. 1-2; R. Kroeker Aff. #1, [Ex. 490](#), Aff. Ex. 114.

³⁷ *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17 (“PCMLTFA”), s. 7; [Ex. 441](#), p. 14.

³⁸ [G. Friesen](#), Oct. 28, p. 167, ll. 1-11; [R. Kroeker](#), Jan. 26, p. 143, ll. 6-10; *Ogilvie v. Davie (1921)*, 61 S.C.R. 363 at 394, citing *Connolly et al. v. Consumers Cordage Co.*, [1903] 89 L.T. 347 at 349: “... mere suspicion without judicial proof is not sufficient for a court of justice to act upon”; *Laramée v. Ferron (1909)*, 41 S.C.R. 391 at 409: “We must be careful not to substitute suspicion for proof.”

³⁹ [Ex. 818](#), p. 9.

⁴⁰ [Ex. 818](#), p. 21. See also [B. Boyle](#), Sep. 13, p. 155, ll. 9-15.

unlawful activity found with the cash such as drugs, drug paraphernalia, or weapons.⁴¹ Buy-ins at BCLC casinos by patrons with legitimate sources of significant wealth who provided identification to BCLC and generally lost cash playing did not present as having any such clear indicia of criminality.⁴² BCLC did refuse buy-ins in circumstances which had clear criminal characteristics.⁴³

23. Moreover, one must be careful to not equate cash used by Asian patrons with illicit money.⁴⁴

24. In short, there has always been a risk of money laundering at BC casinos, and casinos worldwide. BCLC's AML program was and continues to be a response to that risk. BCLC has employed AML practices to identify and mitigate those risks. STRs do not prove that money laundering is or was in fact occurring; rather, they are proof that risks existed, and were reported.

(f) Were BCLC AML's measures commensurate with the risk?

25. Commission counsel's outline of issues asks a nuanced question: whether the response of each industry actor was commensurate with the risk or vulnerabilities of money laundering, and whether the responses were effective.⁴⁵ BCLC responds that its AML initiatives were commensurate with its evolving understanding of the risks, consistent with or better than comparable gaming industry standards, and they were effective.

⁴¹ See *Ontario (Attorney General) v. \$25,709.63 In Canadian Currency (In Rem)*, [2009 CanLII 9434](#) (O.N.S.C.) at paras. 52-53; *Ontario (Attorney General) v. \$8,740 in Canadian Currency (In Rem)*, [2016 ONSC 3773](#) at paras. 36, 39-40, 48; *Nova Scotia (Civil Forfeiture) v. Allen*, [2013 NSSC 109](#) at para. 39; *Alberta (Minister of Justice & Attorney General) v. Squire*, [2012 ABQB 194](#) at paras. 90-91; *Ontario (Attorney General) v. \$13,900 in Canadian Currency (In Rem)*, [2015 ONSC 2267](#) at paras 59, 62. Note that since May 2019 in BC, courts in civil forfeiture proceedings are required to make a presumption of illegality in certain circumstances: *Civil Forfeiture Amendment Act, 2019*, S.B.C. 2019, c. 12, amending [Civil Forfeiture Act](#), S.B.C. 2005, c. 29, s. 19.03(b);

⁴² See OR: Casino Surveillance Footage, [Ex. 574](#).

⁴³ [T. Towns](#), Jan. 29, p. 151, ll. 4-14.

⁴⁴ [W. Soo](#), Feb. 19, p. 49, ll. 13-50; P. Ennis Aff. #1, [Ex. 530](#), p. 3, para. 18; [M. Graydon](#), Feb. 11, p. 19, l. 24 - p. 20, l. 4; [L. Meilleur](#), Mar. 10, p. 113, l. 13 - p. 115, l. 15, p. 117, l. 3 - p. 121, l. 15; [H. Yu](#), Feb. 19, p. 87, l. 2 - p. 88, l. 15; [M. de Jong](#), Apr. 23, p. 104, ll. 1-19 (not all foreign money is dirty money); M. Hiller Aff. #1, [Ex. 166](#), pp. 11, 15-16, paras. 42, 59 (cash usage practices and wealth of Asian patrons); [C. Cieslik](#), Nov. 25, p. 98, l. 21 - p. 99, l. 4 (not all people who operate in cash are criminals).

⁴⁵ Commission counsel's outline of issues, p. 6, questions 12-13.

26. BCLC initially focused on observing and reporting suspicious activity to enforcement agencies,⁴⁶ a division of responsibility that was confirmed in the 2011 “Kroeker Report”.⁴⁷ Beginning in 2013, BCLC increased its AML efforts in response to rising numbers of large cash transactions, continued to engage law enforcement, and began undertaking unprecedented SOF initiatives and formal patron interviews.⁴⁸ These initiatives accelerated in August 2015.

27. BCLC’s actions, particularly from 2014 forward, were assertive and ultimately effective in reducing suspicious cash entering casinos, mitigating money laundering risk in its business operations, and assisting law enforcement in its investigation of suspected proceeds of crime and money laundering activity.

(g) Reflections on a risk-based AML approach

28. A core question implicitly asked in this Inquiry is: In the presence of suspicion of illegality, but the absence of proof, what ought BCLC to have done with LCTs? Should it have refused cash from legitimate players outright on the strength of suspicion, without any proof of wrongdoing? For many years the approach, consistent with AML best practices, was to perform SOW inquiries to confirm legitimate sources of wealth, accept cash, and observe, record, and report suspicious transactions to allow law enforcement to investigate.⁴⁹ And this is what BCLC did.

29. ***Risk-Based Approach is Nimble and Flexible.*** Even in the absence of proof that funds were illicit, BCLC began in 2014 to take unilateral steps to place certain patrons on SOF conditions and interview them about their funds and wealth.⁵⁰ In July 2015, when law enforcement advised BCLC about E-Pirate’s interim findings, BCLC quickly – within a matter of three weeks – accelerated these AML measures, placing

⁴⁶ Unbeknownst to BCLC at the time, an IPOC casino investigation did occur from 2010 to 2013; no enforcement action was taken against any BCLC patrons.

⁴⁷ [Ex. 141](#). See also, L. Vander Graaf Aff. #1, [Ex. 181](#), Aff. Ex. B, pp. 22-25, 27.

⁴⁸ D. Tottenham Aff. #2, [Ex. 149](#), appending 190 BCLC patron interview summaries; [D. Tottenham](#), Nov. 10, p. 193, l. 2 - p. 194, l. 5 (BCLC sourced cash conditions program unprecedented, a novel creation).

⁴⁹ See, e.g., D. Tottenham Aff. #1, [Ex. 148](#), p. 5, paras. 19-21; [B. Desmarais](#), Feb. 1, p. 60, l. 19 - p. 61, l. 13.

⁵⁰ Another example of BCLC’s risk-based approach includes the de-risking of MSBs: D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 54.

more patrons on conditions and ramping up its interview program.⁵¹ BCLC's risk-based model accommodated this important measure, allowing BCLC to obtain information helpful to its AML program and to law enforcement.⁵² BCLC did not wait for specific direction from Government to take these steps; it acted swiftly and decisively. In the face of a higher level of money laundering risk, these steps enabled BCLC to better assess that risk and further re-calibrate its overall risk tolerance to refuse certain LCTs. At the time, these new AML measures were unprecedented in the gaming jurisdictions surveyed by Mr. Bob Boyle.⁵³

30. **Response to Risk.** BCLC can (and regularly does) adjust its AML measures in response to new information (as noted above) or feedback or direction from Government, regulatory bodies, or law enforcement. That said, an expectation from Government for BCLC to "do more"⁵⁴ or "go further"⁵⁵ lacks the precision to provide meaningful guidance to BCLC in implementing AML measures beyond its own assessment of risk. If Government or the regulator expects BCLC to implement specific prescriptive AML measures, including with respect to the refusal of suspicious cash without proof of criminality, it should articulate that direction in specific terms by way of written directive, public interest standard,⁵⁶ or pursuant to legislation following consultation with BCLC.

31. **Law Enforcement Sensitivities.** A caveat to nimbleness is that a risk-based approach must accommodate law enforcement's needs and sensitivities. At times, law enforcement has asked BCLC not to carry out certain AML measures, such as the 2015 chip swap. In 2018, Minister Eby directed BCLC to not implement certain reforms

⁵¹ Notably, and unbeknownst to BCLC, GPEB was of the view that interviewing patrons was too risky for its own investigators: see, e.g. K. Ackles Aff. #3, [Ex. 144](#), Aff. Ex. F, pp. 48-49; [K. Ackles](#), Nov. 2, p. 32, l. 3 - p. 33, l. 5, p. 99, l. 22 - p. 100, l. 25, p. 130, ll. 8-21; L. Vander Graaf Aff. #1, [Ex. 181](#), Aff. Ex. D, pp. 35-36.

⁵² See, e.g., D. Tottenham Aff. #2, [Ex. 149](#), Aff. Ex. 24, p. 157, Aff. Ex. 67, p. 418.

⁵³ EY AML Report, [Ex. 1038](#), pp. 24, 28, ss. 5.92 (cash conditions), 5.116 (patron interviews). Mr. Boyle's evidence is discussed at paragraphs 118-119 of these Written Submissions.

⁵⁴ [C. Wenezenki-Yolland](#), Apr. 27, p. 102, ll. 2-20, p. 128, l. 7 - p. 130, l. 23; [C. Wenezenki-Yolland Aff. #1](#), [Ex. 922](#), pp. 25-26, paras. 180-181.

⁵⁵ [J. Mazure Aff. #1](#), [Ex. 541](#), p. 20, para. 174; [J. Mazure](#), Feb. 5, p. 228, ll. 4-18, p. 229, l. 1 - p. 230, l. 1; [J. Mazure](#), Feb. 11, p. 141, l. 13 - p. 142, l. 4.

⁵⁶ See, e.g. [Ex. 924](#): *Responsible Gaming Standards for the BC Gambling Industry* (2010).

regarding negotiable instruments, in part due to a risk of jeopardizing active police investigations.⁵⁷ Within an effective risk-based approach there must be ongoing dialogue with law enforcement and the regulator, so that law enforcement sensitivities are considered, and not jeopardized, by new AML measures. BCLC has consistently engaged in this dialogue, and inter-agency cooperation must continue.

III. Five Time Periods at Issue (from BCLC's Perspective)

(a) Pre-Kroeker Report era: 2000 to August 2011

32. **Transition to the GCA.** Prior to the introduction of the GCA, casino gaming was regulated and delivered by a patchwork of agencies.⁵⁸ While the GCA came into effect on April 11, 2002,⁵⁹ it took several years to fully implement the new gaming model.⁶⁰ BCLC's role underwent significant change and a new regulatory body, GPEB, was created.⁶¹ GPEB became responsible for the overall integrity of gaming,⁶² and BCLC became responsible for the conduct and management of gaming,⁶³ entering into agreements with service providers who delivered operational services to BCLC ("Service Providers").⁶⁴

33. BCLC's mandate thus became two-fold: to optimize BCLC's financial performance, thereby generating revenue for the benefit of British Columbians, but within the gaming and social policy framework established by Government.⁶⁵ GPEB's mandate was to regulate the gaming industry through units that included policy, audit and compliance, and investigations.⁶⁶ Certain GPEB employees were designated as

⁵⁷ J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 160, p. 1138.

⁵⁸ OR: Regulation of Gaming in British Columbia, [Ex. 67](#), pp. 22-29, paras. 59-77; [D. Sturko](#), Jan. 28, p. 146, ll. 10-18.

⁵⁹ [D. Sturko](#), Jan. 28, p. 146, ll. 19-23.

⁶⁰ [GCA](#); [D. Sturko Aff. #1](#), [Ex. 507](#), p. 3, para. 24; [D. Sturko](#), Jan. 28, p. 105, l. 18 - p. 106, l. 4.

⁶¹ [Ex. 67](#), p. 30, para. 80; [D. Sturko Aff. #1](#), [Ex. 507](#), p. 2, para. 16.

⁶² [GCA](#), s. 23; [D. Sturko Aff. #1](#), [Ex. 507](#), p. 3, para. 23.

⁶³ [GCA](#), s. 7; [D. Sturko Aff. #1](#), [Ex. 507](#), p. 4, para. 32.

⁶⁴ See, e.g., [Ex. 76](#), pp. 3-4, para. 4, Apps. B-F, pp. 224-585; [Ex. 572](#).

⁶⁵ [M. Graydon Aff. #1](#), [Ex. 576](#), p. 3, para. 7, Aff. Ex. A; [M. Graydon](#), Feb. 11, p. 8, ll. 4-8. See also [Ex. 501](#) (BCLC mandate letters).

⁶⁶ OR: GPEB Annual Reports, [Ex. 71](#), App. G, p. 251 ("Mandate Statement"); [D. Sturko](#), Jan. 28, p. 102, l. 7 - p. 103, l. 8; [D. Sturko Aff. #1](#), [Ex. 507](#), p. 3, para. 27. GPEB's organizational structure has changed over time; for a comprehensive summary of GPEB's mandate and powers, see [Ex. 67](#), pp. 30-39, paras. 81-102.

investigators, and appointed as special provincial constables.⁶⁷ Section 86(2) of the GCA required BCLC and Service Providers to report certain activity, including suspected money laundering and loan sharking, to GPEB for further investigation.⁶⁸

34. **Casinos were a Cash-Based Business.** When casino gaming was first introduced, Government mandated that it be a cash-only enterprise (later formalized in a GPEB “public interest standard”⁶⁹). BC does not allow the use of credit for patron buy-ins at land-based casinos for a number of reasons, including the Province’s commitment to responsible gambling, a central tenet of which is avoiding the potential accumulation of personal debt associated with casino gaming.⁷⁰ It was not until 2009, with BCLC’s introduction of the Player Gaming Fund (“PGF”) account pilot program, that patrons were able to engage in casino gaming without having to rely exclusively on cash to buy in.⁷¹ Casinos were, and still largely are, a cash-based business.⁷²

35. **Implementation of iTrak.** Upon BCLC’s assumption of responsibility for casinos and the development of larger facilities along with a corresponding increase in gaming, BCLC began taking steps to modernize its security and surveillance capabilities. In or about 2004, BCLC purchased the iTrak casino reporting system to support mandatory casino reporting to BCLC, GPEB and, later, FINTRAC. The use of iTrak facilitated standardized reporting and BCLC’s timely review of all its casino incident files across the province.⁷³ Other security enhancements developed by BCLC under the guidance of Terry Towns (then BCLC’s VP of Corporate Security and Compliance) in these early years included enhanced security policies and training, license plate recognition, digital

⁶⁷ [GCA](#), s. 81; [Police Act](#), R.S.B.C. 1996, c. 367, s. 9. Special constable appointment letters were signed by the deputy minister: see, e.g., [Ex. 709](#), pp. 3-5.

⁶⁸ [GCA](#), s. 86(2) (“s. 86 reports” or “s. 86 reporting”); T. Towns Aff. #1, [Ex. 517](#), Aff. Ex. 4; L. Vander Graaf Aff. #1, [Ex. 181](#), Aff. Ex. A, Aff. Ex. B, pp. 10-13.

⁶⁹ [Ex. 924](#): *Responsible Gaming Standards for the BC Gambling Industry* (2010), p. 3, s. 5.1.

⁷⁰ [G. Friesen](#), Oct. 28, p. 39, l. 25 - p. 40, l. 4; [W. Soo](#), Feb. 9, p. 43, ll. 12-18; S. Birge Aff. #1, [Ex. 527](#), p. 5, para. 27.

⁷¹ [T. Towns](#), Jan. 29, p. 137, l. 21 - p. 138, l. 5; T. Towns Aff. # 1, [Ex. 517](#), pp. 11, 15-16, paras. 58, 90, 92-93.

⁷² [M. Graydon](#), Feb. 11, p. 55, ll. 6-7; [J. Karlovcec](#), Oct. 29, p. 84, l. 25 - p. 85, l. 1; T. Towns Aff. #1, [Ex. 517](#), p. 6, para. 34; [B. Desmarais](#), Feb. 2, p. 31, l. 20 - p. 32, l. 2.

⁷³ Previously, each Service Provider had its own analog reporting system and reported to BCLC via email: T. Towns Aff. #1, [Ex. 517](#), pp. 3-4, paras. 17, 20-21; [T. Towns](#), Feb. 1, p. 24, ll. 7-16.

surveillance, the creation of new compliance and investigator positions, and the stationing of BCLC investigators at specific gaming sites.⁷⁴

36. **BCLC Dealing with “Loan Sharks”.** The term “loan shark” is used by BCLC and Service Providers to describe individuals who are suspected of attending a casino for the primary purpose of providing cash and/or chips to players.⁷⁵ Confirming that an individual is a loan shark is difficult without confirmation from the patron using the service, which rarely occurs.⁷⁶ Typical characteristics of suspected loan sharks include loitering without engaging in gaming activity and passing cash and/or chips to players in circumstances other than between friends.⁷⁷

37. Addressing concerns about loan sharks was a top priority for BCLC.⁷⁸ Early on, BCLC’s approach was to warn or bar suspected loan sharks or patrons who associated with them.⁷⁹ By 2010, BCLC had identified loan sharking as potentially the “greatest single threat to the integrity of gaming in the province”⁸⁰ and committed to maintaining and supporting “an ‘aggressive attitude’ and philosophy” against loan sharking.⁸¹ While suspected loan sharks who had been barred would often be replaced by a new individual in short order,⁸² BCLC nevertheless attempted to keep loan sharks out of casinos⁸³ through extensive efforts that included training, creating a reference library of known and suspected loan sharks and their networks, sharing information with law

⁷⁴ T. Towns Aff. #1, [Ex. 517](#), pp. 4-5, 7, 2-22, paras. 22-23, 39-40, 132-138, Aff. Ex. 50; [T. Towns](#), Feb. 1, p. 24, l. 17 - p. 27, l. 20; [G. Friesen](#), Oct. 28, p. 37, l. 8 - p. 38, l. 17.

⁷⁵ The term “loan shark” is used even though the person attending the casino is likely only responsible for the delivery of cash and/or chips and collection of repayment, and is not the actual lender: see, e.g., M. Hiller Aff. #1, [Ex. 166](#), p. 18, para. 67.

⁷⁶ M. Hiller Aff. #1, [Ex. 166](#), p. 18, para. 69; [S. Lee](#), Oct. 27, p. 13, ll. 18-21.

⁷⁷ S. Beeksma Aff. #1, [Ex. 78](#), p. 3, para. 15; M. Hiller Aff. #1, [Ex. 166](#), p. 18, paras. 67-68; T. Towns Aff. #1, [Ex. 517](#), p. 8, para. 44.

⁷⁸ [G. Friesen](#), Oct. 28, p. 39, l. 15 - p. 40, l. 5; [Ex. 109](#), p. 1.

⁷⁹ The specific approach depended on a number of factors, such as previous warnings, whether they were believed to be affiliated with organized crime, and the nature of their activity: [L. Vander Graaf](#), Nov. 13, p. 155, ll. 14-16, p. 155, l. 21 - p. 156, l. 2; T. Towns Aff. #1, [Ex. 517](#), p. 9, para. 46.

⁸⁰ [Ex. 109](#), p. 1. See also, [L. Vander Graaf](#), Nov. 13, p. 155, ll. 14-16 (BCLC “blitz” on barring suspected loan sharks and their associates).

⁸¹ [Ex. 109](#), p. 2.

⁸² M. Hiller Aff. #1, [Ex. 166](#), p. 18, para. 67; S. Beeksma Aff. #1, [Ex. 78](#), pp. 4-5, paras. 20, 23.

⁸³ [G. Friesen](#), Oct. 28, p. 109, ll. 1-18; [Ex. 109](#), p. 3.

enforcement, and seeking province-wide barrings on a number of prominent known and suspected loan sharks, including Paul Jin (banned province-wide since 2012).⁸⁴

38. **FINTRAC Compliance Training and AML Audits.** BCLC's reporting obligations to FINTRAC were established in the early 2000s. The *PCMLTFA* established two main types of reports that BCLC was required to submit: STRs for transactions considered suspicious according to prescribed indicators, and large cash transaction reports ("LCTRs") for cash transactions of \$10,000 or more in a 24-hour period.⁸⁵

39. Reporting and compliance were and continue to be a central focus of BCLC's AML regime,⁸⁶ features of which include: BCLC review and improvement of AML policies and training of Service Provider staff,⁸⁷ third party auditor reviews, audits by GPEB, and examinations by FINTRAC.⁸⁸ While a Notice of Violation was issued to BCLC by FINTRAC in 2010, it was appealed by BCLC and ultimately set aside, with FINTRAC acknowledging that the technical administrative violations set out in the Notice of Violation were quickly remedied and subsequent compliance examinations demonstrated enhanced compliance.⁸⁹

⁸⁴ [Ex. 109](#), pp. 2-3; [G. Friesen](#), Oct. 28, p. 40, ll. 6-17, p. 54, l. 15 - p. 55, l. 8; [G. Friesen](#), Oct. 29, p. 41, l. 5 - p. 49, l. 2; M. Hiller Aff. #1, [Ex. 166](#), pp. 19-20, paras. 71-75.

⁸⁵ *PCMLTFA*, ss. 7(a), 9(1); *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*, S.O.R./2002-184 [*PCMLTFA Regulations*], s. 12(1); T. Towns Aff. #1, [Ex. 517](#), p. 5, paras. 24-27; D. Tottenham Aff. #1, [Ex. 148](#), p. 13, paras. 57-62. As above, BCLC also has reporting obligations to GPEB pursuant to s. 86 of the GCA: L. Vander Graaf Aff. #1, [Ex. 181](#), Aff. Ex. A, Aff. Ex. B, pp. 22-25, 27.

⁸⁶ S. Lee Aff. #1, [Ex. 87](#), p. 5, paras. 26-27; S. Beeksma Aff. #1, [Ex. 78](#), p. 5, para. 27; [G. Friesen](#), Oct. 28, p. 36, ll. 2-15, p. 127, l. 20 - p. 128, l. 19 (re: [Ex. 111](#), p. 1); [T. Towns](#), Jan. 29, p. 149, l. 22 - p. 150, l. 24; T. Towns Aff. #1, [Ex. 517](#), Aff. Ex. 50; R. Kroeker Aff. #1, [Ex. 490](#), pp. 7-8, 18, paras. 32-34, 83; P. Ennis Aff. #1, [Ex. 530](#), p. 3, para. 25, Aff. Exs. A-C; D. Tottenham Aff. #1, [Ex. 148](#), pp. 2, 3, 13-14, paras. 7-9, 11, 57-66, Aff. Exs. 13-14, 79, 83; K. Sweeney Aff. #1, [Ex. 520](#), p. 2, paras. 5-7.

⁸⁷ T. Towns Aff. #1, [Ex. 517](#), pp. 21-24, paras. 133-141, 150, Aff. Ex. 8, Aff. Ex. 50, p. 456; [G. Friesen](#), Oct. 28, p. 44, l. 18 - p. 45, l. 7, p. 47, l. 20 - p. 48, l. 4, p. 76, l. 12 - p. 77, l. 16, p. 155, ll. 7-20, p. 165, ll. 2-11; [G. Friesen](#), Oct. 29, p. 41, l. 4 - p. 42, l. 18, p. 44, l. 7 - p. 45, l. 22 (re: [Ex. 109](#)); [T. Towns](#), Jan. 29, p. 176, ll. 6-23; [J. Karlovcec](#), Oct. 29, p. 96, ll. 1-11, p. 149, l. 18 - p. 150, l. 11; [J. Karlovcec](#), Oct. 30, p. 7, ll. 1-8; K. Sweeney Aff. #1, [Ex. 520](#), pp. 2-3, paras. 8-12, Aff. Exs. 1-24; D. Tottenham Aff. #1, [Ex. 148](#), p. 4, paras. 16-17, Aff. Ex. 1; [D. Tottenham](#), Nov. 4, p. 12, l. 7 - p. 13, l. 13; M. Graydon Aff. #1, [Ex. 576](#), pp. 11, 14, 16, paras. 30, 36, 40.

⁸⁸ T. Towns Aff. #1, [Ex. 517](#), pp. 12-13, paras. 64-68, Aff. Exs. 5-9; A. Fitzgerald Aff. #1, [Ex. 781](#), pp. 3-4, 7-8, paras. 11-17, 35-38, Aff. Exs. 1-11; K. deBruyckere Aff. #2, [Ex. 484](#), pp. 8-14, paras. 13-20, Aff. Exs. 1-37.

⁸⁹ T. Towns Aff. #1, [Ex. 517](#), p. 13, paras. 69-77, Aff. Exs. 10-16; [R. Kroeker](#), Jan. 26, p. 207, l. 4 - p. 208, l. 21 (re: [Ex. 498](#), the Consent); D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 105 (Consent Order).

40. **BCLC Engagement of Law Enforcement.** In addition to mandatory FINTRAC reporting, BCLC contemporaneously submits STRs to GPEB and law enforcement,⁹⁰ a practice that has been in place since at least 2005.⁹¹ BCLC implemented this proactive reporting to ensure there was no delay in law enforcement's receipt of relevant information.⁹² Barry Baxter testified that it was "extremely valuable" for IPOC to receive STRs directly from BCLC.⁹³ Ken Ackles of GPEB testified that BCLC's STR reporting, and Service Providers' s. 86 reporting, was comprehensive, accurate, and thorough.⁹⁴

41. Beginning prior to 2010, BCLC also arranged for and/or attended working groups and regular meetings with various law enforcement agencies to facilitate the sharing of information gathered by BCLC investigators.⁹⁵ Loan sharking and money laundering were discussed, and BCLC sought information to assist in assessing the risks posed by certain patrons.⁹⁶

42. **2009: PGF Pilot Project.** As the gaming industry grew, BCLC formed the view that account-based gaming would reduce the amount of cash coming into casinos, with corresponding benefits such as improved player safety and reduced opportunities for cash facilitators. BCLC and Service Providers began discussing ways to reduce high value players' reliance on cash, leading to the PGF account pilot program that was approved for three sites by GPEB in December 2009.⁹⁷ While GPEB audits of the pilot

⁹⁰ T. Towns Aff. #1, [Ex. 517](#), p. 5, para. 28; [W. Clapham](#), Oct. 28, p. 21, l. 20 - p. 22, l. 6; [B. Baxter](#), Apr. 8, p. 43, l. 6 - p. 44, l. 1.

⁹¹ T. Towns Aff. #1, [Ex. 517](#), p. 5, para. 28; [G. Friesen](#), Oct. 29, p. 13, ll. 6-19. The practice of submitting STRs to law enforcement continues to the present day: D. Tottenham Aff. #1, [Ex. 148](#), p. 2, paras. 9-10.

⁹² T. Towns Aff. #1, [Ex. 517](#), p. 11, para. 62.

⁹³ [B. Baxter](#), Apr. 8, p. 43, l. 20.

⁹⁴ [K. Ackles](#), Nov. 2, p. 17, l. 12 - p. 18, l. 20, p. 93, l. 7 - p. 95, l. 5, p. 116, ll. 5-14.

⁹⁵ T. Towns Aff. #1, [Ex. 517](#), p. 11, para. 60; [G. Friesen](#), Oct. 28, p. 50, l. 25 - p. 52, l. 11; [G. Friesen](#), Oct. 29, p. 12, ll. 8-19, p. 62, ll. 1-10; [J. Karlovcec](#), Oct. 29, p. 83, l. 1 - p. 84, l. 11; [W. Clapham](#), Oct. 27, p. 135, l. 13 - p. 136, l. 7; [R. Duff](#), Jan. 25, p. 57, l. 2 - p. 58, l. 3 (working groups with RCMP in place by 2007).

⁹⁶ [G. Friesen](#), Oct. 28, p. 52, l. 12 - p. 55, l. 8.

⁹⁷ T. Towns Aff. #1, [Ex. 517](#), pp. 15-16, paras. 90-93, Aff. Exs. 22-26; [T. Towns](#), Jan. 29, p. 153, l. 4 - p. 154, l. 2; L. Vander Graaf Aff. #1, [Ex. 181](#), p. 12, paras. 65-66; [D. Sturko](#), Jan. 28, p. 162, l. 13 - p. 164, l. 4.

accounts were positive,⁹⁸ BCLC felt that certain restrictions⁹⁹ played a role in their limited use, and identified a number of improvements that could make them more attractive to patrons.¹⁰⁰

43. Examples of BCLC Commitment to Reporting and Compliance. There are many examples demonstrating BCLC's commitment to proper reporting and compliance, including through its oversight of Service Providers' s. 86 reporting. Two specific incidents are described below.

44. In May 2010, BCLC Casino Investigator Michael Hiller became aware of a \$460,000 transaction conducted in \$20 bills at River Rock Casino in Richmond ("River Rock"), which the Service Provider had not reported to BCLC as suspicious because the patron frequently played at that level. Mr. Hiller reminded the Service Provider that transactions should be reported based on the presence of suspicious indicators, regardless of the amount, and asked the Service Provider to submit a s. 86 report to GPEB.¹⁰¹ That report included a statement that the Service Provider did not believe the patron's actions were suspicious, but was submitting the report because BCLC thought the transaction was suspicious.¹⁰² Mr. Hiller wrote to the Service Provider and made clear that similar transactions should be reported as suspicious in the future.¹⁰³

45. Also in May 2010, a player at Starlight Casino in New Westminster ("Starlight") requested a letter from the casino stating that his \$1.2 million chip cash-out was casino winnings, purportedly to present to airport authorities as he was travelling to Montreal.¹⁰⁴ The Service Provider prepared a letter that confirmed the cash-out, but did not describe it as casino winnings.¹⁰⁵ When BCLC became aware of this incident it

⁹⁸ A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Ex. 14, pp. 117-119 ("PGF accounts are being well managed"). See also, A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Exs. 12-13, 15, 16.

⁹⁹ Including that the accounts could only be funded with wire transfers, bank drafts, or certified cheques and required an initial deposit of at least \$10,000: T. Towns Aff. #1, [Ex. 517](#), p. 16, para. 94, Aff. Ex. 30.

¹⁰⁰ [Ex. 141](#), pp. 11-12; T. Towns Aff. #1, [Ex. 517](#), Aff. Ex. 29, Aff. Ex. 30, p. 324 ("BCLC believes that the policy regarding PGF accounts is too restrictive and inhibits players using these accounts"); [T. Towns](#), Jan. 29, p. 154, l. 3 - p. 155, l. 25; [G. Friesen](#), Oct. 29, p. 120, l. 24 - p. 121, l. 7.

¹⁰¹ M. Hiller Aff. #1, [Ex. 166](#), pp. 16-17, paras. 60-62.

¹⁰² M. Hiller Aff. #1, [Ex. 166](#), pp. 16-17, para. 62.

¹⁰³ M. Hiller Aff. #1, [Ex. 166](#), Aff. Ex. J, p. 40.

¹⁰⁴ S. Beeksma Aff. #1, [Ex. 78](#), p. 9, para. 41, Aff. Ex. B, pp. 9-10.

¹⁰⁵ S. Beeksma Aff. #1, [Ex. 78](#), p. 9, para. 41, Aff. Ex. B, p. 10.

initiated an investigation and reported it to GPEB, who conducted an investigation.¹⁰⁶ BCLC also took action itself, including meeting with the Service Provider, implementing directions regarding VIP patrons and reporting requirements, and suggesting additional FINTRAC training.¹⁰⁷

46. **BCLC Board – AML Training.** In July 2010, Alison Manzer (author of *A Guide to Canadian Money Laundering Legislation*¹⁰⁸), presented to BCLC’s Board of Directors on compliance with AML legislation of the day.¹⁰⁹ The Minister responsible for gaming attended at least part of this presentation.¹¹⁰ Ms. Manzer’s presentation related to the steps BCLC took to comply with AML legislation.¹¹¹ Ms. Manzer’s presentation also included FINTRAC materials that indicated the agency was, at that time, focused on “well known” money laundering methodologies in casinos, with the majority of cases observed by FINTRAC involving casino value instruments (e.g., redemption of chips for a cheque after “minimal or no game play”).¹¹²

47. **2010-2013: IPOC Casino Investigation.** In or about the fall of 2010, IPOC commenced an investigation into potential money laundering in BC casinos, based at least in part on STRs received from BCLC.¹¹³ Melanie Paddon, the team leader of the investigation, testified that the project had a lot of potential and did involve interviews with high limit patrons.¹¹⁴

48. There is no evidence that IPOC informed BCLC of the details of this investigation. Mr. Baxter’s evidence is that neither he nor his operations officer had any

¹⁰⁶ S. Beeksma Aff. #1, [Ex. 78](#), p. 9, para. 41, Aff. Ex. B; L. Vander Graaf Aff. #1, [Ex. 181](#), Aff. Ex. J, pp. 118-128.

¹⁰⁷ S. Beeksma Aff. #1, [Ex. 78](#), Aff. Ex. B, pp. 11-12.

¹⁰⁸ Markham: LexisNexis Canada, 2004.

¹⁰⁹ [R. Coleman](#), Apr. 28, p. 152, l. 23 - p. 154, l. 3.

¹¹⁰ [Ex. 934](#), p. 2.

¹¹¹ [R. Coleman](#), Apr. 28, p. 199, l. 2 - p. 200, l. 11 confirming BCLC had a qualified compliance officer, an appropriate written compliance policy, a training program available to Service Providers, reporting requirements and review programs in place, internal counsel who were well versed in requirements for compliance, and a successful third party review (conducted by IPSA) of its AML program.

¹¹² [Ex. 935](#), PDF p. 48. See also, R. Kroeker Aff. #1, [Ex. 490](#), p. 5, paras. 23-24 (“... the [2009] FinTRAC report emphasized the AML risks involved where patrons engaged in nominal or no play, attempted to exchange small denomination bills for larger ones, or structured their transactions to avoid reporting thresholds”).

¹¹³ [B. Baxter](#), Apr. 8, p. 106, ll. 1-16; [Ex. 760](#), p. 3, para. H; [Ex. 759](#).

¹¹⁴ [M. Paddon](#), Apr. 14, p. 14, l. 11 - p. 16, l. 12, p. 134, ll. 13-19; [Ex. 759](#); C. Chrustie Aff. #1, [Ex. 999](#).

direct engagement with BCLC in the early stages;¹¹⁵ after January 2011 he met with BCLC on a handful of occasions but did not inform them about the investigation.¹¹⁶

49. In January 2011, several months into the investigation, Mr. Baxter made media comments about suspicions that LCTs in casinos were “dirty money” potentially associated with “very sophisticated money laundering activities”.¹¹⁷ Despite those media statements, IPOC did not share details of its investigation with BCLC, and did not tell BCLC that money laundering was actually occurring in BC casinos or to stop accepting certain cash transactions,¹¹⁸ possibly because IPOC had been unable to establish a concrete link between the cash and criminal activity.¹¹⁹

50. **GPEB 2010 Letters and BCLC’s Response.** In April 2010, Derek Dickson of GPEB wrote to BCLC regarding loan sharking, suspicious currency, and chip passing activity in Lower Mainland casinos,¹²⁰ and identified four patrons whose activities were of particular concern to GPEB. Gordon Friesen of BCLC replied, noting that one of the patrons was the subject of an IPOC investigation, two had been provincially barred, and the fourth could be provincially barred pending the outcome of an investigation.¹²¹

51. In November 2010, Mr. Dickson again wrote to BCLC regarding money laundering and the activities of one patron in particular,¹²² stating that IPOC “are of the opinion that this is, without doubt, large scale money laundering.”¹²³ John Karlovcec of BCLC replied with BCLC’s assessment that, based on the patron’s patterns of play, cheque disbursement history, and occupation, he was not “actively laundering money in British Columbia casinos.”¹²⁴ IPOC subsequently investigated and interviewed this same patron¹²⁵ and, like BCLC, was not able to definitively link any casino patron’s buy-

¹¹⁵ [B. Baxter](#), Apr. 8, p. 44, ll. 2-19.

¹¹⁶ [B. Baxter](#), Apr. 8, p. 126, ll. 22-25. See also, [C. Chrustie](#), Mar. 29, p. 121, ll. 2-17, p. 124, l. 13 - p. 125, l. 11.

¹¹⁷ [Ex. 823](#), p. 1.

¹¹⁸ [T. Towns](#), Jan. 29, pp. 165-167; [C. Chrustie](#), Mar. 29, p. 124, ll. 20 - 25, p. 139, l. 13 - p. 140, l. 11.

¹¹⁹ [C. Chrustie](#), Mar. 29, p. 150, ll. 2-9; [M. Paddon](#), Apr. 14, p. 147, l. 20 - p. 149, l. 5; [Ex. 760](#), p. 3, s. J.

¹²⁰ [Ex. 108](#).

¹²¹ [Ex. 109](#).

¹²² [Ex. 110](#).

¹²³ [D. Dickson](#), Jan. 22, p. 32, l. 18 - p. 33, l. 6; [Ex. 110](#), p. 2.

¹²⁴ [Ex. 111](#), p. 3.

¹²⁵ [Ex. 759](#), p. 2.

ins to criminal activity.¹²⁶ BCLC's response was also consistent with FINTRAC guidance at the time, which focused on established money laundering typologies (e.g., "where patrons engaged in nominal or no play, attempted to exchange small denomination bills for larger ones, or structured their transactions to avoid reporting thresholds").¹²⁷

BCLC's investigation into this patron revealed that he had lost over 90 percent of his buy-ins during the period in question,¹²⁸ and there is no evidence to suggest he was engaged in nominal play, denomination exchange, or transaction structuring.

52. Mr. Dickson also included a one-line suggestion in his November 2010 letter: "A restriction of allowing a maximum of \$10,000 in \$20 denominations could remedy the situation."¹²⁹ Mr. Karlovcec responded that such an approach was unrealistic given gaming was then, with the exception of the PGF account pilot, entirely cash-based.¹³⁰

(b) Kroeker Report and AML Strategy era: August 2011 to 2014

53. **The Kroeker Report.** In August 2011, the Province released the "Summary Review: Anti-Money Laundering Measures at BC Gaming Facilities" prepared by Rob Kroeker (the "Kroeker Report"). It concluded that BCLC had a "standard and appropriate"¹³¹ and "robust anti-money laundering regime in place" at that time,¹³² but identified opportunities to further strengthen those efforts.¹³³ The report stated that "BCLC's obligation is primarily a duty to report", which "do[es] not extend to a duty to investigate and confirm the exact provenance of cash used to buy in" (the latter appropriately fell to law enforcement and regulatory authorities).¹³⁴ The Kroeker Report did not recommend that BCLC make SOF inquiries (consistent with guidance from the Financial Action Task Force ("FATF") and FINTRAC).¹³⁵ These conclusions aligned with

¹²⁶ [M. Paddon](#), Apr. 14, p. 148, l. 19 - p. 149, l. 5.

¹²⁷ [Ex. 935](#), PDF p. 48. See also, R. Kroeker Aff. #1, [Ex. 490](#), p. 5, paras. 23-24.

¹²⁸ [Ex. 111](#), p. 2.

¹²⁹ [Ex. 110](#), p. 3. Mr. Dickson acknowledged that the recipient of this letter did not have the authority to implement this change, and that he did not know who at BCLC would have that authority: [D. Dickson](#), Jan. 22, p. 34, l. 17 - p. 34, l. 2, p. 42, l. 24 - p. 43, l. 11.

¹³⁰ [Ex. 111](#), p. 4.

¹³¹ [Ex. 141](#), pp. 2, 8; R. Kroeker Aff. #1, [Ex. 490](#), p. 7, para. 29.

¹³² [Ex. 141](#), p. 15.

¹³³ [Ex. 141](#), pp. 2, 9; R. Kroeker Aff. #1, [Ex. 490](#), p. 7, para. 29.

¹³⁴ [Ex. 141](#), p. 10.

¹³⁵ R. Kroeker Aff. #1, [Ex. 490](#), p. 5, para. 24; [Ex. 141](#).

BCLC's approach at the time – for example, the meeting at which Mr. Towns reminded BCLC investigators that they were not law enforcement.¹³⁶

54. **The AML Strategy.** After the Kroeker Report, GPEB created a Cross-Divisional Working Group¹³⁷ that established a three-phase AML strategy: (1) identifying and developing enhancements to cash alternatives (Service Provider intervention); (2) implementing and promoting cash alternatives (BCLC intervention); and (3) direct regulatory intervention, including enforcement and compliance (Regulator intervention) (the “AML Strategy”).¹³⁸ Subsequent BCLC mandate letters endorsed this strategy.¹³⁹

55. In response to phases 1 and 2 of the AML Strategy, BCLC developed additional cash alternative proposals for potential approval by GPEB.¹⁴⁰ BCLC also developed its own AML working groups to respond to the Kroeker Report and the AML Strategy and participated in an inter-agency AML working group with GPEB, Service Providers, and law enforcement.¹⁴¹ In January 2013, Doug Scott of GPEB acknowledged BCLC had done everything it had been asked to do as part of the AML Strategy.¹⁴² Minister Michael de Jong thanked BCLC in subsequent mandate letters for the efforts it had made towards enhancing AML measures to ensure compliance and for the development and promotion of cash alternatives.¹⁴³

56. **Formalization of PGF Program.** The Kroeker Report acknowledged BCLC's concerns about the restrictive nature of PGF accounts, and suggested a risk-based

¹³⁶ S. Beeksma Aff. #1, [Ex. 78](#), p. 15, para. 66; [S. Beeksma](#), Oct. 26, p. 54, l. 22 - p. 55, l. 24; S. Lee Aff. #1, [Ex. 87](#), p. 7, para. 40, Aff. Ex. D, pp. 26-27; [S. Lee](#), Oct. 27, p. 26, l. 12 - p. 27, l. 12. That said, Mr. Towns did not indicate that BCLC could not investigate money laundering, and the evidence is that there was no prohibition on speaking with casino patrons – to the contrary, they did so frequently in respect of all kinds of matters, although not regarding the source of their funds: S. Beeksma Aff. #1, [Ex. 78](#), p. 15, para. 66; S. Lee Aff. #1, [Ex. 87](#), p. 7, para. 41; T. Towns Aff. #1, [Ex. 517](#), p. 23, paras. 144-145; [T. Towns](#), Jan. 29, p. 176, l. 24 - p. 177, l. 16, p. 177, l. 24 - p. 178, l. 3.

¹³⁷ D. Scott Aff. #1, [Ex. 557](#), pp. 6-7, paras. 27-29, Aff. Exs. 11-12; L. Vander Graff Aff. #1, [Ex. 181](#), p. 14, paras. 77-79; L. Meilleur Aff. #1, [Ex. 587](#), pp. 3-4, paras. 14-18, Aff. Exs. A-C; S. Birge Aff. #1, [Ex. 527](#), p. 8, paras. 49-52.

¹³⁸ D. Scott Aff. #1, [Ex. 557](#), pp. 8-9, paras. 38-40; [Ex. 580](#), pp. 4-6.

¹³⁹ OR: Mandate Letters, [Ex. 501](#), Apps. 8-12.

¹⁴⁰ L. Vander Graff Aff. #1, [Ex. 181](#), Aff. Ex. W; T. Towns Aff. #1, [Ex. 517](#), pp. 17-21, paras. 105-131, Aff. Exs. 32-49; [Ex. 580](#), p. 7.

¹⁴¹ T. Towns Aff. #1, [Ex. 517](#), pp. 318-320, paras. 111, 118-119, 128, Aff. Exs. 31, 37, 45.

¹⁴² D. Scott Aff. #1, [Ex. 557](#), p. 16, para. 69, Aff. Ex. 32.

¹⁴³ OR: Mandate Letters, [Ex. 501](#), App. 11; [Ex. 892](#) (BCLC Mandate Letter, January 29, 2016).

reassessment of the program by GPEB and BCLC.¹⁴⁴ Further to that recommendation, BCLC engaged Mr. Kroeker to assist in exploring PGF account enhancements, which were ultimately introduced in April and December 2012.¹⁴⁵ PGF account use grew and by June 30, 2015, a total of 823 PGF accounts had been opened with deposits totalling \$1.385 billion.¹⁴⁶ PGF account use continued to increase thereafter.¹⁴⁷

57. There is no evidence that PGF accounts are being used to facilitate money laundering. BCLC follows a rigorous know your client (“KYC”) process for these accounts.¹⁴⁸ In addition, a 2017 GPEB audit found that PGF account funds were overall appropriately sourced;¹⁴⁹ in one instance GPEB identified a concern with a patron’s PGF activity, but GPEB and the RCMP’s Federal Serious Organized Crime unit (“FSOC”) investigated and determined that there was nothing suspicious about the gaming activity.¹⁵⁰

58. **Convenience Cheques and EFTs.** Convenience cheques and electronic funds transfers (“EFTs”) were two other cash alternatives developed as part of the AML Strategy.¹⁵¹ Convenience cheques, introduced around April 2012, are “issued by a casino when a patron ‘cashes out’ following an initial buy-in.”¹⁵² They are marked “Return of Funds – Not Gaming Winnings,”¹⁵³ which prevents a player from later falsely claiming that funds subsequently deposited in a bank are casino winnings, and are limited in value for players without a PGF account.¹⁵⁴

¹⁴⁴ [Ex. 141](#), pp. 11-12. See also, R. Kroeker Aff. #1, [Ex. 490](#), pp. 7, 21, paras. 31, 93.

¹⁴⁵ A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Ex. 21, pp. 1-2, Aff. Ex. 23, p. 2; T. Towns Aff. #1, [Ex. 517](#), pp. 17-18, paras. 107-109, Aff. Exs. 32-41, 43, 47; [T. Towns](#), Jan. 29, p. 155, ll. 4-25; [T. Towns](#), Feb. 1, p. 7, l. 13 - p. 8, l. 9; [Ex. 887](#); R. Kroeker Aff. #1, [Ex. 490](#), pp. 7, 21, paras. 31, 93; [M. Graydon](#), Feb. 11, p. 93, l. 8 - p. 94, l. 8.

¹⁴⁶ T. Towns Aff. #1, [Ex. 517](#), Aff. Ex. 43, Aff. Ex. 48, Aff. Ex. 49, p. 442; A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Ex. 17, p. 129.

¹⁴⁷ A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Ex. 37, p. 4, Aff. Ex. 46, pp. 2, 6-8; C. Cuglietta Aff. #1, [Ex. 482](#), Aff. Ex. 1, p. 8.

¹⁴⁸ D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 16; [D. Tottenham](#), Nov. 10, pp. 182-185.

¹⁴⁹ A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Ex. 18, p. 6.

¹⁵⁰ A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Ex. 18, pp. 4-5; D. Tottenham Aff. #1, [Ex. 148](#), pp. 41-42, paras. 198-203, Aff. Ex. 109; [D. Tottenham](#), Nov. 10, p. 87, l. 8 - p. 90, l. 2; [Exs. 172, 173, 174](#).

¹⁵¹ [Ex. 906](#), p. 2.

¹⁵² D. Tottenham Aff. #1, [Ex. 148](#), p. 3, para. 13.

¹⁵³ [Exhibit 832](#), p. 176, para. 773.

¹⁵⁴ D. Tottenham Aff. #1, [Ex. 148](#), p. 3, para. 14. In contrast, casino verified win cheques, “issued by a casino only for gaming winnings”, are not limited in amount: D. Tottenham Aff. #1, [Ex. 148](#), p. 3, para. 13.

59. **Increase in Bet Limits – BCLC Table Strategy.**¹⁵⁵ While bet limits are set by BCLC, Service Providers can request increases¹⁵⁶ and maintain the discretion to decide whether to permit play up to the maximum level set by BCLC.¹⁵⁷ While BCLC does not require GPEB approval for bet limit increases, BCLC typically consults with and receives advice from GPEB prior to approving bet limit increases.¹⁵⁸

60. For example, in February 2013, BCLC approved Great Canadian Gaming Corporation’s (“GCGC”) request for a trial baccarat bet limit increase in River Rock’s high limit and private rooms to \$10,000 per position for a table maximum of \$90,000 per hand;¹⁵⁹ a similar trial increase was approved at Starlight.¹⁶⁰ BCLC submitted a proposal to GPEB later that year to manage bet limits by aggregate table maximums rather than by table position, and to increase the bet limit per table to \$100,000.¹⁶¹ BCLC received ministerial approval in respect of these changes, which were implemented by the end of January 2014.¹⁶²

61. Increasing bet limits is something BCLC takes seriously. Prior to submitting the bet limit increase proposal in 2013, BCLC spent several months working to confirm that it could be undertaken in a safe and responsible manner, having regard to the recognized risks of problem gambling, money laundering, and other regulatory considerations.¹⁶³ BCLC took steps to mitigate any money laundering risk by continuing to improve its AML regime, creating its AML Unit, expanding its work on cash alternatives, and working with GPEB and law enforcement.¹⁶⁴

¹⁵⁵ For a complete list of bet limit increases from 2001-2018, see J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 22.

¹⁵⁶ [R. Duff](#), Jan. 25, p. 31, ll. 3-13; [P. Ennis](#), Feb. 3, p. 118, ll. 5-16.

¹⁵⁷ [R. Duff](#), Jan. 25, p. 31, ll. 14-19; [P. Ennis](#), Feb. 3, p. 118, ll. 17-23; J. Lightbody Aff. #1, [Ex. 505](#), pp. 9-10, para. 53; [J. Lightbody](#), Jan. 28, p. 9, ll. 4-9.

¹⁵⁸ J. Mazure Aff. #1, [Ex. 541](#), p. 8, para. 68; [J. Mazure](#), Feb. 5, p. 56, l. 20 - p. 57, l. 20, p. 63, ll. 9-14; J. Lightbody Aff. #1, [Ex. 505](#), pp. 8-9, paras. 47, 52; M. Graydon, Aff. #1, [Ex. 576](#), p. 20, para. 50; [M. Graydon](#), Feb. 11, p. 100, l. 14 - p. 101, l. 2. See also, e.g., [Exs. 543, 544](#).

¹⁵⁹ M. Hiller Aff. #1, [Ex. 166](#), Aff. Ex. A, pp. 5-7; J. Lightbody Aff. #1, [Ex. 505](#), p. 7, para. 40, Aff. Ex. 13; [J. Lightbody](#), Jan. 28, p. 10, ll. 14-17, p. 11, ll. 4-13.

¹⁶⁰ [M. Hiller](#), Nov. 9, p. 21, ll. 18-25.

¹⁶¹ J. Lightbody Aff. #1, [Ex. 505](#), pp. 8-9, para. 47; M. Graydon Aff. #1, [Ex. 576](#), pp. 19-20, paras. 49-50; [M. Graydon](#), Feb. 11, p. 101, ll. 3-12; [Ex. 543](#).

¹⁶² [M. Graydon](#), Feb. 11, p. 101, l. 13 - p. 102, l. 2; [Ex. 544](#).

¹⁶³ M. Graydon Aff. #1, [Ex. 576](#), pp. 19-20, paras. 49, 51; [M. Graydon](#), Feb. 11, p. 12, ll. 4-9; J. Lightbody Aff. #1, [Ex. 505](#), p. 10, para. 54; [J. Lightbody](#), Jan. 28, p. 10, l. 22 - p. 11, l. 13.

¹⁶⁴ [J. Lightbody](#), Jan. 28, p. 14, ll. 3-18.

62. **Paul Jin Barring (2012).** Mr. Jin became known to BCLC investigators as a suspected loan shark¹⁶⁵ and was first banned from all BC casinos for 14 days in September 2012.¹⁶⁶ On or about September 26, 2012, his barring was extended to one year.¹⁶⁷ Despite the ban, BCLC suspected that Mr. Jin continued to make cash drop-offs at BC casinos, and following subsequent incidents at Starlight, Mr. Jin was barred from all BC casinos for a period of five years on or about November 7, 2012.¹⁶⁸ Thereafter, Mr. Jin's associates continued to make cash drop-offs at BC casinos (identified after the fact through surveillance video review), resulting in five-year barrings for their activities.¹⁶⁹ These bans are automatically reviewed for renewal prior to their expiration (and Mr. Jin remains banned).¹⁷⁰ By 2015, patrons that BCLC determined had bought in with cash delivered by Mr. Jin (or his associates) were targeted in BCLC's first round of cash conditions and were required to participate in interviews with BCLC investigators regarding the source of their funds.¹⁷¹

63. **End of IPOC Casino Investigation.** The IPOC casino investigation was terminated around the time IPOC amalgamated with other RCMP units to form FSOC in 2013.¹⁷² Despite the conflicting evidence regarding the scope and significance of the investigation, the relevant witnesses agreed that the investigation was ultimately not fruitful – no disruption or enforcement opportunities were identified – and the operational plan to expand the investigation was not approved.¹⁷³ Mr. Baxter acknowledged that the investigation simply confirmed intelligence BCLC had provided in its STRs regarding the

¹⁶⁵ S. Beeksma Aff. #1, [Ex. 78](#), p. 15, para. 68; [S. Beeksma](#), Oct. 26, p. 79, ll. 8-14; S. Lee Aff. #1, [Ex. 87](#), p. 8, para. 47; M. Hiller Aff. #1, [Ex. 166](#), p. 19, para. 73.

¹⁶⁶ S. Lee Aff. #1, [Ex. 87](#), p. 8, para. 46; S. Beeksma Aff. #1, [Ex. 78](#), Aff. Ex. K.

¹⁶⁷ S. Lee Aff. #1, [Ex. 87](#), p. 8, para. 48, Aff. Ex. F; S. Beeksma Aff. #1, [Ex. 78](#), p. 15, para. 69, Aff. Ex. K; [M. Hiller](#), Nov. 9, p. 46, ll. 15-22.

¹⁶⁸ S. Beeksma Aff. #1, [Ex. 78](#), pp. 15-16, para. 69; [S. Beeksma](#), Oct. 26, p. 79, ll. 17-23; M. Hiller Aff. #1, [Ex. 166](#), pp. 19-20, para. 73, Aff. Ex. K; [M. Hiller](#), Nov. 9, p. 46, l. 23 - p. 47, l. 18; S. Lee Aff. #1, [Ex. 87](#), pp. 8-9, paras. 49-50, Aff. Exs. G,H.

¹⁶⁹ [S. Lee](#), Oct. 27, p. 122, l. 23 - p. 124, l. 15; S. Lee Aff. #1, [Ex. 87](#), p. 9, para. 51; S. Beeksma Aff. #1, [Ex. 78](#), p. 16, para. 70; [S. Beeksma](#), Oct. 26, p. 142, ll. 17-21; [M. Hiller](#), Nov. 9, p. 48, ll. 15-21.

¹⁷⁰ S. Beeksma Aff. #1, [Ex. 78](#), p. 16, para. 71.

¹⁷¹ S. Beeksma Aff. #1, [Ex. 78](#), p. 16, para. 70; [S. Lee](#), Oct. 27, p. 115, ll. 12-23.

¹⁷² [B. Baxter](#), Apr. 8, p. 89, ll. 1-20, p. 131, ll. 16-20; [M. Paddon](#), Apr. 14, p. 16, ll. 2-12.

¹⁷³ [C. Chrustie](#), Mar. 29, p. 48, ll. 3-17, p. 119, ll. 13-22, p. 120, l. 23 - p. 121, l. 1, p. 201, l. 12 - p. 202, l. 3; [B. Baxter](#), Apr. 8, p. 131, l. 21 - p. 132, l. 2, p. 132, l. 16 - p. 133, l. 24; [M. Paddon](#), Apr. 14, p. 13, ll. 3-6, p. 14, ll. 20-23; [Ex. 760](#), p. 3, para. J.

volume of cash coming into casinos.¹⁷⁴ Ms. Paddon similarly testified that as a result of surveillance in and around casinos, IPOC was able “to establish that the money was coming in in the form of cash.”¹⁷⁵ IPOC was unable, however, to draw a concrete link between large cash buy-ins and criminal activity; further, the RCMP had been unable to even trace the source of large cash buy-ins to any particular source.¹⁷⁶

64. **December 2012 GPEB Letter and GPEB’s Apology.** On December 27, 2012, Joe Schalk of GPEB wrote to BCLC regarding “Suspicious Transactions/Money Laundering” at BC casinos.¹⁷⁷ When the letter was brought to the attention of Michael Graydon, then BCLC’s President and CEO,¹⁷⁸ he was surprised by its accusatory tone, implication that BCLC was not taking sufficient steps to address the risk of money laundering in casinos, conflation of suspicious and illicit transactions, and racially-charged assertions regarding who was responsible for suspicious transactions.¹⁷⁹ Mr. Graydon relayed these and other concerns to Doug Scott, then GPEB’s General Manager.¹⁸⁰

65. Mr. Scott replied to Mr. Graydon’s email, expressing regret for Mr. Schalk’s communication and acknowledging that AML is a joint responsibility between BCLC and GPEB. Mr. Scott also confirmed that BCLC had undertaken everything GPEB had asked as part of the AML Strategy.¹⁸¹ In a subsequent email to Larry Vander Graaf of GPEB, Mr. Scott acknowledged that a number of Mr. Graydon’s concerns had weight.¹⁸²

¹⁷⁴ [B. Baxter](#), Apr. 8, p. 133, ll. 1-24.

¹⁷⁵ [M. Paddon](#), Apr. 14, p. 15, ll. 18-24.

¹⁷⁶ [M. Paddon](#), Apr. 14, p. 147, l. 23 - p. 149, l. 22. See also, [C. Chrustie](#), Mar. 29, p. 52, l. 23 - p. 53, l. 12.

¹⁷⁷ M. Graydon Aff. #1, [Ex. 576](#), Aff. Ex. C.

¹⁷⁸ [Ex. 579](#), pp. 2-4.

¹⁷⁹ M. Graydon Aff. #1, [Ex. 576](#), p. 17, para. 44; [M. Graydon](#), Feb. 11, p. 44, ll. 21-25.

¹⁸⁰ M. Graydon Aff. #1, [Ex. 576](#), Aff. Ex. D, PDF pp. 42-43; [M. Graydon](#), Feb. 11, p. 88, l. 21 - p. 89, l. 5; D. Scott Aff. #1, [Ex. 557](#), p. 16, para. 69. Mr. Graydon said that Mr. Scott was apologetic; Mr. Scott clarified in his testimony that his apology was in respect of the letter’s tone as opposed to its content: M. Graydon Aff. #1, [Ex. 576](#), p. 17, para. 45; [M. Graydon](#), Feb. 11, p. 89, l. 15 - p. 90, l. 11; [Ex. 579](#), p. 1; [D. Scott](#), Feb. 8, p. 96, ll. 11-15, p. 180, ll. 16-25.

¹⁸¹ M. Graydon Aff. #1, [Ex. 576](#), Aff. Ex. D, PDF p. 41; [D. Scott](#), Feb. 8, p. 97, ll. 8-21, p. 181, l. 16 - p. 182, l. 5.

¹⁸² L. Vander Graaf Aff. #1, [Ex. 181](#), Aff. Ex. JJ, p. 293.

66. **Brad Desmarais is Hired (February 2013).** When Mr. Towns retired,¹⁸³ BCLC sought to replace him with someone with a “strong background in money laundering, anti-money laundering, proceeds of crime, [and] organized crime ... so that they could bring strong leadership to the organization internally in [their] efforts to build strong strategies to address these things.”¹⁸⁴ Brad Desmarais, then the Officer in Charge of the Vancouver Police Department’s Major Crimes Section and previously responsible for the operational management of IPOC and the National Initiative to Combat Money Laundering Unit,¹⁸⁵ “ticked all the boxes in regards to his competency and his experience and capabilities on that front.”¹⁸⁶ He was hired in December 2012 as BCLC’s Vice President, Corporate Security and Compliance.¹⁸⁷ Mr. Desmarais regarded the issue of cash in casinos as complex, and wanted to proceed carefully. He resolved to learn more through training, analytics, and further due diligence to better understand the risks, respond to the information, and recalibrate BCLC’s risk tolerance if necessary.¹⁸⁸

67. **BCLC AML Unit Formed (October 2013) and AML Program “Built Out”.** In October 2013, BCLC formed a dedicated AML Unit.¹⁸⁹ By the end of 2013 it also began to enact a number of other measures to enhance its AML program, including: (1) hiring more investigators; (2) hiring new Justice Institute of British Columbia (“JIBC”) certified analysts and security support staff and having existing analysts qualify for JIBC certification; (3) providing a JIBC investigators course (designed specifically for BCLC); and (4) requiring Association of Certified Anti-Money Laundering Specialists (“ACAMS”) membership and training for all compliance/investigations staff, including analysts.¹⁹⁰

68. **Information Sharing Agreement with RCMP (2014).** Mr. Desmarais believed that information sharing agreements with law enforcement were critical to BCLC’s AML program,¹⁹¹ and initiated the January 2014 BCLC-RCMP information sharing agreement

¹⁸³ T. Towns Aff. #1, [Ex. 517](#), p. 24, para. 148.

¹⁸⁴ [M. Graydon](#), Feb. 11, p. 91, ll. 9-21.

¹⁸⁵ B. Desmarais Aff. #1, [Ex. 522](#), p. 3, paras. 10, 12.

¹⁸⁶ [M. Graydon](#), Feb. 11, p. 91, ll. 9-21.

¹⁸⁷ He did not start in the role until February 2013: B. Desmarais Aff. #1, [Ex. 522](#), p. 4, para. 16.

¹⁸⁸ B. Desmarais Aff. #1, [Ex. 522](#), pp. 5, 7-9, paras. 24, 27-35. See also, [S. Lee](#), Oct. 27, p. 21, ll. 16-23.

¹⁸⁹ C. Cuglietta Aff. #1, [Ex. 482](#), Aff. Ex. A, p. 17.

¹⁹⁰ B. Desmarais Aff. #1, [Ex. 522](#), p. 6, para. 25.

¹⁹¹ B. Desmarais Aff. #1, [Ex. 522](#), p. 6, para. 26.

(“ISA”).¹⁹² He also wrote to the officer in charge of every RCMP detachment in British Columbia with a gaming facility to request that they proactively share information about undesirable patrons with BCLC so that they could be banned.¹⁹³ Mr. Desmarais also discussed this topic with various law enforcement members.¹⁹⁴

69. **Continued Efforts to Engage Law Enforcement (CFSEU).** In or about April 2014, BCLC started providing additional information about specific suspected cash facilitators to the RCMP in an effort to persuade law enforcement to investigate suspected casino cash facilitators.¹⁹⁵ Daryl Tottenham and Mr. Karlovcec provided the Combined Forces Special Enforcement Unit (“CFSEU”) with a package of information on BCLC’s top ten suspected cash facilitator targets, including Mr. Jin.¹⁹⁶ Around this time, Richmond RCMP had advised GCGC (who in turn informed Mr. Desmarais) that the RCMP was “very comfortable with River Rock’s ability not to facilitate money laundering”;¹⁹⁷ BCLC nevertheless pressed the RCMP to investigate.

70. On or about June 19, 2014, BCLC and GCGC gave four CFSEU teams orientation tours of River Rock, including the security and surveillance rooms, and provided information on how to access the camera room.¹⁹⁸ Following this meeting, BCLC again provided CFSEU with its top ten target list, and again requested investigation of these individuals.¹⁹⁹

71. **Casino Barring and Public Safety Measures (following ISA).** Beginning in or about May 2014, BCLC received from CFSEU a list of its top 1,000 targets in BC.²⁰⁰ This type of information sharing was one factor that led BCLC to create the Extreme Risk Patron Program in June 2014, under which BCLC proactively banned patrons that

¹⁹² B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 6. The ISA was temporarily suspended in October 2015 because of concerns raised by GPEB: [L. Meilleur](#), Feb. 12, p. 118, l. 14 - p. 124, l. 6. The ISA was amended on or about July 14, 2016: B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 7.

¹⁹³ B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 43.

¹⁹⁴ B. Desmarais Aff. #1, [Ex. 522](#), p. 15, para. 68.

¹⁹⁵ B. Desmarais Aff. #1, [Ex. 522](#), p. 15, para. 69; D. Tottenham Aff. #1, [Ex. 148](#), p. 21, para. 102.

¹⁹⁶ D. Tottenham Aff. #1, [Ex. 148](#), p. 21, paras. 103-104.

¹⁹⁷ T. Doyle Aff. #1, [Ex. 560](#), Aff. Ex. C; R. Kroeker Aff. #1, [Ex. 490](#), Aff. Ex. 13, PDF p. 222.

¹⁹⁸ D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 26; D. Tottenham Aff. #1, [Ex. 148](#), p. 23, para. 115.

¹⁹⁹ D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 27.

²⁰⁰ D. Tottenham Aff. #1, [Ex. 148](#), p. 22, para. 109.

posed a risk to public safety.²⁰¹ As part of its AML efforts, BCLC has barred hundreds of people under s. 92 of the GCA over the years.²⁰²

72. Cash Conditions and Patron Interviews Commence. On or about November 26, 2014, BCLC placed a patron on “sourced cash conditions” for the first time,²⁰³ such that the patron was only able to buy in with cash that was sourced from an approved banking institution, or from recent gaming winnings in the form of chips, regardless of the amount of the buy-in.²⁰⁴ This was prompted by the patron trying to buy in using cash delivered by Mr. Jin, after having been warned by BCLC and Service Provider staff against doing so.²⁰⁵ The implementation of cash conditions was a proactive step taken by BCLC in the evolution of its AML program, without direction from GPEB,²⁰⁶ unprecedented in the global gaming industry.²⁰⁷

(c) E-Pirate / cash conditions program era: Feb. 2015 to Dec. 2017

73. February 2015: Meeting with FSOC. In February 2015, following an informal meeting between Mr. Desmarais and Calvin Chrustie of FSOC, BCLC arranged a meeting with FSOC to present information on BCLC’s concerns about Mr. Jin and his suspected associates and request assistance in targeting those individuals.²⁰⁸ Mr. Chrustie described the intelligence provided by BCLC as “very actionable”.²⁰⁹ Following the presentation, FSOC commenced surveillance at River Rock and E-Pirate began.²¹⁰

²⁰¹ B. Desmarais Aff. #1, [Ex. 522](#), pp. 15-16, para. 72; [B. Desmarais](#), Feb. 1, p. 92, l. 8 - p. 93, l. 2.

²⁰² R. Kroeker Aff. #1, [Ex. 490](#), pp. 15, 22, paras. 65, 96, Aff. Exs. 14, 26; [G. Friesen](#), Oct. 29, p. 48, l. 25 - p. 49, l. 2; [J. Lightbody](#), Jan. 29, p. 126, l. 16 - p. 127, l. 1.

²⁰³ B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 12, p. 49; [D. Tottenham](#), Nov. 4, p. 80, ll. 8-10; D. Tottenham Aff. #1, [Ex. 148](#), p. 17, para. 79, Aff. Ex. 6.

²⁰⁴ D. Tottenham Aff. #1, [Ex. 148](#), pp. 9, 26-27, paras. 39, 134-136, Aff. Ex. 50.

²⁰⁵ [D. Tottenham](#), Nov. 4, p. 81, l. 9 - p. 82, l. 24; [B. Desmarais](#), Feb. 1, p. 104, l. 1 - p. 105, l. 1.

²⁰⁶ B. Desmarais Aff. #1, [Ex. 522](#), pp. 9-10, para. 39; [D. Tottenham](#), Nov. 10, p. 193, l. 2 - p. 194, l. 5.

²⁰⁷ EY AML Report, [Ex. 1038](#), pp. 23-24, ss. 5.85-5.92.

²⁰⁸ D. Tottenham Aff. #1, [Ex. 148](#), pp. 21, 25, paras. 104-105, 124, Aff. Exs. 28-37; B. Desmarais Aff. #1, [Ex. 522](#), p. 16, para. 76; [B. Desmarais](#), Feb. 1, p. 119, l. 19 - p. 120, l. 5 (re: B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 55, p. 312); [D. Tottenham](#), Nov. 10, p. 132, l. 13 - p. 133, l. 9; [C. Chrustie](#), Mar. 29, p. 62, l. 10 - p. 63, l. 7, p. 63, l. 22 - p. 66, l. 6, p. 125, ll. 12-23, p. 190, ll. 10-17.

²⁰⁹ [C. Chrustie](#), Mar. 29, p. 87, ll. 2-10.

²¹⁰ D. Tottenham Aff. #1, [Ex. 148](#), p. 25, para. 125; [D. Tottenham](#), Nov. 10, p. 133, l. 10 - p. 134, l. 6; [C. Chrustie](#), Mar. 29, p. 67, ll. 4-22.

74. BCLC continued to share relevant information with FSOC through the spring and summer of 2015 in relation to E-Pirate, both proactively and in response to specific requests for information and assistance from FSOC.²¹¹ Mr. Chrustie described BCLC as “very cooperative and transparent relative to information that they had relative to the need of E-Pirate.”²¹² Mr. Chrustie said that “without the evidence and information [BCLC] provided, [FSOC] wouldn’t have been able to launch E-Pirate.”²¹³

75. **February 2015 River Rock Tour.** On or about February 13, 2015, GCGC conducted a tour of River Rock for David Eby, then the Opposition Gaming Critic.²¹⁴ While Minister Eby recalled during his testimony that there was a BCLC representative present during this tour who made certain representations to him,²¹⁵ River Rock’s daily log indicates that no one from BCLC attended.²¹⁶ Moreover, Mr. Desmarais and other BCLC representatives, both past and present, had no knowledge of the tour.²¹⁷

76. **AML Strategy – Phase 3.** The final phase of the AML Strategy contemplated that GPEB would “undertake direct regulatory action” toward “achieving the goal of limiting suspicious currency, preventing money laundering and the perception of money laundering in BC gaming facilities.”²¹⁸ While scheduled to be implemented by December 31, 2013,²¹⁹ phase 3 does not appear to have begun in earnest until after the 2015/2016 BCLC mandate letter,²²⁰ which specifically directed BCLC to respond to AML standards developed by GPEB.²²¹ Cheryl Wenezenki-Yolland, then Associate Deputy Minister

²¹¹ D. Tottenham Aff. #1, [Ex. 148](#), pp. 25-26, paras. 124-129, Aff. Exs. 39, 41; [C. Chrustie](#), Mar. 29, p. 131, l. 21 - p. 132, l. 22, p. 133, l. 17 - p. 134, l. 25 (re: B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 53), p. 135, l. 20 - p. 136, l. 21 (re: [Ex. 764](#)); [M. Paddon](#), Apr. 14, p. 138, ll. 16-23.

²¹² [C. Chrustie](#), Mar. 29, p. 132, ll. 10-13.

²¹³ [C. Chrustie](#), Mar. 29, p. 132, ll. 16-22.

²¹⁴ B. Desmarais Aff. #2, [Ex. 995](#), Aff. Ex. A, p. 2.

²¹⁵ [D. Eby](#), Apr. 26, p. 15, l. 11 - p. 20, l. 5.

²¹⁶ B. Desmarais Aff. #2, [Ex. 995](#), Aff. Ex. B, p. 3.

²¹⁷ B. Desmarais Aff. #2, [Ex. 995](#), pp. 2-4, paras. 6-15.

²¹⁸ D. Scott Aff. #1, [Ex. 557](#), Aff. Ex. 20, p. 88.

²¹⁹ D. Scott Aff. #1, [Ex. 557](#), Aff. Ex. 20, p. 88; [D. Scott](#), Feb. 8, p. 16, ll. 15-19.

²²⁰ C. Wenezenki-Yolland Aff. #1, [Ex. 922](#), pp. 13-14, paras. 88-94; L. Meilleur Aff. #1, [Ex. 587](#), p. 10, para. 48, Aff. Ex. HH, PDF p. 388; [C. Wenezenki-Yolland](#), Apr. 27, p. 118, l. 16 - p. 120, l. 10; [L. Meilleur](#), Mar. 10, p. 38, l. 1 - p. 39, l. 3; D. Scott Aff. #1, [Ex. 557](#), p. 12, para. 54; J. Mazure Aff. #1, [Ex. 541](#), p. 6, para. 57. See also J. Mazure Aff. #1, [Ex. 541](#), p. 8, para. 73 (“The [September 2014 Malys] report was intended to inform GPEB’s efforts when considering what type of action might be taken in Phase 3 of the AML strategy”).

²²¹ C. Wenezenki-Yolland Aff. #1, [Ex. 922](#), p. 14, para. 94; [Ex. 891](#), p. 2.

within the Ministry of Finance, testified that both she and BCLC were concerned about the amount of time it was taking GPEB to develop “concrete actions” under phase 3.²²²

77. Though GPEB’s phase 3 recommendations ultimately included the creation of the Joint Illegal Gaming Investigation Team (“JIGIT”) (April 2016), implementation of GPEB’s own Intelligence Unit (May 2016), and the MNP review (July 2016),²²³ it was GPEB’s belief that “without direction or intervention from senior government, GPEB had limited alternatives to consider during phase 3 of the AML strategy.”²²⁴ BCLC nevertheless acted decisively, implementing cash conditions and patron interviews.

78. April 2015 – BCLC Patron Interviews and Cash Conditions Formalized.

From November 2014 to April 2015, BCLC interviewed and placed patrons on cash conditions on an *ad hoc* basis.²²⁵ BCLC recognized that this process should be formalized and it did so,²²⁶ resulting in BCLC’s April 16, 2015 Protocol for Educating, Warning, Sanctioning or Barring Patrons.²²⁷ Under this protocol, if a patron was unable to prove SOF or if BCLC suspected or received information that their funds originated from underground banking operations or potential proceeds of crime, “the player was immediately placed on ‘sourced cash conditions’ and would only be allowed to buy-in if they could provide ... an original receipt sourcing the funds”.²²⁸

79. GPEB was not making similar inquiries into SOF or investigating suspected instances of money laundering or loan sharking at this time, as it considered doing so to be both outside the scope of its authority and unsafe for its investigators.²²⁹ GPEB did

²²² C. Wenezenki-Yolland Aff. #1, [Ex. 922](#), p. 15, para. 101; C. [Wenezenki-Yolland](#), Apr. 27, p. 40, l. 2 - p. 42, l. 1, p. 118, l. 16 - p. 120, l. 10.

²²³ C. Skrine Aff. #1, [Ex. 504](#), Aff. Ex. P, p. 122.

²²⁴ L. Meilleur Aff. #1, [Ex. 587](#), p. 24, para. 136; [L. Meilleur](#), Mar. 10, p. 168, l. 11 - p. 169, l. 14.

²²⁵ For example, one patron was placed on sourced cash conditions on April 14, 2015 because BCLC’s AML Unit suspected he was receiving cash, at least in part, from Mr. Jin: D. Tottenham Aff. #1, [Ex. 148](#), p. 17, paras. 82-83.

²²⁶ B. Desmarais Aff. #1, [Ex. 522](#), p. 10, para. 41.

²²⁷ B. Desmarais Aff. #1, [Ex. 522](#), Aff. Ex. 14, p. 56.

²²⁸ [Ex. 943](#), PDF p. 2.

²²⁹ In a September 2013 email, Mr. Vander Graaf summarized GPEB’s view that even asking a patron “where did you get the cash” would put its investigators at serious risk of harm: K. Ackles Aff. #3, [Ex. 144](#), Aff. Ex. F, pp. 48-49. See also, [K. Ackles](#), Nov. 2, p. 26, l. 7 - p. 34, l. 22, p. 99, l. 22 - p. 100, l. 25, p. 130, ll. 8-21; L. Vander Graaf Aff. #1, [Ex. 181](#), Aff. Ex. D, pp. 35-36; [L. Vander Graaf](#), Nov. 13, p. 101, l. 25 - p. 103, l. 19.

not raise any concerns about safety risks to BCLC investigators after becoming aware of BCLC's patron interview program.²³⁰

80. **June 2015: AML Summit.** On June 4, 2015, BCLC and GPEB hosted an AML "summit", attended by government, law enforcement, and industry representatives.²³¹ The purpose was to ensure effective AML practices were in place in BC casinos and to identify and explore strategies for the final phase of the AML Strategy, which focused on regulatory guidance and intervention.²³² There was no mention of criminality. Themes from group discussions included: (1) no one really knew where the money was coming from, and (2) that underground banking systems existed which "may or may not be illegal".²³³ A number of areas were identified for further discussion and consideration by GPEB leadership, including enhancing customer due diligence around SOW and SOF, cash alternatives, and communication and information sharing between BCLC, GPEB, and law enforcement.²³⁴

81. **July 2015: FSOC E-Pirate Feedback.** In late July 2015, BCLC was advised by FSOC that E-Pirate had uncovered a potential connection between casino buy-ins and illicit funds.²³⁵ BCLC relayed this information to GPEB, who subsequently confirmed the intelligence with FSOC directly.²³⁶ This marked the first time that BCLC had received confirmation from law enforcement that large cash buy-ins had been potentially linked to

²³⁰ [K. Ackles](#), Nov. 2, p. 130, l. 22 - p. 132, l. 17.

²³¹ [B. Desmarais Aff. #1, Ex. 522](#), pp. 10-11, para. 44, Aff. Ex. 19.

²³² [B. Desmarais Aff. #1, Ex. 522](#), Aff. Ex. 18, pp. 79, 81-82; [L. Meilleur Aff. #1, Ex. 587](#), Aff. Ex. CC; [Ex. 761](#).

²³³ [Tottenham Aff. #1, Ex. 148](#), Aff. Ex. 43, p. 407; [R. Alderson](#), Sep. 9, 2021, pp. 154-156.

²³⁴ [B. Desmarais Aff. #1, Ex. 522](#), Aff. Ex. 21 (see also [Ex. 761](#)); [L. Meilleur](#), Mar. 10, p. 97, l. 20 - p. 99, l. 12 (re: [L. Meilleur Aff. #1, Ex. 587](#), Aff. Ex. K), p. 150, l. 18 - p. 151, l. 19 (re: [L. Meilleur Aff. #1, Ex. 587](#), Aff. Ex. K), p. 158, l. 24 - p. 159, l. 13 (re: [L. Meilleur Aff. #1, Ex. 587](#), Aff. Ex. HH, PDF p. 389).

²³⁵ [B. Desmarais Aff. #1, Ex. 522](#), Aff. Ex. 55, p. 313 ("... potentially some of the funds linked to transnational drug trafficking and terrorist financing was directly related to casino activity"); [J. Lightbody Aff. #1, Ex. 505](#), p. 22, para. 113, Aff. Ex. 33, p. 168. See also, [D. Tottenham Aff. #1, Ex. 148](#), pp. 12, 18, paras. 51, 87, Aff. Ex. 43, p. 405; [Ex. 493](#), p. 1 ("... investigation had uncovered that JIN was likely linked to transnational drug trafficking and suspected to be linked to terrorist financing. [CHRUSTIE](#) stated that some of the proceeds were directly related to casino activity"); [J. Lightbody](#), Jan. 28, p. 26, ll. 2-14, p. 34, ll. 2-23; [J. Lightbody](#), Jan. 29, p. 48, l. 22 - p. 50, l. 8; [C. Christie](#), Mar. 29, p. 166, ll. 3-8; [Ex. 763](#); [D. Tottenham](#), Nov. 4, p. 174, l. 13 - p. 176, l. 1.

²³⁶ [L. Meilleur Aff. #1, Ex. 587](#), pp. 15-16, paras. 81-83, Aff. Ex. II; [L. Meilleur](#), Feb. 12, p. 59, l. 3 - p. 61, l. 3.

organized crime.²³⁷ Jim Lightbody, BCLC's President and CEO, described it as a "pivotal moment".²³⁸ While BCLC still did not know if proceeds of crime were actually being received at its casinos, it nevertheless acted.

82. August 2015: Patron Interviews and Cash Conditions "Ramp Up". In response to the intelligence received from E-Pirate, BCLC immediately took steps to ramp up its patron interview and cash conditions program,²³⁹ which remained a risk-based program targeted on a number of patrons interviewed and/or placed on conditions by the end of July 2015.²⁴⁰ On August 5, 2015, BCLC placed 'sourced cash conditions' on ten further high value patrons who were known to receive cash from Mr. Jin, and sought to interview the patrons to discuss their activities.²⁴¹ On August 7, 2015, BCLC advised GPEB of the sanctions and provided a copy of a patron intelligence interview conducted the previous day.²⁴²

83. August-September 2015: BCLC-GPEB Correspondence. Two days after BCLC advised Service Providers of the new conditions on certain high limit patrons, BCLC received a letter from John Mazure, then the Assistant Deputy Minister and General Manager of GPEB, on August 7, 2015 acknowledging BCLC's active involvement in the AML Strategy and asking that BCLC "increase its efforts to develop and promote the use of cash alternatives" and, among other things, develop additional

²³⁷ [D. Tottenham](#), Nov. 10, p. 143, l. 4 - p. 144, l. 3; [J. Lightbody Aff. #1](#), [Ex. 505](#), p. 22, para. 113; [J. Lightbody](#), Jan. 28, p. 26, ll. 2-12, p. 34, l. 24 - p. 37, l. 9; [B. Desmarais](#), Feb. 1, p. 122, l. 15 - p. 123, l. 4.

²³⁸ [J. Lightbody Aff. #1](#), [Ex. 505](#), p. 22, para. 113; [J. Lightbody](#), Jan. 28, p. 26, ll. 7-12. See also, [R. Alderson](#), Sep. 9, p. 132, ll. 3-13.

²³⁹ [J. Lightbody Aff. #1](#), [Ex. 505](#), p. 22, para. 113; [D. Tottenham Aff. #1](#), [Ex. 148](#), p. 18, para. 87; [D. Tottenham](#), Nov. 4, p. 194, ll. 8-24 (re: [D. Tottenham Aff. #1](#), [Ex. 148](#), Aff. Ex. 9); [J. Lightbody](#), Jan. 28, p. 26, l. 16 - p. 27, l. 2; [J. Lightbody](#), Jan. 29, p. 117, l. 17 - p. 118, l. 7; [B. Desmarais](#), Feb. 1, p. 134, l. 19 - p. 135, l. 3.

²⁴⁰ [D. Tottenham Aff. #1](#), [Ex. 148](#), pp. 17, 27-28, paras. 79-83, 140-141, Aff. Exs. 6, 7, 46; [D. Tottenham Aff. #2](#), [Ex. 149](#), Aff. Ex. 33; [B. Desmarais Aff. #1](#), [Ex. 522](#), pp. 9-10, paras. 38-43, Aff. Exs. 11-16; [D. Tottenham](#), Nov. 4, p. 117, l. 7 - p. 118, l. 2, p. 120, ll. 12-22; [D. Tottenham](#), Nov. 10, p. 104, ll. 7-12, p. 185, l. 17 - p. 187, l. 8 (re: [D. Tottenham Aff. #1](#), [Ex. 148](#), Aff. Ex. 46); [J. Lightbody](#), Jan. 28, p. 16, l. 22 - p. 17, l. 5, p. 58, ll. 5-10; [B. Desmarais](#), Feb. 2, p. 106, l. 7 - p. 107, l. 7, p. 108, l. 23 - p. 109, l. 8, p. 160, l. 6 - p. 161, l. 23 (re: [R. Kroeker Aff. #1](#), [Ex. 490](#), Aff. Ex. 39).

²⁴¹ [D. Tottenham Aff. #1](#), [Ex. 148](#), pp. 26-27, paras. 134-135, Aff. Ex. 45; [D. Tottenham](#), Nov. 4, p. 194, l. 15 - p. 196, l. 15 (re: [D. Tottenham Aff. #1](#), [Ex. 148](#), Aff. Ex. 9), p. 177, ll. 7-14 (re: [D. Tottenham Aff. #1](#), [Ex. 148](#), Aff. Ex. 43); [B. Desmarais](#), Feb. 1, p. 140, l. 21 - p. 141, l. 5.

²⁴² [Ex. 923](#).

customer due diligence “with a focus on identifying source of wealth and funds as integral components to client risk assessment.”²⁴³

84. The letter was not a directive; it was responsive to the discussions had at the June AML summit, as well as the recent E-Pirate intelligence.²⁴⁴ At the time of his letter, Mr. Mazure only understood the details of BCLC’s cash conditions program “at a high level”.²⁴⁵ Although he was not specific in his letter about the risk approach BCLC should take and “didn’t care how it got done”, Mr. Mazure testified that he expected BCLC to “go further” to lower its risk tolerance in response, by considering, for example, a lower-risk tier of patrons to place on sourced cash conditions.²⁴⁶

85. Mr. Lightbody responded to Mr. Mazure by way of two letters: an August 24, 2015 letter to Minister de Jong and a September 16, 2015 letter to Mr. Mazure.²⁴⁷ Mr. Lightbody’s first letter proposed the establishment of a dedicated law enforcement gaming unit.²⁴⁸ Minister de Jong did not understand BCLC’s letter to represent any pushback on GPEB’s suggestion to source funds.²⁴⁹

86. In his second response to Mr. Mazure, Mr. Lightbody confirmed that SOF was already one element, among others, integrated into BCLC’s risk assessment and ongoing patron monitoring. He advised that it would not be practical to go into further detail in the letter, but invited Mr. Mazure and any of his staff to attend a technical briefing on these aspects of BCLC’s AML regime.²⁵⁰

87. While Mr. Mazure was critical of Mr. Lightbody’s response to his letter in his testimony, characterizing it as “inadequate”, it appears that he was actually not aware of

²⁴³ J. Lightbody Aff. #1, [Ex. 505](#), p. 35, para. 180, Aff. Ex. 48.

²⁴⁴ [J. Mazure](#), Feb. 5, p. 125, l. 4 - p. 126, l. 3, p. 198, ll. 7-19, p. 199, ll. 8-19. See also, [L. Meilleur](#), Mar. 10, p. 159, l. 20 - p. 160, l. 15.

²⁴⁵ [J. Mazure](#), Feb. 5, p. 201, l. 6 - p. 206, l. 6; [J. Mazure](#), Feb. 11, p. 141, l. 13 - p. 142, l. 4, p. 183, ll. 2-20.

²⁴⁶ [J. Mazure](#), Feb. 5, p. 217, ll. 1-16, p. 218, l. 24 - p. 219, l. 21, p. 222, l. 25 - p. 229, l. 12; [J. Mazure](#), Feb. 11, p. 141, l. 20 - p. 142, l. 4.

²⁴⁷ J. Lightbody Aff. #1, [Ex. 505](#), pp. 35-36, paras. 181, 184, Aff. Exs. 49, 52.

²⁴⁸ J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 49; [J. Lightbody](#), Jan. 29, p. 117, l. 17 - p. 119, l. 7; [M. de Jong](#), Apr. 23, p. 71, l. 14 - p. 72, l. 23, p. 129, l. 2 - p. 130, l. 25.

²⁴⁹ [M. de Jong](#), Apr. 23, p. 159, l. 23 - p. 162, l. 2.

²⁵⁰ J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 52; [J. Mazure](#), Feb. 5, p. 216, ll. 10-25, p. 218, ll. 7-13.

the details of BCLC's cash conditions program throughout the fall of 2015, and only understood it at a high level.²⁵¹ Ms. Wenezenki-Yolland similarly did not know the specifics or details of BCLC's cash conditions program at the time, including the reduction in BCLC's risk threshold for considering cash conditions throughout the fall of 2015.²⁵² GPEB's lack of complete understanding of BCLC's cash conditions program appeared to continue until as late as February 2017.²⁵³

88. September 2015: More Cash Conditions and Chip Swap. On September 11, 2015, a further tranche of high risk patrons believed to be receiving funds from Mr. Jin was placed on sourced cash conditions, and BCLC sought interviews with these patrons to ask them about the source of their funds.²⁵⁴ Also in September 2015, BCLC intended to interview patrons with unsourced chips through a "chip swap" at River Rock, which BCLC had under development since April 2015.²⁵⁵ After notice of the chip swap had been provided to patrons, the operation was suspended the day prior to its scheduled roll-out at the request of law enforcement and at the apparent suggestion of Len Meilleur, then GPEB's Executive Director.²⁵⁶ The chip swap ultimately proceeded in January 2016, but by that time River Rock's chip liability had returned to a more reasonable level and BCLC lost a valuable opportunity to interview patrons attempting to cash in unsourced chips.²⁵⁷

²⁵¹ J. Mazure Aff. #1, [Ex. 541](#), p. 22, para. 183; [J. Mazure](#), Feb. 5, p. 220, l. 8 - p. 224, l. 12; [J. Mazure](#), Feb. 11, p. 141, l. 13 - p. 142, l. 4, p. 183, ll. 2-20.

²⁵² [C. Wenezenki-Yolland](#), Apr. 27, p. 101, l. 7 - p. 103, l. 1, p. 125, l. 18 - p. 130, l. 5.

²⁵³ [C. Wenezenki-Yolland](#), Apr. 27, p. 107, l. 18 - p. 110, l. 17 (re: [Ex. 556](#), p. 3); [Ex. 583](#), PDF p. 11; [J. Mazure](#), Feb. 11, p. 196, l. 21 - p. 197, l. 8, p. 199, l. 14 - p. 200, l. 12 (re: [Ex. 583](#)).

²⁵⁴ D. Tottenham Aff. #1, [Ex. 148](#), pp. 18-19, 26, paras. 87-89, 133, Aff. Exs. 8-9; [D. Tottenham](#), Nov. 4, p. 194, l. 15 - p. 196, l. 15 (re: D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 9); [D. Tottenham](#), Nov. 10, p. 30, l. 17 - p. 31, l. 12.

²⁵⁵ B. Desmarais Aff. #1, [Ex. 522](#), p. 22, paras. 98-103, 106, Aff. Exs. 76, 77; [J. Lightbody](#), Jan. 29, p. 118, ll. 8-16; R. Kroeker Aff. #1, [Ex. 490](#), p. 16, paras. 71-72; [R. Kroeker](#), Jan. 25, p. 109, l. 5 - p. 111, l. 5. See also, OR: River Rock Casino Chip Swap, [Ex. 74](#).

²⁵⁶ D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 41, pp. 394-395; B. Desmarais Aff. #1, [Ex. 522](#), p. 22, para. 104, Aff. Ex. 77; R. Kroeker Aff. #1, [Ex. 490](#), pp. 16-17, paras. 74-75; L. Meilleur Aff. #1, [Ex. 587](#), p. 19, paras. 100-102; [L. Meilleur](#), Feb. 12, p. 109, l. 10 - p. 110, l. 3; [B. Desmarais](#), Feb. 2, p. 59, ll. 10-16; [R. Kroeker](#), Jan. 25, p. 111, ll. 6-16; [R. Kroeker](#), Jan. 26, p. 189, ll. 10-17.

²⁵⁷ B. Desmarais Aff. #1, [Ex. 522](#), pp. 22-23, paras. 105-106, Aff. Ex. 78; R. Kroeker Aff. #1, [Ex. 490](#), p. 17, para. 77; OR: River Rock Chip Swap, [Ex. 74](#), p. 1, para. 2, App. A; [R. Kroeker](#), Jan. 26, p. 96, l. 22 - p. 97, l. 18.

89. **September 2015: Meeting with Minister.** In September 2015, Mr. Lightbody and Bud Smith, then Chair of BCLC's Board of Directors, met with Mr. Mazure, Ms. Wenezenki-Yolland, Minister de Jong, and the Minister's Chief of Staff, Brian Menzies, and expressed frustration about the lack of enforcement action in response to BCLC's STR reporting, reiterating the request for more investigative and enforcement support.²⁵⁸ Mr. Smith also suggested that BCLC could reduce or eliminate high limit games in BC casinos if it was outside the Government's risk tolerance; the Minister declined this suggestion.²⁵⁹

90. **October 1, 2015: Minister's Letter of Direction.** On October 1, 2015, Minister de Jong directed the BCLC Board to take the following actions as part of phase 3 of the AML strategy: (1) ensure that BCLC's AML compliance regime was focused on preserving the integrity and reputation of BC's gaming industry, with reference to Mr. Mazure's August 7, 2015 letter; (2) participate in the development of a coordinated enforcement approach with GPEB and law enforcement; and (3) enhance customer due diligence consistent with AML compliance best practices, "including processes for evaluating the source of wealth and source of funds prior to cash acceptance."²⁶⁰

91. By this time, BCLC had already commenced addressing the first and third directives by enhancing customer due diligence ("CDD") procedures in ramping up its cash conditions and patron interview program. Following the Minister's letter, BCLC continued to do so. BCLC also took active steps to participate in the development of what would become JIGIT.

92. In respect of the third direction in particular, Minister de Jong testified that he "did not mean to convey an intention that ... every single bit of cash currency that came into a casino needed to be scrutinized at a higher level"; he intended to articulate a risk-

²⁵⁸ J. Lightbody Aff. #1, [Ex. 505](#), pp. 23-24, paras. 116-120; [J. Lightbody](#), Jan. 28, p. 27, ll. 2-14; [J. Lightbody](#), Jan. 29, p. 56, ll. 1-18; [J. Mazure](#), Feb. 5, p. 210, l. 20 - p. 212, l. 4.

²⁵⁹ J. Lightbody Aff. #1, [Ex. 505](#), p. 24, para. 119; [J. Lightbody](#), Jan. 28, p. 27, ll. 15-25; [B. Smith](#), Feb. 4, p. 93, l. 7 - p. 94, l. 4.

²⁶⁰ [Ex. 900](#).

based²⁶¹ approach that went beyond the status quo,²⁶² as opposed to a prescriptive approach such as a threshold or complete ban on cash.²⁶³

93. Minister de Jong testified that as the volume of STRs dropped significantly, BCLC made progress and BCLC had not failed to comply with his directions or mandate letters: “the proof was in the pudding”.²⁶⁴

94. **JIGIT is Established.** Following an October 14, 2015 meeting between the Ministry of Finance, Ministry of the Attorney General, and the RCMP,²⁶⁵ Minister de Jong secured approval for the creation of a gaming-specific police force and JIGIT was created in April 2016, in effect implementing the tenth recommendation of the Kroeker Report.²⁶⁶ BCLC was cooperative and continued “meaningful” information sharing with JIGIT into 2016 and 2017, including providing intelligence, alerts, and patron information, to assist this agency.²⁶⁷

95. **STRs Plummet.** BCLC’s targeted and risk-based patron interview and cash conditions program was impactful – the total amount of cash buy-ins, particularly at River Rock, plummeted. In 2014, cash buy-ins of \$50,000 or more in BC casinos totalled almost \$318 million;²⁶⁸ this fell to \$272 million in 2015, \$82 million in 2016, \$70 million in 2017, and \$5 million in 2018.²⁶⁹ As GPEB observed in an internal memo: “The significant drop in cash buy-ins ... for the period July 1, 2015 - December 31, 2015, can be associated, in part, to the enforcement of [the cash conditions] directive by BCLC and the service provider.”²⁷⁰

²⁶¹ Minister de Jong’s endorsement of evaluating SOF within a risk-based framework was confirmed in his 2016/2017 mandate letter to BCLC: [M. de Jong](#), Apr. 23, p. 32, ll. 1-20 (re: [Ex. 892](#)); [Ex. 903](#).

²⁶² [M. de Jong](#), Apr. 23, p. 87, l. 17 - p. 90, l. 7, p. 91, l. 21 - p. 92, l. 7, p. 139, l. 13 - p. 140, l. 7, p. 145, l. 1 - p. 146, l. 7, p. 152, ll. 4-15, p. 153, l. 19 - p. 155, l. 10 (re: [Ex. 903](#)).

²⁶³ See also, C. Wenezenki-Yolland Aff. #1, [Ex. 922](#), p. 22, para. 152; [C. Wenezenki-Yolland](#), Apr. 27, p. 64, l. 24 - p. 66, l. 1, p. 104, l. 13 - p. 105, l. 23 (re: [Ex. 903](#)); [J. Lightbody](#), Jan. 28, p. 50, l. 4 - p. 51, l. 11, p. 79, l. 12 - p. 80, l. 1 (re: [Ex. 506](#)).

²⁶⁴ [M. de Jong](#), Apr. 23, p. 140, l. 8 - p. 141, l. 19, p. 155, l. 23 - p. 157, l. 6, p. 169, ll. 2-14.

²⁶⁵ C. Wenezenki-Yolland Aff. #1, [Ex. 922](#), p. 21, paras. 143-144; [M. de Jong](#), Apr. 23, p. 80, l. 20 - p. 81, l. 10; [Ex. 901](#).

²⁶⁶ [S. Bond](#), Apr. 22, p. 89, ll. 17-21; [C. Clark](#), Apr. 20, p. 28, l. 2 - p. 29, l. 15, p. 31, ll. 14-22.

²⁶⁷ Exs. [850](#), [851](#), [852](#), [853](#); [M. Paddon and B. Robinson](#), Apr. 14, pp. 130-144.

²⁶⁸ G. Aujla Aff. #1, [Ex. 481](#), Aff. Ex. 6, p. 33. (This figure is the total number: it does not take into account whether this cash was sourced.)

²⁶⁹ G. Aujla Aff. #1, [Ex. 481](#), Aff. Ex. 6, p. 33. (All figures have been rounded.)

²⁷⁰ [Ex. 913](#), p. 3.

96. The evidence shows a corresponding reduction in STRs. From January to June 2015, the value of STRs at River Rock peaked at approximately \$80 million.²⁷¹ They then declined to approximately \$60 million from July to December 2015, under \$40 million from January to June 2016, and under \$20 million from July to December 2016.²⁷² Similarly, the number of STRs for transactions at River Rock reached its peak in the six-month period from January to June 2016, and then fell by approximately 40 percent in the next six-month period.²⁷³ July 2015 was the peak for both number (195) and value (\$27 million) of STRs,²⁷⁴ a time when Mr. Jin's activities were under active investigation and surveillance by FSOC.²⁷⁵

97. **BCLC Information Sharing with Law Enforcement Continues.** Following the commencement of E-Pirate, BCLC continued to proactively share intelligence information with FSOC, both for the purpose of E-Pirate and in relation to other potential criminal activity, including illegal casinos.²⁷⁶ Information sharing continues today, including through BCLC's participation in JIGIT and the Gaming Integrity Group.²⁷⁷

98. **BCLC Voluntary Declaration of Non-Compliance to FINTRAC.** In November 2015, while reviewing a patron's buy-in activity, the BCLC AML Unit discovered that certain unusual cash buy-ins had not been reported by River Rock, contrary to BCLC's AML training and instructions. BCLC promptly conducted a broader review of River Rock records, conducted remedial training with River Rock staff, and submitted additional STRs as necessary for any previously unreported suspicious transactions. BCLC also disclosed the non-reporting to FINTRAC and submitted a voluntary

²⁷¹ C. Cuglietta Aff. #1, [Ex. 482](#), Aff. Ex. A, p. 14.

²⁷² C. Cuglietta Aff. #1, [Ex. 482](#), Aff. Ex. A, p. 14. See also, [P. German](#), Apr. 13, p. 37, ll. 14-17 ("[T]he highest number of \$20 bills, as I understand it, suspicious transactions was in the summer of 2015. The numbers declined after that").

²⁷³ C. Cuglietta Aff. #1, [Ex. 482](#), Aff. Ex. A, p. 13.

²⁷⁴ [Ex. 943](#), PDF p. 4.

²⁷⁵ M. Chizawsky Aff. #1, [Ex. 663](#).

²⁷⁶ [M. Paddon and B. Robinson](#), Apr. 14, p. 138, ll. 19-23, p. 140, ll. 3-10 (re: [Ex. 850](#)); D. Tottenham Aff. #1, [Ex. 148](#), p. 30, para. 151.

²⁷⁷ [M. Paddon and B. Robinson](#), Apr. 14, p. 141, l. 25 - p. 142, l. 5 (re: [Ex. 851](#)), p. 143, ll. 4-7 (re: [Ex. 852](#)), p. 144, ll. 4-24 (re: [Ex. 853](#)); [J. Hussey](#), Apr. 7, p. 15, l. 24 - p.16, l. 11, p. 59, l. 13 - p. 66, l. 18 (re: Exs. [815](#), [816](#), [817](#)); [K. Ackles](#), Nov. 12, p. 86, l. 11 - p. 87, l. 8.

declaration of non-compliance, promptly addressing the under-reporting in a forthright manner.²⁷⁸

99. **2016: Cash Conditions Program Continues.** By the end of 2015, 42 patrons had been placed on sourced cash conditions, with a further 61 patrons added in 2016.²⁷⁹ While the patrons placed on conditions in August and September 2015 were specifically targeted due to associations with Mr. Jin, the AML Unit subsequently expanded the program to consider additional players based on their behaviour and level of risk.²⁸⁰ From that point onwards, consistent with the expectations of Mr. Mazure and Ms. Wenezenki-Yolland, and the direction of Minister de Jong, the BCLC AML Unit continued to lower the risk threshold at which a patron might be interviewed and considered for conditions (with the aim to ultimately reach \$25,000 as a cash buy-in threshold for considering conditions), and to consider a broader range of players for conditions.²⁸¹ In October 2015, shortly after receipt of the Minister's letter of direction, BCLC supplemented its April 16, 2015 policy regarding formal patron interviews and cash conditions, mandating a list of suspicious indicators that would trigger a patron interview, including buying in predominantly in small denominations (regardless of amount).²⁸² Subsequent reviews conducted by GPEB concluded that BCLC's cash conditions program "resulted in a significant reduction in cash buy-ins with \$20s which correlated with an increase in new money deposits to PGF accounts."²⁸³

²⁷⁸ OR: 2016 BCLC Voluntary Declaration of Non-Compliance, [Ex. 75](#).

²⁷⁹ C. Cuglietta Aff. #1, [Ex. 482](#), Aff. Ex. A, p. 3.

²⁸⁰ [R. Kroeker](#), Jan. 26, p. 97, l. 19 - p. 98, l. 23; [R. Kroeker](#), Jan. 25, p. 142, l. 16 - p. 143, l. 7 (re: R. Kroeker Aff. #1, [Ex. 490](#), Aff. Ex. 95); [D. Tottenham](#) Aff. #1, [Ex. 148](#), pp. 9, 12, 26-27, paras. 39, 51, 133, 137, 140, Aff. Ex. 15, p. 266; [J. Lightbody](#), Jan. 28, p. 26, l. 22 - p. 27, l. 2, p. 28, l. 17 - p. 29, l. 6, p. 58, l. 20 - p. 59, l. 6, p. 63, l. 24 - p. 64, l. 11; [J. Lightbody](#), Jan. 29, p. 5, l. 12 - p. 6, l. 11 (re: J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 68, p. 335), p. 9, ll. 6-13, p. 21, l. 15 - p. 22, l. 4, p. 25, l. 14 - p. 26, l. 6; [K. Sweeney](#), Jan. 29, p. 190, l. 21 - p. 191, l. 22; [D. Tottenham](#), Nov. 4, p. 193, l. 4 - p. 196, l. 15, p. 206, l. 17 - p. 208, l. 9; [D. Tottenham](#), Nov. 5, p. 1, l. 16 - p. 3, l. 6; [D. Tottenham](#), Nov. 10, p. 198, l. 14 - p. 199, l. 16; A. Fitzgerald Aff. #1, [Ex. 781](#), Aff. Ex. 10, p. 87.

²⁸¹ [D. Tottenham](#) Aff. #1, [Ex. 148](#), p. 31, paras. 160-161; [J. Lightbody](#), Jan. 28, p. 17, l. 25 - p. 18, l. 8, p. 50, l. 21 - p. 51, l. 6; [D. Tottenham](#), Nov. 10, p. 10, l. 5 - p. 11, l. 2, p. 218, l. 8 - p. 219, l. 3; [B. Desmarais](#), Feb. 1, p. 141, ll. 10-17; [R. Kroeker](#) Aff. #1, [Ex. 490](#), p. 23, para. 101, Aff. Ex. 27.

²⁸² [R. Kroeker](#) Aff. #1, [Ex. 490](#), p. 23, para. 101, Aff. Ex. 27; [S. Beeksma](#), Oct. 26, p. 152, l. 1 - p. 155, l. 5 (re: [Ex. 86](#)).

²⁸³ [A. Fitzgerald](#) Aff. #1, [Ex. 781](#), Aff. Ex. 19, pp. 140, 146. See also, Aff. Ex. 37, p. 260: "The issuance of the un-sourced cash directive to high limit patrons at River Rock Casino has had a direct impact on the total amount of cash buy-ins conducted at the cages."

100. The 190 patron interviews conducted by BCLC's AML Unit between 2015 and January 2020²⁸⁴ support the conclusion that beginning in 2015, BCLC was conducting extensive inquiries into patrons' SOF within a risk-based framework. The vast majority of these interviews resulted in the patron either remaining or being placed on sourced cash conditions; others were banned or temporarily suspended from gaming in BC casinos based on their level of risk. Some patrons provided BCLC with information about suspected loan sharks and interest rates,²⁸⁵ underground casinos,²⁸⁶ and MSBs.²⁸⁷ BCLC shared this information with law enforcement.²⁸⁸

101. **May 2016: Cash Cage Questionnaires.** In May 2016, in further response to Minister de Jong's October 1, 2015 directive and 2016/2017 mandate letter, BCLC's AML Unit established an initiative to obtain information about the SOF at the time of buy-in for 34 targeted high value patrons, for the purpose of assessing whether they should be placed on conditions.²⁸⁹ Additional patrons were subsequently added to the program.²⁹⁰

102. **October 2016: BCLC Suspicious Cash Directive.** In 2016, the AML Unit implemented a process requiring Service Providers to review video surveillance prior to accepting suspicious cash buy-ins in small denominations. If it was observed that the patron acquired the funds under suspicious circumstances, the transaction was to be refused.²⁹¹ BCLC issued a directive on October 7, 2016 outlining the steps to be taken by Service Providers where a patron was denied a cash buy-in for suspicious

²⁸⁴ D. Tottenham Aff. #2, [Ex. 149](#). See also, D. Tottenham Aff. #1, [Ex. 148](#), p. 28, para. 142, Aff. Ex. 47; B. Desmarais, [Ex. 542](#), Aff. Ex. 29.

²⁸⁵ D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 47; D. Tottenham Aff. #2, [Ex. 149](#), Aff. Exs. 26, 37, 62, 67, 80, 121, 126, 128-129, 148, 152, 190.

²⁸⁶ D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 47; D. Tottenham Aff. #2, [Ex. 149](#), Aff. Exs. 9, 15, 17, 21, 37, 44, 51, 66-67, 70, 96, 106, 120-121, 144, 148, 153, 181, 183, 186.

²⁸⁷ D. Tottenham Aff. #2, [Ex. 149](#), Aff. Exs. 1, 21, 24, 37, 49-50, 53, 61-62, 80, 89, 92-93, 96, 116-118, 157, 183, 189-190.

²⁸⁸ D. Tottenham Aff. #1, [Ex. 148](#), pp. 29-30, paras. 150-155. See also [Ex. 852](#).

²⁸⁹ D. Tottenham Aff. #1, [Ex. 148](#), p. 29, para. 147, Aff. Exs. 49, 51; [D. Tottenham](#), Nov. 10, p. 10, l. 5 - p. 11, l. 2, p. 12, ll. 6-21, p. 140, l. 10 - p. 141, l. 18, p. 197, l. 7 - p. 201, l. 2; [D. Tottenham](#), Nov. 4, p. 206, l. 17 - p. 208, l. 9. See also [Ex. 85](#) (collection of interview forms).

²⁹⁰ D. Tottenham Aff. #1, [Ex. 148](#), p. 29, para. 147; [D. Tottenham](#), Nov. 10, p. 200, l. 18 - p. 201, l. 2.

²⁹¹ D. Tottenham Aff. #1, [Ex. 148](#), pp. 9-10, paras. 40-43, Aff. Ex. 4; [D. Tottenham](#), Nov. 10, p. 201, l. 3 - p. 203, l. 5; l. 25; R. Kroeker Aff. #1, [Ex. 490](#), pp. 20-21, para. 90, Aff. Ex. 23; [R. Kroeker](#), Jan. 26, p. 68, l. 24 - p. 69, l. 19, p. 73, l. 17 - p. 74, l. 2, p. 163, l. 2 - p. 164, l. 16.

behaviour, to ensure the patron could not buy in with the same funds at a different gaming facility.²⁹² At the time, this directive was unprecedented in other gaming jurisdictions surveyed by Mr. Boyle.²⁹³ Notably, in 2018, 60 percent of reported unusual financial transactions were refused at the cash cage based on the objective criteria set out by BCLC, which included if a Service Provider employee suspected an individual of attempting to buy in with proceeds of crime.²⁹⁴

103. **End of 2016 – Status of AML Measures.** In an internal email dated January 24, 2017, Mr. Alderson summarized BCLC’s initiatives for 2016, including its SOF declaration and SOW interview projects, enabling international wires, its slot machine risk analysis, increasing its Provincial Tactical Enforcement Priority list from 97 to 241 banned individuals, as well as providing ACAMS training to new staff. Included in this list was that BCLC kept current with AML initiatives by conferring with both Ontario Lottery and Gaming (“OLG”) and Alberta Gaming Liquor and Cannabis.²⁹⁵

104. **The State of BCLC’s AML Program by 2017.** As reviewed above, by 2017 BCLC had made progress in evolving its AML programs to address the risk of money laundering in casinos.²⁹⁶ Over the course of a decade, AML practices in the gaming industry evolved markedly. Initially, the industry standard consisted of an ‘observe-and-report’ model, with SOW inquiries, in an exclusively cash-based environment. Over time, it became a progressive, leading-edge, risked-based SOF regime, supplemented by BCLC patron interviews and a suspicious cash refusal directive, with a robust PGF account program to reduce reliance on cash. By 2017, STRs had dropped substantially from 2015 levels, BCLC’s cash conditions program had been operational for two years, and JIGIT had existed for over one year. As GPEB noted in an internal memo dated

²⁹² D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 4; [D. Tottenham](#), Nov. 10, p. 202, l. 1 - p. 203, l. 5.

²⁹³ EY AML Report, [Ex. 1038](#), pp. 14-17, ss. 5.36-5.58.

²⁹⁴ [Ex. 874](#), pp. 1-2.

²⁹⁵ [Ex. 179](#); [D. Tottenham](#), Nov. 10, p. 203, l. 23 - p. 205, l. 18; K. DeBruyckere Aff. #2, [Ex. 484](#), p. 5, para. 9(g); J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 89, pp. 604-605 (re: housewife/student initiative); K. DeBruyckere Aff. #2, [Ex. 484](#), p. 6, para. 9(k); D. Tottenham Aff. #1, [Ex. 148](#), pp. 9-10, paras. 40-43, Aff. Ex. 4 (re: refused buy-in directive); J. Lightbody Aff. #1, [Ex. 505](#), p. 19, para. 98 (re: enhanced MOU with RCMP); R. Kroeker Aff. #1, [Ex. 490](#), p. 33, paras. 139-142, Aff. Exs. 60, 66, 67 (re: delimiting convenience cheques). For evidence of ACAMS training see, [D. Tottenham](#), Nov. 10, p. 179, l. 18 - p. 182, l. 8; K. deBruyckere Aff. #3, [Ex. 485](#), pp. 1-2, paras. 3-5, Aff. Exs. 1-2.

²⁹⁶ See, e.g., S. Lee Aff. #1, [Ex. 87](#), p. 13, para. 73.

August 9, 2017: “[T]he most material procedural change over the past two years was the BCLC unsourced cash directive.”²⁹⁷

(d) Dr. German’s report to present

105. **Dr. German’s Interim Recommendation – \$10,000 SOF Threshold.** Shortly after his appointment by Minister Eby to conduct a review of allegations of money laundering in Lower Mainland casinos on or about December 5, 2017,²⁹⁸ Dr. Peter German²⁹⁹ made an interim recommendation directed at BCLC: that any cash buy-in of \$10,000 or more must be accompanied by a SOF declaration.³⁰⁰ BCLC improved upon this recommendation by instituting a receipting requirement in conjunction with the declaration,³⁰¹ effectively transitioning BCLC’s April 2015 cash conditions program from a risk-based approach to “a prescriptive approach” that required SOF declarations “for any cash buy-ins over \$10,000”³⁰². On January 10, 2018, BCLC implemented this recommendation by issuing a SOF directive to Service Providers.³⁰³ AML experts still regard the SOW measures that BCLC employs to be the predominant and most effective CDD measure.³⁰⁴ BC casinos have in place this further, prescriptive SOF measure which, based upon a review of AML practices across other jurisdictions, is not in place elsewhere.³⁰⁵

106. **BCLC MSB Directive.** On or about October 19, 2017, BCLC began considering an “approved list” of MSBs for sourcing funds.³⁰⁶ BCLC ultimately decided to de-risk (stop accepting funds from) all MSBs effective March 15, 2018; Mr. Lightbody advised

²⁹⁷ [Ex. 914](#), p. 2.

²⁹⁸ The appointment was announced on or about September 28, 2017: J. Lightbody Aff. #1, [Ex. 505](#), p. 53, para. 242.

²⁹⁹ Dr. German had previously been engaged by BCLC and GPEB in or around October 2016 to determine the division of responsibilities between the two organizations: J. Lightbody Aff. #1, [Ex. 505](#), p. 31, para. 157.

³⁰⁰ J. Lightbody Aff. #1, [Ex. 505](#), p. 58, para. 258.

³⁰¹ [J. Lightbody](#), Jan. 28, p. 75, l. 15 - p. 76, l. 2.

³⁰² J. Lightbody Aff. #1, [Ex. 505](#), pp. 58-59, para. 261.

³⁰³ J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 152, p. 1095.

³⁰⁴ [S. Brooker](#), May 11, p. 85, l. 19 - p. 87, l. 21, p. 105, l. 2 - p. 106, l. 25 (“And ultimately, I think the best proxy for a presumption of legitimate proceeds for a transaction is source of wealth...”).

³⁰⁵ EY AML Report, [Ex. 1038](#), pp. 17-21, paras. 5.59-5.72; [B. Boyle](#), Sep. 13, p. 96, l. 21 - p. 98, l. 11.

³⁰⁶ J. Lightbody Aff. #1, [Ex. 505](#), Aff. Ex. 165, p. 1155.

Government of this decision on or about January 17, 2018.³⁰⁷ Mr. Lightbody did not consult with Dr. German on this decision, as it was an improvement to BCLC's AML program that Mr. Lightbody "was not willing to delay or ask permission for."³⁰⁸

107. **Cash Cap Proposals.** In December 2017, Mr. Lightbody met with Mr. Desmarais and Mr. Kroeker to discuss the potential of implementing cash caps (a prescriptive AML measure) given that, with Dr. German's recommended SOF declaration, BCLC was no longer "going to take an exclusively risk-based approach."³⁰⁹ In early 2018, BCLC proposed a cash buy-in limit of \$25,000 per day (the "Cash Buy-In Cap"), and a separate cap of \$25,000 on cash payouts (the "Cash Out Cap").³¹⁰ This proposal was based on BCLC's research indicating that "the vast majority of players buying in under \$25,000 were either low or no risk, whereas players bringing in over \$25,000 were rated as medium or high risk".³¹¹ Ultimately, the Cash In Cap was not implemented.³¹² Mr. Lightbody spoke with Dr. German, who "cautioned against a prescriptive approach" and informed Mr. Lightbody that BCLC should not implement the Cash Buy-In Cap.³¹³

108. In addition, proposed policy changes to PGF accounts, convenience cheques, and cash distribution limits were delayed,³¹⁴ they were later scheduled to be implemented on August 7, 2018, but BCLC was directed by GPEB to suspend them.³¹⁵ The Cash Out Cap has not yet been implemented.³¹⁶

109. **BCLC's Comments on *Dirty Money* #1.** Dr. German's *Dirty Money* #1 report is, in sections, anecdotal and lacks data and analysis.³¹⁷ There is a disconnect between the sweeping nature of the report's conclusions and the notable lack of quantitative and

³⁰⁷ J. Lightbody Aff. #1, [Ex. 505](#), p. 69, paras. 315-317; D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 54.

³⁰⁸ J. Lightbody Aff. #1, [Ex. 505](#), p. 69, para. 317.

³⁰⁹ R. Kroeker Aff. #1, [Ex. 490](#), p. 47, para. 201; J. Lightbody Aff. #1, [Ex. 505](#), pp. 63-64, para. 291.

³¹⁰ J. Lightbody Aff. #1, [Ex. 505](#), pp. 64-65, paras. 292-297; R. Kroeker Aff. #1, [Ex. 490](#), p. 34, para. 146.

³¹¹ J. Lightbody Aff. #1, [Ex. 505](#), p. 65, para. 295.

³¹² J. Lightbody Aff. #1, [Ex. 505](#), pp. 66-67, para. 303.

³¹³ [P. German](#), Apr. 13, p. 58, ll. 20-24; J. Lightbody Aff. #1, [Ex. 505](#), p. 66, para. 300.

³¹⁴ In particular, delimiting convenience cheques, removing the minimum deposit required to open a PGF account, and limiting cash payouts to \$25,000: D. Tottenham Aff. #1, [Ex. 148](#), p. 34, para. 177, Aff. Ex. 65. See also, R. Kroeker Aff. #1, [Ex. 490](#), pp. 34-35, paras. 145-148, Aff. Ex. 70, PDF p. 596.

³¹⁵ R. Kroeker Aff. #1, [Ex. 490](#), pp. 35-36, paras. 149-153, Aff. Ex. 75, PDF p. 607.

³¹⁶ R. Kroeker Aff. #1, [Ex. 490](#), p. 36, para. 154; D. Tottenham Aff. #1, [Ex. 148](#), Aff. Ex. 69.

³¹⁷ [L. Wanamaker](#), Apr. 22, p. 24, ll. 21-25; B. Desmarais Aff. #1, [Ex. 522](#), pp. 25-26, paras. 120-121.

qualitative analysis of BCLC's AML program. BCLC was disappointed with Dr. German's lack of engagement with BCLC³¹⁸ on substantive issues, and believes some of the criticisms levelled against BCLC were unfair. An example of a disagreement with Dr. German's recommendations is the recommendation to eliminate PGF accounts,³¹⁹ which BCLC considers to be a positive AML measure. The Commissioner is better placed than Dr. German to make an assessment as to the adequacy and effectiveness of BCLC's AML program. While BCLC has addressed some of Dr. German's recommendations as requested by the Attorney General, BCLC submits that the factual findings in *Dirty Money #1* should be treated with caution and not be relied on by the Commissioner unless supported by "clear, convincing and cogent evidence".³²⁰

110. **JIGIT and Bank Draft Initiative.** In November 2017, CFSEU established Project Athena, to address the potential that bank drafts, following the reduction in large cash buy-ins, were now being used to launder proceeds of crime through casinos.³²¹ BCLC participated in this initiative,³²² although ultimately CFSEU engaged with banks directly as BCLC was unable to provide additional information on bank drafts. This is another example of BCLC assisting law enforcement to enhance AML measures in areas outside the scope of BCLC's influence or mandate, and demonstrates the benefit of public-private AML coordination. Project Athena ultimately transitioned into the Counter Illicit Finance Alliance of British Columbia ("CIFA-BC"), in which BCLC participates to this day as a "principal partner".³²³

111. **BCLC AML Measures – 2017- 2018.** In 2017, a further 107 players were placed on cash conditions, with an additional 209 in 2018, and 179 in 2019, and BCLC patron interviews continued. From 2014 to 2018, a significant majority of patrons with cash

³¹⁸ B. Desmarais Aff. #1, [Ex. 522](#), p. 25, para. 119; K. deBruyckere Aff. #3, [Ex. 485](#), p. 7, para. 21.

³¹⁹ K. deBruyckere Aff. #3, [Ex. 485](#), pp. 7-8, paras. 22-27.

³²⁰ *F.H. v. McDougall*, [2008 SCC 53](#) at para. 26; In that regard, BCLC relies on its prior submissions on *Dirty Money #1*, dated December 13, 2019 and June 16, 2020.

³²¹ [Ex. 839](#), p. 6; [M. Paddon and B. Robinson](#), Apr. 14, pp. 32-86; [Ex. 840](#).

³²² See, e.g., [Ex. 842](#), p.3.

³²³ [Ex. 846](#); [M. Paddon and B. Robinson](#), Apr. 14, pp.100-126; K. deBruyckere Aff. #3, [Ex. 485](#), p. 2, paras. 6-8. Established in December 2020, CIFA-BC is described by the RCMP as the first permanent public-private partnership of its kind in Canada to combat money laundering in British Columbia: <https://bc-cb.rcmp-grc.gc.ca/ViewPage.action?siteNodeId=2087&languageId=1&contentId=67462>.

buy-ins of \$50,000 or more (73 percent, constituting 93 percent of buy-ins) were subject to some form of AML action by being: (1) placed in a high-risk patron category leading to enhanced due diligence, including interviews; (2) made subject to sourced cash conditions; (3) banned; or (4) a combination thereof.³²⁴

112. **EY Cheque Audit (River Rock).** Since the 2000s, BCLC investigators regularly reviewed the issuance of verified win cheques to confirm compliance with BCLC policy, and rarely uncovered anomalies or errors (verified win cheques were also regularly audited by BCLC's Operational Gaming Compliance department and GPEB).³²⁵

However, in response to media allegations of casino patrons buying in with cash and cashing out for a cheque after minimal play,³²⁶ BCLC engaged EY to analyze cheques and patterns of play related to money laundering typologies at River Rock.³²⁷ On or about February 15, 2019, EY released two reports that confirmed there was no systematic pattern of money laundering activity related to cheques being issued by River Rock from 2014 to 2016.³²⁸ This report was shared with Minister Eby and senior government officials.³²⁹ The EY cheque audit "indicated that the possibility or the frequency of people bringing cash into casinos and receiving cheques improperly instead of cash for things that were not winnings was less prevalent than suspected."³³⁰

113. **March 2020: Casinos Closed.** BCLC casinos were closed in March 2020 (and have only reopened in July 2021),³³¹ yet the real estate market remains hot, and the

³²⁴ C. Cuglietta Aff. #1, [Ex. 482](#), Aff. Ex. A, p. 3; B. Desmarais Aff. #1, [Ex. 522](#), pp. 13-14, para. 61, Aff. Ex. 36; D. Tottenham Aff. #2, [Ex. 149](#) (BCLC intelligence interviews).

³²⁵ T. Towns Aff. #1, [Ex. 517](#), pp. 22-23, paras. 139-141; [G. Friesen](#), Oct. 28, p. 76, l. 12 - p. 77, l. 16; [G. Friesen](#), Oct. 29, p. 44, ll. 7-23; D. Tottenham Aff. #1, [Ex. 148](#), p. 6, paras. 16-17, Aff. Ex. 1; [D. Tottenham](#), Nov. 12, p. 12, l. 9 - p. 13, l. 13; M. Graydon Aff. #1, [Ex. 576](#), pp. 11, 14 16, paras. 30, 36, 40.

³²⁶ J. Lightbody Aff. #1, [Ex. 505](#), pp. 49-50, paras. 227-228; R. Kroeker Aff. #1, [Ex. 490](#), p. 44, para. 186.

³²⁷ J. Lightbody Aff. #1, [Ex. 505](#), p. 50, paras. 229-230; R. Kroeker Aff. #1, [Ex. 490](#), p. 44, paras. 187-188.

³²⁸ J. Lightbody Aff. #1, [Ex. 505](#), pp. 50-51, paras. 231-232, Aff. Exs. 100-101.

³²⁹ [B. Boyle](#), Sep. 13, p. 133, l. 5 - p.137, l. 8.

³³⁰ [R. Fyfe](#), Apr. 29, p. 42, ll. 20-24.

³³¹ K. deBruyckere Aff. #3, [Ex. 485](#), p. 3, para. 9; [K. deBruyckere](#), Jan. 21, p. 93, ll. 9-21.

fentanyl crisis continues.³³² This calls into question allegations that casinos have driven BC's real estate and drug crises, which in any event are not supported in evidence.³³³

(e) Present state of land-based casino AML and the future

114. **BCLC's AML Program – Current State.** Today, BCLC continues to maintain a robust AML program with the goal of identifying, reporting, and preventing money laundering.³³⁴

115. Structurally, the AML program includes the AML Unit, which is led by Kevin deBruyckere, formerly head of AML Investigations for HSBC Bank Canada, and a Chief Superintendent of the RCMP.³³⁵ The unit's mandate includes enhancing BCLC's KYC capabilities, monitoring high risk player behaviour for indicators of criminal conduct, and identifying trends that may be indicative of money laundering, fraud, or other criminal conduct.³³⁶

116. The AML program is also supported by BCLC's Operational Gaming Compliance department, whose primary function is to assess, identify, and address the levels of compliance of all BCLC casinos vis-à-vis all applicable BCLC standards, policies, and procedures, including those in relation to FINTRAC reporting and AML more broadly.³³⁷ In addition, some of BCLC's Audit Services team provide support to the corporate AML compliance regime through ongoing monitoring and *ad hoc* testing and review.³³⁸

117. BCLC has been and remains apprised of what other jurisdictions are doing in terms of AML initiatives,³³⁹ and the feedback that BCLC has received about its AML

³³² [J. Gordon](#), Feb. 18, p. 105, ll. 13-18; [C. Clark](#), Apr. 20, p. 64, l. 23 - p. 66, l. 5, p. 68, ll. 7-11; [B. Taylor](#), Apr. 16, p. 9, ll. 11-16.

³³³ [Ex. 330](#), p. 1 (“... because of its secretive nature, little is known about the quantum of money laundering and its impact on market prices and housing affordability”), p. 2 (“[t]he estimated impact of [money laundering] would be to increase housing prices by about 5 percent”); [T. Somerville](#), Feb. 18, p. 90, l. 16 - p. 91, l. 9; [B. Smith](#), Feb. 4, p. 81, l. 24 - p. 82, l. 6.

³³⁴ See, e.g., K. deBruyckere Aff. #2, [Ex. 484](#), pp. 3-7, para. 9, which summarizes each of the components currently in place and provides a brief description of them.

³³⁵ K. deBruyckere Aff. #2, [Ex. 484](#), pp. 1, 3, paras. 2-4, 8.

³³⁶ K. deBruyckere Aff. #2, [Ex. 484](#), pp. 3-7, para. 9.

³³⁷ K. Sweeney Aff. #1, [Ex. 520](#), p. 2, para. 6.

³³⁸ G. Aujla Aff. #1, [Ex. 481](#), pp. 2-3, paras. 8-14, Aff. Exs. 1-6.

³³⁹ [D. Tottenham](#), Nov. 10, p. 204, l. 14 - p. 205, l. 18 (re: [Ex. 179](#)); [K. Sweeney](#), Jan. 29, p. 206, ll. 8-25.

program, including from subject matter experts, FINTRAC, and casino operators and regulatory authorities in other provinces, has been consistent: BCLC has a strong AML program that is ahead of the curve in dealing with money laundering and loan sharking;³⁴⁰ it is a model that other jurisdictions have sought to emulate,³⁴¹ and it is well-positioned in terms of its controls and level of risk.³⁴²

118. This feedback is consistent with the report on AML practices by Mr. Boyle of EY and his testimony,³⁴³ providing the Commission with a point of comparison regarding AML practices in land-based casinos across time (from 2014 to 2020) and jurisdictions.³⁴⁴

119. Mr. Boyle did not identify any regulations, industry body guidance, or casino operator practices that: (1) prohibit a buy-in based solely on a set threshold amount; (2) prohibit cash buy-ins with small denomination bills (including \$20 bills) over a certain dollar threshold absent other indicators of suspicious activity; or (3) bar patrons from play based on a particular number of STRs.³⁴⁵ Other than in BC, Mr. Boyle could not identify practices in other jurisdictions: (1) prohibiting cash buy-ins based solely on suspicious behaviour observed by staff; (2) requiring SOF receipts based solely on a specific threshold amount (a practice “unique to British Columbia”); (3) de-risking MSBs; (4) placing certain patrons on sourced cash/chip conditions; or (5) conducting formal interviews of patrons as to their SOF.³⁴⁶

120. This is also consistent with the testimony of Patrick Ennis of GCGC, who observed that as of 2015, there was no comparable cash conditions policy or practice in

³⁴⁰ [K. deBruyckere](#), Jan. 21, p. 97, l. 20 - p. 98, l. 23; [G. Friesen](#), Oct. 29, p. 63, ll. 8-20; [T. Towns](#), Feb. 1, p. 38, ll. 10-23; [B. Desmarais](#), Feb. 1, p. 79, l. 13 - p. 80, l. 17; D. Tottenham Aff. #1, [Ex. 148](#), p. 46, para. 228.

³⁴¹ [G. Friesen](#), Oct. 29, p. 63, l. 21 - p. 64, l. 10, p. 67, l. 13 - p. 68, l. 6; [K. Sweeney](#), Jan. 29, p. 207, ll. 1-16.

³⁴² [R. Kroeker](#), Jan. 25, p. 184, l. 9 - p. 186, l. 2.

³⁴³ EY AML Report, [Ex. 1038](#).

³⁴⁴ The jurisdictions include Canada (excluding BC), the United States, the European Union (including the United Kingdom), Macau, Australia and New Zealand: EY AML Report, [Ex. 1038](#), p. 1, footnote 2.

³⁴⁵ EY AML Report, [Ex. 1038](#), pp. 9, 11, 13, paras. 5.11, 5.20, 5.35. See also, [B. Boyle](#), Sep. 13, p. 93, l. 12 - p. 96, l. 15 (re: cash caps and a cap on buy-ins with small denomination bills).

³⁴⁶ EY AML Report, [Ex. 1038](#), pp. 20, 24, 26, 27, paras. 5.58, 5.72, 5.84, 5.92, 5.116. See also, [B. Boyle](#), Sep. 13, p. 72, l. 13 - p. 73, l. 4 (re: formal interviews of patrons), p. 96, l. 16 - p. 100, l. 9 (re: SOF receipting requirements and sourced cash/chip conditions).

GCGC's Ontario casinos, no interviews conducted by OLG officials, and no convenience cheques with the notation "not from gaming winnings".³⁴⁷ Further, Stephanie Brooker, former Director of Enforcement at the Financial Crimes Enforcement Network, confirmed that in the United States, there is no expectation to refuse a suspicious transaction.³⁴⁸

121. **BCLC's Vision of the Future.** BCLC is committed to continuous improvement.³⁴⁹ Effective June 1, 2021, BCLC is subject to *PCMLTFA* amendments that require identification and a receipt of funds record for single transactions of \$3,000 or more.³⁵⁰ BCLC also intends to implement an AML software solution to facilitate the monitoring of all player transactions across all BCLC properties (land-based casinos, community gaming centres) and online on PlayNow.com.³⁵¹

122. BCLC's commitment to remain ahead of the curve is reflected in its active and ongoing consideration of the possibility of 100 percent known play and eventually 100 percent cashless play through account-based gaming and a digital wallet.³⁵² "100 percent known play", under the definition adopted by BCLC, or 100 percent "carded play", under the definition adopted by Mr. Boyle, refers to the objective of working toward the elimination of anonymous play and allowing BCLC to track every player transaction in its casinos.³⁵³ BCLC is of the view that working toward this initiative, in consultation with GPEB and Service Providers, will help prevent money laundering in its

³⁴⁷ [P. Ennis](#), Feb. 4, p. 3, l. 4 - p. 4, l. 24.

³⁴⁸ [S. Brooker](#), May 11, p. 109, l. 2 - p. 110, l. 3. This broadly tracks Mr. Boyle's evidence, which identified that the key factor in refusing a transaction is "known" money laundering. Short of that, for players who have provided satisfactory identification, the transaction is typically processed, reports are generated, and they are then analyzed by compliance personnel to consider future barring from the property: [B. Boyle](#), Sep. 13, p. 38, l. 19 - p. 42, l. 5, p. 59, l. 22 - p. 62, l. 10.

³⁴⁹ [K. deBruyckere Aff. #2](#), [Ex. 484](#), p. 7, para. 10; [B. Smith](#), Feb. 4, p. 181, l. 19 - p. 182, l. 13; [K. deBruyckere](#), Jan. 21, p. 83, l. 11 - p. 84, l. 5, p. 98, ll. 11-23; [B. Desmarais Aff. #1](#), [Ex. 522](#), p. 24, para. 111.

³⁵⁰ *PCMLTFA Regulations*, ss. 74(2)(f), 103(a)(iv), 105(7)(a).

³⁵¹ [K. deBruyckere Aff. #2](#), [Ex. 484](#), pp. 7-8, paras 11-12.

³⁵² [B. Desmarais Aff. #1](#), [Ex. 522](#), pp. 23-24, para. 110; [K. deBruyckere Aff. #2](#), [Ex. 484](#), pp. 7-8, paras. 10-13. See also, EY, "Commission of Inquiry into Money Laundering in British Columbia: Known Play", April 30, 2021 ("EY Known Play Report"), [Ex. 1037](#), p. 6, para. 5.15.

³⁵³ [K. deBruyckere Aff. #3](#), [Ex. 485](#), p. 3, para. 10; EY Known Play Report, [Ex. 1037](#), pp. 5, 7-9, paras. 5.6-5.7, 5.19-5.23; [B. Boyle](#), Sep. 13, p. 16, l. 2 - p. 17, l. 20. Note that according to Mr. Boyle's definition, 100 percent known play refers only to mandatory identification upon entry at the gaming venue.

casinos and enhance player health.³⁵⁴ The Commissioner's support for these initiatives, should they be found meritorious, would be welcome guidance.

123. BCLC is also considering the implementation of technology that will track each individual chip, registered to a player, which would substantially reduce chip-related risks, including the risks of chip passing, player collusion, dealer collusion, and the use of chips as a stored value instrument outside casinos.³⁵⁵

124. **Continued Information Sharing.** BCLC is also of the view that it is important to foster information sharing between private entities, to the extent allowed by law. As noted by Nicholas J. Maxwell of the Future of Financial Intelligence Sharing Programme, "[t]here is no clear legal gateway for regulated entities in Canada to permit sharing of information with counterpart financial institutions relating to financial crime risks (prior to the determination of suspicion)".³⁵⁶ Such clarity would be welcome.

125. BCLC's commitment to developing and sharing AML employee knowledge and intelligence capabilities beyond the casino sector is demonstrated by the evidence provided by Bradley Rudnicki of BCLC during the real estate sector hearings.³⁵⁷

126. **Risk-Based Approach.** These forward-looking initiatives all seek to bolster BCLC's ability to identify, assess, and understand the money laundering risks that it is exposed to, and ultimately take the appropriate measures to effectively and efficiently mitigate and manage the risks, consistent with a risk-based approach.

127. A risk-based approach, complemented by regulatory guidance regarding appropriate risk tolerance and best practices, rather than a detailed prescriptive approach, continues to be the best path forward.³⁵⁸ A risk-based approach is the worldwide standard, adopted by FATF as a "core" recommendation that allows flexibility to determine what actions an entity such as BCLC needs to take to address the

³⁵⁴ K. deBruyckere Aff. #3, [Ex. 485](#), p. 3, paras. 10 and 15; B. Desmarais Aff. #1, [Ex. 522](#), pp. 23-24, para. 110; [B. Desmarais](#), Feb. 1, p. 158, l. 6 - p. 159, l. 21.

³⁵⁵ B. Desmarais Aff. #1, [Ex. 522](#), pp. 24-25, paras. 114-117.

³⁵⁶ [Ex. 411](#), pp. 23, 51; [N. Maxwell](#), Jan. 14, p. 32, ll. 9-20.

³⁵⁷ [Exs. 670, 672](#); [B. Rudnicki](#), Mar. 2, pp. 116-185.

³⁵⁸ See, e.g., [G. Hughes](#), May 3, p. 27, ll. 1-4, p. 68, ll. 8-21.

particular money laundering risks that it may face at any given time.³⁵⁹ “Other jurisdictions” witnesses confirmed that the risk-based approach is applied widely, and none proposed moving to a fully prescriptive approach.³⁶⁰

128. When evaluating an entity’s actions under a risk-based approach, “if an institution and individuals in institutions are attempting in good faith to make reasoned judgments there should be a presumption that those judgments are reasonable”.³⁶¹ This proposition has application here: BCLC has acted in good faith throughout and its AML judgments were, at the relevant times, reasonable.

129. **Independent Gambling Control Office (“IGCO”).** BCLC supports the contemplated new independent regulator.³⁶² BCLC will work productively and cooperatively with the IGCO, continuing the strong working relationship that has been enjoyed by BCLC and GPEB in recent years,³⁶³ to continue to fulfill its statutory mandate to conduct and manage gaming on behalf of the Government, within the parameters set by its regulators. To the extent there was at times conflict between BCLC and GPEB in years past, this no longer presents any challenges.

IV. Findings and Recommendations BCLC Asks the Commissioner to Make

130. Over the past two decades, BCLC has, with the assistance of other stakeholders and the police, and the guidance and direction from Government, made progressive changes to AML practices within the gaming sector in BC. BCLC has aspired to a best practices model of AML, as understanding has developed and those best practices have evolved. BCLC is proud of its AML efforts and is committed to continuing to adapt

³⁵⁹ OR: FATF, [Ex. 4](#), p. 9, para. 23. And, as noted by Maria Bergstrom, while technically non-binding, failure to comply with FATF standards may result in sanctions in the form of warning states which are considered to be failing to comply with these FATF standards, resulting in higher transaction costs for financial institutions in the blacklisted state: [Ex. 966](#), p. 6.

³⁶⁰ See, e.g., [G. Hughes](#), May 3, p. 27, ll. 1-4, p. 68, l. 22 - p. 69, l. 3: “I think many reporting entities would prefer more prescription, actually. [...] But that’s not consistent with the thrust of the FATF approach, which is that it should be risk based and carefully tailored”. See also, [F. Rense](#), May 13, p. 18, l. 22 - p. 19, l. 13.

³⁶¹ [S. Brooker](#), May 11, p. 107, l. 8 - p. 108, l. 11. See also, [F. Rense](#), May 13, p. 20, l. 16 - p. 21, l. 5, p. 122, l. 8 - p. 125, l. 23 (re: hindsight bias).

³⁶² K. Ackles Aff. #3, [Ex. 144](#), p. 17, para. 61.

³⁶³ See, e.g., [S. Beeksmas](#), Oct. 26, p. 125, ll. 9-14; [C. Skrine](#), Jan. 27, p. 48, ll. 4-12; [K. deBruyckere](#), Jan. 21, p. 98, ll. 2-10; [B. Desmarais](#), Feb. 2, p. 72, ll. 7-24.

its practices to respond to the risk of money laundering in its business, and to learn from the work of this Commission.

131. BCLC asks the Commissioner to find that: (1) BCLC took reasonable precautions consistent with a risk-based approach to combat money laundering at casinos, within the scope of its mandate and the instructions given by Government and its regulators; and (2) BCLC's cash conditions program in particular, first implemented in 2014, and further developed in 2015, was a reasonable, proportionate, and effective response to the risk of money laundering, unprecedented in the Canadian casino industry.

132. BCLC asks the Commissioner to recommend: (1) the continuation of a risk-based approach to AML in the casino sector; (2) continued and improved information sharing between BCLC and law enforcement, GPEB, and private sector stakeholders, sensitive to privacy interests; (3) an adequately resourced, designated policing unit that is cross-sectoral, including the gaming industry, to respond to BCLC requests for support when risks are identified; (4) that BCLC continue to pursue the potential implementation of 100 percent known play, in consultation with GPEB and Service Providers, at BCLC casinos; and (5) that if Government or BCLC's regulator have expectations as to AML measures that BCLC should implement, including in relation to refusing cash absent proof that it constitutes the proceeds of crime, such expectations should be specific and communicated clearly by way of public interest standards, written directives, or pursuant to legislation.

RESPECTFULLY SUBMITTED THIS 24th day of September 2021.

William B. Smart, Q.C.

K. Michael Stephens

Brian T. Duong

Kenneth K. Leung

Julia E. Roos

Susan J. Humphrey

Counsel for the Participant, British Columbia Lottery Corporation

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA

The Honourable Mr. Austin F. Cullen, Commissioner

**Supplemental Closing Submissions
of British Columbia Lottery Corporation**

HUNTER LITIGATION CHAMBERS

2100 – 1040 West Georgia Street
Vancouver, BC V6E 4H1
Tel: 604-891-2400

Counsel for British Columbia Lottery
Corporation

William B. Smart, Q.C.
K. Michael Stephens
Brian T. Duong
Julia E. Roos
Susan J. Humphrey

1. BCLC submits that the viva voce and affidavit evidence of Mr. Alderson that is based solely on his independent memory or recollection should not be given any weight due to Mr. Alderson's lack of credibility. BCLC's position is that Mr. Alderson's evidence should only be given weight if it is corroborated by contemporaneous documentary records or other witness testimony that is credible, because Mr. Alderson's uncorroborated evidence is generally unreliable as it is not in "harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable" in these circumstances.¹ "In such circumstances the most reliable evidence as to what transpired will likely be found in contemporaneous documentation".²

¹ *Faryna v. Chorny*, 1951 CanLII 252 (B.C. C.A.) at 357.

² *Wu v. Sun-Gifford et al*, 2001 BCSC 191 at para. 29.